

## Services Agreement

This Services Agreement, dated as of July 1st, 2024, is entered into by and between Feed the Kids, Inc., a domestic not for profit corporation, with offices located at 2205 Buffalo rd, McAlester Ok 74501, and Mid America Technology Center, in Wayne Oklahoma.

1. **Services.** During the term set forth on **Exhibit A** (“**Term**”), FTK shall provide Sponsoring Organization services to the District under the Oklahoma State Department of Education’s (“**OSDE**”) Child & Adult Care Food Program (“**CACFP**”), and any other services on Exhibit A (the “**Services**”) for the compensation set forth on Exhibit A (“**Fee**”). A party may terminate this Agreement upon written notice to the other party (“**Defaulting Party**”) if the Defaulting Party fails to cure a material breach this Agreement within thirty (30) days after notice of such breach. All intellectual property rights in and to all documents, work product and other materials that are created or delivered by or on behalf of FTK hereunder, including the Policies but excluding Confidential Information of District or District-provided materials, shall be owned exclusively by FTK.

2. **District Responsibilities.** District shall comply and ensure that its personnel comply with the CACFP and any other rules, regulations, policies thereunder or of FTK including those attached as **Exhibit B** (collectively, the “**Policies**”). All meals to the District shall be delivered FOB Destination. District shall provide FTK thirty (30) days’ prior written notice before purchasing meals for the CACFP from a third party, and the parties shall work together during said thirty-day period to determine if such meals are reimbursable under the CACFP. If the meals are not reimbursable, the District shall work with the third party to bring the meals into CACFP compliance. Notwithstanding anything herein to the contrary, the District agrees that it shall not purchase meals that are not reimbursable without the prior written consent of FTK. The District shall keep accurate and complete records of all meals purchased and served in accordance with the Policies.

3. **Confidentiality.** All non-public, confidential or proprietary information of one Party (“**Disclosing Party**”) provided to or otherwise accessible by the other Party (“**Receiving Party**”) hereunder (collectively, “**Confidential Information**”), is confidential and shall be solely used for performing under this Agreement and may not be disclosed to a third party or copied unless authorized by Disclosing Party in writing. On the expiration or termination of this Agreement or the Disclosing Party’s request, Receiving Party shall promptly return or destroy all copies of Disclosing Party’s Confidential Information and certify the same in writing to Disclosing Party.

4. **Limited Warranty; Limitation of Liability.** FTK warrants that it shall perform the Services in a timely, workmanlike, and professional manner in accordance with generally recognized industry standards for similar services. FTK MAKES NO WARRANTIES EXCEPT FOR THAT SET OUT ABOVE AND DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. FTK’s sole and exclusive liability and the District’s sole and exclusive remedy for breach of the warranty set out in this Section shall be reperformance of the affected Services within a reasonable time being no more than thirty (30) days following notice of breach, or, if reperformance is not reasonably possible, either Party may terminate the Agreement with written notice. IN NO EVENT SHALL FTK BE LIABLE HEREUNDER FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT FTK HAS BEEN ADVISED OF THE POSSIBILITY OF THE SAME, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. IN NO EVENT SHALL FTK’S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER

ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE AGGREGATE AMOUNTS OF THE FEES IN THE TWELVE-MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

**5. General.** Nothing contained in this Agreement will be construed to create a joint venture, partnership, association, or other such affiliation. This Agreement and all matters arising out of or relating to this Agreement shall be governed and construed in accordance with the laws of Oklahoma, regardless of conflict of laws provisions, and any legal proceeding arising out of or relating to this Agreement shall be exclusively filed in the federal or state courts of Oklahoma. This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties regarding the same. This Agreement is binding upon and inures to the benefit of the parties and their respective successors and permitted assigns. Sections 3-5 shall survive expiration or termination of this Agreement. This Agreement may be executed in counterparts. No party shall be liable or responsible to the other party, or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations of District to make payments to FTK hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the impacted party's ("**Impacted Party**") reasonable control ("**Force Majeure Event(s)**"). If the Impacted Party's failure or delay remains uncured for a period of sixty (60) days following written notice given by it under this Section 12, the non-impacted party may thereafter terminate this Agreement upon written notice.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed as of the Effective Date by their respective officers thereunto duly authorized.

**FEED THE KIDS, INC.**

**Mid America Technology Center**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## **Description of Services**

### Description of Services:

FTK as the sponsor will add the site(s) to the sponsor application at OSDE and conduct the pre-approval visit for the application process. FTK will be responsible for annual training and compliance for all site supervisors and/or responsible parties. FTK will enter claims for reimbursement at OSDE and will send the district back their full claim minus the administrative fee that is allowable by regulation for a sponsor.

Each site must be monitored by FTK at a minimum of three times annually, more may be conducted or required if deficiencies are found during a regular monitoring review.

### Fees:

As part of the Services, FTK shall submit claims to OSDE for reimbursement under the CACFP on behalf of the District ("Claims"). The District acknowledges and agrees that OSDE shall have the right to remit reimbursement amounts for the Claims directly to FTK ("Reimbursement"). For the Services performed hereunder, FTK shall be compensated with 15% of the Reimbursement (the "Fee").

## **Exhibit B Policies**

### Feed the Kids - Site Policies- Exhibit B

#### Monitoring Reviews

Each site is required to have 3 completed visits per year. Two of these visits must be unannounced. FEED THE KIDS requires that sites be available during approved mealtimes. The following procedures must be followed:

- If a site is going to be closed during approved mealtimes, the site must notify the sponsor.
- Once a monitoring review is scheduled, the site has the right to cancel that review, but must call the monitor at least 24 hours in advance.
- If the site cancels a scheduled visit more than once, every review for the remainder of the contract year will be unannounced.
- If the site does not notify the monitor in advance of the cancellation and a review is attempted but cannot be completed, the site will be declared seriously deficient. The site will not be reimbursed for the meals. If the site is not at home at the time of the unannounced follow-up, the site will be proposed for termination and disqualification.

#### Meal Disallowances

FEED THE KIDS will disallow meals for the following reasons:

- Failure to maintain meal records daily.
- Recording of meals served in advance.
- Meals not meeting minimum meal requirements.
- Operating any other way on the approved application/agreement with Feed the Kids.

#### Recordkeeping

All records must be maintained daily as of the previous day's activities. Failure to maintain records daily could result in loss of reimbursement(s) to the site(s)

Records such as meal counts may not be entered in advance.

Records must be readily available at all times for unannounced review purposes.

Records must be retained for the current year and a period of three years after the date of the submission of final claim for the fiscal year to which they pertain, except if that audit findings have not been resolved, the records should be retained beyond the end of that three-year period.

Forms will be given to sites at the beginning of the school year or when a new site starts the program.

#### Meal Service Time

There is no restriction on

lunch may be served; however, three hours shall elapse between the beginning of one main meal service and the next main meal service. At least two hours shall elapse between the beginning of a main meal and a snack. Meals served outside of the approved times are not eligible for reimbursement.

#### Feed the Kids, Inc

Meals times approved for shifts, late nights, weekends or holidays must be supported with

adequate justification before they will be approved by FEED THE KIDS. FEED THE KIDS reserves the right to deny the approval of any meal service time that is not supported by adequate justification.

If a site plans to feed the At Risk Supper meal outside of the scheduled school day on the school calendar, the site must notify Feed the Kids 24 hours in advance.

#### Feeding the At Risk Meal during the School Day-

In order for a school to be allowed to feed students during the 7<sup>th</sup> hour of the school day, school must have 420 minutes of education during the school day. This must be reflected by the Accreditation Bell Schedule as reported to the State Department of Education. Meal time must fall within the last 60 minutes of the day. A Copy must be sent for application approval.

However, the site must feed meal during the time on application. If planning to serve outside of the scheduled meal time, notify sponsor in advance by 24 hours.

**MEAL DELIVERY**-It is the intent of FTK to administer the program, not to supply food/supplies to the site(s). Sites or SFA's must procure food/supplies using their procurement methods in the Child Nutrition's Procurement Plan approved by the district.

#### Mealtime Change

If a site wishes to change meal service times or add or delete a meal service, the site must notify FEED THE KIDS by phone, or email. FEED THE KIDS will complete a Site Meal Service Information form and send an approved copy to the site for his or her records. Sites are required to notify FEED THE KIDS of the following information if:

- any meal time changes
- the site wants to add or delete a meal service
- the site does not notify FEED THE KIDS of changes in meal service, the
- site may not be reimbursed for any unapproved changed meals.

#### Cycle Menus

FEED THE KIDS does not require sites to maintain a cycle menu. A cycle menu is highly recommended but not required to be completed for claim payments.

To ensure all AT Risk Meals meet meal pattern requirements, Production Records (Menus as Served) documents will be sent to Feed the Kids along with monthly claim documents.

#### Submission of Records

Monthly records are due by the tenth day of the following month.

\*These policies are the minimum; sponsors may implement more restrictive policies with SA approval

#### Feed the Kids, Inc

If required records are not received by the 10<sup>th</sup> of each month, Feed the Kids will send a reminder to all sites on the 11<sup>th</sup> of the month who have not submitted documentation for claims. If the information is not received after the reminder the meals served may not be claimed by FTK. If the due dates fall on a Federal/State Holiday, a weekend, the due date will fall on the next business day.

#### Monthly Claim:

A Monthly claim must include attendance records, menus as served (Production records), products requiring a cn label or product formation statement must be included, meal count worksheet/rosters.

Habitual late claims could result in serious deficiency.

Any claim past 60-days cannot be paid per Federal Regulations.

#### Payment of Claims

Monthly reimbursements are paid to site if claim documents are received in the specified timeframe and will be paid to site.

Feed the Kids will be responsible for the administrative duties related to the operation of the CACFP. Each site will be charged a fixed rate of 15% of each monthly reimbursement for food service, this amount does not include cash-in-lieu. This amount will be deducted from each reimbursement payment.

#### Site Edit Checks

FEED THE KIDS will review all claim documentation before reimbursement will be calculated. Sites will be notified, in writing by email, of any meal disallowances.

#### Annual Site Training

Each site must complete at least one Mandatory CACFP Training (October 1 st through September 30 th ). Without the Mandatory CACFP Training the site will be found seriously deficient. Mandatory training will include the following topics:

- Meal Patterns
- Meal Counts
- Claims Submission
- Claim Review Procedures
- Record Keeping Requirements
- Reimbursement Systems
- Civil Rights

Site(s) Leaving Feed the Kids