

VENDING AGREEMENT
FOR THE NATIONAL SCHOOL LUNCH AND/OR SCHOOL BREAKFAST PROGRAMS

This agreement is entered into on 1st of July, 2012 by and between Larchmont Charter School, herein after referred to as the **agency**, and La Luna on the Go, herein after referred to as the **vendor**.

This Agreement sets forth the terms and conditions upon which the agency retains the vendor to provide meals for the agencies nonprofit and a la carte food service program.

Whereas, the agency desires vendor to provide meals; and

Whereas, the vendor is willing to provide such services to the agency on a cost reimbursement basis;

Therefore, both parties hereto agree as follows:

The

- Vendor will deliver meals to the agency

Meals will be picked up/delivered to the address(es) listed in Attachment A at or before the specified time.

The costs(s) per meal listed below is agreed upon by both parties:

Lunch \$ 3.80 each

THE VENDOR AGREES TO:

1. Prepare unitized meals in accordance with the number of meals requested.

Meals will include milk.

2. Provide the agency, for approval, a proposed cycle menu for the operational period, at least 10 days prior to the beginning of the period to which the menu applies. Any changes to the menu made after agency approval must be agreed upon by the agency, and documented on the menu records.

3. Assure that each meal provided to the agency under this agreement meets the minimum requirements as to the nutritional content as specified by the **Final Rule, "Nutrition Standards in the National School Lunch and School Breakfast Programs"**.

4. Maintain full and accurate records that document: (1) the menus were provided to the agency during the term of this agreement, (2) a listing of all components of each meal, and (3) an itemization of the quantities of each component used to prepare said meal. The vendor agrees to provide meal preparation documentation by using yield factors for each food item as listed in the United States Department of Agriculture (USDA) Food Buying Guide when calculating and recording the quantity of food prepared for each meal.

5. Maintain cost records such as invoices, receipts and/or other documentation that exhibit the purchase, or otherwise availability to the vendor of the meal components and quantities itemized in the meal preparation records.
6. Maintain, on a daily basis, an accurate count of the number of meals, by meal type, prepared for and delivered/picked up by the agency. Meal count documentation must include the number of meals requested by the agency.
7. Allow the agency to increase or decrease the number of meal orders, as needed, when the request is made within 24 hours of the scheduled delivery time.
8. Present to the agency an invoice accompanied by reports no later than Friday of each week, which itemized the present week's delivery. The vendor agrees to forfeit payment for meals which are not ready within one (1) hour of the agreed upon delivery time, are spoiled or unwholesome at the time of delivery, or do not otherwise meet the meal requirements contained in this agreement. In cases of nonperformance or noncompliance on the part of the vendor, the vendor shall pay the agency for any excess costs the agency incurs by obtaining meals from another source.
9. Provide the agency with a copy of current health certifications for the food service facility in which it prepares meals for the NSLP/SBP. The vendor shall ensure that all health and sanitation requirements of the California Uniform Retail Food Facilities Law, Chapter 4 of the California Health and Safety Code, are met at all times.
10. Operate in accordance with current NSLP/SBP regulations. Comply with all other USDA regulations regarding food service vendors including those specified for commercial food service if applicable.
11. Retain all required records for a period of three (3) years after the end of the fiscal year to which they pertain (or for 3 years after the end of an audit). Upon request make all accounts and records pertaining to the agreement available to the certified public accounting hired by the agency, representatives of the California Department of Education, USDA, and the Office of Inspector General (OIG) for audits or administrative reviews at a reasonable time and place.
12. Not subcontract for the total meal, with or without milk, for the assembly of the meal.
13. Be paid by the agency for all meals delivered/picked up in accordance with this agreement and NSLP/SBP meal pattern requirements. Neither the California Department of Education nor USDA will assume any liability for payment of differences between the number of meals prepared for delivery and/or pick up by the vendor and the number of meals served by the agency that are not eligible for reimbursement.
14. Accept commodities from the agency to be used in the preparation of meals prepared for the NSLP/SBP. The vendor will reduce the price of the meals by the fair market value of the commodities used in the meals. Price reductions will be itemized on the invoice. Until used, all commodities are the property of the agency.
15. The vendor shall include physician recommended substitutions in the food components when making recommendations for the meal pattern of students with disabilities when their disability restricts their diet,

and those non-disabled students who are unable to consume the regular lunch because of medical or other special dietary needs.

16. The vendor is prohibited from entering into any processing contracts utilizing USDA donated food on behalf of the agency.

17. The vendor shall be responsible for loss or damage to equipment owned by the agency while on the vendor's premises.

18. The vendor shall provide access, with or without notice, to all of the vendor's facilities for purposes of inspection and audit.

19. The vendor shall surrender to the SFA upon termination of the agreement all records pertaining to the operation of the food service, to include all production records, product invoices, claim documentation, financial reports, and procurement documentation. The records shall be in appropriate order, complete, and legible.

THE AGENCY AGREES TO:

1. Request by e-mail no later than 2 days, an accurate number of meals to be delivered/picked up by the agency each day. Notify the vendor of necessary increases/decreases in the number of meals ordered within 8 hours of the scheduled delivery/pickup time. Errors in meal orders shall be the responsibility of the agency making the error.

2. Ensure that an agency representative is available at each delivery/pickup site, at the specified time on each specified delivery/pickup day to receive, inspect, and sign for the requested number of meals. This individual will verify the temperature, quality, and quantity of each meal service delivery/pickup. The agency assures the vendor that this individual will be trained and knowledgeable in the record keeping and meal requirements of the NSLP/SBP, and with local health and safety codes.

3. Notify the vendor within 2 days of the next month's proposed cycle menu, of any changes, additions, or deletions.

4. Provide the vendor with a copy of the federal NSLP/SBP meal pattern requirements, the USDA Food Buying Guide; and all other technical assistance materials pertaining to the food service requirements of the NSLP/SBP. The agency will, within 24 hours of receipt from the NSD, advise the vendor of any changes in the food service requirements.

5. Pay the vendor bi-monthly the full amount as presented on the bi-monthly-itemized invoice. Notify the vendor within 48 hours of receipt of any discrepancy in the invoice. Pay the vendor for all meals delivered/picked up in accordance with the agreement. Neither the California Department of Education nor USDA assume any liability for payment of the difference between the meals served by the agency that are ineligible for reimbursement.

6. Order only those commodities that can be incorporated into its meals. The agency shall be responsible for transferring all unused commodities at the close of this agreement. The agency is responsible for the fair market value of any commodity losses that may occur.

7. The agency shall retain control of the quality, extent, and general nature of the food service operation; and establish all program and non-program meal and a la carte prices.

GENERAL ASSURANCES

1. **Amendments and Waivers.** Any term of this agreement may be amended or waived only with the written consent of the parties.
2. **Sole Agreement.** This agreement constitutes the sole agreement of the parties and supersedes all oral negotiations and prior writings with respect to the subject matter hereof.
3. **Notices.** Any notice required or permitted by this agreement shall be in writing and shall be deemed **sufficient** upon receipt, when delivered personally or by courier, overnight delivery service, or confirmed facsimile, 48 hours after being deposited in the regular mail as a certified addressed to the party to be notified at such party's address or facsimile number as set forth below, or as subsequently modified by written notice.
4. **Severability.** If one or more provisions of this agreement are held to be unenforceable under applicable law, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (1) such provision shall be excluded from this agreement, (2) the balance of the agreement shall be interpreted as if such provision were so excluded and (3) the balance of the agreement shall be enforceable in accordance with its terms.
5. **Advice of Counsel.** Each party acknowledges that, in executing this agreement, such party has had the opportunity to seek the advice of independent legal counsel, and has read and understood all of the terms and provisions of this agreement.

CERTIFICATIONS

If this agreement is in excess of \$100,000, the agency and the vendor shall comply with all applicable standards, orders, or regulations issued:

Section 306 of Clean Air Act (42 USC 1857[h]), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738 and Environmental Protection Agency regulations

Certification regarding Lobbying Pursuant to 31 USC 1352 (Appendix A: 7 CFR Part 3018)

Disclosure of lobbying activities pursuant to 31 USC 1352 (Appendix A: 7 CFR Part 3018)

The vendor certifies that they are in compliance with:

Energy Policy and Conservation Act (OMB Circular A-102, Attachments O, paragraph 14.j)

Provisions of the Contract Work Hours and Safety Standards Act involving food service workers whose duties are manual and physical in nature (OMB Circular No. A-102, Attachment O, paragraph 14.f)

Executive Order 11246, entitled "Equal Employment Opportunity, " as amended by executive Order 11375 and Department of Labor Regulations

The parties have executed this agreement on the respective dates set forth below.

TERMS OF THE AGREEMENT:

This agreement will take effect commencing on 09/04/12 and shall end 06/14/13, but it may be terminated for cause by written notification given by either party with at least 60 days notice prior to the date of termination. The agency shall have the option to cancel this agreement if the federal government withdraws funds to support the NSLP/SBP. It is further understood that, in the event of cancellation of the agreement, the agency shall be responsible for meals that have already been ordered, assembled, delivered/picked-up in accordance with this agreement.

The agency and vendor with adhere to the following menu planning option: Traditional Food-based

In witness whereof, the parties hereto have executed this agreement as of the dates indicated below:

_____ Vendor Official Signature	_____ Agency Official Signature
_____ Printed Name and Title	_____ Printed Name and Title
_____ Telephone	_____ Telephone
_____ Date	_____ Date

