

THIS AGREEMENT WILL BE POSTED ON THE CPS WEBSITE

SUPPLIES & SERVICES AGREEMENT

(Trimark Marlinn, LLC)

("Piggyback" of Contract between Sourcewell in collaboration with Trimark Marlinn, LLC)

This Supplies & Services Agreement ("**Agreement**") is effective as of July 1, 2023 ("**Effective Date**") and is entered into by and between the Board of Education of the City of Chicago, a body politic and corporate, commonly known as the Chicago Public Schools with office located at 42 W. Madison Street, Chicago, IL 60602 (the "**Board**" or "**CPS**") and Trimark Marlinn, LLC, a limited liability company authorized to do business with principal offices located at 6100 W 73rd Street, Bedford Park, IL 60638 (the "**Vendor**"). The Board and Vendor may be referred to herein individually as a "**Party**" or collectively as the "**Parties**."

RECITALS

- A. The Board desires for Vendor to provide food service equipment and related Products and Service for lunchrooms to operate the food service program.
- B. Vendor has demonstrated expertise in providing such Products and Services in the categories identified below and has represented that it has the requisite knowledge, skill, experience and other resources necessary to deliver such Services.
- C. Sourcewell is a State of Minnesota local government unit and service cooperative that offers cooperative procurement solutions to government entities in the United States and Canada complying with state procurement law and regulations in their purchasing and other planning needs.
- D. Sourcewell assisted Strategic Equipment, LLC in advertising and issuing a Request for Proposal ("**RFP**") for food service equipment and related supplies and service (RFP No. 063022). Strategic Equipment, LLC and Sourcewell evaluated Vendor's response to the RFP and selected Vendor to provide the Products and Services. Based on this, Vendor entered into an agreement with Sourcewell, designated as Contract No. 063022-SES, effective on August 02, 2022 to August 3, 2026 with the right to renew for one (1) additional one-year period. ("**Master Agreement**"). The Master Agreement, including all Exhibits and attachments thereto, including without limitation RFP No. 063022, shall be collectively and referred to herein as the "**Reference Contract**."
- E. Board Rule 7-4(e) authorizes the Board to purchase non-biddable and biddable services through contracts entered into between another governmental entity and its respective vendors. Pursuant to Rule 7-4(e) the Board now desires for Vendor to provide the Products and Services based on the Reference Contract, except to the extent those terms and conditions are modified or supplemented in this Agreement; and
- F. The Parties now wish to execute this Agreement that defines the nature of their relationship, establishes pricing, and describes the manner in which services and products will be furnished by Vendor.

NOW, THEREFORE, in consideration of the foregoing recitals, which are hereby incorporated into and made a part of this Agreement, and the mutual covenants contained herein, the parties hereby agree as follows:

I. INCORPORATION OF THE REFERENCE CONTRACT

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Except as provided herein, the Board adopts the terms and conditions of the Reference Contract, which is attached and incorporated into this Agreement as Exhibit A. Capitalized terms used, but not otherwise defined in this Agreement, shall have the meanings ascribed to them in the Reference Contract. All references to Sourcewell or Strategic Equipment, LLC, each of its employees, agents, entities, representatives, and the like in the Reference Contract shall be interpreted in this Agreement as references to the Board and its departments, officers, employees, agents, and the like. The Board shall have the same rights, remedies, and expectations of Vendor's performance under this Agreement as may apply to Sourcewell or Strategic Equipment under the Reference Contract, unless specifically amended or modified herein. Notwithstanding anything in the Reference Contract to the contrary, in the event of a conflict between the terms of this Agreement and the terms of the Reference Contract (excepting any terms and conditions relating to price and cost), the terms of this Agreement shall control as between the Vendor and the Board.

Unless otherwise indicated, terms set forth in this Agreement that are not present in the Reference Contract shall be deemed inserted and fully enforceable.

II. GENERAL TERMS & CONDITIONS

1. **Term of Agreement.** *The language in Section 1 "Term of Contract" of the Reference Contract is hereby deleted in its entirety and replaced with the following language:* The term of this Agreement ("**Term**") will be for a period commencing on July 1, 2023 and continuing through June 30, 2026. The Board shall have two (2) options to renew the Agreement for a period of two (2) years (the "**Renewal Term**") by entering into a written renewal agreement with Vendor.
2. **Scope of Products and Services.** *The language in Sections 1 "Equipment, Product, or Services" and 3 "Pricing" of the Reference Contract is hereby deleted in their entirety and replaced with the following language:* Vendor shall provide the Services and Products identified in the Reference Contract, in accordance with the terms and conditions of this Agreement and the Reference Contract as applicable to the Board. The Products available to CPS to purchase under this Agreement are identified in the Pricing List that is attached and incorporated into this Agreement as Exhibit B. "**Services**" means, collectively, the services, deliverables, duties and responsibilities described and any and all work necessary to complete them or carry them out fully and to the standard of performance required in the Agreement, including without limitation any Products or Materials (both as hereinafter defined). Reference to Services throughout shall be deemed to include Products and Product terms. "**Products**" means, collectively, any goods, hardware, software, documentation, licenses, updates, components, equipment, or accessories as described in the Agreement that one would consider within the ordinary meaning of the product as understood in the applicable industry or field of business. The Board retains final authority with respect to all Service and Product related decisions, including scale. The Board may, from time to time, request changes in the Scope of Products and Services. Any such changes, including any increase or decrease in Vendor's fees, shall be documented by a written amendment to the Agreement signed by the authorized representatives of both parties or other document executed in accordance with the Change Management Process section set forth in this Agreement. The Board assumes no obligation hereunder to purchase any quantity of Products or Services other than those identified on a Purchase Order issued by the Board.
- 2.1. **Packaging and Shipment and Risk of Loss.** Vendor shall package and ship all goods, supplies or other materials provided as part of the Agreement (collectively, "**Materials**") in a commercially reasonable manner. All shipments shall be F.O.B. destination (as indicated on the Board's Purchase Order or some other written notification) with freight and insurance prepaid. The Board may request that shipment be made to any location that the Board designates as a Chicago Public School or a CPS facility. Any and all deliveries made to a Chicago Public School shall occur between the hours of 8:00 a.m. – 2:30 p.m. and Vendor shall advise the carrier of this restriction. **It is understood and agreed that the Board shall have no liability for any insurance charges not**

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incorporated in the prices quoted, and that freight charges shall be limited to those specified in the Agreement. The Board may adjust the Purchase Order shipping destination any time up to ten (10) business days prior to shipment. The risk of loss and damage to Materials ordered by the Board shall pass to the Board only after delivery to the destination designated by the Board. Time is of the essence to the delivery of all Materials ordered hereunder.

2.2. Inspection and Out-of-Box Failures. The Board reserves the right to inspect all Products upon delivery and to perform any test the Board deems necessary to adequately demonstrate that the Products meet all of the specifications as more particularly described in the Scope of Products and Services attached and incorporated into the Agreement ("**Specifications**"). Final inspection resulting in acceptance or rejection of the Products will be made as soon as practicable, but failure to inspect shall not be construed as a waiver by the Board of its rights to reject Products or to claim reimbursement or damages for such Products that are later found to be defective or not in conformance with the Specifications. Products that do not conform to the Specifications or that are otherwise damaged must either, at the Board's discretion, be retrieved by the Vendor (at Vendor's expense) for replacement at no charge to the Board, or the Board may cancel that portion of the purchase order relating to nonconforming Products at no charge to the Board. For any such returned Products, the Board shall either debit or offset from Vendor the cost of such Product plus freight, or receive a refund for such, at Board's discretion.

2.3. Uniform Commercial Code. In the absence of a governing provision under the Agreement or should any provision of the Agreement be construed by a court of competent jurisdiction as vague, the corresponding provision of the Uniform Commercial Code, Article 2, shall apply.

2.4. Survival. The provisions of this Section shall survive the expiration or termination of the Agreement.

3. Compensation: Purchase Orders: Billing and Payment Procedures: Electronic Payments. *The language in Sections 3 "Pricing" and 6A "Participating Entity Use and Purchasing Orders and Payments" of the Reference Contract is hereby deleted in their entirety and replaced with the following language:*

3.1. Compensation: Maximum Compensation Amount. Compensation for Products and Services during the Term shall be payable in accordance with the Pricing List to be attached to this Agreement and incorporated herein as Exhibit B (the "**Pricing List**"). Prices shall be firm as set forth in the Schedule of Compensation for the Term and, if the Board elects to exercise any Renewal option, will be determined by the Board and will be capped for any such Renewal Term at the amounts set forth in the Schedule of Compensation. There will be no reimbursable expenses.

The aggregate maximum compensation payable to all Vendors for Products and Services during the Term shall not exceed the aggregate amount set forth in the authorizing Board Report as referenced on the signature page of the Agreement (the "**Maximum Compensation Amount**"), as may be amended. Vendor agrees not to perform, and waives any and all claims for payment of Products and Services that would result in billings, beyond the above referenced not-to-exceed amount unless the parties have executed a written amendment authorizing such additional work and the payment thereof. The Board shall not reimburse for any expenses.

It is understood and agreed that the Maximum Compensation Amount referenced hereinabove is a 'not-to-exceed amount' and is not a guaranteed payment.

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Compensation shall be based on actual Products delivered and Services performed during the Term of this Agreement and the Board shall not be obligated to pay for any Products or Services not in compliance with this Agreement. In the event the Agreement is terminated early, the Board shall only be obligated to pay the fees incurred up to the effective date of termination and Vendor shall promptly refund to the Board any payments received for Products and Services not provided. If Vendor overcharges, in addition to all other remedies, the Board shall be entitled to a refund in the amount of the overcharge, plus interest at the rate of 3% per month from the date the overcharge was paid by the Board until the date refund is made. The Board has the right to offset any overcharge against any amounts due to Vendor under this or any other agreement between Vendor and the Board.

- 3.2. Purchase Orders.** Orders must be on the Board's Standard Purchase Order Form. The pre-printed terms and conditions found on the Board's Purchase Order shall apply to the extent that such terms supplement and are not inconsistent with the terms and conditions contained in the Agreement. Under no circumstances shall Vendor deliver any Products or render any Services without an approved Purchase Order.
- 3.3. Billing and Payment Procedures.** All invoices must be submitted electronically via email in PDF format to cpsinvoice@cps.edu. Each email may only contain one invoice and must include the Vendor's name and the CPS Purchase Order number. All invoices must include:
- Vendor name and payment address
 - Unique invoice number (determined by Vendor)
 - Valid purchase order number (only one PO number may be referenced on each invoice)
 - Invoice date
 - Itemized description of the Services rendered and Products delivered
 - Date the Services were provided and Products were delivered to CPS
 - Detailed pricing information such as quantities, unit prices, discount, and final net amount due

Invoices shall be submitted in a timely manner. The final invoice shall be submitted no later than ninety (90) days after the expiration or termination of the Agreement. If Vendor has more than one contract with the Board, separate invoices must be submitted for each contract. The Board shall process payments in accordance with the Local Government Prompt Payment Act [50 ILCS 505/1 *et seq.*]. The Board reserves the right to request additional information and supporting documentation necessary for the Board to verify the Products and Services provided under the Agreement.

- 3.4. Electronic Payments.** Vendor agrees that, at the Board's sole discretion, the Board may make payment electronically to Vendor for any and all amounts due to Vendor pursuant to the Agreement by means of the Board's procurement charge card account. Vendor recognizes that any charge to the Board's procurement charge card that is in excess of the open remaining amount as stipulated in the applicable Purchase Order, or any charge unaccompanied by the requisite documentation and data as required by the Board, shall be deemed invalid and disputed by the Board. Vendor further recognizes that, in the absence of any supporting documentation as may be required by the Board, payments associated with disputed charges shall be rescinded by the Board and deemed not owed by the Board. Vendor agrees to comply with the rules, procedures and documentation required for electronic payment via the Board's procurement charge card as established by the Board's Department of Procurement.
- 3.5. Subcontractor Payments.** When a Vendor receives any payment from the Board pursuant to this Agreement, the Vendor must make payment to its subcontractors within

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15 days after receipt of payment from the Board, provided that such subcontractor has satisfactorily provided the supplies, equipment, goods or services in accordance with the Agreement and provided the Vendor with all of the documents and information required of the Vendor.

The Vendor may delay or postpone payment to a subcontractor when the subcontractor's supplies, equipment, goods, or services do not comply with the requirements of the Agreement, the Vendor is acting in good faith, and not in retaliation for a subcontractor exercising legal or contractual rights.

However, the Board may, whenever there is reason to believe that the Vendor has neglected or failed to pay any subcontractors, workmen, or employees for work performed or for materials furnished and used in or about the work contracted for, order and direct that no future vouchers or estimates be issued and no further payments be made upon the Agreement until such subcontractors, workmen and employees have been fully paid.

Whenever the Board shall notify the Vendor, in accordance with the notice requirements of the Agreement, that no further vouchers or estimates will be issued or payments made on the Agreement until subcontractors, workmen and employees have been paid and the subcontractor shall neglect or refuse for a period of ten (10) days after such notice is given, as above provided for, the Board may pay such subcontractors, workmen and employees applying moneys otherwise due to Vendor without other or further notice to said Vendor.

Notwithstanding the above, failure by the Board to retain and apply such moneys, or to order or direct that no vouchers or estimates shall be issued or further payments be made shall not, nor shall the paying over of such sum without such subcontractors, workmen or employees being first paid, in any way affect the liability of the Vendor or of its sureties to the Board, or to any such subcontractors, workmen or employees upon any bond given in connection with such Agreement.

4. **Standards of Performance.** *The language in Sections 2 "Equipment, Products, or Services" and 17 "Performance, Default, and Remedies" of the reference contract is hereby replaced with the following language:* Vendor shall devote, and shall cause all of its employees, agents, and subcontractors to devote, such of their time, attention, best skill and judgment, knowledge and professional ability as is necessary to perform all Services effectively, efficiently and to the satisfaction of the Chief Procurement Officer or Interim Chief Procurement Officer, as the case may be ("CPO"). Vendor shall retain and utilize, as required by law or by the Agreement, professionals licensed to practice in the State of Illinois in the applicable profession. Vendor shall use efficient business administration methods and perform the Services in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and in an expeditious and economical manner consistent with the best interests of the Board, so as to assure, among other things, that the Products and Services are performed at a reasonable cost to the Board and that Services performed by other entities or persons in connection with the Agreement are efficiently and cost-effectively delivered. Vendor acknowledges that, if in the course of providing Products and Services hereunder, it is entrusted with or has access to valuable and confidential information and records of the Board, that with respect to that information, Vendor agrees to be held to the standard of care of a fiduciary. Any review, approval, acceptance of Products or Services or payment for any of the Products or Services by the Board does not relieve Vendor of its responsibility for the professional skill, care, and technical accuracy of its Products and Services. Vendor shall remain financially and legally responsible to the Board for the professional and technical accuracy of all Products and Services, including any other deliverables furnished, whether by Vendor or its subcontractors or others on its behalf.

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- 5. Personnel.** *The language in Section 7 of the reference contract, "Customer Service," is hereby replaced with the following language:*

5.1. Adequate Staffing. The Board has retained Vendor because of Vendor's expertise and that of its employees, agents, volunteers and subcontractors (collectively referred to as "**Staff**"). For the avoidance of doubt, all volunteers of Vendor shall be considered agents of Vendor. Vendor must assign and maintain during the Term of the Agreement and any renewal of it, an adequate staff of competent personnel that is fully equipped, licensed as appropriate, available as needed, qualified and assigned to perform the Services. If the Board determines, in its sole discretion, that any employee, subcontractor or other person providing Services hereunder for Vendor is not performing in accordance with the performance standards or other requirements of the Agreement, the Board shall have the right to direct the Vendor to remove that person from performing Services under the Agreement.

5.2. Key Personnel. The Agreement may list individuals employed by the Vendor, or otherwise provided to perform Services, who have particular expertise on which the Board is relying ("**Key Personnel**"). Vendor may not reassign or replace Key Personnel without the written consent of the Board, which consent shall not be unreasonably withheld or delayed. If one or more Key Personnel terminate his or her employment with Vendor or otherwise become unavailable for reasons beyond Vendor's reasonable control, Vendor shall promptly replace such person with another person with comparable training and experience, subject to the approval of the Board, which approval shall not be unreasonably withheld or delayed. As stated in Section 5.1. above, the Board shall have the right to direct Vendor to remove an individual from performing Services under the Agreement.

- 6. Non-Appropriation.** Expenditures not appropriated by the Board in its current fiscal year budget are deemed to be contingent liabilities only and are subject to appropriation in subsequent fiscal year budgets. In the event no funds or insufficient funds are appropriated and budgeted in any subsequent fiscal period by the Board for performance under the Agreement, the Board shall notify Vendor and the Agreement shall terminate on the earlier of the last day of the fiscal period for which sufficient appropriation was made or whenever the funds appropriated for payment under the Agreement are exhausted. Payments for Products and Services completed to the date of notification shall be made to Vendor except that no payment shall be made or due to Vendor under the Agreement beyond those amounts appropriated and budgeted by the Board to fund payments under the Agreement.

- 7. Termination. Suspension of Services. Events of Default. Remedies. and Turnover of Documents.** *The language in Sections 17 "Performance Default, and Remedies", 6D "Participating Entity Use and Purchasing > Termination of Order," 22 "Cancellation" and 15 "Force Majeure" of the Reference contract is hereby deleted in its entirety and replaced with the following language:*

7.1. Early Termination. The Board may terminate the Agreement in whole or in part, without cause or penalty, at any time, by a notice in writing from the Board to Vendor in accordance with the notice provisions herein. The effective date of termination shall be thirty (30) calendar days from the date the notice is received, or the date stated in the notice, whichever is later.

After notice is received, Vendor must restrict its activities, and those of its subcontractors, to winding down any reports, analyses, or other activities previously begun. No costs incurred after the effective date of the termination are allowed. Payment for any Products or Services actually and satisfactorily delivered before the

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effective date of the termination is on the same basis as set forth in the Compensation Section of the Agreement.

Vendor must include in its contracts with subcontractors an early termination provision in form and substance equivalent to this early termination provision to prevent claims against the Board arising from termination of subcontracts after the early termination of the Agreement.

Vendor shall not be entitled to make any early termination claims against the Board resulting from any subcontractor's claims against Vendor or the Board to the extent inconsistent with this provision.

7.2. Suspension of Services. The Board upon written notice may direct Vendor to suspend delivery of Products or Services in whole or part. Vendor shall promptly resume delivery and performance of Products and Services upon written notice from the Board and upon such equitable extension of time as may be mutually agreed upon in writing by the Board and Vendor. Responsibility for any additional costs or expenses actually incurred by Vendor as a result of remobilization shall be determined by mutual agreement of the parties.

7.3. Events of Default. Events of default ("**Events of Default**") include, but are not limited to, the following:

- A. Any action or failure to act by Vendor which affects the safety and/or welfare of students or Board staff.
- B. Any material misrepresentation by Vendor in the inducement or the performance of the Agreement.
- C. Breach of any term, condition, representation or warranty made by Vendor in the Agreement.
- D. Failure of Vendor to perform any of its obligations under the Agreement, including, but not limited to, the following:
 - i. Failure to perform any portion of the Services or deliver Products in the manner specified in the Agreement.
 - ii. Failure to perform the Services with sufficient personnel and equipment or with sufficient material to ensure the timely performance of the Services and delivery of Products.
 - iii. Failure to promptly re-perform or re-deliver within a reasonable time and at no cost to the Board, Services or Products that were determined by the Board to be incomplete or unsatisfactory.
 - iv. Discontinuance of the Products or Services for reasons within Vendor's reasonable control.
 - v. Failure to comply with any term of the Agreement, including but not limited to, the provisions concerning insurance, nondiscrimination, and any other acts specifically and expressly stated in the Agreement constituting an Event of Default.
 - vi. Failure to meet MBE/WBE project participation goals.
- E. Default by Vendor under any other agreement Vendor may presently have or may enter into with the Board.
- F. Where Services include contact with CPS students, any failure to comply with the Background Check requirements, in whole or in part.

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- G. Assignment by Vendor for the benefit of creditors or consent by Vendor to the appointment of a trustee or receiver or the filing by or against Vendor of any petition or proceeding under any bankruptcy, insolvency or similar law that is not dismissed within sixty (60) days of the date of its filing.

- 7.4. **Remedies.** The Board, in its sole discretion, may declare Vendor in default, in whole or in part, if Vendor commits an Event of Default. The CPO may give Vendor an opportunity to cure the default within a certain period of time ("**Cure Period**"). The CPO shall give Vendor written notice of a default, either in the form of a cure notice ("**Cure Notice**") or, if no opportunity to cure is granted, a default notice ("**Default Notice**").

The CPO may give a Default Notice after a Cure Notice if: (1) Vendor fails to effect a cure within the Cure Period given in the applicable Cure Notice; or (2) if the Event of Default cannot be reasonably cured within the Cure Period, Vendor fails to commence and continue diligent efforts to cure in the sole opinion of the Board.

A written Default Notice shall be final and effective termination of the Agreement, effective on Vendor's receipt of such notice or on the date set forth in the notice, whichever is later. When a Default Notice is given, Vendor must discontinue all Products and Services, unless otherwise specifically directed in the notice, and Vendor must deliver to the Board all materials prepared or created in the performance of the Agreement, whether completed or in-process.

Upon the occurrence of an Event of Default, the Board may invoke any or all of the following remedies:

- A. Take over and complete the Products and Services or any part thereof, either directly or through others, as agent for and at the cost of Vendor. In such event, Vendor shall be liable to the Board for any excess costs incurred by the Board. Any amount due Vendor under the Agreement or any other agreement Vendor may have with the Board may be offset against amounts claimed due by the Board in exercising this remedy.
- B. Terminate the Agreement, in whole or in part, as to any or all of the Products or Services yet to be performed, effective at a time specified by the Board.
- C. Suspend the performance of Services during the Cure Period if the default results from an action or failure to act by Vendor which affects the safety and/or welfare of students or Board staff. In the event that the performance of Services is resumed, Vendor shall not be entitled to seek reimbursement from the Board for any additional costs and expenses incurred as a result of the remobilization.
- D. Seek specific performance, an injunction or any other appropriate equitable remedy.
- E. Receive from Vendor any and all damages incurred as a result or in consequence of an Event of Default.
- F. Money damages.
- G. Withhold all or part of Vendor's compensation under the Agreement that are due or future payments that may become due under the Agreement.
- H. Deem Vendor non-responsible in future contracts to be awarded by the Board, and/or seek debarment of the Vendor pursuant to the Board's Debarment Policy (19-0626-PO1), as may be amended from time to time.

The Board may elect not to declare Vendor in default or to terminate the Agreement. The parties acknowledge that this provision is solely for the benefit of the Board and that if the Board permits Vendor to continue to provide the Products and Services despite one or more Events of Default, Vendor shall in no way be relieved of any responsibilities,

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duties or obligations under the Agreement nor shall the Board waive or relinquish any of its rights under the Agreement, at law, in equity or by statute, nor shall the Board be deemed to have waived or relinquished any of the rights it has to declare an Event of Default in the future. If the CPO decides not to terminate, then she or he may decide at any time thereafter to terminate the Agreement, in whole or in part, in a subsequent Default Notice.

The remedies under the terms of the Agreement are not intended to be exclusive of any other remedies provided, but each and every such remedy shall be cumulative and shall be in addition to any other remedies, existing now or hereafter, at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon the occurrence of any Event of Default shall be construed as a waiver of any Event of Default or acquiescence thereto, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

If the Board's election to terminate the Agreement for default under this Section is determined by a court of competent jurisdiction to have been wrongful, then in that case the termination is to be considered an early termination pursuant to the Early Termination Section above.

- 7.5. Turnover of Documents and Records.** Upon demand of the Board after termination of the Agreement for any reason or the expiration of the Agreement by its terms, Vendor shall turn over to the Board or its designee within five (5) days of demand, all materials, supplies, equipment owned or purchased by the Board, completed or partially completed work product or analyses, data, computer disks, documents and any other information relating in any way to the Agreement or the performance or furnishing of Products and Services, except that Vendor may keep a copy of such information for its own records subject to the terms of the Agreement.
- 8. Assignment.** *The language in Section 10 "Audit, Assignment, Amendments, Waiver, and Contract Complete" of the Reference Contract is hereby deleted in its entirety and replaced with the following language:* This Agreement shall be binding on the parties and their respective successors and assigns, provided however, that neither party may assign the Agreement, or any obligations imposed hereunder, without the prior written consent of the other party.
- 9. Intellectual Property.** *The language in Section 13 "Intellectual Property, Publicity, Marketing, and Endorsement" of the Reference Contract is hereby deleted in its entirety and replaced with the following language:*
- 9.1. Intellectual Property Defined.** Intellectual Property shall mean all trademarks, trade dress, copyrights and other intellectual property rights in the materials used in the performance of Services and delivery of Products under this Agreement.
- 9.2. Board's Intellectual Property.** Vendor agrees that all Confidential Information, as well as any intellectual property arising therefrom, shall at all times be and remain the property of the Board. The Board's intellectual property shall include specifically any documents and materials created by the Board either alone or in cooperation with Vendor in connection with the Services, including but not limited to such materials that are adapted or reproduced from Vendor's materials ("**Board Materials**"). Board Materials shall exclude any and all (i) third party intellectual property, and (ii) pre-existing Vendor intellectual property that is delivered to the Board as part of the Products and Services. Upon written agreement between the parties, Vendor may be licensed to use the Board's intellectual property for specifically defined uses and terms.
- 9.3. Vendor's Intellectual Property.** All Intellectual Property owned by Vendor prior to,

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created independently of the Products and Services under this Agreement shall be and remain at all times "Vendor's Intellectual Property", provided that none of the Board's Confidential Information is used or disclosed in Vendor's Intellectual Property and such Intellectual Property is not Work Product. In the event that any Confidential Information is used or disclosed in any such Intellectual Property, it is the Board's Intellectual Property, and the Board shall have full and exclusive ownership rights to such Intellectual Property. Other than as may be expressly stated elsewhere in this Agreement, Vendor grants to the Board a perpetual, royalty-free, non-transferable license to use such of Vendor's Intellectual Property for non-commercial, educational purposes.

- 9.4. Third Party Intellectual Property.** Vendor represents and warrants to the Board that Vendor, in connection with providing the Products and Services, will not infringe on any presently existing United States patent, copyright, trademark, service mark, trade secret and/or other confidentiality or proprietary right of any person or other third party.
- 9.5. Survival.** The obligations set forth in this Section shall survive the termination or expiration of this Agreement.
- 10. Representations and Warranties of Vendor.** *The language in Sections 19 "Compliance", 2.2 "Warranty" and 20 "Bankruptcy, Debarment, or Suspension Certification" of the Reference Contract is hereby deleted in their entirety and replaced with the following language:* Vendor represents and warrants that the following shall be true and correct as of the effective date of the Agreement and shall continue to be true and correct during the Term of the Agreement and any Renewal Terms.
- 10.1. Licensed Professionals.** Vendor is appropriately licensed under Illinois law to perform Services required under the Agreement and shall perform no Services for which a professional license is required by law and for which Vendor, its employees, agents, or subcontractors, as applicable, are not appropriately licensed.
- 10.2. Technical Accuracy.** All Services will be technically accurate and correct and performed in strict accordance with the provisions and requirements of this Agreement.
- 10.3. Compliance with Laws.** Vendor is and shall remain in compliance with all applicable federal, state, county, and municipal, statutes, laws, ordinances, and regulations relating to the Agreement and the performance of Services in effect now or later and as amended from time to time, including but not limited to the Drug-Free Workplace Act, the Family Educational Rights and Privacy Act ("FERPA"), the Protection of Pupil Rights Amendment ("PPRA"), the Illinois School Student Records Act ("ISSRA"), the Student Online Personal Protection Act ("SOPPA"), the Children's Online Privacy Protection Act ("COPPA"), and any others relating to non-discrimination and as applicable. Further, Vendor is and shall remain in compliance with all applicable Board policies and rules. Board policies and rules are available at <http://www.cps.edu/>. In addition, Vendor shall comply with any governmental regulations, requirements and guidelines and Board guidelines, policies, and rules in effect now or later, and as amended from time to time related to COVID-19, including without limitation all reporting requirements and requirements or recommendations regarding face coverings and social distancing.
- 10.4. Good Standing.** Vendor is not in default and has not been deemed by the Board to be in default under any other contract with the Board during the five (5) year period immediately preceding the effective date of the Agreement.
- 10.5. Authorization.** If Vendor is an entity other than a sole proprietorship, Vendor represents that it has taken all action necessary for the approval and execution of the Agreement,

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and execution by the person signing on behalf of Vendor is duly authorized by Vendor and has been made with complete and full authority to commit Vendor to all terms and conditions of the Agreement which shall constitute valid, binding obligations of Vendor.

- 10.6. Financially Solvent. Vendor warrants that it is financially solvent, is able to pay all debts as they mature and is possessed of sufficient working capital to complete all Services and perform all obligations under the Agreement.
- 10.7. Gratuities. No payment, gratuity or offer of employment was made by or to Vendor in relation to the Agreement or as an inducement for award of the Agreement.
- 10.8. Freedom from Communicable Disease: Researcher shall require all persons assigned to perform Services at any school to show evidence that they are free from communicable disease, including tuberculosis. Acceptable evidence is described in the Illinois School Code, 105 ILCS 5/24-5. From time to time, the Board may require Researcher to demonstrate its compliance with the provisions of this Section.
- 10.9. Contractor's Disclosure Form. The disclosures in the Contractor Disclosure Form, previously submitted by Vendor, are true and correct. Vendor shall promptly notify Board in writing of any material change in information set forth therein, including but not limited to change in ownership or control, and any such change shall be subject to Board approval which shall not be unreasonably withheld.
- 10.10. Third Parties' Property and Information. In performing and delivering the Services under the Agreement, Vendor shall not violate or infringe upon any patent, copyright, trademark, trade secret or other proprietary or intellectual property right of any third party and will not improperly use any third party's confidential information. Vendor shall have, without encumbrance, all ownership, licensing, marketing, and other rights required to furnish all materials and products that it furnishes to the Board under the Agreement and can grant or assign all rights granted or assigned to the Board pursuant to this Agreement.
- 10.11. Warranty of Title. Vendor warrants title to all Products and Services sold to Board and warrants that all Products and Services sold to Board are free and clear from all liens, contracts, chattel mortgages, or other encumbrances; and that Vendor has the lawful right to dispose of and sell such Products and Services and that Vendor shall warrant and defend title against all claims.
- 10.12. Assignment of Warranties. Vendor has the right, title and ability to assign and shall assign to the Board any third-party warranties concerning the Services provided under the Agreement to the Board.
- 10.13. Free of Computer Viruses. Vendor shall use commercially reasonable best efforts to ensure that the Services, including but not limited to any software used in the performance of the Services, do not introduce or transfer any malicious code, malware, Trojan horses, ransomware, worms or other computer viruses into the Board's network, systems, and computers.
- 10.14. Debarment and Suspension. Vendor certifies, to the best of its knowledge and belief, after due inquiry, that:
 - A. It, its principals, or its subcontractors providing Services under the Agreement are not barred from contracting with any unit of state or local government as a result of violation of either Section 33E-3 (bid-rigging) or 33E-4 (bid rotating) of the Illinois Criminal Code (720 ILCS 5/33E).
 - B. It, its principals, or its subcontractors providing Services under the Agreement are

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not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency or any unit of state or local government.

- C. It, its principals, or its subcontractors providing Services under the Agreement have not violated the rules, regulations, or laws of any federal, state, or local government unit or agency.

"Principals" for the purposes of this certification means officers; directors, owners; partners; persons having primary management or supervisory responsibilities within a business entity; and, if a joint venture is involved, each joint venture member and the principals of each such member.

In performing any obligations of the Agreement, Vendor shall not utilize any organizations that the Board has debarred from doing business with CPS pursuant to the Board's Debarment Policy (19-0626-PO1), as may be amended.

- 10.15. Prohibited Acts.** Within the three (3) years prior to the effective date of the Agreement, Vendor or any of its members if a joint venture or a limited liability company, or any of its or their respective officers, directors, shareholders, members, managers, other officials, agents or employees (i) have not been convicted of bribery or attempting to bribe a public officer or employee of any public entity and (ii) have not been convicted of agreeing or colluding among contractors or prospective contractors in restraint of trade, including bid-rigging or bid-rotating, as those terms are defined under the Illinois Criminal Code.
- 10.16. Continued Disclosure Requirement.** If at any time during the Term of the Agreement or during any Renewal Terms, Vendor becomes aware of any change in the circumstances that makes the representations and warranties stated above no longer true, Vendor must immediately disclose such change to the Board.
- 10.17. Survival.** All representations and warranties will survive inspection, acceptance, payment and expiration or termination of this Agreement. Nothing in the foregoing representations and warranties will be construed to limit any other rights or remedies available to the Board under the law and the Agreement.
- 11. Background Check.** Vendor shall comply with the following requirements and such other procedures as may be determined necessary by the Board from time to time for each employee, agent, volunteer or subcontractor who may have contact with a CPS student as a result of the Agreement (individually and collectively "**Staff**") ("**Background Check**"). For purposes of this Section, contact via text messages, live chats, emails, any other digital or online media, telephone, in person, or through any other means shall be considered "contact". Vendor shall not allow any Staff to have contact with students until Vendor has confirmed with the Board that each respective Staff has successfully completed the Background Check in accordance with the following requirements:
- 11.1. Do Not Hire List.** The Board will perform a check of eligibility of each Staff who may have contact with a CPS student pursuant to the Agreement by checking the Board's "Do Not Hire" ("**DNH**") records ("**DNH Check**"). The Board will utilize the same DNH Check process that the Board uses for its own prospective staff. Staff with a DNH designation shall not provide Services hereunder.
- 11.2. Criminal History Records Check.** Vendor shall, at its own cost and expense, have a complete fingerprint-based criminal history records check conducted on each Staff who may have contact with a CPS student pursuant to the Agreement through the process established by the Board, including using the Board's contracted vendor for conducting

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such checks, and otherwise in accordance with the Illinois School Code (105 ILCS 5/34-18.5), which refers to and incorporates the Sex Offender and Child Murderer Community Notification Law (730 ILCS 152/101 et seq.), and the Murderer and Violent Offender Against Youth Registration Act (730 ILCS 154/1 et seq.) (collectively "**Criminal History Records Check**"). A complete Criminal History Records Check includes the following:

- A. Fingerprint-based checks through the Illinois State Police and the Federal Bureau of Investigation.
- B. A check of the Illinois Sex Offender Registry and the Nationwide Sex Offender Registry.
- C. A check of the Illinois State Police Murderer and Violent Offender Against Youth Registry.

The results of each Criminal History Records Check shall be adjudicated by the Board. Staff shall not have contact with CPS students prior to successfully completing the Criminal History Records Check. When the Board determines that any Staff has not passed a Criminal History Records Check, such Staff shall not access any Board facility and shall not have contact with any CPS student hereunder.

11.3. Department of Children and Family Services Check. At Vendor's cost and expense, the Board shall have the right to check Staff who may have contact with a CPS student pursuant to the Agreement for indicated reports of child abuse and/or neglect with the Illinois Department of Children and Family Services ("**DCFS**") State Automated Child Welfare Information System (or a comparable determination of child abuse or neglect by a government agency in another jurisdiction) for each Staff ("**DCFS Check**"). Vendor shall follow the directives and processes of the Board for initiating any DCFS Check, and the results of each DCFS Check shall be adjudicated by the Board. Staff determined by the Board not to have passed a DCFS Check shall not access any Board facility and shall not have contact with any CPS student hereunder.

11.4. Background Check Representations and Warranties. With respect to each Background Check, Vendor further represents and warrants that Vendor shall:

- A. Utilize the process established by the Board for completing each Background Check and immediately initiate all action, as directed by the Board, to have such Background Check performed.
- B. Obtain from each of its prospective and current Staff and provide to the Board a signed copy of any release and consent required to conduct the Background Check in the form determined by, and as directed by the Board.
- C. Confirm with the Board's Chief of Safety and Security that each respective Staff has successfully completed the Background Check through the process established by the Board and complied with the Board's directives regarding the results of each Background Check before any contact with a CPS student may occur.
- D. When contact with a CPS student may occur, not allow any Staff to provide Services until a DNH Check, Criminal History Records Check, and DCFS Check have been completed by the Board and the results of the Background Check satisfy for the Board, at a minimum, the requirements of 105 ILCS 5/34-18.5 and the requirements of all other Acts and Laws referenced in this Section, as may be amended.
- E. Comply with and require compliance of all Staff with directives from the Board relating to any updates to any Background Check (which updates shall be received and adjudicated by the Board) and provide any other information requested by the Board necessary for the performance of the Background Check and its update process.
- F. Immediately remove from any contact with any CPS student pursuant to the Agreement and otherwise terminate access for any Staff determined by the Board

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not to have passed a Background Check or update for any matters arising after an initial Background Check.

- 11.5. Allocation of Costs and Liquidated Damages.** Vendor is obligated to cause the Background Check to be performed for all Staff who may have contact with any CPS student pursuant to the Agreement, and Vendor shall be responsible for the costs of such Background Check. Whether or not Vendor allocates the costs to its subcontractors shall not affect Vendor's obligations in this Section.

If Vendor fails to comply with this Section, in whole or in part, then, in addition to the Remedies set forth in the Agreement, the Board may exercise additional remedies, including but not limited to: (i) withholding payments due under the Agreement, and any other agreement Vendor may have or enter into with the Board until Vendor remedies such non-compliance to the Board's reasonable satisfaction; (ii) immediately terminating the Agreement without any further obligation by the Board of any kind (other than payment for Services previously rendered pursuant to the terms herein); (iii) seeking liquidated damages; (iv) or taking any other action or remedy available under the Agreement or by law.

Liquidated damages shall be calculated as \$5,000.00 per breach of this Section, which, for purposes of clarity, for the aggregate calculation of liquidated damages, will include each instance of contact with CPS students by Staff as a separate breach. It is understood and agreed that Vendor's non-compliance with this Section shall constitute a material breach of the Agreement.

- 12. Research Activities and Data Requests.** Vendor shall not conduct research in the Chicago Public Schools or use CPS student data for research purposes. In the event Vendor seeks to conduct research in the Chicago Public Schools or use CPS student data for research purposes in connection with the Agreement or for any other purposes, Vendor shall comply with the Board's External Research Study and Data Policy adopted December 11, 2019 (19-1211-PO3), as may be amended from time to time. Vendor acknowledges and agrees that it may not begin any research activities or obtain data for research purposes without the prior written consent of the Director of School Quality Measurement and Research, or as otherwise provided in the Policy.
- 13. Use of Board's Network: Acceptable Use Policies.** If at any time, Vendor has access to the Board's computer network, Vendor warrants that it is and shall remain in compliance with the Board's Information Security Policy adopted August 28, 2019 (19-0828-PO1), and the Board's Staff Acceptable Use Policy, adopted August 28, 2019 (19-0828-PO3), both as amended, during the Term of the Agreement and any renewals thereof. Vendor shall not act or fail to act in any manner that will cause any CPS student to not comply with the Board's Student Acceptable Use Policy, adopted August 28, 2019 (19-0828-P21), as may be amended. Vendor shall also comply with the requirements and guidance in the following links as applicable, as may be amended: Acceptable Use Policy of Technology Guidance and other vendor requirements, found at <https://cps.edu/AcceptableUsePolicy/Pages/vendorPolicy.aspx> ("**Vendor AUP**").
- 14. Independent Contractor.** *The language in Section 10F "Audit, Assignment, Amendments, Waiver, and Contract Complete > Relationship to the Parties" of the Reference Contract is hereby deleted in their entirety and replaced with the following:* It is understood and agreed that the relationship of Vendor to the Board is and shall continue to be that of an independent contractor and neither Vendor nor any of Vendor's employees shall be entitled to receive Board employee benefits. As an independent contractor, Vendor agrees to be responsible for the payment of all taxes and withholdings specified by law which may be due in regard to compensation paid by the Board. To the extent that Vendor is subject to taxes under Section 4980H of the Internal Revenue Code, Vendor shall be solely responsible for paying such taxes.

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Vendor agrees that neither Vendor nor its employees, staff or subcontractors shall represent themselves as employees or agents of the Board. Vendor shall provide the Board with a valid taxpayer identification number as defined by the United States Internal Revenue Code, including but not limited to social security number or federal employer identification number. In the event that the Board is determined to be liable for taxes under Section 4980H of the Internal Revenue Code as a result of the use of Vendor's employees under the Agreement, Vendor shall indemnify the Board for any such liability.

- 15. Indemnification.** *The language in Section 11 "Indemnity and Hold Harmless" of the Reference Contract is hereby deleted in their entirety and replaced with the following:* Vendor agrees to defend, indemnify and hold harmless the Board, its members, employees, agents, officers and officials from and against all liabilities, losses, penalties, damages and expenses, including costs and attorney fees, arising out of all claims, liens, damages, obligations, actions, suits, judgments or settlements, or causes of action, of every kind, nature and character (collectively "**Claims**") arising or alleged to arise out of the acts or omissions of the Vendor, its officers, agents, employees and subcontractors in the performance of the Agreement. The foregoing obligation extends to and is intended to encompass any and all Claims that the Services infringe, misappropriate, or otherwise violate any confidentiality, proprietary, or intellectual property right of a third party.

Furthermore, as stated in Independent Contractor Section above, in the event that the Board is determined to be liable for taxes under Section 4980H of the Internal Revenue Code as a result of its use of Vendor's employees under the Agreement, Vendor shall indemnify the Board for any such liability. As stated in the Confidential Information Section above, in the event of unauthorized access, use, or disclosure of the Board's Confidential Information arising or alleged to arise from the acts or omissions of Vendor, its employees, agents, or subcontractors, in addition to the obligations provided in this Section, Vendor shall cover any costs or fees associated with (i) providing notices of a data breach to affected persons and to regulatory bodies and (ii) remedying and otherwise mitigating any potential damages or harm from the data breach, including but not limited to call centers and providing credit monitoring or credit restoration services as may be requested by the Board.

Vendor shall, at its own cost and expense, appear, defend and pay all attorney fees and, other costs and expenses arising hereunder. In addition, if any judgment shall be rendered against the Board in any such action, Vendor shall, at its own expense, satisfy and discharge such obligation of the Board. The Board shall have the right, at its own expense, to participate in the defense of any suit, without relieving Vendor of any of its obligations hereunder. The Board retains final approval of any and all settlements or legal strategies which involve the interest of the Board.

However, if Vendor, after receiving notice of any such proceeding, fails to immediately begin the defense of such claim or action, the Board may (without further notice to Vendor) retain counsel and undertake the defense, compromise, or settlement of such claim or action at the expense of Vendor, subject to the right of Vendor to assume the defense of such claim or action at any time prior to settlement, compromise or final determination thereof. The cost and expense of counsel retained by the Board in these circumstances shall be borne by Vendor and Vendor shall be bound by, and shall pay the amount of, any settlement, compromise, final determination or judgment reached while the Board was represented by counsel retained by the Board pursuant to this paragraph, or while Vendor was conducting the defense.

To the extent permissible by law, Vendor waives any limits to the amount of its obligations to defend, indemnify, hold harmless, or contribute to any sums due under any losses, including any claim by any employee of Vendor that may be subject to the Workers Compensation Act, 820 ILCS 305/1 *et seq.* or any other related law or judicial decision (such as *Kotecki v. Cyclops Welding Corporation*, 146 Ill. 2nd 155 (1991)). The Board, however, does not waive any limitations it may have on its liability under the Illinois Workers Compensation Act, the Illinois

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Pension Code, any other statute or judicial decision.

The indemnities set forth herein shall survive the expiration or termination of the Agreement.

16. **Non-liability of Board Officials.** Vendor agrees that no Board member, employee, agent, officer or official shall be personally charged by Vendor, its members if a joint venture, or any subcontractors with any liability or expense under the Agreement or be held personally liable under the Agreement to Vendor, its members if a joint venture, or any subcontractors.
17. **Board Not Subject to Taxes.** The federal excise tax does not apply to the Board, and the State of Illinois sales tax does not apply to the Board by virtue of Exemption No. E9997-7109-06. The amounts paid to Vendor are inclusive of all other taxes that may be levied or based on the Agreement, including without limitation sales, use, nonresident, value-added, excise, and similar taxes levied or imposed on the Services to be provided under the Agreement, but excluding taxes levied or imposed on the income or business privileges of Vendor. Vendor shall be responsible for any taxes levied or imposed upon the income or business privileges of Vendor.
18. **Audit and Records Retention.** *The language in Section 10A "Audit, Assignment, Amendments, Waiver, and Contract Complete > Audit" of the Reference Contract is hereby deleted in their entirety and replaced with the following:* Vendor shall permit and cooperate in good faith in any audits by the Board, including its Department of Procurement or its agents, for compliance by the Vendor with the Agreement. Vendor shall furnish the Board with such information, supporting documentation and reports as may be requested relative to the progress, execution, delivery and costs of the Services and compliance with applicable MBE/WBE requirements. Failure of the Vendor to comply in full and cooperate with the requests of the Board or its agents shall give the Board, in addition to all other rights and remedies hereunder, the right to charge Vendor for the cost of such audit.

Vendor shall maintain all records related to the Agreement. As used in this Section, "records" shall include all correspondence, receipts, vouchers, memoranda and other data, regardless of type or medium (including emails or other electronically stored data) relating to the Agreement and Vendor's performance of Services). Specifically, a complete record of all communications between the Board's students and Vendor's employees, agents, and subcontractors, including but not limited to text messages, chat dialogue, email communications, and recorded voice communications, must be retained. All records shall be retained for the life of the Agreement and through any Transition period. Vendor shall transfer all records and data to the Board generated in the course of performing services within thirty (30) calendar days of expiration or termination of the Agreement. Confidential Information shall be returned to the Board in a secured, consumable format as directed by the Board, such as .csv or SQL file. Upon return of all Confidential Information, Vendor shall provide an affidavit attesting to destruction of all copies in Vendor's possession. All records and data generated pursuant to the Agreement shall be subject to inspection and audit by the Board during the life of the Agreement. If any audit, litigation, or other action involving the records is being conducted or has not been resolved, all applicable records must be retained until the proceeding is closed. Vendor shall require all of its subcontractors to maintain the above-described records and allow the Board the same right to inspect and audit said records as set forth herein.
19. **Freedom of Information Act.** Vendor acknowledges that the Agreement and all documents submitted to the Board related to the contract award are a matter of public record and are subject to the Illinois Freedom of Information Act (5 ILCS 140/1) and any other comparable state and federal laws and that the Agreement is subject to reporting requirements under 105 ILCS 5/10-20.44. Vendor further acknowledges that the Agreement shall be posted on the Board's Internet website.
20. **MBE/WBE Program.** Vendor acknowledges that it is familiar with the requirements of the

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Board's "Remedial Program for Minority and Women- Owned Business Enterprise Participation in Goods and Services Contracts" ("Remedial Plan"), which is available on the Board's website at <https://policy.cps.edu/download.aspx?ID=153> and is incorporated as if fully set forth herein. (Please see extension: https://www.cpsboe.org/content/actions/2021_12/21-1215-RS1.pdf). Vendor agrees to adhere to the minimum participation goals and to all other applicable MBE/WBE requirements as set forth in the program. Vendor agrees to submit such documentation in connection with the program as may be requested by the Board.

Vendor and its subcontractors shall provide all required compliance data with respect to the Remedial Plan via the Board's electronic system available at <http://cps.diversitycompliance.com>. Vendor and its subcontractors shall be responsible for responding to any requests for data or information by the noted response due dates, and shall check the electronic system on a regular basis to manage contact information and contract records. Vendor shall also be responsible for ensuring that all subcontractors have completed all requested items with complete and accurate information and that their contact information is current.

21. **Right of Entry.** Vendor and any of its officers, employees, subcontractors or agents, performing Services hereunder shall be permitted to enter upon Board property in connection with the performance of the Services hereunder, subject to the terms and conditions contained herein and those rules established by the Board and the subject school principal. Vendor shall provide advance notice to the Board whenever applicable, of any such intended entry. Consent to enter upon a site given by the Board shall not create, nor be deemed to imply, the creation of any additional responsibilities on the part of the Board. Vendor shall use and shall cause each of its officers, employees and agents to use the highest degree of care when entering upon any property owned by the Board in connection with the Services. Any and all claims, suits or judgments, costs, or expenses, including reasonable attorney fees, arising from, by reason of, or in connection with any such entries shall be treated in accordance with the applicable terms and conditions of the Agreement, including without limitation, the indemnification provisions contained in the Agreement.
22. **Non-Discrimination.** It shall be an unlawful employment practice for Vendor or any of its subcontractors to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to compensation, or other terms, conditions, or privileges of employment, because of such individual's race, color, national origin, religion, sex, gender identity/expression, sexual orientation, age or disability; or to limit, segregate, or classify employees or applicants for employment in any way that would deprive or tend to deprive any individual from equal employment opportunities or otherwise adversely affect an individual's status as an employee because of such individual's race, color, national origin, religion, sex, gender identity/expression, sexual orientation, age or disability. Vendor shall particularly remain in compliance at all times with: the Civil Rights Act of 1964, 42 U.S.C.A. § 2000a, *et seq.*; the Age Discrimination in Employment Act, 29 U.S.C.A. § 621, *et seq.*; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C.A. § 701, *et seq.*; the Americans with Disabilities Act, 42 U.S.C.A. § 12101, *et seq.*; the Illinois Human Rights Act, 775 ILCS 5/1-101, *et seq.*; the Illinois School Code, 105 ILCS 5/1-1 *et seq.*; the Illinois Public Works Employment Discrimination Act, 775 ILCS 10/0.01 *et seq.*; the Individuals with Disabilities Education Act (IDEA) 20 U.S.C.A. § 1400 *et seq.*; and, the Chicago Human Rights Ordinance, ch. 2-160 of the Municipal Code of Chicago, all as may be amended and all other applicable federal, state, and municipal statutes, regulations, ordinances and other laws. Nothing in this paragraph is intended nor shall be construed to create a private right of action against the Board or any of its employees. Furthermore, no part of this paragraph shall be construed to create contractual or other rights or expectations for the Vendor's employees or the Vendor's subcontractors' employees.
23. **Wage Requirements.** In the performance of this Agreement, Vendor must comply with the City of Chicago Minimum Wage Ordinance (01-24), as amended, available at: https://codelibrary.amlegal.com/codes/chicago/latest/chicago_il/0-0-0-2639765; the Board's

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Minimum Wage Resolution (14-1217-RS2), available at https://www.cpsboe.org/content/actions/2014_12/14-1217-RS2.pdf; which adopts Chicago Mayoral Executive Order 2014-1, available at: https://chicityclerk.s3.amazonaws.com/s3fs-public/document_uploads/executive-order/2014/Executive-Order-No-2014-1.pdf; and, any applicable regulations issued by the Board's CPO.

In the event of any discrepancy between the summary below and the Resolution and Order, the Resolution and Order shall control.

Vendor must: (i) pay its employees no less than the minimum wage as determined by the City of Chicago ("**Minimum Wage**") for work performed under the Agreement; and (ii) require any subcontractors, sublicensees, or subtenants, to pay their employees no less than the Minimum Wage for work performed under the Agreement.

The Minimum Wage must be paid to: 1) All employees regularly performing work on property owned or controlled by the Board or at a Board jobsite and 2) All employees whose regular work entails performing a service for the Board under a Board contract.

Beginning on July 1, 2015, and every July 1 thereafter, the Minimum Wage shall increase in proportion to the increase, if any, in the Consumer Price Index for All Urban Consumers most recently published by the Bureau of Labor Statistics of the United States Department of Labor, and shall remain in effect until any subsequent adjustment is made. On or before June 1, 2015, and on or before every June 1 thereafter, the City of Chicago may issue bulletins announcing adjustments to the Minimum Wage for the upcoming year.

The Minimum Wage is not required to be paid to employees whose work is performed in general support of Vendor's operations, does not directly relate to the services provided to the Board under the Agreement, and is included in the contract price as overhead, unless that employee's regularly assigned work location is on property owned or controlled by the Board. It is also not required to be paid by employers that are 501(c)(3) not-for-profits.

The term 'employee' as used herein does not include persons subject to subsection 4(a)(2), subsection 4(a)(3), subsection 4(d), subsection 4(e), or Section 6 of the Illinois Minimum Wage Law, 820 ILCS 105/1 et seq., in force as of the date of the Agreement or as amended. Nevertheless, the Minimum Wage is required to be paid to those workers described in subsections 4(a)(2)(A) and 4(a)(2)(B) of the Illinois Minimum Wage Law.

The Minimum Wage is not required to be paid to employees subject to a collective bargaining agreement that provides for different wages than those required by the Board's Resolution, if that collective bargaining agreement was in force prior to December 17, 2014 or if that collective bargaining agreement clearly and specifically waives the requirements of the Resolution.

If the payment of a prevailing wage is required and the prevailing wage is higher than the Minimum Wage, then Vendor must pay the prevailing wage.

24. **Public Works.** Any construction contract with CPS calls for the construction of a "public work," within the meaning of the Illinois Prevailing Wage Act, 820 ILCS 130/01 et seq. ("the Act"). The Act requires contractors and subcontractors to pay laborers, workers and mechanics performing services on public works projects no less than the current "prevailing rate of wages" (hourly cash wages plus amount for fringe benefits) in the county where the work is performed. The Department publishes the prevailing wage rates on its website at <http://labor.illinois.gov/>. The Department revises the prevailing wage rates and the contractor/subcontractor has an obligation to check the Department's website for revisions to prevailing wage rates. For information regarding current prevailing wage rates, please refer to the Illinois Department of Labor's website. All contractors and subcontractors rendering services under this contract must comply

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with all requirements of the Act, including but not limited to, all wage requirements and notice and record keeping duties.

25. **Kickbacks.** Neither Vendor nor any of its members if a joint venture or limited liability company has accepted and shall not accept from or on behalf of any subcontractor or any intermediate tier subcontractor any payment, gratuity or offer of employment in relation to the Agreement or as an inducement for the acceptance of the Agreement. Vendor is and shall remain in compliance with all applicable anti-kickback laws and regulations.
26. **Joint and Several Liability.** *The language in Section 16 "Severability" of the Reference Contract is hereby deleted in their entirety and replaced with the following:* In the event that Vendor, or its successors or assigns, if any, is comprised of more than one legal entity, then in that event, each and every obligation or undertaking herein stated to be fulfilled or performed by Vendor shall be the joint and several obligation or undertaking of each such legal entity.
27. **Survival/Severability.** *The language in Section 1C "Term of Contract > Survival of Terms" of the Reference Contract is hereby deleted in their entirety and replaced with the following:* All express representations or indemnifications made or given in the Agreement shall survive the completion of Services or the expiration or termination of the Agreement for any reason. If any provision or part of the Agreement is held to be unenforceable, the Agreement shall be considered divisible and such provision shall be deemed inoperative to the extent that it is deemed unenforceable, and in all other respects the Agreement shall remain in full force and effect, provided however, that if any such provision may be made enforceable by limitation thereof, then such provision shall be deemed to be so limited and shall be enforceable to the maximum extent permitted by applicable law.
28. **Counterparts and Electronic Signatures.** The Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one instrument. A signature delivered by facsimile or electronic means shall be considered binding for both parties.
29. **Entire Agreement and Amendment.** *The language in Sections 10C "Audit, Assignment, Waiver, and Contract Complete > Amendments" and 10E "Contract Complete" of the Reference Contract is hereby deleted in its entirety and replaced with the following language:* The Agreement, including all exhibits attached to it and incorporated into it, constitutes the entire agreement of the parties with respect to the matters contained herein. All attached exhibits are incorporated into and made a part of the Agreement. No modification or amendment to the Agreement shall be effective unless such modification or amendment is in writing and signed by the authorized representatives of each party. Any prior agreements or representations, either written or oral, relating to the subject matter of the Agreement are of no force or effect.

The parties, however, acknowledge that Vendor may have or may have had one or more prior agreements or contracts with Board, pursuant to which Vendor may have continuing obligations currently or after termination or expiration thereof ("**Other Agreements/ Continuing Obligations**"), such as but not limited to other services, warranties, record retention obligations, or indemnification obligations. It is not the intention of the parties to subsume or supersede those Other Agreements/Continuing Obligations in this Agreement, and the parties' respective obligations thereunder.
30. **Controlling Agreement.** *The language in Section 10E "Audit, Assignment, Waiver, and Contract Complete > Contract Complete" of the Reference Contract is hereby deleted in its entirety and replaced with the following language:* Vendor shall not request any CPS staff including school principals, administrative staff or other CPS employee to sign any form, memorandum of understanding or any other agreement for the performance of Services except for those documents specifically approved by the Board under the Agreement. Additionally, the Board and

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its users shall not be bound by the terms and conditions contained in any clickwrap/clickthrough agreement or license, end user license or any other agreement or license contained or referenced in the products or service or any quote provided by Vendor. Even if a CPS staff or Board user agrees to any agreement or license contained or referenced in the Products or Services or a quote from Vendor, Vendor acknowledges and agrees that those terms and conditions are null and void and are not binding on the Board. Vendor acknowledges and agrees that the terms and conditions of the Agreement represent the entire agreement of the parties for the Products and Services. No additional terms or conditions shall apply to the Board unless a written amendment to the Agreement is made and signed by the authorized representatives of both parties and approved by the Board's General Counsel, or is otherwise documented and executed in accordance with the Change Management Process section of this Agreement.

31. **Governing Law.** *The language in Sections 6E "Participating Entity Use and Purchasing > Governing Law," 12 "Governing Data Practices", 14 "Governing Law, Jurisdiction, and Venue", 19 "Compliance" of the Reference Contract is hereby deleted and replaced with the following language:* Without regard to application of any conflict of law provisions, the Agreement shall be governed as to performance and interpretation in accordance with the laws of the State of Illinois. Vendor irrevocably submits itself to the original jurisdiction of those courts located in the County of Cook, State of Illinois, with regard to any controversy arising out, or relating to, or in any way concerning the execution or performance of the Agreement. Vendor agrees that service of process on Vendor may be made, at the option of the Board, by either registered or certified mail addressed to the office identified in the notice provision herein, by registered or certified mail addressed to the office actually maintained by Vendor, or by personal delivery on any officer, director, or managing or general agent of Vendor. If any action is brought by Vendor against the Board concerning the Agreement, the action shall only be brought in those courts located within the County of Cook, State of Illinois.
32. **Continuing Obligation to Perform.** In the event of any dispute between Vendor and Board, Vendor shall expeditiously and diligently proceed with the performance of all its obligations under the Agreement with a reservation of all rights and remedies it may have under or pursuant to the Agreement at law or in equity.
33. **Conflict of Interest.** The Agreement is not legally binding on the Board if entered into in violation of the provisions of 105 ILCS 5/34-21.3, which restricts the employment of, or the letting of contracts to, former Board members within a one-year period following expiration or other termination of their office.
34. **Indebtedness.** Vendor agrees to comply with the Board's Indebtedness Policy adopted June 26, 1996 (96-0626-PO3), as amended from time to time, which policy is hereby incorporated by reference into and made a part of the Agreement as fully set forth herein.
35. **Ethics.** No officer, agent or employee of the Board is or shall be employed by Vendor or has or shall have a financial interest, directly, or indirectly, in the Agreement or the compensation to be paid hereunder except as may be permitted in writing by the Board's Code of Ethics adopted May 25, 2011 (11-0525-PO2), as amended from time to time, which policy is hereby incorporated by reference into and made a part of the Agreement as fully set forth herein.
36. **Inspector General.** Each party to the Agreement hereby acknowledges that in accordance with 105 ILCS 5/34-13.1, the Inspector General of the Board of Education of the City of Chicago has the authority to conduct certain investigations and that the Inspector General shall have access to all information and personnel necessary to conduct those investigations. It shall be the duty of every contractor, subcontractor, agent or licensee of the Board, and every applicant for certification of eligibility for a Board contract or program, to cooperate with the inspector general in any inquiry undertaken related to the Agreement. Assurance of compliance with this requirement by the contractor's employees, agents or subcontractors shall be the responsibility

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I. General Terms and Conditions

of the contractor. Failure to cooperate as required may result in monetary and/or other penalties.

37. **Waiver.** *The language in Section 10D "Audit, Assignment, Amendments, Waiver, and Contract Complete > Waiver" of the Reference Contract is hereby deleted and replaced with the following language:* No delay or omission by the Board to exercise any right hereunder shall be construed as a waiver of any such right and the Board reserves the right to exercise any such right from time to time as often and as may be deemed expedient.

III. SPECIFIC TERMS & CONDITIONS

1. **Warranty of Services.** *The language in Section 2B "Equipment, Products, or Services > Warranty" of the Reference Contract is hereby deleted and replaced with the following language:* Vendor hereby represents and warrants that its Services will be performed in a manner consistent with the standards of the applicable industry or profession. Vendor warrants that its Services will be performed in a manner that does not damage or corrupt data of the Board. Vendor also warrants that the deliverables submitted to the Board for acceptance will conform to the Scope of Services and will be free of errors or defects in design, material and workmanship. The warranties contained in this Section will continue for the duration of the Agreement ("**Warranty Period**") after acceptance of the deliverables, in writing, by the Board. If the Board notifies Vendor, or Vendor becomes aware, of any non-performance, error or defect covered by the foregoing warranties within the Warranty Period, Vendor shall, at its own expense, promptly correct such non-performance, error or defect, but in no event later than thirty (30) days after notification by the Board. Any repair or replacement of deliverables or portions thereof will be additionally and automatically warranted therein. All warranties will survive inspection, acceptance and payment.
2. **Authority.** Vendor understands and agrees that Vendor is not an authorized representative of the Board or the Chicago Public Schools. All agreements and approvals (written or verbal) of the Board or the Chicago Public Schools must be made by authorized Board employee(s).
3. **Account Management.** Vendor must provide a single point of contact ("**Account Manager**") who is assigned to oversee and manage the day-to-day activities of this relationship with the Board as well as overall management of the customer service issues and reporting. Vendor shall also be required to have periodic meetings with the Department of Procurement personnel for reasonable contract review meetings as well as an annual review at a time determined by the Department of Procurement. Vendor must support the Board with an appropriate number of personnel to meet the Board's needs.
4. **Removal and Reassignment.** *The language in Section 10B "Audit, Assignment, Amendments, Waiver, and Contract Complete > Assignment" of the Reference Contract is hereby deleted and replaced with the following language:* Vendor agrees to remove any of its staff or subcontractor's staff from performing Services if the Board, in its sole discretion, believes that such individual is not performing acceptably or is endangering the safety or welfare of any CPS student. Vendor further agrees to bear any costs associated with the removal of such person. Vendor shall have a transition plan for all key personnel on this account. In the event of removal, reassignment or departure, Vendor will provide transitional coverage of any Key Personnel within five (5) business days and will have new personnel fully in place within sixty (60) days.
5. **Subcontractor Employee Screening and Monitoring Process.** If the awarded Vendor plans to subcontract the Services outlined in the Agreement to a third party, Vendor must submit its subcontractor's employee screening and monitoring process for Board approval prior to final contract approval.
6. **Charter School Participation.** Charter schools which receive funding from the Board shall be

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eligible to purchase Services pursuant to the terms and conditions of the Agreement and, if such charter schools are authorized by their governing bodies to execute such purchases, by issuing their own purchase order(s) to Vendor. The Board shall not be responsible for payment of any amounts owed by charter schools. The Board assumes no authority, liability or obligation on behalf of any charter school.

7. **Participation by Other Local Government Agencies.** Other local government agencies ("Local Government Agencies") may be eligible to purchase Services pursuant to the terms and conditions of the Agreement if: (a) such agencies are authorized, by law or their governing bodies, to execute such purchases; (b) such authorization is allowed by the Board of Education's CPO; and (c) such purchases have no significant net adverse effect on the Board and result in no observed diminished ability on the Vendor to provide the Services to the Board or Board's user departments pursuant to such purchases. Local Government Agencies shall include without limitation: City of Chicago, Chicago Park District, City Colleges of Chicago, Chicago Transit Authority, Chicago Housing Authority, Chicago Board of Elections, Metropolitan Pier & Exposition Authority (McCormick Place, Navy Pier), and the Municipal Courts. All purchases and payment transactions shall be made directly between the Vendor and the requesting Local Government Agency; the Board shall not be responsible for payment of any amounts owed by any Local Government Agency to Vendor. The Board assumes no authority, liability or obligation on behalf of any Local Government Authority.
8. **Notices.** All notices required under this Agreement shall be in writing and shall be sent to the addresses and persons set forth below, or to such other addresses as may be designated by a party in writing. All notices shall be deemed received when (i) delivered personally, or (ii) sent by facsimile or email as shown by the transmitting device, or (iii) one day after deposit with a commercial express courier specifying next day delivery, with written verification of receipt. Refusal to accept delivery has the same effect as receipt.

If to the Board: Board of Education of City of Chicago
Nutrition Support Services
42 W. Madison Street
Chicago, Illinois 60602

With a copy to: Board of Education of City of Chicago
Attention: General Counsel
One North Dearborn, 9th Floor
Chicago, Illinois 60602
Facsimile: (773) 553-1701

If to Vendor: Michael Siegel
Trimark Marlinn, LLC
9 Hampshire Street
Mansfield, MA 02048
Email: Mike.Siegel@trimarkusa.com
Phone: 708-496-1700

9. TRANSITIONS.

- 9.1. **Transition at Effective Date of Agreement.** Upon commencement of the Agreement, Vendor shall familiarize itself with and prepare to transition to Board's existing programs and current System requirements and procedures that are pertinent to Vendor's programs and performance of Vendor's Services. Vendor shall familiarize itself with ongoing Board's Department of Capital Planning and Construction and Board's Facilities Department (and any other Board User Department or Office that may be designated by the Board) program activities, facilities, operations, equipment, materials, supplies, and

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other such matters that may be pertinent to the performance of Vendor's Services. Vendor shall fully cooperate with other Board contractors, subcontractors and assigns and shall carefully plan and perform its own work to accommodate the work of other Board contractors. Vendor shall not intentionally commit or permit any act which will interfere with the performance of work by any other Board contractors.

- 9.2. **Transition at Termination/Expiration of Agreement.** Upon expiration or early termination of this Agreement, Vendor shall take all actions necessary to accomplish a complete and timely transition from Vendor to Board, or to any replacement service providers designated by Board (collectively "**New Provider**"), without material impact on the Services or any other services provided by third parties. Vendor shall provide Board and New Provider with all information regarding the Services that is needed for the transition. Vendor shall provide for the prompt and orderly conclusion of all work, as Board may direct, including completion or partial completion of projects, documentation of work in process, and other measures to assure an orderly transition. Vendor shall provide any additional transition services as Board requests in writing for a period of up to one year after the termination or expiration of this Agreement, on a time and materials basis, at a rate to be mutually agreed between Board and Vendor. Vendor shall further ensure that all data, records, and Confidential Information generated in the course of performance is returned to the Board in accordance with the terms of the Agreement.

10. **Change Management Process.** *The language in Section 4 "Product and Pricing Change Requests" of the Reference Contract is hereby deleted and replaced with the following language:* During the Term of this Agreement or any Renewal Term, the parties may determine that change(s) to the Agreement is necessary. In such an event, the parties shall determine if the proposed change amounts to a material revision as described in this Section before determining how that change will be documented.

- 10.1. **Material Revision.** A "material revision" includes (i) increasing the unit cost of the Products and/or Services to be provided during the Term of this Agreement, or Renewal Term; (ii) substantial reduction in the scope of Products and Services; (iii) substantial expansion of the Products and Services to be provided beyond the Scope of Products and Services authorized by the Board in this Agreement; (iv) extending the time of performance of Services beyond the time period approved by the Board; (v) change or modification to the legal terms and conditions in this Agreement; or (vi) any other shift of the risks and liabilities between the parties. A material revision requires a written amendment to the Agreement approved in advance by the Board, then signed by the authorized representatives of both parties and approved by the Board's General Counsel.
- 10.2. **Statements of Work and Change Requests and Orders.** If the proposed change does not amount to a material revision as defined above, the parties' authorized representatives shall agree in writing to a Statement of Work or Change Request and Order, as appropriate, before each change takes effect.
- 10.3. **Supplemental Statements of Work.** The parties may mutually agree upon and enter into a written Supplemental Statement of Work ("**Supplemental SOW**") to further describe the Products to be provided and the Services to be rendered, the roles and responsibilities of the parties, the periods of performance, timelines, deliverables, and any other terms necessary for the performance of the Services according to the expectations described in the Agreement. Each Supplemental SOW entered into shall be numbered sequentially in order of execution and shall be executed by the Board's designee and—where software and/or technology services and products are involved—by the Board's Chief Information Officer, and the authorized representative of Vendor. No SOW shall modify, amend, or add legal terms, conditions, or provisions; shift risks or liabilities between the parties; or otherwise constitute a material revision. Any Products provided and Services performed

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in accordance with a SOW shall be performed in accordance with the terms of the Agreement. Any SOW that is not completed and approved in accordance with the terms of the Agreement, including this Section, shall be null and void, and Vendor shall not be entitled to any compensation for Products provided or Services performed pursuant to a void SOW. In the event of a conflict or inconsistency between the terms and conditions of a Statement of Work and the terms and conditions of this Agreement, this Agreement controls.

- 10.4. **Change Requests and Orders.** The parties may at any time determine that changes to the Products and Services provided under this Agreement are necessary. Provided that such changes do not amount to a material revision and do not require a SOW, the parties shall exchange Change Requests, proposals, and then Change Orders. All Change Orders shall contain a detailed, written description of the change in Products and Services and any compensation change (provided that it is not a material revision of the compensation). Any Products and Services provided pursuant to a Change Order shall be subject to and comply with the terms of this Agreement. Change Orders shall not modify, amend, or add legal terms, conditions, or provisions; shift risks or liabilities between the parties; or otherwise constitute a material revision. Any Change Order is not effective unless and until it is properly signed by the Board's designee and—where software and/or technology services and products are involved—by the Board's Chief Information Officer, and the authorized representative of Vendor. Any Change Order that is not completed and approved in accordance with the terms of the Agreement, including this Section, shall be null and void, and Vendor shall not be entitled to any compensation for Products provided or Services performed pursuant to a void Change Order. In the event of a conflict or inconsistency between the terms and conditions of a Change Order and the terms and conditions of this Agreement, this Agreement controls.

11. **Marketplace.** The Board utilizes an eProcurement system referred to as "Marketplace" for electronic order placement of goods and services via a hosted eCatalog. At the Board's sole discretion, the Board may eliminate use of an eProcurement system or determine that certain services or goods may not be made available for purchase by the Board through an eProcurement system. Access to Marketplace is for internal CPS use only. CPS Schools, Networks and Departments may use Marketplace to place an order/purchase. Once the purchase is made through the Marketplace a Purchase Order ("PO") will be sent to Vendor electronically through the CPS iSupplier portal.

Vendor shall have the option of making its Products and Services available through Marketplace; however Vendor is not required to utilize Marketplace. Orders and purchases must still be placed utilizing approved POs. The Marketplace is a supplemental tool for the Board's benefit and efficiency and is not to be used in lieu of the process for placing orders or obtaining services as otherwise provided in this Agreement. Use of the Marketplace by Vendor may result in greater visibility of Vendor's Products and Services to CPS Schools, Networks and Departments. If Vendor chooses to use Marketplace, Vendor is responsible for entering the description of the Products and Services and associated pricing into the Marketplace and must maintain its own catalog(s).

The information entered into the Marketplace by Vendor must be in conformity with the terms of the Agreement. The initial Vendor information entered into Marketplace must be approved by an authorized representative of Board, or otherwise in accordance with Board's then-current procedures. Prior to making any changes to the Marketplace, Vendor must first submit the proposed modification or amendment to the Board Project Manager identified in the Scope of Services for review and approval, which approval must be documented by a written amendment signed by the authorized representatives of both Parties in accordance with the terms of the Agreement. Any addition, deletion, change, modification or substitution of Services in Marketplace that is not made in compliance with the Agreement shall be void.

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Vendor may not include on the CPS Marketplace any hyperlinks to any external site. Vendor recognizes that any deviation in the description of Products and Services entered in the Marketplace by Vendor from the Products and Services described herein that results in an order being placed will result in that order being deemed invalid by the Board and the associated cost not owed by the Board.

12. **Additional Requirements for Delivery of Products and Services.** In the event of a strike, sympathy strike, picketing, work stoppage, slowdown, demonstration, or any other lawful or unlawful disruptive activity that impacts Services, Vendor shall ensure continued uninterrupted delivery of Services and Products to the Board in accordance with the terms of the Agreement, or as may be otherwise directed by the Board and agreed upon by the Parties. Under the aforementioned circumstances, the Board shall have the right to direct Vendor to use any of the following methods to arrange for continued delivery of Products and Services: 1) use of Vendor's non-union employees or an alternative courier to deliver products; 2) delivery of products to an alternative site; 3) use of Board employees to pick up Products from Vendor or Vendor's couriers; or 4) any other alternative means necessary to ensure that Products and Services are timely delivered to the Board without disruption. Vendor shall also enforce any no-strike clauses Vendor has in its collective bargaining agreements when such clauses impact the delivery of any Services or Products under this Agreement. Any alternative delivery methods utilized under this section shall be approved by a representative designated by the Board.
13. **Social Security Number Protection Policy.** If at any time, in the course of providing Services, any Social Security numbers may be disclosed to Vendor, Vendor warrants that it is and shall remain in compliance with Board's Social Security Number Protection Policy adopted May 25, 2011 (11-0525-PO3), as may be amended or restated from time to time.

III. PRODUCT TERMS

1. **New Products; Options.** During the Term of the Agreement or any Renewal Terms, Vendor may inform the Board Project Manager, the Chief Information Officer if software or technology is involved, and the Department of Procurement if an addition to the Products (including without limitation any Software), provided under the Agreement may reduce costs, improve quality or efficiencies, or be otherwise beneficial to the Board and are still within the scope of the Agreement. For example, as new technologies evolve during the Term of the Agreement or any Renewal Term, additional products may be offered to consumers similarly situated to the Board that are within the scope of the Agreement. In such an event, Vendor shall provide to the Board the specifications, price, and any other relevant information regarding the proposed product (including a sample where requested), and the Board Project Manager, the Chief Information Officer if software or technology is involved, and the Department of Procurement shall determine if the product is within the scope of the Agreement and can be added to the Products list included within the Agreement as set forth herein. Any addition or modification to the Products list that does not amount to a material revision as defined in the Agreement shall be documented in writing in accordance with the Change Management Process section of this Agreement. The sale of any new Products shall be in accordance with the terms of the Agreement. The price for any Products added to the Products list in this manner shall reflect discounts consistent with the prices for other Products that are available for the Board to purchase or lease under the Agreement. The Board shall have no financial or other obligations for the sale of any product that is not included in any Products list in the Agreement at the time of the sale with the appropriate written documentation.
2. **Supply of Products.** Upon installation (or delivery, as the case may be), other than as may be set forth herein, all Products will become the sole property of the Board. Vendor will supply the Products in a safe, thorough and timely manner. All Products will be supplied in accordance with the terms and provisions of this Agreement and to the satisfaction of the Board's CPO.

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3. **Products Compliance.** All Products and any other goods, equipment or materials that may be provided or used as part of the Agreement shall comply with the applicable local, state, and federal health and safety standards, including without limitation the Consumer Protection Agency and the Federal Trade Commission standards and guidelines.
4. **Product Warranty.** *The language in Section 2B "Equipment, Products, or Services > Warranty" of the Reference Contract is hereby supplemented by the following language:* Vendor warrants that all Products furnished hereunder shall be new and conform with any specifications ("Specifications") and other requirements as set forth in the Agreement. Products shall be of merchantable quality and in good working order, and shall be free from defects in material, workmanship and design for a period of time of at least one year from the receipt of shipment (or the length of the manufacturer's warranty, whichever is longer), unless the Board specifies a longer period or specifically agrees otherwise. Vendor shall assign to the Board the benefits of any manufacturer's warranty of the Products and shall cooperate with the Board in securing any and all remedies of such warranties for the benefit of the Board during the Term of the Agreement and any Renewal Terms.

During the warranty period, the Board shall have the option to require Vendor to repair and replace defective Products without charge or expense, or to reject any defective Products and obtain a full refund or credit for any payment therefor. Repaired or replaced Products shall be warranted for a minimum period of one (1) year from completion of repairs (or date of receipt of replacement, as the case may be) or the remainder of the Product's original warranty, whichever is longer. Vendor shall be responsible for transportation charges for all warranty shipments. This warranty shall survive inspection, acceptance, payment and expiration or termination of the Agreement. Each warranty shall include, but is not limited to, the manufacturer's name, the Board's name, the School's name, the product style name, the product number, the length of the warranty, the manufacturer's contact person and the Agreement number. Warranty information shall be provided with the delivery of the Products and when Vendor submits its invoice. Nothing within this Section shall limit or be interpreted as reducing any warranty that may be provided by Vendor or the original manufacturer of the Product to the extent that the original warranty may be more expansive than the warranty set forth in this Section.

Upon final acceptance of any Products delivered, Vendor shall provide to the Board Project Manager and the Department of Procurement every manufacturer's warranty, guarantee, parts list, and literature for each of the Products delivered to the schools.

A letter containing all warranty information must be provided with the invoice or the invoice will not be processed for that school or location. All maintenance and installation instructions for Products should be provided at that time as well per manufacturer recommendations. The manufacturers' warranties are in addition to and not in lieu of any other of Vendor's warranties stated herein, and the Board is entitled to look to Vendor for remedy in all cases where Vendor's warranty applies regardless of whether a manufacturer's warranty also applies.

The Board acknowledges that Vendor may not be the manufacturer of all the Products being supplied under this Agreement. Nonetheless, Vendor warrants that from the date of delivery, the Products shall be covered by the respective manufacturer's warranty, and Vendor shall only provide Products covered by manufacturer's warranties, including but not limited to the warranty that all Products are free from defects in materials and workmanship and will, as to substantial operational functions, conform to the current published Product specifications.

5. **Products Availability and Successor Models.** *The language in Section 2A "Equipment, Product or Services > Equipment, Products, or Services" of the Reference Contract is hereby deleted and replaced with the following language:* If Vendor or a manufacturer/supplier cancels or discontinues a Product during the Term of the Agreement or any Renewal Term, Vendor must

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notify the Board of any such manufacturer's discontinuation or cancellation within five (5) business days of Vendor's knowledge of said discontinuation or cancellation. In such an event, Vendor shall work with the Board's authorized representative to find an equivalent, acceptable product that maintains or reduces cost and, to the extent commercially possible, maintains or improves specifications as determined by the Board's authorized representative ("Successor Model"). Seed devices of the proposed Successor Models must be made available to the Board's Project Manager, the Chief Information Officer if software or technology is involved, and the Chief Procurement Officer ("CPO") for their review and approval prior to substitution. Products must be replaced with an equivalent model that meets any specification of the original item specified in the Agreement. If not a material revision, any agreement to replace a Product in the Agreement must be documented in writing in accordance with the Change Management Process section. The absence of a written agreement documenting acceptance of the replacement product shall mean that any purchases of the replacement product shall be null and void.

6. **Product Recall.** In accordance with the notice provisions set forth herein, Vendor shall notify the Board within forty-eight (48) hours of Vendor's receipt of any manufacturer or government issued recalls on Products purchased by the Board pursuant to the Agreement. All Products purchased by the Board subject to a recall shall be replaced at no cost to the Board by Vendor with the same make and model Product within ten (10) business days of Vendor notifying the Board of the recall. If the same make and model is not available due to the recall, then Vendor shall provide a product comparable to the recalled Products in terms of quality and price. Acceptance of the comparable Product shall be at the sole discretion of the CPO. If the CPO rejects in writing the comparable product, Vendor shall remove all the recalled Products from the Board sites and provide a full refund for each recalled product within ten (10) business days of such written rejection (or, if a life safety issue is involved, such removal shall occur within two [2] business days of Vendor's notice of recall or otherwise as may be requested by Board). Replacement of the recalled Products shall include delivery of the same make and model Products or the comparable Products (if accepted) to the sites where the recalled Products are located and removal of the recalled Products at no cost to the Board. Vendor shall remove all recalled Products from Board property at the time the replacement Products are delivered.

IV. DATA SECURITY & CONFIDENTIALITY TERMS**1. Definitions.**

- 1.1. **Confidential Information.** In the performance of the Agreement, Vendor may have access to or receive certain information that is not generally known to others ("**Confidential Information**" or "**CPS Data**"). Such Confidential Information may include, but is not limited to: Student-Generated Content (hereinafter defined), Student Data as further defined below, employee data, technical data and specifications, software, ideas, budget figures, operational details, unpublished school information, CPS financial information, access control and/or system logs, and CPS business plans. It is understood and agreed that Confidential Information also includes proprietary or confidential information of third parties provided by the Board to Vendor. Confidential Information will not include information that is: (i) or becomes part of the public domain through no fault of Vendor; (ii) made available to Vendor by an independent third party having the legal right to make such disclosure; and (iii) information that can be established and documented by Vendor to have been independently developed or obtained by Vendor without violating the confidentiality obligations of this Agreement and any other agreements with the Board.
- 1.2. **Student Data.** "Student Data" means any data, metadata, information, records, or other materials of any nature recorded in any form whatsoever, that is generated, disclosed, maintained by, transmitted, created, or provided by the Board, either directly or through its students, employees, agents, and subcontractors, and all information used, created,

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maintained or generated through the use of any technology, including but not limited to the Products (as defined in this Agreement and including without limitation Software) by the Board, its employees, agents, subcontractors, students, parents or legal guardians of any CPS students relating to a CPS student. For purposes of this Agreement, Student Data is Confidential Information hereunder; additional requirements regarding Student Data specifically are described below.

- 1.3. **De-Identified Data.** De-identified Data will have all direct and indirect personal identifiers removed. This includes, but is not limited to, persistent unique identifiers, name, ID numbers, date of birth, demographic information, location information, and school ID. Vendor agrees not to attempt to re-identify de-identified Data. For the purposes of this Agreement, De-Identified Data will still be considered Confidential Information and treated as such unless expressly provided otherwise in this Agreement.
- 1.4. **Student Generated Content.** The term "Student-Generated Content" means materials or content created by a student in the Services including, but not limited to, essays, research reports, portfolios, creative writing, music or other audio files, photographs, and videos.
2. **Use of Confidential Information.** Vendor shall only use Confidential Information for the sole purpose of providing Services to the Board and shall not disclose the Confidential Information except to those of its directors, officers, agents, servants, employees, and contractors who have a need to access the Confidential Information in order to perform the Services set forth in the Agreement. Vendor is prohibited from sharing Student Data with any contractors or third parties without executing a Student Data exhibit to be incorporated into a written agreement between the Parties. Vendor shall not copy or otherwise reproduce in any manner whatsoever the Confidential Information for any purposes outside the terms of the Agreement without the prior written consent of the Board, except where required for its own internal use solely to deliver the Services under this Agreement and strictly in accordance with the terms of this Agreement. Vendor shall use at least the same standard of care in the protection of Confidential Information as Vendor uses to protect its own confidential information, but in any event, such Confidential Information shall be protected in at least a commercially reasonable manner and in compliance with all applicable laws. Notwithstanding the foregoing, it is understood and agreed that such protection of the Confidential Information may be subject to the special requirements set forth in the Family Educational Rights and Privacy Act ("**FERPA**"), the Protection of Pupil Rights Amendment ("**PPRA**"), the Illinois School Student Records Act ("**ISSRA**"), the Student Online Personal Protection Act ("**SOPPA**") and the Children's Online Privacy Protection Act ("**COPPA**").
3. **Handling of Confidential Information.** Vendor shall protect against the unauthorized access, use, or disclosure of Confidential Information by employing security measures when handling Confidential Information that are no less protective as those used to protect Vendor's own confidential information and at least as secure as the following. When handling Confidential Information, which may include but is not limited to Student Data, Vendor shall:
 - A. When mailing physical copies of Confidential Information, send the Confidential Information in a tamper-proof, labeled container, with a tracking number and a delivery confirmation receipt. Vendor shall not send with encrypted Confidential Information, via mail or electronically, any password or other information sufficient to allow decryption.
 - B. Not store any Confidential Information on portable or removable electronic media, such as CDs, DVDs, electronic tape, flash drives, etc.
 - C. Not leave Confidential Information in any medium unsecured and unattended at any time.
 - D. Keep all physical copies (paper, portable or removable electronic media, or other physical

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representations) of Confidential Information under lock and key, or otherwise have sufficient physical access control measures to prevent unauthorized access.

- E. Password protect any laptop or other electronic device that contains Confidential Information. Additionally, any laptop or other electronic device that contains Confidential Information shall have its full hard drive encrypted with an encryption key of no less than 256 bits. Vendor shall not leave any laptop or other electronic device unattended without enabling a screen-lock or otherwise blocking access to the laptop or other electronic device. Vendor shall ensure that no password or other information sufficient to access a laptop or electronic device containing Confidential Information is attached to or located near the laptop or other electronic device at any time.
- F. Secure the Confidential Information stored on its systems, including but not limited to any servers, by employing adequate security measures to prevent unauthorized access to, disclosure and use of that information. These measures include appropriate administrative, physical, and technical safeguards, policies, procedures, and technical elements relating to data access controls. All Confidential Information must be secured in transit using secure FTP services or https/TLS 1.0+. Vendor must maintain industry recognized security practices to establish secure application(s), network, and infrastructure architectures.
- G. Ensure that the manner in which Confidential Information is collected, accessed, used, stored, processed, disposed of and disclosed within Vendor's Services and supporting enterprise complies with applicable data protection and privacy laws, as well as the terms and conditions of the Agreement.
- H. Conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner. Vendor will also have a written incident response plan, to include prompt notification of the Board in the event of a security or privacy incident, as well as best practices for responding to a breach of Confidential Information security practices. Vendor agrees to share its incident response plan upon request.
- I. Assure that its systems, Products and Services include at least the following safeguards:
 - 1. Include component and system level fault tolerance and redundancy in system design.
 - 2. Encrypt user passwords in any data storage location and obfuscate password entry fields in any entry interface controlled by the discloser.
 - 3. Encrypt Confidential Information at rest and in transit.
 - 4. Authentication of users at logins with a 256-bit or higher encryption algorithm.
 - 5. Secure transmission of login credentials.
 - 6. Automatic password change routine.
 - 7. Trace user system access via a combination of system logs and Google Analytics.
 - 8. Secure (encrypt) the audit trails and system generated logs and ensure that they are stored in locations that are inaccessible to automated content discovery software.
 - 9. Conduct or undergo system level testing whenever new functionalities are added to the system to reconfirm system security measures are retained and functional, and that interaction with the Board systems is not degraded or compromised.
 - 10. Employ an in-line intrusion prevention system that inspects incoming data transmissions.
 - 11. Prevention of hostile and unauthorized intrusion.
 - 12. Backup of all Confidential Information at least once every twenty-four (24)

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III. Data Security & Confidentiality Terms

hours. Perform content snapshots at least daily and retain for at least ninety (90) days.

- J. Confidential Information shall be stored, backed up, and served only on servers located in the continental United States. Vendor's network where Confidential Information may be stored shall have an in-line intrusion prevention system that inspects incoming data transmissions. Vendor shall have a documented disaster recovery plan for the electronic systems where Confidential Information may be stored. Data stored in cloud-based systems must be protected in the same manner as local data as described throughout the Agreement.

4. **Dissemination of Information.** Vendor shall not disseminate any Confidential Information to a third party without the prior written consent of the Board. If Vendor is presented with a request for documents by any administrative agency or with a *subpoena duces tecum* regarding any Confidential Information which may be in Vendor's possession as a result of Services and/or Materials provided under the Agreement, Vendor shall immediately give notice to the Board and its General Counsel with the understanding that the Board shall have the opportunity to contest such process by any means available to it prior to submission of any documents to a court or other third party. Vendor shall not be obligated to withhold delivery of documents beyond the time ordered by a court of law or administrative agency, unless the request for production or subpoena is quashed or withdrawn, or the time to produce is otherwise extended.
5. **Press Releases; Publicity.** Vendor shall not issue publicity news releases, grant press interviews, or use any Confidential Information or Board intellectual property (as defined below), including but not limited to the CPS logo or the logos of any schools, during or after the performance or delivery of Products and Services without the prior express written consent of the Board's Chief Communications Officer or its designee. Furthermore, Vendor may not photograph or film or cause others to photograph or film within any CPS school or facility without the prior express written consent of the Board's Chief Communications Officer or its designee.
6. **Return or Destruction of Confidential Information.** Vendor shall return all Confidential Information to the Board within thirty (30) calendar days of expiration or termination of the Agreement. Confidential Information shall be returned to the Board in a secured, consumable format as directed by the Board, such as .csv or SQL file. Upon return of all Confidential Information, Vendor shall provide an affidavit attesting to destruction of all copies in Vendor's possession. Vendor shall delete a specific student's Student Data upon the written request of the Board. In the event that Vendor is permitted to retain certain Confidential Information, provided such permission is granted in writing by the Board, such information shall be protected and handled in accordance with the terms of this Agreement for as long as Vendor is permitted to retain such Confidential Information.
7. **Unauthorized Access, Use or Disclosure of Confidential Information.** If Vendor has knowledge of any unauthorized access, use, and/or disclosure of Confidential Information, it shall: (i) notify the Board immediately, which in no event shall be longer than twenty-four hours from Vendor receiving notice of the unauthorized access, use, or disclosure; (ii) take prompt and appropriate action to prevent further unauthorized access, use, or disclosure; (iii) cooperate with the Board and any government authorities with respect to the investigation and mitigation of any such unauthorized access, use, or disclosure, including the discharge of the Board's duties under the law; and (iv) take such other actions as the Board may reasonably direct to remedy such unauthorized access, use or disclosure, including, if required under any federal or state law, providing notification to the affected persons. Vendor shall bear the losses and expenses (including attorneys' fees) associated with a breach of Vendor's obligations regarding Confidential Information as set forth in this Agreement, including without limitation, any costs: (1) of providing notices of a data breach to affected persons and to regulatory bodies; and (2) of remedying and otherwise mitigating any potential damage or harm of the data breach including

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without limitation, establishing call centers and providing credit monitoring or credit restoration services, as requested by the Board. Vendor shall include this provision in any and all agreements it executes with subcontractors performing Services or providing Products under this Agreement.

8. **Security Requirements.** Vendor will store and process Confidential Information, including any Student Data, in accordance with the industry best practices, which at a minimum shall be in accordance with the standards set forth in the Agreement. This includes appropriate administrative, physical, and technical safeguards to secure Student Data from unauthorized access, disclosure, and use. All data must be secured in transit using secure FTP services or https/TLS 1.0+. Vendor is required to specify any personally identifiable information (PII) collected or used by their Products. In addition, Vendor must maintain industry recognized security practices to establish secure application(s), network, and infrastructure architectures. Industry certifications, such as International Organization for Standardization (ISO), SysTrust, Cloud Security Alliance (CSA) STAR Certification, or WebTrust security for SaaS environments are recommended. Such safeguards shall be no less rigorous than accepted industry practices, including specifically the NIST 800-53r4 moderate level, International Organization for Standardization's standards ISO/IEC 27001:2005 (Information Security Management Systems – Requirements), and ISO-IEC 27002:2005 (Code of Practice for International Security Management).

Vendor shall ensure that the manner in which Student Data is collected, accessed, used, stored, processed, disposed of and disclosed complies with applicable data protection and privacy laws, as well as the terms and conditions of this Agreement. Vendor will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner. Vendor will also have a written incident response plan, to include prompt notification of the Board in the event of a security or privacy incident, as well as best practices for responding to a breach of Student Data security practices.

Vendor agrees to share its incident response plan upon request. Vendor shall assure that all data that is transmitted between the Board's access points and the ultimate server, by Vendor or its recipients, will use Board-approved encryption of no less rigor than NIST-validated DES standards.

- 8.1. **Security Safeguards.** Vendor agrees to provide the following additional safeguards:
- A. Include component and system level fault tolerance and redundancy in system design.
 - B. Encrypt user passwords in any data storage location and obfuscate password entry fields in any entry interface controlled by the discloser.
 - C. Encrypt Student Data at-rest and in-transit.
 - D. Authentication of users at login with a 128-bit or higher encryption algorithm.
 - E. Secure transmission of login credentials.
 - F. Automatic password change routine.
 - G. Trace user system access via a combination of system logs and Google Analytics.
 - H. Secure (encrypt) the audit trails and system generated logs and ensure that they are stored in locations that are inaccessible to automated content discovery software.
 - I. Conduct or undergo system level testing whenever new functionalities are added to the system to reconfirm system security measures are retained and functional, and that interaction with the Board systems is not degraded or compromised.
 - J. Employ an in-line Intrusion Protection System that inspects incoming data transmissions.
 - K. Ensure that Student Data is stored in privately addressed network devices that have no direct interaction with public networks.

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- L. Provide a documented disaster recovery plan that includes the following elements:
 - M. Available recovery times.
 - N. Conduct 24x7 system monitoring that is capable of detecting Potential outages.
 - O. Plans for File-level, Database and server recovery after a component/system failure, damage or compromise.
 - P. Substantial geographical separation between data centers hosting production, backup and redundant system elements.
 - Q. Include recovery/mitigation procedures for all managed sites, including subcontractors, agents, and other recipients.
 - R. Include provisions for at least the following events:
 - (i) Fire
 - (ii) Natural disaster
 - (iii) Sabotage
 - (iv) Accidental human error
 - (v) Flooding
 - (vi) Equipment failure
 - (vii) Application/database failure
 - (viii) Other unlikely events
 - S. No less than annual testing of the disaster recovery plan (at least parts that affect Student Data) with results of the test made available to the Board, as well as information about, and schedule for, the correction of deficiencies identified in the test.
 - T. Prevention of hostile or unauthorized intrusion.
 - U. Screening of employees with access to Student Data to assure that any employees who are in violation of the statutes referenced in the Criminal Background Check in the Agreement do not have access to Student Data. Vendor shall provide the security measures taken to ensure that said employees do not have access to Student Data.
 - V. Backup of all Student Data at least once every twenty-four (24) hours.
 - W. Perform content snapshots at least daily and retain for at least ninety (90) days.
9. **Student Data Prohibition: Compliance with the SOPPA and FERPA.** Vendor is strictly prohibited from using any digital, software, online or cloud platform outside of the CPS Google Platform, including, but not limited to any educational technology (Ed Tech) and other student engagement or learning enrichment platforms in connection with the Services Vendor will be offering and providing to CPS under this Agreement.
- Further, the Board will not provide Vendor with any information or data which may reasonably be subject to SOPPA or FERPA, or classified as 'sensitive' under any law or regulation related to data privacy.
10. **Volunteers, Employees, Agents, and Subcontractors.** Vendor agrees to provide its volunteers, employees, agents, and subcontractors only such Confidential Information that is necessary for the delivery of Products and the performance of Services pursuant to this Agreement and to cause its employees, agents, and subcontractors to undertake the same obligations as agreed to herein by Vendor.
11. **Data Security Manager.** Vendor shall provide the Board with the name and contact information for a primary and alternate employee of Vendor who shall serve as the Board's primary security contact and who shall be available to assist the Board twenty-four (24) hours per day, seven (7) days per week as a contact in resolving obligations associated with a Confidential Information-related security breach. The designated contact shall respond to any Board inquiries within two (2) hours.

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III. Data Security & Confidentiality Terms

12. **Injunctive Relief.** In the event of a breach or threatened breach of this Section, Vendor acknowledges and agrees that the Board would suffer irreparable injury not compensable by money damages and would not have an adequate remedy at law. Accordingly, Vendor agrees that the Board shall be entitled to immediate injunctive relief to prevent or curtail any such breach, threatened or actual. The foregoing shall be in addition and without prejudice to such rights that the Board may have in equity, by law or statute.
13. **Survival.** The provisions of this Section shall survive the termination or expiration of this Agreement.

V. INSURANCE REQUIREMENTS

The language in Section 18 "Insurance" of the Reference Contract is hereby deleted in its entirety and replaced with the following language: Vendor, at its own expense, shall procure and maintain insurance covering all operations under the Agreement, whether performed by Vendor or by subcontractors. All insurers shall be licensed by the State of Illinois and rated A-VII or better by A.M. Best or a comparable rating service. Vendor shall submit to the Board satisfactory evidence of insurance coverage and upon request, shall promptly provide a certified copy of any applicable policy of insurance. Minimum insurance requirements include the coverage set forth:

1. **Workers' Compensation and Employers' Liability Insurance.** Workers' Compensation Insurance affording workers' compensation benefits for all employees as required by law and Employers' Liability Insurance covering all employees who are to provide Services under the Agreement with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence. The workers' compensation policy must contain a waiver of subrogation clause.
2. **Commercial General Liability Insurance.** Commercial General Liability Insurance or equivalent with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the aggregate for bodily injury, personal injury and property damage liability. Coverage shall include, but not be limited to: all operations, contractual liability, independent contractors, products/completed operations (for a minimum of two (2) years following completion), and defense. Commercial General Liability Coverage must include and not exclude coverage for sexual abuse and molestation.
3. **Automobile Liability Insurance.** Automobile Liability Insurance when any motor vehicle (whether owned, non-owned or hired) is used in connection with Services to be performed, with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence for bodily injury and property damage.
4. **Umbrella/Excess Liability Insurance.** Umbrella or Excess Liability Insurance to provide additional limits for underlying Workers' Compensation and Employers' Liability Insurance, Commercial General Liability Insurance, Automobile Liability Insurance, with limits not less than Two Million Dollars (\$2,000,000.00) per occurrence, and shall cover the Board and its employees, subject to that of the primary coverage.
5. **Additional Insured.** Vendor shall have its Commercial General Liability, Umbrella/Excess Liability, Automobile Liability Insurance policies endorsed to provide that "the Board of Education of the City of Chicago, a body politic and corporate and its members, employees and agents, and any other entity as may be designated by the Board are named as additional insured on a primary basis without recourse or right of contribution from the Board".
6. **General.** The insurance company, or its representative, shall submit an insurance certificate evidencing all coverage as required hereunder and indicating the Additional Insured status as

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IV. Insurance Requirements

required above. The Board will not pay Vendor for any Products or Services if satisfactory proof of insurance is not provided by Vendor prior to the performance of any Services. The Certificate must provide thirty (30) days prior written notice of material change, cancellation, or non-renewal be given to:

Risk Management
Board of Education of the City of Chicago
42 W. Madison
Chicago, Illinois 60602
riskmanagement@cps.edu

Any failure of the Board to demand or receive proof of insurance coverage shall not constitute a waiver of Vendor's obligation to obtain the required insurance. The receipt of any certificate does not constitute agreement by the Board that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. Vendor's failure to carry or document required insurance shall constitute an Event of Default of the Vendor's Agreement with the Board. In the event Vendor fails to fulfill the insurance requirements of the Agreement, the Board reserves the right to stop the Services until proper evidence of insurance is provided, or the Agreement may be terminated.

Any deductibles or self-insured retentions on referenced insurance coverage must be borne by Vendor. Any insurance or self-insurance programs maintained by the Board of Education do not contribute to insurance provided by the Vendor.

All subcontractors are subject to the same insurance requirements of Vendor unless otherwise specified in the Agreement. The Vendor shall require any subcontractors under the Agreement to maintain comparable insurance naming the Vendor, the Board inclusive of its members, employees and agents, and any other entity designated by the Board, as Additional Insured. The Vendor will maintain a file of subcontractor's insurance certificates evidencing compliance with these requirements.

The coverages and limits furnished by Vendor in no way limit the Vendor's liabilities and responsibilities specified within the Agreement or by law. The required insurance is not limited by any limitations expressed in the indemnification language in the Agreement, if any, or any limitation that might be placed on the indemnity in the Agreement given as a matter of law.

Vendor agrees that insurers waive their rights of subrogation against the Board.

The Board retains final authority with respect to all insurance-related decisions and maintains the right to modify, delete, alter or change these requirements upon written notice provided to Vendor by the Board's Office of Finance, Risk Management.

Vendor must register with the insurance certificate monitoring company designated by the Board and indicated below and must maintain a current insurance certificate on file during the entire time of providing services to the Board. Vendor must register and pay the initial annual monitoring fee to the insurance certificate monitoring company prior to performing services for the Board.

Each year, Board-approved, registered vendors will be notified 30 days prior to the expiration date of their required insurance coverage (highlighted on their latest submitted insurance certificate on file) in order to submit an updated insurance certificate with the insurance certificate monitoring company. Insurance certificate submissions and related annual fees are required to be made online at the dedicated website established by the certificate monitoring company (see URL below). Should you have any questions on submissions and payment options, you can contact the certificate monitoring company.

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IV. Insurance Requirements

Certificate Monitoring Company:
Topiary Communications Inc.
211 W. Wacker Drive, Ste 220
Chicago, IL 60606

Phone: (312) 494-5709
Email: dans@topiarycomm.net

URL: <http://www.cpsVendorcert.com> (designated website for online registration, insurance certificate submissions and annual fee payments)

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date first written above.

THE BOARD OF EDUCATION
OF THE CITY OF CHICAGO

DS
ES

DocuSigned by:
By: Jianan Shi
D5028023484041E...
Jianan Shi, Board President

TRIMARK MARLINN, LLC

By: Michael Siegel

DocuSigned by:
Attest: Susan J. Narrajos
ADCB249349B6449...
Susan J. Narrajos, Secretary

Name: Michael Siegel
Title: PRESIDENT

Date: August 4, 2023 | 4:26:35 PM CDT

Date: 8/2/23

DocuSigned by:
By: Pedro Martinez
AA17786A4B2446C...
Pedro Martinez, Chief Executive Officer

Board Report No.: 23-0524-PR13

Approved as to legal form:

DS
PM

DS
JDE

DS
ES

DocuSigned by:
By: Ruchi Verma
56B562E0FFA44C9...
Ruchi Verma, General Counsel

ATTACHMENTS:

Exhibit A: Reference Contract
Exhibit B: Product Catalog
Exhibit C: Pricing Schedule
Exhibit D: Discount Matrix

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EXHIBIT A

REFERENCE CONTRACT

**Solicitation Number: RFP #063022****CONTRACT**

This Contract is between Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and Strategic Equipment, LLC, 2801 S. Valley Parkway, Suite 200, Lewisville, TX 75067 (Supplier).

Sourcewell is a State of Minnesota local government unit and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) that offers cooperative procurement solutions to government entities. Participation is open to eligible federal, state/province, and municipal governmental entities, higher education, K-12 education, nonprofit, tribal government, and other public entities located in the United States and Canada. Sourcewell issued a public solicitation for Commercial Kitchen Equipment with Related Supplies and Services from which Supplier was awarded a contract.

Supplier desires to contract with Sourcewell to provide equipment, products, or services to Sourcewell and the entities that access Sourcewell's cooperative purchasing contracts (Participating Entities).

1. TERM OF CONTRACT

- A. **EFFECTIVE DATE.** This Contract is effective upon the date of the final signature below.
- B. **EXPIRATION DATE AND EXTENSION.** This Contract expires August 3, 2026, unless it is cancelled sooner pursuant to Article 22. This Contract may be extended one additional year upon the request of Sourcewell and written agreement by Supplier.
- C. **SURVIVAL OF TERMS.** Notwithstanding any expiration or termination of this Contract, all payment obligations incurred prior to expiration or termination will survive, as will the following: Articles 11 through 14 survive the expiration or cancellation of this Contract. All other rights will cease upon expiration or termination of this Contract.

2. EQUIPMENT, PRODUCTS, OR SERVICES

- A. **EQUIPMENT, PRODUCTS, OR SERVICES.** Supplier will provide the Equipment, Products, or Services as stated in its Proposal submitted under the Solicitation Number listed above.

Supplier's Equipment, Products, or Services Proposal (Proposal) is attached and incorporated into this Contract.

All Equipment and Products provided under this Contract must be new and the current model. Supplier may offer close-out or refurbished Equipment or Products if they are clearly indicated in Supplier's product and pricing list. Unless agreed to by the Participating Entities in advance, Equipment or Products must be delivered as operational to the Participating Entity's site.

This Contract offers an indefinite quantity of sales, and while substantial volume is anticipated, sales and sales volume are not guaranteed.

B. **WARRANTY.** Supplier warrants that all Equipment, Products, and Services furnished are free from liens and encumbrances, and are free from defects in design, materials, and workmanship. In addition, Supplier warrants the Equipment, Products, and Services are suitable for and will perform in accordance with the ordinary use for which they are intended. Supplier's dealers and distributors must agree to assist the Participating Entity in reaching a resolution in any dispute over warranty terms with the manufacturer. Any manufacturer's warranty that extends beyond the expiration of the Supplier's warranty will be passed on to the Participating Entity.

C. **DEALERS, DISTRIBUTORS, AND/OR RESELLERS.** Upon Contract execution and throughout the Contract term, Supplier must provide to Sourcewell a current means to validate or authenticate Supplier's authorized dealers, distributors, or resellers relative to the Equipment, Products, and Services offered under this Contract, which will be incorporated into this Contract by reference. It is the Supplier's responsibility to ensure Sourcewell receives the most current information.

3. PRICING

All Equipment, Products, or Services under this Contract will be priced at or below the price stated in Supplier's Proposal.

When providing pricing quotes to Participating Entities, all pricing quoted must reflect a Participating Entity's total cost of acquisition. This means that the quoted cost is for delivered Equipment, Products, and Services that are operational for their intended purpose, and includes all costs to the Participating Entity's requested delivery location.

Regardless of the payment method chosen by the Participating Entity, the total cost associated with any purchase option of the Equipment, Products, or Services must always be disclosed in the pricing quote to the applicable Participating Entity at the time of purchase.

A. **SHIPPING AND SHIPPING COSTS.** All delivered Equipment and Products must be properly packaged. Damaged Equipment and Products may be rejected. If the damage is not readily apparent at the time of delivery, Supplier must permit the Equipment and Products to be

returned within a reasonable time at no cost to Sourcewell or its Participating Entities. Participating Entities reserve the right to inspect the Equipment and Products at a reasonable time after delivery where circumstances or conditions prevent effective inspection of the Equipment and Products at the time of delivery. In the event of the delivery of nonconforming Equipment and Products, the Participating Entity will notify the Supplier as soon as possible and the Supplier will replace nonconforming Equipment and Products with conforming Equipment and Products that are acceptable to the Participating Entity.

Supplier must arrange for and pay for the return shipment on Equipment and Products that arrive in a defective or inoperable condition.

Sourcewell may declare the Supplier in breach of this Contract if the Supplier intentionally delivers substandard or inferior Equipment or Products.

B. SALES TAX. Each Participating Entity is responsible for supplying the Supplier with valid tax-exemption certification(s). When ordering, a Participating Entity must indicate if it is a tax-exempt entity.

C. HOT LIST PRICING. At any time during this Contract, Supplier may offer a specific selection of Equipment, Products, or Services at discounts greater than those listed in the Contract. When Supplier determines it will offer Hot List Pricing, it must be submitted electronically to Sourcewell in a line-item format. Equipment, Products, or Services may be added or removed from the Hot List at any time through a Sourcewell Price and Product Change Form as defined in Article 4 below.

Hot List program and pricing may also be used to discount and liquidate close-out and discontinued Equipment and Products as long as those close-out and discontinued items are clearly identified as such. Current ordering process and administrative fees apply. Hot List Pricing must be published and made available to all Participating Entities.

4. PRODUCT AND PRICING CHANGE REQUESTS

Supplier may request Equipment, Product, or Service changes, additions, or deletions at any time. All requests must be made in writing by submitting a signed Sourcewell Price and Product Change Request Form to the assigned Sourcewell Supplier Development Administrator. This approved form is available from the assigned Sourcewell Supplier Development Administrator. At a minimum, the request must:

- Identify the applicable Sourcewell contract number;
- Clearly specify the requested change;
- Provide sufficient detail to justify the requested change;

- Individually list all Equipment, Products, or Services affected by the requested change, along with the requested change (e.g., addition, deletion, price change); and
- Include a complete restatement of pricing documentation in Microsoft Excel with the effective date of the modified pricing, or product addition or deletion. The new pricing restatement must include all Equipment, Products, and Services offered, even for those items where pricing remains unchanged.

A fully executed Sourcewell Price and Product Request Form will become an amendment to this Contract and will be incorporated by reference.

5. PARTICIPATION, CONTRACT ACCESS, AND PARTICIPATING ENTITY REQUIREMENTS

A. PARTICIPATION. Sourcewell's cooperative contracts are available and open to public and nonprofit entities across the United States and Canada; such as federal, state/province, municipal, K-12 and higher education, tribal government, and other public entities.

The benefits of this Contract should be available to all Participating Entities that can legally access the Equipment, Products, or Services under this Contract. A Participating Entity's authority to access this Contract is determined through its cooperative purchasing, interlocal, or joint powers laws. Any entity accessing benefits of this Contract will be considered a Service Member of Sourcewell during such time of access. Supplier understands that a Participating Entity's use of this Contract is at the Participating Entity's sole convenience and Participating Entities reserve the right to obtain like Equipment, Products, or Services from any other source.

Supplier is responsible for familiarizing its sales and service forces with Sourcewell contract use eligibility requirements and documentation and will encourage potential participating entities to join Sourcewell. Sourcewell reserves the right to add and remove Participating Entities to its roster during the term of this Contract.

B. PUBLIC FACILITIES. Supplier's employees may be required to perform work at government-owned facilities, including schools. Supplier's employees and agents must conduct themselves in a professional manner while on the premises, and in accordance with Participating Entity policies and procedures, and all applicable laws.

6. PARTICIPATING ENTITY USE AND PURCHASING

A. ORDERS AND PAYMENT. To access the contracted Equipment, Products, or Services under this Contract, a Participating Entity must clearly indicate to Supplier that it intends to access this Contract; however, order flow and procedure will be developed jointly between Sourcewell and Supplier. Typically, a Participating Entity will issue an order directly to Supplier or its authorized subsidiary, distributor, dealer, or reseller. If a Participating Entity issues a purchase order, it may use its own forms, but the purchase order should clearly note the applicable Sourcewell

contract number. All Participating Entity orders under this Contract must be issued prior to expiration or cancellation of this Contract; however, Supplier performance, Participating Entity payment obligations, and any applicable warranty periods or other Supplier or Participating Entity obligations may extend beyond the term of this Contract.

Supplier's acceptable forms of payment are included in its attached Proposal. Participating Entities will be solely responsible for payment and Sourcewell will have no liability for any unpaid invoice of any Participating Entity.

B. ADDITIONAL TERMS AND CONDITIONS/PARTICIPATING ADDENDUM. Additional terms and conditions to a purchase order, or other required transaction documentation, may be negotiated between a Participating Entity and Supplier, such as job or industry-specific requirements, legal requirements (e.g., affirmative action or immigration status requirements), or specific local policy requirements. Some Participating Entities may require the use of a Participating Addendum, the terms of which will be negotiated directly between the Participating Entity and the Supplier or its authorized dealers, distributors, or resellers, as applicable. Any negotiated additional terms and conditions must never be less favorable to the Participating Entity than what is contained in this Contract.

C. SPECIALIZED SERVICE REQUIREMENTS. In the event that the Participating Entity requires service or specialized performance requirements not addressed in this Contract (such as e-commerce specifications, specialized delivery requirements, or other specifications and requirements), the Participating Entity and the Supplier may enter into a separate, standalone agreement, apart from this Contract. Sourcewell, including its agents and employees, will not be made a party to a claim for breach of such agreement.

D. TERMINATION OF ORDERS. Participating Entities may terminate an order, in whole or in part, immediately upon notice to Supplier in the event of any of the following events:

1. The Participating Entity fails to receive funding or appropriation from its governing body at levels sufficient to pay for the equipment, products, or services to be purchased; or
2. Federal, state, or provincial laws or regulations prohibit the purchase or change the Participating Entity's requirements.

E. GOVERNING LAW AND VENUE. The governing law and venue for any action related to a Participating Entity's order will be determined by the Participating Entity making the purchase.

7. CUSTOMER SERVICE

A. PRIMARY ACCOUNT REPRESENTATIVE. Supplier will assign an Account Representative to Sourcewell for this Contract and must provide prompt notice to Sourcewell if that person is changed. The Account Representative will be responsible for:

- Maintenance and management of this Contract;
- Timely response to all Sourcewell and Participating Entity inquiries; and
- Business reviews to Sourcewell and Participating Entities, if applicable.

B. BUSINESS REVIEWS. Supplier must perform a minimum of one business review with Sourcewell per contract year. The business review will cover sales to Participating Entities, pricing and contract terms, administrative fees, sales data reports, performance issues, supply issues, customer issues, and any other necessary information.

8. REPORT ON CONTRACT SALES ACTIVITY AND ADMINISTRATIVE FEE PAYMENT

A. CONTRACT SALES ACTIVITY REPORT. Each calendar quarter, Supplier must provide a contract sales activity report (Report) to the Sourcewell Supplier Development Administrator assigned to this Contract. Reports are due no later than 45 days after the end of each calendar quarter. A Report must be provided regardless of the number or amount of sales during that quarter (i.e., if there are no sales, Supplier must submit a report indicating no sales were made).

The Report must contain the following fields:

- Participating Entity Name (e.g., City of Staples Highway Department);
- Participating Entity Physical Street Address;
- Participating Entity City;
- Participating Entity State/Province;
- Participating Entity Zip/Postal Code;
- Participating Entity Contact Name;
- Participating Entity Contact Email Address;
- Participating Entity Contact Telephone Number;
- Sourcewell Assigned Entity/Participating Entity Number;
- Item Purchased Description;
- Item Purchased Price;
- Sourcewell Administrative Fee Applied; and
- Date Purchase was invoiced/sale was recognized as revenue by Supplier.

B. ADMINISTRATIVE FEE. In consideration for the support and services provided by Sourcewell, the Supplier will pay an administrative fee to Sourcewell on all Equipment, Products, and Services provided to Participating Entities. The Administrative Fee must be included in, and not added to, the pricing. Supplier may not charge Participating Entities more than the contracted price to offset the Administrative Fee.

The Supplier will submit payment to Sourcewell for the percentage of administrative fee stated in the Proposal multiplied by the total sales of all Equipment, Products, and Services purchased

by Participating Entities under this Contract during each calendar quarter. Payments should note the Supplier's name and Sourcewell-assigned contract number in the memo; and must be mailed to the address above "Attn: Accounts Receivable" or remitted electronically to Sourcewell's banking institution per Sourcewell's Finance department instructions. Payments must be received no later than 45 calendar days after the end of each calendar quarter.

Supplier agrees to cooperate with Sourcewell in auditing transactions under this Contract to ensure that the administrative fee is paid on all items purchased under this Contract.

In the event the Supplier is delinquent in any undisputed administrative fees, Sourcewell reserves the right to cancel this Contract and reject any proposal submitted by the Supplier in any subsequent solicitation. In the event this Contract is cancelled by either party prior to the Contract's expiration date, the administrative fee payment will be due no more than 30 days from the cancellation date.

9. AUTHORIZED REPRESENTATIVE

Sourcewell's Authorized Representative is its Chief Procurement Officer.

Supplier's Authorized Representative is the person named in the Supplier's Proposal. If Supplier's Authorized Representative changes at any time during this Contract, Supplier must promptly notify Sourcewell in writing.

10. AUDIT, ASSIGNMENT, AMENDMENTS, WAIVER, AND CONTRACT COMPLETE

A. **AUDIT.** Pursuant to Minnesota Statutes Section 16C.05, subdivision 5, the books, records, documents, and accounting procedures and practices relevant to this Contract are subject to examination by Sourcewell or the Minnesota State Auditor for a minimum of six years from the end of this Contract. This clause extends to Participating Entities as it relates to business conducted by that Participating Entity under this Contract.

B. **ASSIGNMENT.** Neither party may assign or otherwise transfer its rights or obligations under this Contract without the prior written consent of the other party and a fully executed assignment agreement. Such consent will not be unreasonably withheld. Any prohibited assignment will be invalid.

C. **AMENDMENTS.** Any amendment to this Contract must be in writing and will not be effective until it has been duly executed by the parties.

D. **WAIVER.** Failure by either party to take action or assert any right under this Contract will not be deemed a waiver of such right in the event of the continuation or repetition of the circumstances giving rise to such right. Any such waiver must be in writing and signed by the parties.

E. **CONTRACT COMPLETE.** This Contract represents the complete agreement between the parties. No other understanding regarding this Contract, whether written or oral, may be used to bind either party. For any conflict between the attached Proposal and the terms set out in Articles 1-22 of this Contract, the terms of Articles 1-22 will govern.

F. **RELATIONSHIP OF THE PARTIES.** The relationship of the parties is one of independent contractors, each free to exercise judgment and discretion with regard to the conduct of their respective businesses. This Contract does not create a partnership, joint venture, or any other relationship such as master-servant, or principal-agent.

11. INDEMNITY AND HOLD HARMLESS

Supplier must indemnify, defend, save, and hold Sourcewell and its Participating Entities, including their agents and employees, harmless from any claims or causes of action, including attorneys' fees incurred by Sourcewell or its Participating Entities, arising out of any act or omission in the performance of this Contract by the Supplier or its agents or employees; this indemnification includes injury or death to person(s) or property alleged to have been caused by some defect in the Equipment, Products, or Services under this Contract to the extent the Equipment, Product, or Service has been used according to its specifications. Sourcewell's responsibility will be governed by the State of Minnesota's Tort Liability Act (Minnesota Statutes Chapter 466) and other applicable law.

12. GOVERNMENT DATA PRACTICES

Supplier and Sourcewell must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by or provided to Sourcewell under this Contract and as it applies to all data created, collected, received, maintained, or disseminated by the Supplier under this Contract.

13. INTELLECTUAL PROPERTY, PUBLICITY, MARKETING, AND ENDORSEMENT

A. INTELLECTUAL PROPERTY

1. *Grant of License.* During the term of this Contract:
 - a. Sourcewell grants to Supplier a royalty-free, worldwide, non-exclusive right and license to use the trademark(s) provided to Supplier by Sourcewell in advertising and promotional materials for the purpose of marketing Sourcewell's relationship with Supplier.
 - b. Supplier grants to Sourcewell a royalty-free, worldwide, non-exclusive right and license to use Supplier's trademarks in advertising and promotional materials for the purpose of marketing Supplier's relationship with Sourcewell.
2. *Limited Right of Sublicense.* The right and license granted herein includes a limited right of each party to grant sublicenses to their respective subsidiaries, distributors, dealers,

resellers, marketing representatives, and agents (collectively “Permitted Sublicensees”) in advertising and promotional materials for the purpose of marketing the Parties’ relationship to Participating Entities. Any sublicense granted will be subject to the terms and conditions of this Article. Each party will be responsible for any breach of this Article by any of their respective sublicensees.

3. *Use; Quality Control.*

- a. Neither party may alter the other party’s trademarks from the form provided and must comply with removal requests as to specific uses of its trademarks or logos.
- b. Each party agrees to use, and to cause its Permitted Sublicensees to use, the other party’s trademarks only in good faith and in a dignified manner consistent with such party’s use of the trademarks. Upon written notice to the breaching party, the breaching party has 30 days of the date of the written notice to cure the breach or the license will be terminated.

4. *Termination.* Upon the termination of this Contract for any reason, each party, including Permitted Sublicensees, will have 30 days to remove all Trademarks from signage, websites, and the like bearing the other party’s name or logo (excepting Sourcewell’s pre-printed catalog of suppliers which may be used until the next printing). Supplier must return all marketing and promotional materials, including signage, provided by Sourcewell, or dispose of it according to Sourcewell’s written directions.

B. PUBLICITY. Any publicity regarding the subject matter of this Contract must not be released without prior written approval from the Authorized Representatives. Publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Supplier individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.

C. MARKETING. Any direct advertising, marketing, or offers with Participating Entities must be approved by Sourcewell. Send all approval requests to the Sourcewell Supplier Development Administrator assigned to this Contract.

D. ENDORSEMENT. The Supplier must not claim that Sourcewell endorses its Equipment, Products, or Services.

14. GOVERNING LAW, JURISDICTION, AND VENUE

The substantive and procedural laws of the State of Minnesota will govern this Contract. Venue for all legal proceedings arising out of this Contract, or its breach, must be in the appropriate state court in Todd County, Minnesota or federal court in Fergus Falls, Minnesota.

15. FORCE MAJEURE

Neither party to this Contract will be held responsible for delay or default caused by acts of God or other conditions that are beyond that party's reasonable control. A party defaulting under this provision must provide the other party prompt written notice of the default.

16. SEVERABILITY

If any provision of this Contract is found by a court of competent jurisdiction to be illegal, unenforceable, or void then both parties will be relieved from all obligations arising from that provision. If the remainder of this Contract is capable of being performed, it will not be affected by such determination or finding and must be fully performed.

17. PERFORMANCE, DEFAULT, AND REMEDIES

A. **PERFORMANCE.** During the term of this Contract, the parties will monitor performance and address unresolved contract issues as follows:

1. *Notification.* The parties must promptly notify each other of any known dispute and work in good faith to resolve such dispute within a reasonable period of time. If necessary, Sourcewell and the Supplier will jointly develop a short briefing document that describes the issue(s), relevant impact, and positions of both parties.
2. *Escalation.* If parties are unable to resolve the issue in a timely manner, as specified above, either Sourcewell or Supplier may escalate the resolution of the issue to a higher level of management. The Supplier will have 30 calendar days to cure an outstanding issue.
3. *Performance while Dispute is Pending.* Notwithstanding the existence of a dispute, the Supplier must continue without delay to carry out all of its responsibilities under the Contract that are not affected by the dispute. If the Supplier fails to continue without delay to perform its responsibilities under the Contract, in the accomplishment of all undisputed work, the Supplier will bear any additional costs incurred by Sourcewell and/or its Participating Entities as a result of such failure to proceed.

B. **DEFAULT AND REMEDIES.** Either of the following constitutes cause to declare this Contract, or any Participating Entity order under this Contract, in default:

1. Nonperformance of contractual requirements, or
2. A material breach of any term or condition of this Contract.

The party claiming default must provide written notice of the default, with 30 calendar days to cure the default. Time allowed for cure will not diminish or eliminate any liability for liquidated or other damages. If the default remains after the opportunity for cure, the non-defaulting party may:

- Exercise any remedy provided by law or equity, or
- Terminate the Contract or any portion thereof, including any orders issued against the Contract.

18. INSURANCE

A. REQUIREMENTS. At its own expense, Supplier must maintain insurance policy(ies) in effect at all times during the performance of this Contract with insurance company(ies) licensed or authorized to do business in the State of Minnesota having an "AM BEST" rating of A- or better, with coverage and limits of insurance not less than the following:

1. *Workers' Compensation and Employer's Liability.*

Workers' Compensation: As required by any applicable law or regulation.

Employer's Liability Insurance: must be provided in amounts not less than listed below:

Minimum limits:

\$500,000 each accident for bodily injury by accident

\$500,000 policy limit for bodily injury by disease

\$500,000 each employee for bodily injury by disease

2. *Commercial General Liability Insurance.* Supplier will maintain insurance covering its operations, with coverage on an occurrence basis, and must be subject to terms no less broad than the Insurance Services Office ("ISO") Commercial General Liability Form CG0001 (2001 or newer edition), or equivalent. At a minimum, coverage must include liability arising from premises, operations, bodily injury and property damage, independent contractors, products-completed operations including construction defect, contractual liability, blanket contractual liability, and personal injury and advertising injury. All required limits, terms and conditions of coverage must be maintained during the term of this Contract.

Minimum Limits:

\$1,000,000 each occurrence Bodily Injury and Property Damage

\$1,000,000 Personal and Advertising Injury

\$2,000,000 aggregate for products liability-completed operations

\$2,000,000 general aggregate

3. *Commercial Automobile Liability Insurance.* During the term of this Contract, Supplier will maintain insurance covering all owned, hired, and non-owned automobiles in limits of liability not less than indicated below. The coverage must be subject to terms no less broad than ISO Business Auto Coverage Form CA 0001 (2010 edition or newer), or equivalent.

Minimum Limits:

\$1,000,000 each accident, combined single limit

4. *Umbrella Insurance*. During the term of this Contract, Supplier will maintain umbrella coverage over Employer's Liability, Commercial General Liability, and Commercial Automobile.

Minimum Limits:

\$2,000,000

5. *Professional/Technical, Errors and Omissions, and/or Miscellaneous Professional Liability*. During the term of this Contract, Supplier will maintain coverage for all claims the Supplier may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to Supplier's professional services required under this Contract.

Minimum Limits:

\$2,000,000 per claim or event

\$2,000,000 – annual aggregate

6. *Network Security and Privacy Liability Insurance*. During the term of this Contract, Supplier will maintain coverage for network security and privacy liability. The coverage may be endorsed on another form of liability coverage or written on a standalone policy. The insurance must cover claims which may arise from failure of Supplier's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public data – including but not limited to, confidential or private information, transmission of a computer virus, or denial of service.

Minimum limits:

\$2,000,000 per occurrence

\$2,000,000 annual aggregate

Failure of Supplier to maintain the required insurance will constitute a material breach entitling Sourcewell to immediately terminate this Contract for default.

B. CERTIFICATES OF INSURANCE. Prior to commencing under this Contract, Supplier must furnish to Sourcewell a certificate of insurance, as evidence of the insurance required under this Contract. Prior to expiration of the policy(ies), renewal certificates must be mailed to Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 or sent to the Sourcewell Supplier Development Administrator assigned to this Contract. The certificates must be signed by a person authorized by the insurer(s) to bind coverage on their behalf.

Failure to request certificates of insurance by Sourcewell, or failure of Supplier to provide certificates of insurance, in no way limits or relieves Supplier of its duties and responsibilities in this Contract.

C. ADDITIONAL INSURED ENDORSEMENT AND PRIMARY AND NON-CONTRIBUTORY INSURANCE CLAUSE. Supplier agrees to list Sourcewell and its Participating Entities, including their officers, agents, and employees, as an additional insured under the Supplier's commercial

general liability insurance policy with respect to liability arising out of activities, "operations," or "work" performed by or on behalf of Supplier, and products and completed operations of Supplier. The policy provision(s) or endorsement(s) must further provide that coverage is primary and not excess over or contributory with any other valid, applicable, and collectible insurance or self-insurance in force for the additional insureds.

D. **WAIVER OF SUBROGATION.** Supplier waives and must require (by endorsement or otherwise) all its insurers to waive subrogation rights against Sourcewell and other additional insureds for losses paid under the insurance policies required by this Contract or other insurance applicable to the Supplier or its subcontractors. The waiver must apply to all deductibles and/or self-insured retentions applicable to the required or any other insurance maintained by the Supplier or its subcontractors. Where permitted by law, Supplier must require similar written express waivers of subrogation and insurance clauses from each of its subcontractors.

E. **UMBRELLA/EXCESS LIABILITY/SELF-INSURED RETENTION.** The limits required by this Contract can be met by either providing a primary policy or in combination with umbrella/excess liability policy(ies), or self-insured retention.

19. COMPLIANCE

A. **LAWS AND REGULATIONS.** All Equipment, Products, or Services provided under this Contract must comply fully with applicable federal laws and regulations, and with the laws in the states and provinces in which the Equipment, Products, or Services are sold.

B. **LICENSES.** Supplier must maintain a valid and current status on all required federal, state/provincial, and local licenses, bonds, and permits required for the operation of the business that the Supplier conducts with Sourcewell and Participating Entities.

20. BANKRUPTCY, DEBARMENT, OR SUSPENSION CERTIFICATION

Supplier certifies and warrants that it is not in bankruptcy or that it has previously disclosed in writing certain information to Sourcewell related to bankruptcy actions. If at any time during this Contract Supplier declares bankruptcy, Supplier must immediately notify Sourcewell in writing.

Supplier certifies and warrants that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Supplier certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this Contract. Supplier further warrants that it will provide immediate written notice to Sourcewell if this certification changes at any time.

21. PROVISIONS FOR NON-UNITED STATES FEDERAL ENTITY PROCUREMENTS UNDER UNITED STATES FEDERAL AWARDS OR OTHER AWARDS

Participating Entities that use United States federal grant or FEMA funds to purchase goods or services from this Contract may be subject to additional requirements including the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 C.F.R. § 200. Participating Entities may have additional requirements based on specific funding source terms or conditions. Within this Article, all references to “federal” should be interpreted to mean the United States federal government. The following list only applies when a Participating Entity accesses Supplier’s Equipment, Products, or Services with United States federal funds.

A. **EQUAL EMPLOYMENT OPPORTUNITY.** Except as otherwise provided under 41 C.F.R. § 60, all contracts that meet the definition of “federally assisted construction contract” in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. §60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 C.F.R. §, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 C.F.R. § 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.” The equal opportunity clause is incorporated herein by reference.

B. **DAVIS-BACON ACT, AS AMENDED (40 U.S.C. § 3141-3148).** When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. § 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. § 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report

all suspected or reported violations to the federal awarding agency. Supplier must be in compliance with all applicable Davis-Bacon Act provisions.

C. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. § 3701-3708). Where applicable, all contracts awarded by the non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. § 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. This provision is hereby incorporated by reference into this Contract. Supplier certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Supplier must comply with applicable requirements as referenced above.

D. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT. If the federal award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 C.F.R. § 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency. Supplier certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Supplier must comply with applicable requirements as referenced above.

E. CLEAN AIR ACT (42 U.S.C. § 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. § 1251-1387). Contracts and subgrants of amounts in excess of \$150,000 require the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). Supplier certifies that during the term of this Contract will comply with applicable requirements as referenced above.

F. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689). A contract award (see 2 C.F.R. § 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R.

§180 that implement Executive Orders 12549 (3 C.F.R. § 1986 Comp., p. 189) and 12689 (3 C.F.R. § 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Supplier certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

G. BYRD ANTI-LOBBYING AMENDMENT, AS AMENDED (31 U.S.C. § 1352). Suppliers must file any required certifications. Suppliers must not have used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Suppliers must disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award. Suppliers must file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).

H. RECORD RETENTION REQUIREMENTS. To the extent applicable, Supplier must comply with the record retention requirements detailed in 2 C.F.R. § 200.333. The Supplier further certifies that it will retain all records as required by 2 C.F.R. § 200.333 for a period of 3 years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

I. ENERGY POLICY AND CONSERVATION ACT COMPLIANCE. To the extent applicable, Supplier must comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

J. BUY AMERICAN PROVISIONS COMPLIANCE. To the extent applicable, Supplier must comply with all applicable provisions of the Buy American Act. Purchases made in accordance with the Buy American Act must follow the applicable procurement rules calling for free and open competition.

K. ACCESS TO RECORDS (2 C.F.R. § 200.336). Supplier agrees that duly authorized representatives of a federal agency must have access to any books, documents, papers and records of Supplier that are directly pertinent to Supplier's discharge of its obligations under this Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to Supplier's personnel for the purpose of interview and discussion relating to such documents.

L. **PROCUREMENT OF RECOVERED MATERIALS (2 C.F.R. § 200.322).** A non-federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. § 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

M. **FEDERAL SEAL(S), LOGOS, AND FLAGS.** The Supplier cannot use the seal(s), logos, crests, or reproductions of flags or likenesses of Federal agency officials without specific pre-approval.

N. **NO OBLIGATION BY FEDERAL GOVERNMENT.** The U.S. federal government is not a party to this Contract or any purchase by a Participating Entity and is not subject to any obligations or liabilities to the Participating Entity, Supplier, or any other party pertaining to any matter resulting from the Contract or any purchase by an authorized user.

O. **PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS.** The Contractor acknowledges that 31 U.S.C. 38 (Administrative Remedies for False Claims and Statements) applies to the Supplier's actions pertaining to this Contract or any purchase by a Participating Entity.

P. **FEDERAL DEBT.** The Supplier certifies that it is non-delinquent in its repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowance, and benefit overpayments.

Q. **CONFLICTS OF INTEREST.** The Supplier must notify the U.S. Office of General Services, Sourcewell, and Participating Entity as soon as possible if this Contract or any aspect related to the anticipated work under this Contract raises an actual or potential conflict of interest (as described in 2 C.F.R. Part 200). The Supplier must explain the actual or potential conflict in writing in sufficient detail so that the U.S. Office of General Services, Sourcewell, and Participating Entity are able to assess the actual or potential conflict; and provide any additional information as necessary or requested.

R. **U.S. EXECUTIVE ORDER 13224.** The Supplier, and its subcontractors, must comply with U.S. Executive Order 13224 and U.S. Laws that prohibit transactions with and provision of resources and support to individuals and organizations associated with terrorism.

S. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT. To the extent applicable, Supplier certifies that during the term of this Contract it will comply with applicable requirements of 2 C.F.R. § 200.216.

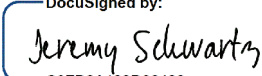
T. DOMESTIC PREFERENCES FOR PROCUREMENTS. To the extent applicable, Supplier certifies that during the term of this Contract will comply with applicable requirements of 2 C.F.R. § 200.322.

22. CANCELLATION

Sourcwell or Supplier may cancel this Contract at any time, with or without cause, upon 60 days' written notice to the other party. However, Sourcwell may cancel this Contract immediately upon discovery of a material defect in any certification made in Supplier's Proposal. Cancellation of this Contract does not relieve either party of financial, product, or service obligations incurred or accrued prior to cancellation.

Sourcwell


Strategic Equipment, LLC

DocuSigned by:

By: C0FD2A139D06489...
Jeremy Schwartz
Title: Chief Procurement Officer
Date: 7/29/2022 | 12:53 PM CDT

DocuSigned by:

By: 70435A715C02475...
Rick De La Fuente
Title: Regional Chief Financial Officer
Date: 8/2/2022 | 9:57 AM CDT

Approved:

DocuSigned by:

By: 7E42B8F817A64CC...
Chad Coauette
Title: Executive Director/CEO
Date: 8/2/2022 | 10:04 AM CDT

RFP 063022 - Commercial Kitchen Equipment with Related Supplies and Services

Vendor Details

Company Name: Strategic Equipment, LLC

Does your company conduct business under any other name? If yes, please state: Trimark

Address: 2801 S Valley Parkway, Suite 200
Lewisville, Texas 75067

Contact: Chuck Taylor

Email: chuck.taylor@trimarkusa.com

Phone: 469-261-5003

Fax: 469-240-7253

HST#: 62-1808341

Submission Details

Created On: Thursday June 16, 2022 09:14:24

Submitted On: Thursday June 30, 2022 13:16:44

Submitted By: Chuck Taylor

Email: chuck.taylor@trimarkusa.com

Transaction #: b7c85aea-0d6c-4500-802c-61c97587e748

Submitter's IP Address: 99.106.55.140

Specifications

Table 1: Proposer Identity & Authorized Representatives

General Instructions (applies to all Tables) Sourcewell prefers a brief but thorough response to each question. Do not merely attach additional documents to your response without also providing a substantive response. Do not leave answers blank; respond "N/A" if the question does not apply to you (preferably with an explanation).

Line Item	Question	Response *	
1	Proposer Legal Name (one legal entity only): (In the event of award, will execute the resulting contract as "Supplier")	Strategic Equipment, LLC	*
2	Identify all subsidiary entities of the Proposer whose equipment, products, or services are included in the Proposal.	Strategic Equipment, LLC is a wholly-owned subsidiary of Trimark USA, LLC, with Trimark being our trade and brand identity. Although not subsidiaries of Strategic Equipment, LLC, other Trimark divisions, operating under separate legal entities, share the same Trimark trade and brand identity and will participate in providing goods and services under this contract. These legal entities are: TriMark Marlinn, LLC; Hockenbergs Equipment and Supply Co, Inc.; S.S. Kemp & Co, LLC; TriMark United East, LLC; RW Smith & Co; Chefs Toys, LLC All Trimark divisions, regardless of legal entity, identify themselves in the marketplace as Trimark and share common values, goals, and principles. We work in cooperation with each other to present a seamless experience to our customers.	*
3	Identify all applicable assumed names or DBA names of the Proposer or Proposer's subsidiaries in Line 1 or Line 2 above.	ISI Commercial Refrigeration, TriMark Foodcraft	*
4	Provide your CAGE code or Unique Entity Identifier (SAM):	641S7	*
5	Proposer Physical Address:	2801 S. Valley Parkway, Suite 200 Lewisville, TX 75067	*
6	Proposer website address (or addresses):	www.trimarkusa.com	*
7	Proposer's Authorized Representative (name, title, address, email address & phone) (The representative must have authority to sign the "Proposer's Assurance of Compliance" on behalf of the Proposer and, in the event of award, will be expected to execute the resulting contract):	Rick De La Fuente Regional Chief Financial Officer 2801 S Valley Parkway, Suite 200 Lewisville, TX 75067 Rick.DeLaFuente@trimarkusa.com 469-240-7219	*
8	Proposer's primary contact for this proposal (name, title, address, email address & phone):	Chuck Taylor Manager Institutional Sales and Purchasing Co-ops 2801 S Valley Parkway, Suite 200 Lewisville, TX 75067 chuck.taylor@trimarkusa.com 469-250-7253	*
9	Proposer's other contacts for this proposal, if any (name, title, address, email address & phone):	Mark Kohlschmidt Senior VP Institutional and Contract Sales - Southern Region 9010 W. Little York Road, Ste 100 Houston, TX 77040 mark.kohlschmidt@trimarkusa.com 713-861-4455 ext. 5504 Amy Leasure Sales Executive Southern Region 5843 Barry Road Tampa, FL 33634 amy.leasure@trimarkusa.com 972-896-9893	

Table 2: Company Information and Financial Strength

Line Item	Question	Response *	
10	Provide a brief history of your company, including your company's core values, business philosophy, and industry longevity related to the requested equipment, products or services.	TriMark has been in business more than 125 years. TriMark is the most experienced foodservice supply company in the industry. We are the leading provider of foodservice supplies, equipment, and specialized kitchen solutions. We are committed to the unique vision of each customer - offering innovative ideas, cutting-edge insights and critical tools to support their passionate pursuit of excellence every day. From sourcing products to identifying cost-saving solutions, we help our customers operate more efficiently to achieve optimal results. We provide services to meet the unique needs of foodservice establishments. Our purchasing power allows us to stock the best equipment and supplies for the customer to run their operation efficiently.	*
11	What are your company's expectations in the event of an award?	Our position as the incumbent supplier in this category affords a unique perspective into the purchasing trends of Sourcewell members and allows us to identify opportunities for measurable growth. We expect to build on the foundational business we've established over the previous years as a trusted Sourcewell supplier by increasing our offering to include new product categories, consultative design capabilities, and service. We also expect immediate growth with the expansion of our contract award to TriMark and its subsidiaries, enhancing not only our responsiveness to Sourcewell members in their respective markets but also our ability to anticipate their individual needs in a proactive fashion.	*
12	Demonstrate your financial strength and stability with meaningful data. This could include such items as financial statements, SEC filings, credit and bond ratings, letters of credit, and detailed reference letters. Upload supporting documents (as applicable) in the document upload section of your response.	Strategic Equipment generated sales of \$558.5 million in 2021, which was a 22% increase over 2020. We generated \$26 million in Operating Income from those sales in 2021. This sales performance would rank Strategic the fourth largest foodservice equipment and supplies distributor in the United States. See Attachment - Income Statement Summary	*
13	What is your US market share for the solutions that you are proposing?	Trimark occupies the #2 position in the market with a 15% domestic market share (Source: Foodservice Equipment and Supplies 2022 Distribution Giants report, https://fesmag.com/research/distribution-giants/20180-2022-distribution-giants).	*
14	What is your Canadian market share for the solutions that you are proposing?	N/A. No data available related to Canadian market share.	*
15	Has your business ever petitioned for bankruptcy protection? If so, explain in detail.	No, it has not.	*
16	How is your organization best described: is it a manufacturer, a distributor/dealer/reseller, or a service provider? Answer whichever question (either a) or b) just below) best applies to your organization. a) If your company is best described as a distributor/dealer/reseller (or similar entity), provide your written authorization to act as a distributor/dealer/reseller for the manufacturer of the products proposed in this RFP. If applicable, is your dealer network independent or company owned? b) If your company is best described as a manufacturer or service provider, describe your relationship with your sales and service force and with your dealer network in delivering the products and services proposed in this RFP. Are these individuals your employees, or the employees of a third party?	Strategic Equipment, LLC is a subsidiary of TriMark USA, LLC, a wholly owned and privately held corporation, and is best described as a distributor/dealer/reseller. We are the preferred supplier of the industry's top tier foodservice equipment and supply manufacturers, providing the breadth of a national company while maintaining the depth of a local dealer.	*
17	If applicable, provide a detailed explanation outlining the licenses and certifications that are both required to be held, and actually held, by your organization (including third parties and subcontractors that you use) in pursuit of the business contemplated by this RFP.	N/A	*
18	Provide all "Suspension or Debarment" information that has applied to your organization during the past ten years.	None	*

Table 3: Industry Recognition & Marketplace Success

Line Item	Question	Response *	
19	Describe any relevant industry awards or recognition that your company has received in the past five years	Foodservice Equipment and Supplies Magazine Dealer of the Year Award 2019 2020 Performance in Tabletop Award - International Smoke 2022 Vendor of the Year Award - Focus Brands (Schlotzsky's, Carvel, Cinnabon, Moe's Southwest Grill, McAlister's Deli, Auntie Anne's and Jamba) 2018/2020/2022 - Highest Volume Increase in Smallwares Category - ABC Buying Group 2022 - Highest Total Dollar Increase - ABC Buying Group	*
20	What percentage of your sales are to the governmental sector in the past three years	.43% of total sales were to the government sector	*
21	What percentage of your sales are to the education sector in the past three years	2.1% of total sales were to the education sector	*
22	List any state, provincial, or cooperative purchasing contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?	Sourcewell Contract 091918-TMK 2019 - \$8,345,324.50 2020 - \$2,822,788.50 2021 - \$10,837,512.00 TASN Buyboard Contract 598-19 2019 - \$1,373,149.50 2020 - \$ 282,159.50 2021 - \$ 644,756.00 Choice Partners Contract 19/039TJ 2019 - \$4,603,797.50 2020 - \$2,467,064.50 2021 - \$ 904,155.50	*
23	List any GSA contracts or Standing Offers and Supply Arrangements (SOSA) that you hold. What is the annual sales volume for each of these contracts over the past three years?	None	*

Table 4: References/Testimonials

Line Item 24. Supply reference information from three customers who are eligible to be Sourcewell participating entities.

Entity Name *	Contact Name *	Phone Number *	
Georgia Department of Corrections	Freddie Armstrong Facility Maintenance Engineer Advisor	404-244-5748	*
Waco Independent School District	Clifford Reece Director of Child Nutrition Services	254-752-5522	*
Clay County District Schools	Rosita Rivera Viera	904-336-6855	*

Table 5: Top Five Government or Education Customers

Line Item 25. Provide a list of your top five government, education, or non-profit customers (entity name is optional), including entity type, the state or province the entity is located in, scope of the project(s), size of transaction(s), and dollar volumes from the past three years.

Entity Name	Entity Type *	State / Province *	Scope of Work *	Size of Transactions *	Dollar Volume Past Three Years *	
Georgia Dept. Corrections	Government	Georgia - GA	Equipment, Dish Washers, Cooking Equipment, Fabrication, Design, Installation	Varied Several \$240,000.00	\$3,200,000.00	*
Auburn University	Education	Alabama - AL	Equipment, Walk in refrigerated rooms, Cooking equipment, Installation	\$200,000.00-\$2,000,000.00	\$2,489,000.00	*
Louisiana Stadium and Exposition	Government	Louisiana - LA	Equipment, Walk in refrigerated rooms, Cooking equipment, Installation	\$1,870,000.00	\$1,870,000.00	*
School District of Lee County	Education	Florida - FL	Equipment, Serving Lines, Refrigeration, Cooking Equipment, Décor Packages, Installation	\$100,000.00 - \$200,000.00	\$1,582,000.00	*
School Board of Clay County	Education	Florida - FL	Equipment, Walk in Refrigerated Rooms, Serving Lines, Cooking Equipment, Décor Packages	\$100,000.00-\$200,000.00	\$1,447,000.00	*

Table 6: Ability to Sell and Deliver Service

Describe your company's capability to meet the needs of Sourcwell participating entities across the US and Canada, as applicable. Your response should address in detail at least the following areas: locations of your network of sales and service providers, the number of workers (full-time equivalents) involved in each sector, whether these workers are your direct employees (or employees of a third party), and any overlap between the sales and service functions.

Line Item	Question	Response *	
26	Sales force.	Strategic Equipment a division of TriMark USA has seven sales people dedicated to the institutional market. This staff is located in: Dallas and Houston, Texas; Tampa, Florida; Knoxville, Tennessee; Duluth, Georgia. Our sister companies have sales staff located throughout the country. TriMark USA has 45 sales offices, with over 500 outside sales people and 200 inside sales people. This sales team is backed by over 600 project and operational support members. TriMark USA has 39 distribution centers.	*
27	Dealer network or other distribution methods.	We use our sister companies in TriMark USA and their respective distribution centers to fulfill the specifics of the RFP. This includes sales, project management, design, etc.	*
28	Service force.	We provide standard service repair during operating hours (both on-site and in-shop), emergency service repair on-site, installation (both project and single replacement), and planned maintenance (PM) service for the Commercial Food Equipment Industry. In addition, customers looking to repair their own equipment, we sell OEM parts with an inventory of over \$3 Million in our distribution facilities. In-house service territories include Alabama, Georgia, Florida, and Texas with a fleet of over 100 vehicles. TriMark is a proud member of the Commercial Food Equipment Service Association (CFESA). TriMark partners with authorized service agencies within neighboring states for both in and out of warranty service repairs as well as installation.	*
29	Describe the ordering process. If orders will be handled by distributors, dealers or others, explain the respective roles of the Proposer and others.	New customers will be required to complete a New Customer Application. Upon receipt and review by our credit department, an open account with Net 30 day terms will be established and orders may be processed. Once the Sourcwell member acknowledges acceptance of the quotation and submits a valid purchase order, the Project Coordinator assigned to the account will process the order, place purchase orders to the manufacturers, and advise of the tracking information once that is made available.	*

30	Describe in detail the process and procedure of your customer service program, if applicable. Include your response-time capabilities and commitments, as well as any incentives that help your providers meet your stated service goals or promises.	To obtain our goal of providing the highest lever of customer service and support, Strategic employs a team approach. The primary client contact is the Sales Executive or Account Manager assigned to the customer. To facilitate order fulfillment, the Sales Executive will assign a Project Coordinator or inside sales professional to assist with order placement, tracking of shipments, and other administrative functions. If the size of the project warrants additional resources, an onsite Project Manager will be assigned to assist with tracking and scheduling shipments and coordinating installation of the equipment, working in cooperation with the customer's general contractor and subcontractors. This team approach provides for the flow of shared information so each team member can provide timely and responsive updates and information to the customer regarding the project.	*
31	Describe your ability and willingness to provide your products and services to Sourcwell participating entities in the United States.	Strategic, along with our participating Trimark divisions comprise one of the largest sales forces in the industry, providing coverage nationwide. In addition, we have developed a team of experienced professional Sales Executives dedicated to serving the institutional market and growing our market share in this sector. Developing the institutional market is one of our key initiatives company-wide and we view it as one of our greatest opportunities for growth.	*
32	Describe your ability and willingness to provide your products and services to Sourcwell participating entities in Canada.	While our experience in providing products and services to customers in Canada has been very limited, primarily in support of our chain account customers, we are developing the contacts and channel partnerships necessary to pursue more opportunities in that market.	*
33	Identify any geographic areas of the United States or Canada that you will NOT be fully serving through the proposed contract.	N/A	*
34	Identify any Sourcwell participating entity sectors (i.e., government, education, not-for-profit) that you will NOT be fully serving through the proposed contract. Explain in detail. For example, does your company have only a regional presence, or do other cooperative purchasing contracts limit your ability to promote another contract?	N/A	*
35	Define any specific contract requirements or restrictions that would apply to our participating entities in Hawaii and Alaska and in US Territories.	Freight and transportation costs would be based on actual cost plus mark up	*

Table 7: Marketing Plan

Line Item	Question	Response *	
36	Describe your marketing strategy for promoting this contract opportunity. Upload representative samples of your marketing materials (if applicable) in the document upload section of your response.	We plan to distribute marketing materials to our sales team and customer base that highlight our contract capabilities. Our award will be posted on our company website and all our web marketing platforms will be updated to include content designed to draw attention to our contract offerings with links to the Sourcwell home page and our vendor landing page. We will continue to exhibit at regional and national trade shows providing the best opportunity to meet prospective members with the intent of generating new cooperative sales leads. We will periodically distribute marketing materials via direct mail and email marketing campaigns designed to underscore cooperative purchasing and our commitment to our Sourcwell partnership.	*
37	Describe your use of technology and digital data (e.g., social media, metadata usage) to enhance marketing effectiveness.	Strategic has a robust social media presence. We post across five social media platforms on a weekly basis sharing recent company programs, restaurant installations, community involvement, hiring activities and industry partnership. We've recently launched BIM 360 utilizing technology to provide a live, shared digital workspace to facilitate project management and critical planning.	*
38	In your view, what is Sourcwell's role in promoting contracts arising out of this RFP? How will you integrate a Sourcwell-awarded contract into your sales process?	As an incumbent supplier for Sourcwell, the cooperative purchasing vehicle is fully ingrained and has become fundamental to our sales and marketing strategy. The success thus far is largely attributed to the collaborative efforts of our Sourcwell contract administrators, promoting our contract to interested members and coordinating marketing efforts. We have seen significant growth in Sourcwell contract sales over the past year as a result of our focused attention on the institutional market and development of our Institutional Sales Team. We anticipate this to continue to grow as team members become more and more experienced with utilizing the benefits offered by cooperative purchasing.	*
39	Are your products or services available through an e-procurement ordering process? If so, describe your e-procurement system and how governmental and educational customers have used it.	Currently we provide custom e-procurement portals tailored specifically to customers who regularly place replenishment orders of common items. This platform optimizes the ordering and delivery process for our repeat customers. This service will be made available to any Sourcwell member who believes this will fit their specific need. We also participate in Sourcwell Equal Level, currently positioned with an expanded profile with plans to move to a catalogue store in the future.	*

Table 8: Value-Added Attributes

Line Item	Question	Response *	
40	Describe any product, equipment, maintenance, or operator training programs that you offer to Sourcewell participating entities. Include details, such as whether training is standard or optional, who provides training, and any costs that apply.	We work in coordination with the local manufacturer's representatives to schedule on-site training and product demonstration designed to maximize familiarity and comfort with a new piece of equipment. Additionally, most manufacturer's representatives employ chefs who will assist our customers in menu development and testing and programming recipes for consistency and productivity. In most cases these services are provided at no additional cost to the customer. However, there may be cases where, due to the remote location of the customer or the requirement for multiple trips, a fee would be required. In those instances we would provide the customer with a quote based on the Ancillary rate in the pricing agreement.	*
41	Describe any technological advances that your proposed products or services offer.	Foodservice equipment manufacturers constantly update products to incorporate the latest innovations in design, function, and technology. Some recent examples are: High speed, fast bake ovens - reduce cooking time leading to higher productivity and efficiency. High efficiency fryers with oil recovery systems that significantly reduce the consumption of oil, reducing costs and increasing profitability. Induction cooking - provides the most efficient transfer of energy and allows more flexibility in locating cooking and serving locations Ventless technology for cooking equipment and warewashing equipment - allows for use of equipment where a traditional ventilation system would have been unfeasible.	*
42	Describe any "green" initiatives that relate to your company or to your products or services, and include a list of the certifying agency for each.	Equipment manufacturers invest heavily into research and development of new products able to operate at peak efficiency while minimizing impact on the environment. Strategic offers many Energy Star certified products and encourages the use of high-efficiency equipment whenever possible. For projects in development, our designers can collaborate with architects and consultants seeking LEED green building certification. On the operational level, our Strategic facilities employ motion-activated lighting, engage in pallet recycling programs, minimize packaging, and follow waste reduction protocol. Agencies that regulate and certify this equipment are: U.S. Department of Energy - www.energy.gov U.S. Environmental Protection Agency - www.epa.gov U.S. Green Building Council - new.usgbc.org	*
43	Identify any third-party issued eco-labels, ratings or certifications that your company has received for the equipment or products included in your Proposal related to energy efficiency or conservation, life-cycle design (cradle-to-cradle), or other green/sustainability factors.	N/A	*
44	Describe any Women or Minority Business Entity (WMBE), Small Business Entity (SBE), or veteran owned business certifications that your company or hub partners have obtained. Upload documentation of certification (as applicable) in the document upload section of your response.	None	*
45	What unique attributes does your company, your products, or your services offer to Sourcewell participating entities? What makes your proposed solutions unique in your industry as it applies to Sourcewell participating entities?	Strategic is more than just an equipment and supplies provider. Our approach is more like a consultant. Our sales force is comprised of trained and experienced foodservice professionals, many holding CFSP accreditation, who are adept at working with the customer to identify needs and develop solutions. We truly provide a "turnkey" experience by offering services that include menu development, space and layout design, equipment specification and procurement, project management, delivery and installation, equipment demonstration and training. We take the project from inception to completion and employ a team of experts to assist the customer all along the process. Our national footprint and multiple warehouses help to provide timely delivery of products to our customers	*

Table 9: Warranty

Describe in detail your manufacturer warranty program, including conditions and requirements to qualify, claims procedure, and overall structure. You may upload representative samples of your warranty materials (if applicable) in the document upload section of your response in addition to responding to the questions below.

Line Item	Question	Response *	
46	Do your warranties cover all products, parts, and labor?	Warranties are those supplied by the equipment manufacturers. Generally cover parts and labor.	*
47	Do your warranties impose usage restrictions or other limitations that adversely affect coverage?	Warranty will not cover abuse or lack of maintenance.	*
48	Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?	Yes	*
49	Are there any geographic regions of the United States or Canada (as applicable) for which you cannot provide a certified technician to perform warranty repairs? How will Sourcewell participating entities in these regions be provided service for warranty repair?	We have coverage in the United States.	*
50	Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer?	We warranty any work we perform. The equipment is covered by the original equipment manufacturer.	*
51	What are your proposed exchange and return programs and policies?	Special order items are not returnable and will not be exchanged. If a manufacture will take back an item they consider returnable, the return must have an RMA and be returned within 90 days in the original carton. All freight, restocking, damage plus a service fee will be deducted from the credit for equipment.	*
52	Describe any service contract options for the items included in your proposal.	We offer preventative maintenance contracts for refrigeration equipment in Texas. DFW, Houston, Beaumont and Austin.	*

Table 10: Payment Terms and Financing Options

Line Item	Question	Response *	
53	Describe your payment terms and accepted payment methods.	<p>Standard payment terms are Net 30 days. To be considered for an open account, all new customers will be required to complete a New Customer Application and provide tax exemption certification if applicable. All applicants are subject to Strategic's Credit Terms and Policies and must meet criteria specified therein.</p> <p>Finance charges of 1/5% per month (18% APR) or the maximum rate that an applicant may lawfully contract to pay, whichever is less, on any payment Seller considers past due until collected.</p> <p>Accepted payment methods include check, ACH, wire transfer, credit card</p>	*
54	Describe any leasing or financing options available for use by educational or governmental entities.	TriMark Strategic has developed business relationships with several reputable third-party leasing companies and can provide Sourcewell customers with information regarding this option upon request.	*
55	Describe any standard transaction documents that you propose to use in connection with an awarded contract (order forms, terms and conditions, service level agreements, etc.). Upload a sample of each (as applicable) in the document upload section of your response.	<p>Strategic will require a valid Purchase Order from Sourcewell customers. Upon acceptance, Strategic will agree to the terms and conditions set forth in the Purchase Order.</p> <p>All quotes submitted by Strategic to Sourcewell customers will be on a standard Quotation Form and will have this statement regarding the Terms of Sale: "This Quote shall be subject to Trimark's Terms of Sale http://www.trimarkusa.com/SiteMedia/SiteResources/Term/TriMark-Terms-and-Conditions-of-Sale.pdf, which are incorporated herein by reference. The customer's Purchase Order terms and conditions shall govern.</p>	*
56	Do you accept the P-card procurement and payment process? If so, is there any additional cost to Sourcewell participating entities for using this process?	Yes, we accept P-cards as well as Visa, Master Card, American Express, and Discover. There is a 2.5% administrative fee for these transactions.	*

Table 11: Pricing and Delivery

Provide detailed pricing information in the questions that follow below. Keep in mind that reasonable price and product adjustments can be made during the term of an awarded Contract as described in the RFP, the template Contract, and the Sourcewell Price and Product Change Request Form.

Line Item	Question	Response *	
57	Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the Sourcewell discounted price) on all of the items that you want Sourcewell to consider as part of your RFP response. If applicable, provide a SKU for each item in your proposal. Upload your pricing materials (if applicable) in the document upload section of your response.	Due to the breadth of products and thousands of SKU's that we offer, we will employ a catalogue discount price model. Each manufacturer is assigned a set percentage discount off the published list price. Pricing extended to Sourcewell members will not exceed the contracted discount. A comprehensive matrix detailing the discounts and product categories by manufacturer will be made available. Note that some of the manufacturers listed do not have a published list price since their products are typically custom-made to each individual application. These include manufacturers that produce ventilation hoods, walk-in coolers and freezers, custom serving lines, custom stainless steel fabrication, etc. Since there is no published list price, we will provide a custom quote for these items. See Attachment for Detailed Discount Matrix	*
58	Quantify the pricing discount represented by the pricing proposal in this response. For example, if the pricing in your response represents a percentage discount from MSRP or list, state the percentage or percentage range.	The discounts listed in the discount matrix range from 0% (List) to 70% off manufacturer's published list price.	*
59	Describe any quantity or volume discounts or rebate programs that you offer.	Due to the amount of discount offered, there are no additional quantity/volume discounts or rebates available.	*
60	Propose a method of facilitating "sourced" products or related services, which may be referred to as "open market" items or "nonstandard options". For example, you may supply such items "at cost" or "at cost plus a percentage," or you may supply a quote for each such request.	Pricing for any manufacturer not listed on the discount matrix will be provided by a quote upon request. Ancillary products and services will be provided at cost + 15%. Examples are: Design Services Project Management Freight and Logistics Consolidation and Storage Replacement parts Furniture Linens Uniforms Aprons Laundry Equipment Custom Fabrication Millwork Kiosks All Others	*
61	Identify any element of the total cost of acquisition that is NOT included in the pricing submitted with your response. This includes all additional charges associated with a purchase that are not directly identified as freight or shipping charges. For example, list costs for items like pre-delivery inspection, installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer.	Acquisition costs not specifically detailed in this proposal are hypothetical and dependent upon a number of variables. For example, if a customer should experience unforeseen delays in construction or renovation of a foodservice facility and is unable to accept scheduled delivery after an order has shipped, Strategic will coordinate with the carrier to reroute the shipment to a warehouse facility for storage until such a time the delivery can be rescheduled. Costs to receive, warehouse, stage, and deliver the order would be addressed with the customer and invoiced at a cost + rate as outlined above.	*
62	If freight, delivery, or shipping is an additional cost to the Sourcewell participating entity, describe in detail the complete freight, shipping, and delivery program.	All applicable freight charges will be quoted upon request and Strategic will prepay the charges and add these costs to the invoice in line with the pricing structure outlined for Ancillary Items. Due to our buying power and favorable relationships with leading manufacturers, Strategic has negotiated free shipping or reduced freight rates on many product lines. In these cases, the cost savings will be passed along to the Sourcewell member.	*
63	Specifically describe freight, shipping, and delivery terms or programs available for Alaska, Hawaii, Canada, or any offshore delivery.	For shipments to Alaska, Hawaii, Canada, or offshore location, we typically provide shipping estimates to a freight forwarder at the nearest port of entry to the contiguous USA. I	*

64	Describe any unique distribution and/or delivery methods or options offered in your proposal.	Products requiring technical expertise to properly install and calibrate, such as warewashing equipment and combi ovens, may be shipped directly from the manufacturer to the factory authorized installer for delivery. Additionally, large projects typically require consolidation of equipment to a storage facility for later delivery by a Strategic installer or third party installation partner.	*
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Table 12: Pricing Offered

Line Item	The Pricing Offered in this Proposal is: *	Comments
65	b. the same as the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.	

Table 13: Audit and Administrative Fee

Line Item	Question	Response *	
66	Specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed Contract with Sourcwell. This process includes ensuring that Sourcwell participating entities obtain the proper pricing, that the Vendor reports all sales under the Contract each quarter, and that the Vendor remits the proper administrative fee to Sourcwell. Provide sufficient detail to support your ability to report quarterly sales to Sourcwell as described in the Contract template.	We now have a dedicated sales force focused specifically on the Institutional Market and each team member is well-versed and trained on the provisions and requirements of the Sourcwell agreement. Compliance will be monitored by the Manager of Institutional Sales and Purchasing Co-ops. All sales made through the Sourcwell contract will be keyed with an identifier in our order system and tracked to facilitate accurate quarterly sales reporting.	*
67	If you are awarded a contract, provide a few examples of internal metrics that will be tracked to measure whether you are having success with the contract.	We monitor each quotation by generating a quote and confirming pricing and profitability. We set goals for sales and margin for our sales staff and the department as a whole.	*
68	Identify a proposed administrative fee that you will pay to Sourcwell for facilitating, managing, and promoting the Sourcwell Contract in the event that you are awarded a Contract. This fee is typically calculated as a percentage of Vendor's sales under the Contract or as a per-unit fee; it is not a line-item addition to the Member's cost of goods. (See the RFP and template Contract for additional details.)	1.5%	*

Table 14A: Depth and Breadth of Offered Equipment Products and Services

Line Item	Question	Response *	
69	Provide a detailed description of the equipment, products, and services that you are offering in your proposal.	Strategic Equipment is offering products of every category of food service equipment. This includes, cooking, holding, preparation, refrigeration and walk in coolers and freezers, warming, transport, bakery and ware washing, ventilation hoods; fire systems, fans, and pollution control equipment that would be tied to the hoods. We also offer smallwares, table top, utensils, supplies and disposables. We offer project management, set in place and installation. We provide after the sale service for refrigeration equipment in the major Texas metropolitan areas.	*
70	Within this RFP category there may be subcategories of solutions. List subcategory titles that best describe your products and services.	Food Service Equipment, Supplies and Disposables: Equipment, tables, mixers, dish washers, mixers, slicers, vent hoods, walk in coolers and freezers, cooking equipment, laundry equipment, ovens, bar equipment, beer systems, small wares, table top.	*

Table 14B: Depth and Breadth of Offered Equipment Products and Services

Indicate below if the listed types or classes of equipment, products, and services are offered within your proposal. Provide additional comments in the text box provided, as necessary.

Line Item	Category or Type	Offered *	Comments	
71	Kitchen and foodservice equipment and appliances	<input checked="" type="radio"/> Yes <input type="radio"/> No	We have access to and can provide equipment from all foodservice manufacturers. This includes but is not limited to all kitchen ventilation and refrigerated rooms. We can also provide products from categories such as commercial laundry, equipment medical refrigeration and more.	*
72	Components, accessories, and parts for the equipment and appliances described in Line 71 above	<input checked="" type="radio"/> Yes <input type="radio"/> No	Components and parts that are accessories can be added at the time of ordering. Replacement parts can be provided as requested.	*
73	Foodservice small wares, tools, dispensers, supplies, and furnishings complementary to an offering of the solutions in Line 71 above	<input checked="" type="radio"/> Yes <input type="radio"/> No	We have access to and can provide foodservice small wares, tools, dispensers, supplies, and furnishings as requested. We have access to all foodservice small wares companies and have a proprietary line of small wares	*
74	Services complementary to the acquisition, operation, and upkeep of the solutions described in Lines 71-73 above, including design, installation, removal, disposal, inspection, repair, maintenance, training, and support. However, this solicitation should NOT be construed to include "services only" solutions.	<input checked="" type="radio"/> Yes <input type="radio"/> No	We provide a full service design, installation, repair, training, and preventative maintenance programs.	*

Table 15: Industry Specific Questions

Line Item	Question	Response *	
75	Describe your design service offering, if available.	Strategic Equipment has a full design department with over 20 designer/CAD operators on staff.	*
76	Describe the installation process and how it is managed from product order to completion.	Installation/set in place if quoted is processed through our order department. Installation is scheduled based on the equipment arrival schedule. We may use our own team or a third party company to complete the install.	
77	Describe how your company will handle supply issues, product substitutions and special orders products.	We are constantly reviewing the market place for industry supply chain issues. We search for comparable alternates for consideration that may reduce delays. All substitutions will be submitted for approval to the purchasing entity. Special orders are processed through our order entry and purchasing department. The items can be drop shipped or installed based on requirements.	

Table 16: Exceptions to Terms, Conditions, or Specifications Form

Line Item 78. NOTICE: To identify any exception, or to request any modification, to the Sourcewell template Contract terms, conditions, or specifications, a Proposer must submit the exception or requested modification on the **Exceptions to Terms, Conditions, or Specifications Form** immediately below. The contract section, the specific text addressed by the exception or requested modification, and the proposed modification must be identified in detail. Proposer's exceptions and proposed modifications are subject to review and approval of Sourcewell and will not automatically be included in the contract.

Contract Section	Term, Condition, or Specification	Exception or Proposed Modification

Documents

Ensure your submission document(s) conforms to the following:

1. Documents in PDF format are preferred. Documents in Word, Excel, or compatible formats may also be provided.
 2. Documents should NOT have a security password, as Sourcewell may not be able to open the file. It is your sole responsibility to ensure that the uploaded document(s) are not either defective, corrupted or blank and that the documents can be opened and viewed by Sourcewell.
 3. Sourcewell may reject any response where any document(s) cannot be opened and viewed by Sourcewell.
 4. If you need to upload more than one (1) document for a single item, you should combine the documents into one zipped file. If the zipped file contains more than one (1) document, ensure each document is named, in relation to the submission format item responding to. For example, if responding to the Marketing Plan category save the document as "Marketing Plan."
- [Pricing](#) - Tri-Mark Pricing Update 2022 (003) - Copy.pdf - Thursday June 30, 2022 10:25:11
 - [Financial Strength and Stability](#) - SELLC 2021 Income Statement Summary.pdf - Monday June 27, 2022 11:18:43
 - [Marketing Plan/Samples](#) - Marketing Samples.zip - Wednesday June 29, 2022 15:05:42
 - WMBE/MBE/SBE or Related Certificates (optional)
 - Warranty Information (optional)
 - Standard Transaction Document Samples (optional)
 - [Upload Additional Document](#) - Attachments.zip - Wednesday June 29, 2022 15:06:13

Addenda, Terms and Conditions

PROPOSER AFFIDAVIT AND ASSURANCE OF COMPLIANCE

I certify that I am the authorized representative of the Proposer submitting the foregoing Proposal with the legal authority to bind the Proposer to this Affidavit and Assurance of Compliance:

1. The Proposer is submitting this Proposal under its full and complete legal name, and the Proposer legally exists in good standing in the jurisdiction of its residence.
2. The Proposer warrants that the information provided in this Proposal is true, correct, and reliable for purposes of evaluation for contract award.
3. The Proposer, including any person assisting with the creation of this Proposal, has arrived at this Proposal independently and the Proposal has been created without colluding with any other person, company, or parties that have or will submit a proposal under this solicitation; and the Proposal has in all respects been created fairly without any fraud or dishonesty. The Proposer has not directly or indirectly entered into any agreement or arrangement with any person or business in an effort to influence any part of this solicitation or operations of a resulting contract; and the Proposer has not taken any action in restraint of free trade or competitiveness in connection with this solicitation. Additionally, if Proposer has worked with a consultant on the Proposal, the consultant (an individual or a company) has not assisted any other entity that has submitted or will submit a proposal for this solicitation.
4. To the best of its knowledge and belief, and except as otherwise disclosed in the Proposal, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest. An organizational conflict of interest exists when a vendor has an unfair competitive advantage or the vendor's objectivity in performing the contract is, or might be, impaired.
5. The contents of the Proposal have not been communicated by the Proposer or its employees or agents to any person not an employee or legally authorized agent of the Proposer and will not be communicated to any such persons prior to Due Date of this solicitation.
6. If awarded a contract, the Proposer will provide to Sourcewell Participating Entities the equipment, products, and services in accordance with the terms, conditions, and scope of a resulting contract.
7. The Proposer possesses, or will possess before delivering any equipment, products, or services, all applicable licenses or certifications necessary to deliver such equipment, products, or services under any resulting contract.
8. The Proposer agrees to deliver equipment, products, and services through valid contracts, purchase orders, or means that are acceptable to Sourcewell Members. Unless otherwise agreed to, the Proposer must provide only new and first-quality products and related services to Sourcewell Members under an awarded Contract.
9. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.
10. The Proposer understands that Sourcewell will reject RFP proposals that are marked "confidential" (or "nonpublic," etc.), either substantially or in their entirety. Under Minnesota Statutes Section 13.591, subdivision 4, all proposals are considered nonpublic data until the evaluation is complete and a Contract is awarded. At that point, proposals become public data. Minnesota Statutes Section 13.37 permits only certain narrowly defined data to be considered a "trade secret," and thus nonpublic data under Minnesota's Data Practices Act.
11. Proposer its employees, agents, and subcontractors are not:
 1. Included on the "Specially Designated Nationals and Blocked Persons" list maintained by the Office of Foreign Assets Control of the United States Department of the Treasury found at: <https://www.treasury.gov/ofac/downloads/sdnlist.pdf>;
 2. Included on the government-wide exclusions lists in the United States System for Award Management found at: <https://sam.gov/SAM/>; or
 3. Presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated

by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Vendor certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this solicitation.

☒ By checking this box I acknowledge that I am bound by the terms of the Proposer's Affidavit, have the legal authority to submit this Proposal on behalf of the Proposer, and that this electronic acknowledgment has the same legal effect, validity, and enforceability as if I had hand signed the Proposal. This signature will not be denied such legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation. - Chuck Taylor, Manager Institutional Sales and Purchasing Coops, Strategic Equipment, LLC

The Proposer declares that there is an actual or potential Conflict of Interest relating to the preparation of its submission, and/or the Proposer foresees an actual or potential Conflict of Interest in performing the contractual obligations contemplated in the bid.

☒ Yes ☐ No

The Bidder acknowledges and agrees that the addendum/addenda below form part of the Bid Document.

Check the box in the column "I have reviewed this addendum" below to acknowledge each of the addenda.

File Name	I have reviewed the below addendum and attachments (if applicable)	Pages
Addendum_1_Commercial_Kitchen_Eqpt_RFP_063022 Thu June 23 2022 08:54 AM	<input checked="" type="checkbox"/>	1

THIS AGREEMENT WILL BE POSTED ON THE CPS WEBSITE

EXHIBIT B

PRODUCT CATALOG

This Contract shall be posted on the CPS website.

EXHIBIT 2 – PRICING HOT LIST

The Pricing Hot List is based upon the top items sought by CPS, including but not limited to the most frequently purchased items by CPS historically. The Pricing Hot List prices will be held firm for six (6) months from the contract award date. In the event a Pricing Hot List item is discontinued, TriMark will work with the Board to find a mutually agreeable replacement item and add such item to the Pricing Hot List. For Products not on the Pricing Hot List, TriMark will apply the catalog list price percentage discount model contained in Exhibit 3 at the time of transaction.

(SEE ATTACHED DOCUMENT)

Model Number	Product Name	Estimated Quantity	Extended Unit Price
198	Utility Cart	1	\$
458	Can Storage Rack, Mobile Type	2	\$
459	Utility Cart, Two Tier	1	\$
947	Utility Cart, Two Tier	46	\$
953	Utility Cart, Two Tier	6	\$
954	Utility Cart, Two Tier	1	\$
207-1820	Bakers Rack (Heavy Duty for 18"x26" or 14"x18")	46	\$
2424NK3	Shelving Unit One - Wire 24X24X72 mobile	1	\$
2436NK3	Shelving Unit One - Wire 24X36X72 mobile	1	\$
2448NK3	Shelving Unit One - Wire 24X48X72 mobile	3	\$
2442NK3	Shelving Unit One - Wire 24X42X72 mobile	1	\$
2454NK3	Shelving Unit Two- Wire 24X54X72 mobile	1	\$
2460NK3	Shelving Unit Three - Wire 24X60X72 mobile	2	\$
7-PS-60	Hand Sink	8	\$
A1836NC 63	Shelving Unit One - Wire 18X36X63	2	\$
A1836NK3 63	Shelving Unit Five - Wire 18X36X63	1	\$
A1836NC 72	Shelving Unit Five - Wire 18X36X72	4	\$
A1848NC 72	Shelving Unit Five - Wire 18X48X72	10	\$
A1854NK3 72	Shelving Unit Six - Wire 18X54X72	1	\$
A1860NK3 72	Shelving Unit Seven - Wire 18X60X72	10	\$
A1872NK3 72	Shelving Unit Eight - Wire 18X72X72	7	\$
A2436NK3 72	Shelving Unit One - Wire 24X36X72	1	\$
A2448NK3 72	Shelving Unit One - Wire 24X48X72	10	\$
A2460NK3 72	Shelving Unit Three - Wire 24X60X72	7	\$
A2472NK 72	Shelving Unit Four - Wire 24X72Xx72	6	\$
BLIXER	Food Processor	7	\$
Can Opener #1 complete	Can Opener	4	\$
EMU184878V4580	Shelving Unit Fifteen - Composite 18x48x72 - Mobile	1	\$
EMU185478V4580	Shelving Unit Sixteen - Composite 18x54x72 - Mobile	1	\$

This Contract shall be posted on the CPS website.

EMU183678V4580	Shelving Unit Sixteen - Composite 18x36x72 - Mobile	2	\$
EMU186078V4580	Shelving Unit Twenty - Composite 18x60x72 - Mobile	1	\$
EMU243678V4580	Shelving Unit Nineteen - Composite 24x36x72 - Mobile	3	\$
EMU244278V4580	Shelving Unit Nineteen - Composite 24x42x72 - Mobile	1	\$
EMU244878V4580	Shelving Unit Twenty - Composite 24x48x70 - Mobile	1	\$
EMU245478V4580	Shelving Unit Twenty - Composite 24x54x72 - Mobile	1	\$
EMU246078V4580	Shelving Unit Twenty - Composite 24x60x72 - Mobile	1	\$
ESU183072V4580	Shelving Unit Nine - Composite 18X30X72	2	\$
ESU183672V4580	Shelving Unit Nine - Composite 18X36X72	2	\$
ESU184872V4580	Shelving Unit Twelve - Composite 18x48x72	5	\$
ESU186072V4580	Shelving Unit Fourteen- Composite 18x60x72	3	\$
ESU184272V4580	Shelving Unit Ten - Composite 18x42x72	1	\$
ESU214272V4580	Shelving Unit Ten - Composite 21x42x72	1	\$
ESU244872V4580	Shelving Unit Nine - Composite 24X48X72	9	\$
ESU245472V4580	Shelving Unit Ten - Composite 24x54x72	5	\$
ESU246072V4580	Shelving Unit Eleven - Composite 24x60x72	7	\$
FN2860CUSTM	Corner 2cpt Sink	1	\$
	Prep table w/Sink	3	\$
	Sink-3 Compartment (10'0"L X APPROXIMATELY 2'8"D X 2'10")	10	\$
	Sink-3 Compartment (7'3"L X 2'2"D X 3'6")	7	\$
IDT-0500A/D-400	Icemaker, Air Cooled (530lb. Prod.-ice cubes)	2	\$
IY-0303W/B-400	Icemaker, Air Cooled (290 lb. Prod. dice)	1	\$
IY-503W/B-400	Icemaker, Water Cooled (530 lb. Prod. dice)	3	\$
IY-504A/B-400	Icemaker, Air Cooled (530lb. Prod.-ice cubes)	1	\$
KLF - 66	Walk-in Freezer (-10degrees F storage unit)	6	\$
KLR - 66	Walk-in Cooler (35 degrees F storage unit)	6	\$
LCH-6-6-G2	COOK AND HOLD	2	\$
MPR-60-4M	Drying Rack Sheet Pan with 4 Tiers and Optional Drip Catch Pan	8	\$
R2N	Food Processor	2	\$
RAN CA	Cashier Station - 34" High - Left Side Tray Slide - designate one as elem and high	1	\$
RAN HTD-4S	Hot Food Table with Drains, Mobile Style- Elementary School	1	\$
RAN SCA-4S	74" Frost Top Serving Unit-34" High	2	\$

This Contract shall be posted on the CPS website.

RAN ST-4S	Serving Counter, Stainless Steel Mobile Type High School	1	\$
S/S WALL	Shelving 12X120	1	\$
	Shelving 12X42	1	\$
	Shelving - 12X36	1	\$
STA1RR1-2S	Refrigerator-Roll-in one Section-Top Mount	1	\$
STA2RRI-2S	Refrigerator-Roll-in Two Section-Top Mount	1	\$
STR1RRT-1S-1S	Refrigerator-Roll THROUGH One Section-Top mount	1	\$
STR1HR-1S-1S	Heated cabinet Roll THROUGH one section	1	\$
T3030	Mobile Utility Table(30"W X 30"D X 34"H)	1	\$
	Work Table-Mobile, Stainless Steel, Island Style (5'L X 2'6"W X 2'10")	2	\$
	Work Table-Mobile, Stainless Steel, Island Style (6'L X 2'6"W X 2'10")	28	\$
	Work Table-Mobile, Stainless Steel, Island Style (7'L X 2'6"W X 2'10")	7	\$
	Work Table-Mobile, Stainless Steel, Wall Style (6'L X 2'6"W X 2'10")	13	\$
	Work Table-Mobile, Stainless Steel, Wall Style (8'L X 2'6"W X 2'10")	1	\$
T3072CUST	Work Table-Mobile, Stainless Steel, Wall Style (7'L X 2'6"W X 2'10")	1	\$
TCM-46-SS	46" Frost Top Serving Unit-34" High	1	\$
TCM-60-SS	60" Frost Top Serving Unit-34" High	25	\$
TCM-74-SS	74" Frost Top Serving Unit-34" High	2	\$
TCS-30SS	Cashier Station - 34" High - Left Side Tray Slide - designate one as elem and high	19	\$
	Cashier Station - 34" High -Right Side Tray Slide	3	\$
	Cashier Station - 34" High -Tray Slide - designate one as elem and high	1	\$
TEHF-60SS	Hot Food Table with Drains, Mobile Style-Elementary School	23	\$
TEHF-88S	Hot Food Table with Drains, Mobile Style-High School	3	\$
TMC-34-S-SS	Forced-Air Milk Cooler-Holds 8 Crates	31	\$
TMC-49-S-SS	Forced-Air Milk Cooler-Holds 12 Crates	153	\$
TMC-58-S-DS-SS-HC	Forced-Air Milk Cooler, Dual Sided-16 Crates	3	\$
TMC-58-s-ss	Forced-Air Milk Cooler-Holds 16 Crates	32	\$
TS-23	Refrigerator, Single Section-Bottom Mount	18	\$
TS-23F	Freezer, Single Section-Bottom Mount	9	\$
TS-49	Refrigerator, Two Section-Bottom Mount	167	\$
TS-49F	Freezer, Two Section-Bottom Mount	134	\$

This Contract shall be posted on the CPS website.

TST-32SS	Serving Counter, Stainless Steel Mobile Type Elementary School	1	\$
TST-46SS	Serving Counter, Stainless Steel Mobile Type Elementary School	1	\$
TST-74SS	Serving Counter, Stainless Steel Mobile Type High School	16	\$
TST-88SS	Serving Counter, Stainless Steel Mobile Type Elementary School	5	\$
UHS-12	Mobile hot holding cabinet (Warmer)	1	\$
VBP151	Mobile Holding and Transport Cabinet, 15 Universal Pan Capacity, Institutional Series	65	\$
VC44ED	Electric, Double Deck, Convection Oven, Solid State Thermostat	13	\$
VC44GD	Double Deck, gas Convection Oven, Solid State Thermostat	26	\$
VC66GD	Double Deck, Deep Depth Gas Convection Oven, Solid State Thermostat	3	\$
VCH16	COOK/HOLD/BAKE OVEN ON CASTERS 208/60/1 PHASE	3	\$
XS-208/1	Single Compartment Steamer with Stand and Pans	1	\$
XS-208-12-3	Double Stack Compartment Steamer with Stand and Pans	3	\$
XS-208-8-1	Double Stack Compartment Steamer with Stand and Pans	7	\$
XS-208-8-3	Double Stack Compartment Steamer with Stand and Pans	2	\$
XS-240-8-1	Double Stack Compartment Steamer with Stand and Pans	15	\$
XS-240-8-3	Single Compartment Steamer with Stand and Pans	1	\$
ZEPHAIRE E D RI	Convection Oven - Double, Roll-in Style (Electric)	3	\$

THIS AGREEMENT WILL BE POSTED ON THE CPS WEBSITE

EXHIBIT C

PRICING SCHEDULE

Modelp	ItemNo	Min Qty	Spec	Sell
198	1	1	Glass & Cup Rack Transport Cart	\$873.90
458	2	1	Can Storage & Dispensing Rack w/casters	\$2,655.00
459	3	1	Utility Cart, 3-tier, open base, 500 lb. capacity, 21" x 49"	\$1,092.60
947	4	1	Utility Cart, 2-tier, 42"W x 25-7/8"D x 37-3/8"H, stainless steel	\$1,661.40
953	5	1	Utility Cart, 2-tier, 48"W x 25-3/4"D x 37-3/8"H, stainless steel	\$1,685.25
954	6	1	Utility Cart, 3-tier, 48"W x 25-3/4"D x 37-3/8"H, stainless steel	\$2,060.10
2071820	7	1	Bakers Rack, mobile, angle ledge, (40) 14" x 18" tray or (20) 18" x 26" tray	Price may vary
MPR-60-4M	8	1	Drying & Transport Rack, 4-shelf, 5" heavy duty swivel casters (2 with b	\$3,176.28
2424NK3	9	4	Shelving Unit wire, 24"W x 24"D, w/posts mobile	Price may vary
2436NK3	10	4	Shelving Unit wire, 36"W x 24"D, w/posts mobile	Price may vary
2448NK3	11	4	Shelving Unit wire, 48"W x 24"D, w/posts mobile	Price may vary
2442NK3	12	4	Shelving Unit wire, 42"W x 24"D, w/posts mobile	Price may vary
2454NK3	13	4	Shelving Unit wire, 54"W x 24"D, w/posts mobile	Price may vary
2460NK3	14	4	Shelving Unit wire, 60"W x 24"D, w/posts mobile	Price may vary
1836NC	15	4	Shelving Unit wire, 36"W x 18"D, w/posts	Price may vary
1836NK3	16	4	Shelving Unit wire, 36"W x 18"D, w/posts	Price may vary
1836NC	17	4	Shelving Unit wire, 36"W x 18"D, w/posts	Price may vary

1848NC	18	4	Shelving Unit wire, 48"W x 18"D, w/posts	Price may vary
1854NK3	19	4	Shelving Unit wire, 54"W x 18"D, w/posts	Price may vary
1860NK3	20	4	Shelving Unit wire, 60"W x 18"D, w/posts	Price may vary
1872NK3	21	4	Shelving Unit wire, 72"W x 18"D, w/posts	Price may vary
2436NK3	22	4	Shelving Unit wire, 36"W x 24"D, w/posts	Price may vary
2448NK3	23	4	Shelving Unit wire, 48"W x 24"D, w/posts	Price may vary
2460NK3	24	4	Shelving Unit wire, 60"W x 24"D, w/posts	Price may vary
2472NK3	25	4	Shelving Unit wire, 72"W x 24"D, w/posts	Price may vary
EMU184878V4580	26	1	Shelving Unit Composite Mobile Unit 18"W x 48"L x 78-1/4"H, 4-tier	\$505.25
EMU185478V4580	27	1	Shelving Unit Composite Mobile Unit 18"W x 54"L x 78-1/4"H, 4-tier	\$538.15
EMU183678V4580	28	1	Camshelving® Elements Mobile Unit, 18"W x 36"L x 78-1/4"H, 4-tier	\$455.90
EMU186078V4580	29	1	Shelving Unit Composite Mobile Unit, 18"W x 60"L x 78-1/4"H, 4-tier	\$564.00
EMU243678V4580	30	1	Shelving Unit Composite Mobile Unit, 24"W x 36"L x 78-1/4"H, 4-tier	\$493.50
EMU244278V4580	31	1	Shelving Unit Composite Mobile Unit, 24"W x 42"L x 78-1/4"H, 4-tier	\$528.75
EMU244878V4580	32	1	Shelving Unit Composite Mobile Unit, 24"W x 48"L x 78-1/4"H, 4-tier	\$554.60
EMU245478V4580	33	1	Shelving Unit Composite Mobile Unit, 24"W x 54"L x 78-1/4"H, 4-tier	\$585.15
EMU246078V4580	34	1	Shelving Unit Composite Mobile Unit, 24"W x 60"L x 78-1/4"H, 4-tier	\$611.00
ESU183072V4580	35	1	Shelving Unit Composite Stationary Starter Unit, 18"W x 30"L x 72"H, 4	\$267.90
ESU183672V4580	36	1	Shelving Unit Composite Stationary Starter Unit, 18"W x 36"L x 72"H, 4	\$291.40
ESU184872V4580	37	1	Shelving Unit Composite Stationary Starter Unit, 18"W x 48"L x 72"H, 4	\$343.10
ESU186072V4580	38	1	Shelving Unit Composite Stationary Starter Unit, 18"W x 60"L x 72"H, 4	\$399.50
ESU184272V4580	39	1	Shelving Unit Composite Stationary Starter Unit, 18"W x 42"L x 72"H, 4	\$326.65
ESU214272V4580	40	1	Shelving Unit Composite Stationary Starter Unit, 21"W x 42"L x 72"H, 4	\$359.55
ESU244872V4580	41	1	Shelving Unit Composite Stationary Starter Unit, 24"W x 48"L x 72"H, 4	\$387.75

ESU245472V4580	42	1	Shelving Unit Composite Stationary Starter Unit, 24"W x 54"L x 72"H, 4	\$423.00
ESU246072V4580	43	1	Shelving Unit Composite Stationary Starter Unit, 24"W x 60"L x 72"H, 4	\$446.50
7-PS-60	44	1	Hand Sink, wall mounted, 14" wide x 10" front-to-back x 5" deep bowl	Price may vary
7-PS-66	45	1	Hand Sink, wall mounted, 14" wide x 10" front-to-back x 5" deep bowl	Price may vary
C314-22-3-18	46	1	Corner Sink, three compartment	Price may vary
T3096SE	47	1	Work Table, 96"W x 30"D w/ sink	Price may vary
FN2860-3-30-14/3	48	1	Sink, three compartment, 126"W x 35"D, 14/304 stainless steel top	Price may vary
FN2860-3-18-14/3	49	1	Sink, three compartment, 102"W x 35"D, 14/304 stainless steel top	Price may vary
IDT0500A	50	1	Ice Maker, cube-style, air-cooled, self-contained condenser, 30"W x 24"	\$6,279.04
IDT0300W	51	1	Ice Maker, cube-style, water-cooled, self-contained condenser, 30"W x	\$5,801.74
IYT0500W	52	1	Ice Maker, cube-style, water-cooled, self-contained condenser, 30"W x	\$7,484.76
IYT0500A	53	1	Ice Maker, cube-style, air-cooled, self-contained condenser, 30"W x 24"	\$7,290.40
KLF7766-C	54	1	Kold Locker™, Indoor -10°F Freezer, 6' x 6' x 7'-7" H, with floor, KL2 QU	\$13,715.50
MAX4-1860G	55	8	Walk - In Shelving kit for 6'x'6	Price may vary
KLB7766-C	56	1	Kold Locker™, Indoor +35°F Cooler, 6' x 6' x 7'-7" H, with floor, CPB050	\$12,361.50
MAX4-1860G	57	8	Walk - In Shelving kit for 6'x'6	Price may vary
R2N	58	1	Food processor	\$1,180.50
BLIXER3	59	1	Blixer	\$2,091.75
1	60	1	Can Opener, manual	\$131.00
WS12120-16/3	61	1	Shelf, wall-mounted, 120"W x 12"D, rolled front edge	Price may vary
WS-12-42-16	62	1	Shelf, wall-mounted, 42"W x 12"D, 1-5/8" bullnose front edge	Price may vary
WS1236-16/3	63	1	Shelf, wall-mounted, 36"W x 12"D, rolled front edge, 1-1/2"H up-turn c	Price may vary
STA1RRI-1S	64	1	Refrigerator, roll-in, one-section Top Mount	\$6,330.45
STA2RRI-2S	65	1	Refrigerator, roll-in, (2) section Top Mount	\$10,243.80
STR1RRT-1S-1S	66	1	Refrigerator, roll-thru, one-section Top Mount	\$9,748.90
STR1HRT-1S-1S	67	1	Heated Cabinet, roll-thru, one-section	\$9,085.65
T3030SE	68	1	Mobile Work Table, 30"W x 30"D	Price may vary
T3060SE	69	1	Mobile Work Table, 60"W x 30"D	Price may vary
T3072SE	70	1	Mobile Work Table, 72"W x 30"D,	Price may vary

T3084SE	71	1	Mobile Work Table, 84"W x 30"D	ce may vary
T3072SE-BS	72	1	Mobile Work Table, 72"W x 30"D, 4-1/2"H backsplash	ce may vary
T3096SE-BS	73	1	Mobile Work Table, 96"W x 30"D, 4-1/2"H backsplash	ce may vary
T3084SE-BS	74	1	Mobile Work Table, 84"W x 30"D, 4-1/2"H backsplash,	ce may vary
TEHF-46SS	75-ES	1	Hot Food Unit, mobile, electric (3) wells	\$9,909.00
TST-46SS	75-ES LAM	1	Hot Food Unit, mobile, electric (3) wells Laminate	\$14,695.00
TEHF-46SS	75-HS	1	Hot Food Unit, mobile, electric (3) wells	\$9,593.00
TST-46SS	75-HS LAM	1	Hot Food Unit, mobile, electric (3) wells Laminate	\$14,336.00
TEHF-60SS	76-ES	1	Hot Food Unit, mobile, electric (4) wells	\$11,477.00
TST-63SS	76-ES LAM	1	Hot Food Unit, mobile, electric (4) wells Laminate	\$20,496.50
TEHF-60SS	76-HS	1	Hot Food Unit, mobile, electric (4) wells	\$11,161.00
TST-63SS	76-HS-LAM	1	Hot Food Unit, mobile, electric (4) wells Laminate	\$20,180.50
TEHF-74SS	77-ES	1	Hot Food Unit, mobile, electric (5) wells	\$13,883.00
TEHF-74SS	77-HS	1	Hot Food Unit, mobile, electric (5) wells	\$13,567.00
TEHF-88SS	78-ES	1	Hot Food Unit, mobile, electric (6) wells	\$16,201.00
TEHF-88SS	78-HS	1	Hot Food Unit, mobile, electric (6) wells	\$15,885.00
TST-32SS	79-ES	1	Mobile utility counter, 32"W	\$5,493.00
TST-32SS	79-HS	1	Mobile utility counter, 32"W	\$5,177.00

TST-46SS	80-ES	1	Mobile utility counter, 46"W	\$6,221.00
TST-46SS	80-ES-LAM	1	Mobile utility counter, 46"W Laminate	\$6,942.00
TST-46SS	80-HS	1	Mobile utility counter, 46"W	\$5,905.00
TST-46SS	80-HS LAM	1	Mobile utility counter, 46"W Laminate	\$6,578.00
TST-60SS	81-ES	1	Mobile utility counter, 60"W	\$6,955.00
TST-60SS	81-HS	1	Mobile utility counter, 60"W	\$6,639.00
TST-60SS	81-ES LAM	1	Mobile utility counter, 60"W Laminate	\$7,847.00
TST-60SS	81-HS LAM	1	Mobile utility counter, 60"W Laminate	\$7,483.00
TST-74SS	82-ES	1	Mobile utility counter, 74"W	\$8,404.00
TST-74SS	82-ES LAM	1	Mobile utility counter, 74"W Laminate	\$9,399.00
TST-74SS	82-HS	1	Mobile utility counter, 74"W	\$8,088.00
TST-74SS	82-HS LAM	1	Mobile utility counter, 74"W Laminate	\$9,083.00
TST-88SS	83-ES	1	Mobile utility counter, 88"W	\$9,158.00
TST-88SS	83-HS	1	Mobile utility counter, 88"W	\$8,842.00
TCM-46SS-N7	84-ES	1	Cold Food Unit, mobile, 46"W	\$13,592.00

TST-46SS	84-ES LAM	1	Cold Food Unit, mobile, 46"W Laminate	\$19,406.00
TCM-46SS-N7	84-HS	1	Cold Food Unit, mobile, 46"W	\$13,276.00
TST-46SS	84-HS LAM	1	Cold Food Unit, mobile, 46"W Laminate	\$19,042.00
TCM-60SS-N7	85-ES	1	Cold Food Unit, mobile, 60"W	\$14,582.00
TCM-60SS-N7	85-HS	1	Cold Food Unit, mobile, 60"W	\$14,223.00
TCM-74SS-N7	86-ES	1	Cold Food Unit, mobile, 74"W	\$17,132.00
TST-63SS	86-ES- LAM	1	Cold Food Unit, mobile, 74"W Laminate	\$26,293.00
TCM-74SS-N7	86-HS	1	Cold Food Unit, mobile, 74"W	\$16,816.00
TST-63SS	86-HS LAM	1	Cold Food Unit, mobile, 74"W Laminate	\$25,977.00
TCM-88SS-N7	87-ES	1	Cold Food Unit, mobile, 88"W	\$18,422.00
TCM-88SS-N7	87-HS	1	Cold Food Unit, mobile, 88"W	\$18,106.00
TCS-30SS	88-ES	1	Cashier Stand, ES	\$4,841.00
TCS-30SS	89-HS	1	Cashier Stand HS	\$4,525.00
TCS-30SS	88-90 LAM	1	Cashier Stand, Laminate	\$5,942.00
TCS-30SS	90	1	Cashier Stand HS	\$4,841.00

TST-46SS	H/C/F -ES 46	1	Hot/Cold/Frost mobile counter, 46"W ES	\$22,727.32
TST-46SS	H/C/F-HS 46	1	Hot/Cold/Frost mobile counter, 46"W HS	\$22,363.32
TST-60SS	H/C/F-ES 60	1	Hot/Cold/Frost mobile counter, 60"W ES	\$25,588.32
TST-60SS	H/C/F-HS 60	1	Hot/Cold/Frost mobile counter, 60"W HS	\$25,224.32
TST-74SS	H/C/F-ES 74	1	Hot/Cold/Frost mobile counter, 74"W ES	\$30,306.32
TST-74SS	H/C/F-HS 74	1	Hot/Cold/Frost mobile counter, 74"W HS	\$29,990.32
TST-88SS	H/C/F-ES 88	1	Hot/Cold/Frost mobile counter, 88"W ES	\$38,873.32
TST-88SS	H/C/F-HS 88	1	Hot/Cold/Frost mobile counter, 88"W HS	\$38,557.32
TMC-34-S-SS-HC	91	1	Mobile Milk Cooler (8) crate	\$3,907.05
TMC-34-S-DS-SS-HC	92	1	Mobile Milk Cooler (8) crate dual sided	\$4,760.35
TMC-49-S-DS-SS-HC	93	1	Mobile Milk Cooler (12) crate dual sided	\$5,338.55
TMC-49-S-SS-HC	94	1	Mobile Milk Cooler (12) crate	\$4,379.20
TMC-58-S-DS-SS-HC	95	1	Mobile Milk Cooler (16) crate dual sided	\$5,779.90
TMC-58-S-SS-HC	96	1	Mobile Milk Cooler (16) crate	\$4,893.70
TS-23-HC	97	1	Refrigerator, reach-in, one-section	\$4,739.00
TS-23F-HC	98	1	Freezer, reach-in, one-section	\$5,923.40
TS-49-HC	99	1	Refrigerator, reach-in, two-section	\$6,309.45
TS-49F-HC	100	1	Freezer, reach-in, two-section	\$8,305.85
UHS-12	101	1	Heated Cabinet, mobile	\$4,710.34
VBP15ES	102	1	Holding/Transport Cabinet mobile	\$7,341.20
VC44ED	103	1	Convection Oven, electric, double solid state	\$21,801.20
VC44GD	104	1	Convection Oven, gas, double- solid state	\$21,532.22
VC66GD	105	1	Convection Oven, gas, double-deck, bakery depth, solid state	\$24,509.02
VC66ED	106	1	Convection Oven, electric, double-deck, bakery depth, solid state contr	\$24,777.20
VCH16	107	1	Cook/Hold Cabinet, mobile, electronic	\$14,468.80

LCH-6-6-G2	108	1	Cook & Hold Cabinet	\$10,610.72
XS-208-8-1	109	1	Steamer Single w/ stand & pans	\$9,972.80
XS-208-12-3	110	2	Steamer Double w/ stand & pans	\$18,947.40
XS-208-8-1	111	2	Steamer Double w/ stand & pans	\$18,947.40
XS-208-8-3	112	2	Steamer Double w/ stand & pans	\$18,947.40
XS-240-8-1	113	2	Steamer Double w/ stand & pans	\$18,947.40
XS-240-8-3	114	1	Steamer Single w/ stand & pans	\$9,972.80
(2)GSSP-BL-5GS	115	1	SmartSteam double stacked	\$26,083.41
ZEPH-100-G-ES DBL	116	1	Convection Oven double-deck gas	\$35,555.14
ZEPH-100-E DBL	117	1	Convection Oven double-deck, electric	\$33,458.46
SSPE14	118	1	Pasta Cooker, electric	\$15,645.46
SSPG14	119	1	Pasta Cooker, gas	\$18,186.54

THIS AGREEMENT WILL BE POSTED ON THE CPS WEBSITE

EXHIBIT D

DISCOUNT MATRIX

DISCOUNT MATRIX BY MANUFACTURER

Manufacturer	Description of Products	Discount off LIST	Remarks
3M-CUNO	Water filtration solutions for foodservice applications	50%	
Aarco Products, Inc.	signage and accessories	40%	
ABC Procurement - (Allied Buying Corp)	smallwares	59%	
Accurex	Ventilation	CUSTOM	Custom quote required
AccuTemp Products, Inc.	cooking equipment	49%	
Admiralcraft Equipment	import Smallwares	50%	
Advance Tabco	Stainless products	57%	
Aerowerks	Foodservice conveyors	CUSTOM	Custom quote required
Alfa International	Food prep smallwares	40%	
Allied Metal Spinning	Bakery supplies	43%	
Alluserv	Healthcare meal service solutions	40%	
Alto-Shaam	Cooking equipment	35%	
Amana	Microwaves, Speed ovens	60%	
Americal Panel	Blast Chiller	51%	
American Metalcraft	Chafing Dishes	48%	
American Panel	Walk-ins	CUSTOM	Custom quote required
American Range	Cooking equipment	45%	
Amerikooler	Walk -ins	CUSTOM	Custom quote required
Anchor Hocking Foodservice Glass	tabletop products	46%	
Andersen Company	Floor Mat	35%	
Anets	Fryers	52%	
APEX Matting & Foodservice Products (Notrax)	Mats, Cutting Boards, Hot Water Hose	45%	
APW/ Wyott	cooking equipment	55%	
Araven Equipment LLC	Retail and Kitchen solutions	20%	
Arctic Air dba Broich Enterprises, Inc.	Walk-ins	CUSTOM	Custom quote required
Arctic Air dba Broich Enterprises, Inc.	Refrigerated products	43%	
Atlas Metal Industries	stainless products	47%	
Atosa	refrigerated products	25%	
AVTEC	Hood, Ventilation and Conveyors	CUSTOM	Custom quote required
Avtec - Unified Brands	Stock Items Hood and Accessories	55%	
Bakers Pride	cooking equipment	51%	
Bally Refrigerated Boxes	Walk-ins	CUSTOM	Custom quote required
Bar Maid Corporation	bar products	40%	
Bauscher Hepp, Inc	China	51%	
Baxter	bakery products	15%	
Beech Ovens - Jade Group	cooking equipment	42%	
Belleco	Conveyer Toasters	40%	
Berkel - Vulcan	cooking equipment	57%	
Berner International	Air Doors	45%	
Beverage Air	refrigerated products	65%	
BIA Cordon Bleu, Inc.	tabletop products	48%	
Bissell BigGreen Commercial	cleaning solutions	35%	
Bizerba	scales and slicing equipment	40%	
BK RESOURCES	stainless products and solutions	50%	
BKI	Combination ovens	27%	
BKI	cooking equipment	45%	
Blodgett	Cooking equipment / conventional & convection ovens	57%	
Blodgett - Combi ovens	Combination ovens	38%	
Bobrick Washroom Equipment		38%	
Bon Chef	Table Top	50%	
Browne Foodservice	smallwares	55%	

Bunn-O-Matic	coffee and beverage equipment	48%	
CADCO, Ltd.	Convection Ovens, Hot Plates, Warmers, Warming Shelves, Griddles, Panini Grills, Mobile Specialty Carts, Electric Chafers & Toasters	48%	
Caddy Corp	Stock Items Conveyors, Carts, Serving Counters	50%	
Caddy Corp	Hood Systems	CUSTOM	Custom quote required
California Umbrella	outdoor umbrellas	48%	
Cal-Mil	food dispensing and serving solutions	53%	
Cambro Manufacturing Company	food storage and shelving products	53%	
CaptiveAire	Ventilation	CUSTOM	Custom quote required
Cardinal International, Inc.	tabletop products	50%	
Carlisle Foodservice Products/ DineX	ware washing and tray systems	45%	
Carlisle Foodservice Products/ FSP	smallwares and storage	55%	
Carter-Hoffman	Transport Carts	45%	
Centaur	shelving and value equipment	55%	
Champion	Warewash & Conveyors	41%	
Channel Manufacturing	stainless products and solutions	55%	
Chef Revival	Chef's Coats, Pants, Hats, Aprons,	45%	
Chef Specialties Company, Inc	Pepper Mills	37%	
Chef Works	Chef's Coats, Pants, Hats, Aprons,	30%	
Chicago Metallic	Cake, Pie and Bread pans	42%	
Choice Equipment Company	pan racks and shelving solutions	54%	
Churchill China	China	55%	
Cleveland Range - Welbilt	Cook Chill Only	48%	
Cleveland Range - Welbilt	cooking equipment	60%	
CMA Dishmachines, LLC	Warewash	50%	
Come Along	Crowd Control	45%	
Component Design NW (CDN)	Thermometers & Timers	35%	
Component Hardware	Faucets and parts	25%	
Continental Commercial Products	Floor Care, Janitorial and Food Service Cleaning Products	40%	
Continental Refrigerator	refrigerated products	60%	
Convotherm - Welbilt	cooking equipment	57%	
Cooktek	cooking equipment	45%	
Cooper-Atkins Corp.	Thermometers & Timers	45%	
Cornelius	refrigerated products	50%	
Cres Cor	Mobile Cabinets	52%	
Crown Brands - Focus Foodservice LLC (includes Regal Ware, Johnson Rose and Update International)	smallwares	50%	
CROWN STEAM- MIDDLEBY	Cooking Equipment	60%	
Crown Verity	commercial bbq grills	10%	
CSL Foodservice & Hospitality	Traystands & Hotel carts	50%	
Curtron Products	Curtron Strip Doors, Protecto Covers (Durable Rack Covers), Insul Covers (Insulated Rack Covers), Air Doors,	54%	
Delfield - Welbilt	refrigerated products	60%	
Dexter-Russell, Inc.	Cutlery	55%	
Disco Inc	Fryer Filter paper and Envelopes	50%	

Diversified Ceramics Corp.	China Mugs, Cookware, Salsa Dishes, Onion Soups, Rarebits, Souffles, etc.	51%	
Diversified Metal Products - Dispense Rite	Cup Dispensers-Stainless Steel, Cup Dispensing Cabinets, Lid, Condiment and Straw Organizers, Ice Cream Cone Dispensers	47%	
Dormont Manufacturing Co.	gas hoses and accessories	60%	
Doyon/ Nu-Vu	bakery equipment and supplies	45%	
Dudson USA, Inc	china	50%	
Duke Manufacturing	refrigerated and temp holding products	50%	
Eagle	Stainless products	66%	
Eastern Tabletop Mfg. Co	Buffet and smallwares products	51%	
Edlund LLC	smallwares and chef tools	50%	
Electrolux	cooking equipment	47%	
Elkay Foodservice	stainless foodservice products	40%	
Eloma Combi Ovens	cooking equipment	18%	
English Manufacturing	Sneeze guards, Flexguards, instaguards	45%	
Equipex	cooking equipment	42%	
Espresso Soci - Casadio	coffee and beverage equipment	25%	
Espresso Soci - Faema	coffee and beverage equipment	25%	
Everest	refrigeration equipment	60%	
Everpure	Water Filtration	50%	
Federal	refrigerated merchandisers	52%	
Fermod	Shelving, Dunnage, Keg Racks	50%	
Fetco	coffee and beverage equipment	35%	
Fisher Manufacturing	Faucets	52%	
Fletchers' Mill	Pepper Mills, Salt Mills, Rolling Pins, Silicone Tools, Kitchen Accessories and more	35%	
Florida Seating	Furniture	52%	
Fluke (Comark)	Thermometers	50%	
FMP & Allpoints	foodservice parts and solutions	40%	
Follett	Ice Storage and transport Ice & Water Dispensers Ice a& Beverage Dispensers Ice Machines	45%	
Food Warming Equipment	heating and holding equipment	53%	
Foodservice Seating Inc.	commercial seating products	50%	
Forbes Industries	banquet and housekeeping equipment	40%	
Franke	cooking and coffee equipment	20%	
Frieling USA, Inc.	Smallwares and Tabletop	45%	
Front of the House	Table Top	40%	
Frosty Factory	frozen beverage products	40%	
Frymaster/Dean - Welbilt	Fryers	57%	
G&A Commercial Seating Products	Furniture	52%	
G.E.T. Enterprises, Inc.	Melamine, Wood High Chairs, Traystands	60%	
Garland -Welbilt	cooking equipment	55%	
Gaylord Industries	Ventilation	CUSTOM	Custom quote required
Giles Foodservice Equipment	cooking equipment	40%	
Glastender	bar equipment	53%	
Globe	Slicers and Mixers	56%	
Grindmaster/ Cecilware	beverage solutions	45%	
Groen	Steam Equipment	54%	
Grosfillex	Commercial outdoor furnishings (chairs, tables, chaise lounges, and umbrellas)	55%	

Hamilton Beach Commercial	Bar Blenders, Food Blenders, Spindle Mixers, Glass Washers, Dishers, Irons, Juice Extractors, Coffee Makers/Brewers, Stand Mixers, Specialty Blenders	48%	
Hanson Heat Lamps	heat lamp products	35%	
Harold Import Company	import Smallwares	40%	
Hatco	warming and holding products	45%	
Heatcraft	Refrigeration	50%	
Hestan Commercial Corporation	high end stainless appliances	45%	
Hobart	Warewash	26%	
Hollowick, Inc.	Liquid Candle Lamps & Lamp Fuel, Butane Products, Chafing Fuel: including ABC ValuLine Chafing Fuel (ABC 24638), Wax Candles, Easy Floral Vases, Smart Candle Flame Free Lighting, Tiki Brand Outdoor Lighting	35%	
Homer Laughlin China Co	China All products including Kenilworth and Hall China.	50%	
Hoshizaki Ice	Ice machines	55%	
Hoshizaki Refrigeration	Reach Ins	60%	
Howard-McCray	Refrigerated solutions	50%	
Ice-O-Matic	Ice Machines	55%	
IMC Teddy	Stainless products	50%	
Imperial Brown	Custom Walk In's	CUSTOM	Custom quote required
Imperial Range	cooking equipment	60%	
Innova Products	smallwares	40%	
Insinger Machine Co	Dishwashers, Pot Washers, Tray Washers, Vegetable Peelers, Aqua-Scrubbers, Disposers, Conveyors & Tray Accumulators (Parts, H.G.W. Young Potato cutters excluded)	25%	
Insinkerator	Food Waste Disposers, Hot Water Dispensers, Pulper Systems	40%	
Intermetro Industries	Mobile Pan Racks, Full line Shelving,except Wire, Heated Carts, etc.	50%	
Intermetro Industries	Wire shelving Only	65%	
International Tableware	tableware	60%	
Irinox	Blast Chillers Shock Freezers	20%	
iSi North America, Inc.	Whip Cream Dispensers	50%	
Iwatani	Butane Stoves and Torches	45%	
Jaccard Corporation	smallwares	40%	
Jackson	Warewash	48%	
Jade Range - Jade Group	cooking equipment	42%	
JMC Furniture	Furniture	35%	
John Boos & Company	Hard Maple & S/S Work Tables, Stands, Cabinets, Butcher Blocks, Hard Maple & Plastic Cutting Boards, Contract Furniture, Institutional Stainless Tables and Sinks, Prochef Cooktops	58%	
JRC Ritz Foodservice/ Arden Companies	Oven Mitts, Pot Holders, Pan Grabber, Silicone, Teflon and Pyrotex Mitts, Towels, Dishcloths, Chef's Coats, Pants, Hats, Aprons, Pizza Delivery Pouches, Cheesecloth, Butchers String, etc.	52%	
Kairak	Refrigerated Counters	45%	
Kintera (ProCore) - TriMark Exclusive	Refrigerated & Cooking Equipment, Ice Machine	LIST	
Kitchen Brains(FAST)	FAST Timers and Modularm Products	41%	
KitchenAid Commercial	small appliances	41%	
Koala Kare Products	infant care products	50%	
Kolpak	Stock Items Kold lockers	50%	
Kolpak	Custom Walk In's	CUSTOM	Custom quote required
Krowne Metal	stainless	50%	

Lakeside Manufacturing	Banquet Transport Equipment, Bars Portable Liquor, Carts (Enclosed, Plastic, Stainless Utility, Queen Mary, Bussing & Storage, Ergonomic, Tray Delivery, Foodservice, Serving), Waste/Silver Boxes, Dish Dollies, Dish Handling Equipment, Equipment Stands, Racks Pan/Tray, Holding Cabinets, Heated Humidified, Ice Carts, Work Tables, Dispensers Self-leveling Tray/Plate/Pellet.	55%	
Lang Manufacturing	cooking equipment	60%	
Lenox Commercial Division	Dinnerware	50%	
Libbey, Inc	Glassware	55%	
Lincoln - Welbilt	Conveyor Ovens and toasters	53%	
Lodge Manufacturing Company	Cast Iron Cookware and Enamel on Cast Iron Cookware.	40%	
Magikitch'n	cooking equipment	57%	
Manitowoc Ice - Welbilt	Ice Machines	57%	
Mars Air Door	Accessories and parts	20%	
MARSAL OVEN	Cooking Equipment	45%	
MasonWays indestructuctible Plastics, LLC	Dunnage racks and storage solutions	6%	
Master-Bilt	Stock items reach in refrigerators & freezers	55%	
Master-Bilt	Custom Walk In's	CUSTOM	Custom quote required
Matfer Bourgeat, Inc	Stovetop Cooking Equipment, Utensils.	41%	
Meiko	Ware Washing Solutions	35%	
Mercer	Cutlery	55%	
Merco	Heated Holding Bins	42%	
Merrychef - Welbilt	Speed Cooking Technology	50%	
Micro-Matic	Draft Beer Systems	50%	
MIDDLEBY MARSHALL	Food Preparation and Cooking Equipment	20%	
Mity-Lite Inc.	Furniture	40%	
Moffat	Bakery Equipment	47%	
Montague Company	cooking equipment	45%	
Moyer Diebel	Warewash	30%	
MTS Seating	Furniture	50%	
Multiplex	Ice Machine, Refrigeration, dispensers	35%	
Multiplex	Soda & Ice Beverage Dispenser & Parts	40%	
MVP Group	Equipment	41%	
Myco Tableware	Tableware	48%	
National Public Seating	Furniture	45%	
Natura Water	Water dispensing solution	35%	
Nemco Food Equipment	Food Prep, Food Warmers, Countertop Cooking Equipment, Countertop Merchandising Equipment, Food Waste Disposers, Hot Dog Equipment, Parts	54%	
New Age Industrial Corp.	Stainless soltuons	54%	
Nexstep Commercial (O'Cedar Commercial)	wet mops, mop sticks, mop buckets and wringers, janitor carts, trash can dollies, waste receptacles, dust mops, floor sweeps, angle brooms, corn brooms, microfiber products, squeegees,	48%	
Nor-Lake, Inc	Custom Walk In's	CUSTOM	Custom quote required
Nor-Lake, Inc	Stock Items Kold lockers	50%	
Notrax	Floor matts	25%	
Olde Thompson	Salt Mills, Pepper Mills and Spice Racks	45%	
Oneida Global Foodservice	Tabletop items	50%	
Original Wood Seating	Furniture	55%	
Ovention	High Spped Cooking	18%	
Panasonic	Microwaves	57%	
Perlick	Beer & Wine Solutions	52%	
Piper Products	Premium Kitechen Soltions	46%	

Pitco	Fryers	57%	
PowerSoak - Unified Brands	Ware Washing Solutions	22%	
Premiere Collection - TriMark Exclusive	Tabletop, Glassware, accessories, and silverware	LIST	
Prince Castle	Counter top Equipment	45%	
RAK Porcelain USA	China	57%	
Rancilo	Espression, coffee machine	15%	
Randell	Refrigerated equipment solutions	57%	
Rational	Combi Ovens	38%	
Risch, Inc.	Menu Covers, Table Tents, Check Holders	40%	
Robot Coupe, USA, Inc.	Commercial Food Processing and Vegetable Processing Machines & Accessories, Power Mixers, Blixers	25%	
Rosenthal Sambonet	Paderno Products, Sambonet Flatware, Rosenthal, Arthur Krupp Porcelain, Arthur Krupp Metalware, All Clad	51%	
Rosseto	Counter top Dsiplays	46%	
Royal Industries	Smallwares	35%	
RPI Industries, Inc. (Regal-Pinnacle)	interior and millwork solutions	50%	
Rubbermaid Commercial Products, LLC	Smallwares	46%	
Salvajor	Disposers & Waste Systems	50%	
Sammic	Dishwashers and kitchen accessories	28%	
San Jamar	Smallwares	45%	
Saniserv	Frozen Drink and Ice Cream Machines	47%	
Schaerer	Espression, coffee machine	15%	
Scotsman	Ice Machines	60%	
SecoSelect	Smallwares and plastics	40%	
Select Stainless	Custom Fabrication	CUSTOM	Custom quote required
Service Ideas	Insulated Servers, Insulated Platters, Airpots, other tabletop items and Buffet Beverage Service	50%	
Silver King	refrigerated equipment	48%	
Sitram (BB Inc.)	stainless cookware	40%	
Snap Drape International	Table and Stage Skirting, Valances, Lace, Imprinted Skirting, Throw Covers and Toppers, Urban Natural Table Caps, MarketPlace Linens, and CityScape Placemats.	25%	
Somat Group (Red Goat and Master Disposer)	Disposers & Waste Systems	20%	
Southbend	cooking equipment	60%	
Spaceman USA	Frozen Drink and Ice Cream Machines	52%	
Spill-Stop Mfg, LLC	Bar accessories, Pourers	41%	
Spring USA Corporation	Buffet equipment and accessories	50%	
Star Manufacturing	cooking equipment	60%	
Steelite International USA, Inc	China	56%	
Stero	Warewash	25%	
Stoelting	Frozen Drink and Ice Cream Machines	40%	
Structural Concepts	Display Refrigeration	56%	
Syracuse China Co	china	42%	
T&S Brass & Bronze Works, Inc.	faucets and fittings. Gas Hoses (Safe-T-Link). Equip faucets	48%	
Tablecraft Products Company	Ashtrays, Bar Supplies, Condiment Dispensers, Tote Boxes, Squeeze Dispensers, Film & Foil Dispensers, Cleaning Sup. Glassware, S & P, Cheese Shakers, Kitchen Supplies, Coffee Supplies, Buffet Trays, Tray Stands, Flowers/Vases, Kitchen Gadgets & Accessories, Menu Covers, High Chairs, Porcelain, Stainless Steel & Recycled Green Glass Buffet Display, Plastic, Stainless Steel, Chrome & Wrought Iron Baskets, Plastic & Stainless Steel Beverage Dispensers and Professional Bakeware Products.	45%	
Tarrison LTD	Storage & Handling, Stainless Steel, Servery, Induction Cooking Systems, Refrigeration and Outdoor Cooking Equipmnet	40%	
Taylor Precision Products	Thermometers, Timers, Digital Thermometers, Mechanical Scales, Digital Scales, Houdini Wine Accessories	55%	

ThermalRite	Walk-ins	CUSTOM	Custom quote required
Thermohausser of America, Inc	catering accessories	35%	
Thermo-Kool	Walk-ins	CUSTOM	Custom quote required
Thunder Group	Small equipment	65%	
Titan Stainless	S/S Custom Fab.	CUSTOM	Custom quote required
Titan Stainless	Stock	40%	
Toastmaster	small appliances	60%	
Traulsen Dealers Choice	refrigerated equipment	65%	
Traulsen Spec Line	refrigerated equipment	52%	
TriMark	Smallwares, kitchen supplies	LIST	
True Foodservice	refrigerated equipment	65%	
Turbo Air	Refrigerated Reach ins, S/S Sinks and Tables	64%	
TurboChef Technologies, Inc.	Speed Cooking Technology	30%	
Turgla	China	45%	
Tuxton	China	60%	
Ultrafryer	Frying equipment	40%	
Univex Corporation	Mixers, Power Base Patty Presses, Meat Slicers, Peelers. Spare Parts, Mixer Accessories, and attachments excluded.	45%	
UNOX INC	Food Preparation and Cooking Equipment	20%	
Update International	import Smallwares	45%	
Vertex China	China	55%	
Victorinox Swiss Army, Inc.	Cutlery, Cut Resistant Gloves, Knife Sharpeners, Knife Holders, Spatulas, Turners, Bamix	35%	
Victory	Refrigeration	70%	
Villeroy & Boch	tableware	15%	
Vitamix	Blenders, Drink Machines, Frozen Dessert Mixers, Blender Container Rinser	54%	
Vollrath Company, LLC	smallwares	50%	
Vollrath Company, LLC	equipment	55%	
Vulcan	cooking equipment	60%	
Wabash Valley Manufacturing	Outdoor Furniture	30%	
Walco Stainless	Cutlery and tableware	57%	
Waring Commerical Products	Cooking equipment	56%	
Wells	Cooking equipment	55%	
Winco	kitchen equipment and smallwares	60%	
Win-Holt Equipment Group	Custom Fabrication Racks, Cabinets, Dollies, Shelving, Plastics, Proofers, Trays, Material Handling, Tables, Sinks, and Engineered Products.	51%	
Winston	Cooking and holding equipment	50%	
Wolf Range - Vulcan	Cooking equipment	60%	
World Dryer Corporation	Hand dryers and related products	10%	
World Tableware Inc.	Tableware	55%	
Wusthof Trident	Cutlery	10%	
Zwilling J.A. Henckels	Cutlery	50%	