



APPROVAL OUTSIDE VENDOR (NON-CUSD) CONTRACT

All contracts must be approved by the Board of Education

Please return this signed cover sheet and the contract to the Business Office for review
at least fourteen (14) working days prior to the next Board meeting.

Once received and approved by the Business Office, **the contract will be returned to the requesting department and you must agendize the item for approval by the Board of Education** at their next regularly scheduled meeting.

Site/Department: Business

Date(s) of Contracted Service: 7/1/2020-6/30/2021

Contractor Name: Nutri-Link YTechnologies

Cost (not to exceed): \$495.00

Description of Service: Annual service for online free and reduced meal applications.

Contract Terms: Prepayment Penalty: ☐ Yes ☐ No Auto Renewal: ☐ Yes ☐ No

☐ Venue for Legal Disputes Reviewed by Cabinet Member ☐ Legal Counsel Reviewed

☐ Pupil Records Rider ☐ New Vendor (if checked, need W9) ☐ Other _____

☐ Fingerprinting/TB Questionnaire completed ☐ Insurance Received

☐ Ratified, reason _____

Funding Source: ☒ District ☐ ASB ☐ PTO/PTA ☐ Other _____

☐ Fund 40 ☐ Fund 14 ☒ Fund 01 **Budget Source** 13-5310-0-0000-3700-5800-00-007-8200-0071

I have read and understand the terms of and approve the attached contract:

Mary Jennings
Site/Department Administrator Signature

06/09/2020
Date

☒ Reviewed by C.B.O. before being agendized. yp
initials

Board Approval Date: _____

☐ Copy sent to the Site/Department _____
Date

NUTRI-LINK TECHNOLOGIES, INC.

Standard Terms and Conditions

Effective Date: March 9, 2018

These Terms and Conditions (the “Terms”) are part of and incorporated into the purchase order, statement of work or similar ordering document (the “Order”) executed by and between Nutri-Link Technologies, Inc. (“Nutri-Link”) and the client identified in such Order, all of which constitute the “Agreement” between the parties with respect to the products (the “Products”) or services (the “Services”) described in the Order. In the event of any conflict among such documents, the following order of priority shall apply, except as expressly provided otherwise: (a) these Terms (including, without limitation, the Privacy Policy referenced herein); and (b) the Order.

1. Provision of Deliverables; License Grant. Subject to the terms and conditions of this Agreement, Nutri-Link (a) agrees to provide to Client the Products and Services (collectively, the “Deliverables”); and (b) hereby grants to Client a limited, nonexclusive, nontransferable, revocable license during the term of this Agreement to access and use the Deliverables solely in its ordinary course of business. Client shall not, without Nutri-Link’s prior written consent: (i) reverse engineer, disassemble, decompile, recompile, update or modify any Deliverable or any part thereof; (ii) create derivative works based on any Deliverable; (iii) reproduce or make copies of any Deliverable or any part thereof; (iv) sublicense, distribute or otherwise transfer any Deliverable to any third person; or (v) compile or use any Deliverable or any part thereof for the purpose of any activities that violate any applicable law or regulation.

2. Compensation & Past Due Amounts. All amounts set forth in the Order shall be paid to Nutri-Link within 30 days after the date of an invoice for such amounts. Past due amounts will accrue interest at the rate of 1.5% per month. Client agrees to pay all reasonable and actual attorneys’ fees incurred by Nutri-Link in connection with the collection of any past due amount owed to Nutri-

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Link by Client. All fees and expenses set forth in the Order for the Deliverables are exclusive of taxes imposed on the sale of the Deliverables, all of which are the sole responsibility of Client.

3. Term and Termination. Unless terminated earlier as stated herein, the initial term of this Agreement shall begin on the date the Order is executed by the parties and will continue for a period of 1 year. Thereafter, the term of this Agreement will renew for successive periods of 1 year each, unless either party provides notice of its election not to renew this Agreement at least 30 days prior to the end of the then-current term. To the extent the parties execute a renewal Order with respect to Nutri-Link's continued provision of the Deliverables, such Order (and any terms and conditions referenced or incorporated therein) shall be deemed to amend and modify the terms of this Agreement unless otherwise specifically set forth therein. Either party may terminate this Agreement immediately upon the other party's material breach of this Agreement and failure to cure such breach within 30 days of receiving written notice of such breach. Following the termination or expiration of this Agreement, (a) Nutri-Link shall cease providing the Deliverables to the Client, (b) the Client shall cease using the Deliverables; (c) all licenses granted herein will terminate; and (d) all amounts due to Nutri-Link hereunder shall immediately become due and payable. Paragraphs 3, 4 and 6-10 of these Terms shall survive any termination or expiration of this Agreement.

4. Client Content. Client represents and warrants that (a) it has all necessary rights, licenses, consents and approval to provide to Nutri-Link all files, images, photographs, graphics, text, information or other data provided to Nutri-Link by or on behalf of Client in connection with Nutri-Link's provision of the Deliverables hereunder ("Client Content"); and (b) the Client Content does not infringe or violate any proprietary rights of any third party. Client hereby (i) grants to Nutri-Link a limited, nonexclusive, revocable license during the term of this Agreement to use the Client Content solely for the purposes of providing the Deliverables; and (ii) agrees to secure rights in the Client Content necessary for Nutri-Link to provide the Deliverables without violating the rights of any third party,

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or otherwise obligating Nutri-Link to Client or any third party (except as otherwise set out in this Agreement).

5. Representations and Warranties; Disclaimer. Nutri-Link represents and warrants to Client that the Deliverables will be provided in a professional and workmanlike manner in accordance with the prevailing standards of the industry. EXCEPT AS EXPRESSLY SET FORTH IN THESE TERMS OR ANY ORDER, NEITHER NUTRI-LINK OR ITS THIRD-PARTY SUPPLIERS MAKE ANY EXPRESS, IMPLIED OR STATUTORY WARRANTIES WITH RESPECT TO THE DELIVERABLES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NONINFRINGEMENT, OR ANY WARRANTY THAT THE DELIVERABLES WILL BE PROVIDED ON AN ERROR FREE OR UNINTERRUPTED BASIS, ALL OF WHICH ARE HEREBY DISCLAIMED AND EXCLUDED.

6. Privacy. Nutri-Link acknowledges that Client Content may include student-related information from Client that contains personally identifiable information about a student, and that such information is protected under the Family Educational Rights and Privacy Act ("FERPA"), and if applicable under corresponding state laws in Client's state. Nutri-Link's access to any personally identifiable information in the Client Content is authorized solely in connection with Nutri-Link's provision of the Deliverables pursuant to this Agreement and is governed by Nutri-Link's services privacy policy in effect as of the Effective Date, set forth at <https://www.nutri-linktechnologies.com/solutions/privacy-policy/>, or such other URL as specified by Nutri-Link from time to time (the "Privacy Policy"). Client agrees that Nutri-Link's obligations pursuant to the Privacy Policy are (a) Nutri-Link's only responsibility with respect to the security and handling of Client Content; and (b) in lieu of, and not in addition to, the confidentiality terms of Section 7. Client agrees that Nutri-Link may transmit or disclose the Client Content to third parties in accordance with Client's or its authorized user's directions.

7. Confidentiality. In the performance of this Agreement, either party may disclose to the other certain "Proprietary Information,"

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which, for purposes of this Agreement, means information that is of value to its owner and is treated as confidential, but does not include that information that (a) is or becomes a part of the public domain through no wrongful conduct of the receiving party; (b) was or is lawfully disclosed to the receiving party by a third party without restriction on subsequent use or disclosure; (c) is independently developed by the receiving party without use of any Proprietary Information of the disclosing party; or (d) from and after the date that is three (3) years following the date of termination of this Agreement, does not meet the definition of “trade secret” under applicable law. Nutri-Link’s Proprietary Information includes, without limitation, all non-public information pertaining to the Deliverables. Both parties acknowledge and agree that the Proprietary Information shall remain the sole and exclusive property of the disclosing party or a third party providing such information to the disclosing party. The receiving party agrees to hold the Proprietary Information disclosed by the other party in strictest confidence and not to copy, use, distribute, reveal, report, publish, disclose or otherwise transfer the Proprietary Information for any purpose other than as expressly provided by this Agreement or as required by judicial or governmental action or applicable law (including, without limitation, any applicable “open-records” or similar laws or regulations). The receiving party shall protect the Proprietary Information of the disclosing party with the same degree of protection and care the receiving party uses to protect its own Proprietary Information, but in no event less than reasonable care.

8. Intellectual Property. Exclusive of Client Content, Nutri-Link and its third-party suppliers shall retain all right, title, and interest (including copyright and other intellectual property or informational rights) in and to the Deliverables and all legally protectable elements or derivative works thereof. Client shall retain all right, title, and interest in and to the Client Content. Nutri-Link may place copyright or other proprietary notices, including hypertext links, within the Deliverables, and Client shall not alter or remove such notices without Nutri-Link’s written permission. Notwithstanding any other term herein, Nutri-Link shall not be prohibited at any time by Client from utilizing any skills, knowledge or information of a general nature

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acquired during the course of providing the Deliverables, including, without limitation, knowledge or information that could reasonably be acquired in similar work performed for another customer of Nutri-Link.

9. LIMITATION OF LIABILITY. NUTRI-LINK'S TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THIS AGREEMENT WILL NOT EXCEED THE TOTAL FEES PAID TO NUTRI-LINK UNDER THE APPLICABLE ORDER DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT THAT GAVE RISE TO SUCH CLAIM. IN NO EVENT WILL NUTRI-LINK BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, EXEMPLARY, PUNITIVE, SPECIAL OR INCIDENTAL DAMAGES, INCLUDING ANY LOST DATA OR LOSS OF TECHNOLOGY. CUSTOMER ACKNOWLEDGES THAT NUTRI-LINK'S FEES HAVE BEEN CALCULATED SPECIFICALLY TAKING INTO ACCOUNT THE CUSTOMER'S ASSUMPTION OF THIS RISK. NUTRI-LINK WOULD NOT ENTER INTO THIS AGREEMENT WITHOUT THESE LIMITATIONS ON ITS LIABILITY.

10. General. This Agreement is the only agreement between the parties relating to the Deliverables, and it supersedes all prior communications or understandings relating to the Deliverables, oral or written, of either party. Under no circumstances will the terms, conditions or provisions of any purchase order or other administrative document issued by Client modify, alter or expand the rights, duties or obligations of the parties, regardless of any failure of Nutri-Link to separately object to such terms, provisions, or conditions. This Agreement may be only by amended by written agreement of both parties. The parties are, and will remain, independent contractors with respect to each other. Client may not assign any of its duties or obligations, including, but not limited to, its obligation to make payment under this Agreement. This Agreement will be interpreted and enforced in accordance with the laws of the State of Georgia without regard to Georgia's choice of law provisions. All communications between the parties which are required or permitted to be in writing shall be sent by hand delivery, with receipt obtained; by recognized courier, properly prepaid; or by certified mail, receipt requested, postage prepaid and sent to the address

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specified in the Order. All such communications shall be deemed received by the other party upon actual delivery or refusal. By written communication, either party may designate a different address for purposes hereof. A waiver by either party of any breach shall not be construed to be a waiver of any other breach. A party may only waive or modify its rights under this Agreement by notifying the other party of the waiver in writing. Time is of the essence. If any part of this Agreement is deemed unenforceable, the remainder of the Agreement, or the application of the unenforceable term under different circumstances, will not be affected. Each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. The agents of both parties have participated in the preparation of this Agreement, and the parties agree that the Agreement should not be more strictly construed against one party than the other. The provisions of the Agreement are for the benefit of the parties hereto only, and of no other person. Neither party shall be liable to the other for delays or failures in performance resulting from causes beyond the reasonable control of that party, including but not limited to, acts of God, labor disputes, or disturbances, material shortages or rationing, riots, acts of war, acts of terrorism, governmental regulations, communication or utility failures, or casualties, provided that such party uses reasonable efforts to notify the other party of the circumstances causing the delay and to resume performance as soon as possible. With respect to all acquisitions of any Deliverables by or for the U.S. government or by any prime contractor or subcontractor under any contract, grant or other activity with the U.S. government, (i) the Deliverables provided to Client hereunder are "commercial items" as that term is defined at 48 CFR 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 CFR 12.212 and other applicable acquisition regulations and are provided to Client only as a commercial item. Consistent with 48 CFR 12.212, 48 CFR 227.7102, and 48 CFR 227.7202, all U.S. Government End Users, if any, acquire the software and its associated documentation with only those rights and subject to the restrictions set forth in this Agreement.

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Notwithstanding the foregoing, the Deliverables may not be acquired by the U.S. Government pursuant to a contract incorporating clauses prescribed by 48 CFR 27.4, 48 CFR 227.71 or 48 CFR 227.72.



"Improving School Food Service Through Technology..."

Invoice-Statement of Work

Date	Invoice #
6/4/2020	7791

Bill To
Carmel USD School Nutrition POS Box 222700 Carmel, CA 93922-2700

Ship To
Carmel USD School Nutrition POS Box 222700 Carmel, CA 93922-2700

Terms	Project
Upon Receipt	Annual Maint

Quantity	Description	Unit Price	Amount
1	Nutri-Cloud Online F&R Application Entry System Annual Service Fee (July 1 - June 30)	495.00	495.00



Do more with Nutri-Works! Add Nutri-Status Online F&R Status Notifications and Nutri-Match for Automated matching of DC Students! Perfect compliments for your Nutri-Cloud system! Contact us today for more Info!

Please Remit Payment to: Nutri-Link Technologies, Inc. 281 Mavericks Run Martin, GA 30557 FEIN: 82-0544460	Subtotal	\$495.00
	Sales Tax (0.0%)	\$0.00
	Total	\$495.00
	Payments/Credits	\$0.00
	Balance Due	\$495.00

All orders are subject to the Nutri-Link Technologies, Inc. Standard Terms and Conditions (the "Terms"), available at <http://www.nutri-linktechnologies.com/Terms/>, which are hereby incorporated into this Agreement (as defined in the Terms) by this reference. By signing below or otherwise accessing or using any of the Deliverables (as defined in the Terms), Customer acknowledges and agrees that it has read, approved and agreed to the terms of this Order and the Terms. The parties have caused this Order to be executed by their duly authorized representatives effective as of the Effective Date set forth above.

Signature: _____ Date: _____

Print Name: _____ Print Title: _____

(Please sign and return with your Purchase Order)

ph 404-437-7964	fax 770-339-3990	www.nutri-linktechnologies.com
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