

**SCHOOL LUNCH SERVICE CONTRACT
(STANDARD)**

This agreement is made on May 24, 2021, between **NOB HILL CATERING, INC.**, a California corporation DBA **The LunchMaster**, with its principal place of business at 601 Taylor Way, San Carlos, California 94070 (hereinafter "Nob Hill") and Making Waves Academy Schools (hereinafter "Client"). The location(s) at which service is to be provided pursuant to the terms of this Contract is/are: Making Waves Academy Schools, 4123 Lakeside Drive, Richmond, CA 94806

RECITALS

Nob Hill is in the business of providing school lunch services to students and their families. Client is desirous of engaging the services of Nob Hill to provide a school lunch program for the benefit of Client on the terms and conditions set forth herein.

Therefore, in consideration of the mutual promises set forth below, the parties agree as follows:

AGREEMENT

1. **Term.** The term of this Agreement shall commence on July 2, 2021, and shall continue in full force and effect until June 30, 2022, unless otherwise terminated pursuant to the termination provisions of this Agreement.

A. If the parties desire to renew this contract renewal shall be completed pursuant to the terms of an addendum signed by the parties hereto, which addendum shall be attached to this contract and shall become a part hereof. If Client desires to terminate this contract without cause, notice of intent to terminate shall be given to Nob Hill a minimum of 60 days before the initial termination date or the termination date of any renewed term of this contract. If Client shall desire to terminate this contract for "cause", as defined below, notice of intent to terminate shall be given by Client a minimum of thirty (30) days prior to the initial termination date or the termination date of any renewed term of this contract. Notice of intent to terminate shall be given in the manner set forth in Paragraph 16 below. If the parties renew this contract the pricing grid, attached hereto as Exhibit B, shall be modified and attached to any such addendum from time to time.

B. For purposes of termination as set forth in this Paragraph 1, "cause" shall be defined as the willful failure of any party to this contract to substantially perform any duty allocated to that party under the terms of this contract. Cause may include, but is not limited to, failure to perform the services contracted for by Nob Hill

under the terms of this contract or failure of Client to make payment for services rendered in a reasonable and timely fashion.

2. **Services Provided.** Nob Hill agrees to institute a school lunch program at the facility operated by Client and in connection therewith agrees to provide the following services:

A. Prepare and deliver to students and their parents a nutritious and diversified school lunch menu. This contract shall be applicable to school lunch service to be provided during the regular school year only. If service is desired for a summer session or any extended school session the parties shall enter into a separate agreement applicable thereto. All meals shall be compliant with the requirements of the National School Lunch Program (USDA) meal patterns and minimum requirements. Payment shall not be required with respect to any meal which is not in compliance with the applicable standards.

B. Prepare and disseminate a method for menu review, ordering and payment online; or

Prepare a method for the school to order meals online on the understanding that the school will be responsible for payment upon invoice.

C. Prepare and institute a program for identification of students who have ordered and paid for meals in a reasonable and efficient manner to be agreed upon.

D. Nob Hill agrees to provide Client with access to and a license to use the Nob Hill proprietary point of sale system known as Mazevo. Client understands that in order to successfully implement and use the point-of-sale system Client shall be required to provide a laptop computer for each point-of-sale location with an appropriate internet connection (wifi or wired). In addition, Client will be required to acquire an appropriate bar code scanner for use with the system. In exchange for use of the proprietary point of sale system developed and owned by Nob Hill, Client agrees to pay a monthly or annual licensing fee of \$_____. If this agreement has been cancelled by either party and Client is no longer receiving meal service provided by Nob Hill, and after termination Client requires Nob Hill to produce documentation necessary for its use in an audit or other procedure, Client agrees to pay a reasonable fee to Nob Hill for retrieval and production of any such requested documentation.

E. Perform such other tasks as may be reasonable and necessary as agreed upon in connection with institution and performance of a school lunch program during the regular school year.

F. Section 104(d) amended Section 12 of the NSLA (42 U.S.C. 1760) to require state funding agencies participating in the National School Lunch Program to purchase for the program, to the extent practicable, domestic commodities or products. For purposes of this provision, the term "domestic food commodity or product" means

agricultural commodities produced in the U.S. and food products processed in the U.S. substantially using agricultural commodities that are produced in the U.S. (over 51% of the processed food comes from American produced products). Nob Hill hereby certifies that the percentage of U.S. content in the products supplied to Client shall be in compliance with this program requirement. Client reserves the right to review vendor purchase records to insure compliance with the buy American provisions. Nob Hill shall comply with the buy American provision for all contracts that involve the purchase of food as required by Title VII, C.F.R., Part 210.21(d).

3. **Delivery, Charges and Billing.**

A. The basic price per meal served and ordered online shall be established pursuant to the Pricing Grid attached hereto and marked as Exhibit B. The prices set forth on the Pricing Grid shall be valid and shall remain in force without change for the entire term of this Agreement as set forth in Paragraph 1 above. Any deviation from the Price Grid set forth on Exhibit A hereto shall be agreed upon in writing signed by both parties.

1. With respect to basic price meal service and reduced charge meal service ordered and paid online by students or their families, a processing fee of 3% will be added per purchase upon checkout. The processing fee shall be reflected in the sum due and payable upon checkout. A processing fee shall not be charged with respect to free of charge orders.

2. With respect to basic price meal service and reduced charge meal service paid online by program participants, and as to which payment is processed through a merchant account system resulting in funds being held in a cafeteria account maintained and owned by Client, Nob Hill shall generate an invoice to Client twice monthly, on the first and fifteenth day of each month during the term of the contract. Payment shall be made by Client out of the cafeteria account within 14 days of the date of each such invoice.

B. All meal service ordered by Client for free of charge or reduced charge meals shall be billed weekly or monthly unless otherwise agreed upon by the parties. All invoices received by Client from Nob Hill shall be due and payable within 30 days of the date of the invoice. If all sums due are not received by Nob Hill within 30 days of the invoice date the parties agree that a service charge calculated from the date of billing at the rate of 1.5 % per month shall be paid on all unpaid sums invoiced in addition to the amount originally invoiced. Client shall notify Nob Hill of any discrepancies claimed on any invoice within 5 hours/days of receipt. Upon notification of a discrepancy the parties shall confer and resolve any such discrepancy in a timely manner. This paragraph shall apply to all sums owed by Client to Nob Hill, whether for free of charge or reduced charge meals, or for any other product or service provided by Nob Hill to Client.

C. The Parties shall agree upon the specifics regarding the meals to be served. Attached hereto and marked as Exhibit A is a completed Meal Service Detail

form. The Meal Service Detail set forth therein shall be effective during the term of this contract unless replaced upon written agreement of the parties. Any deviation from the Meal Service Detail set forth on Exhibit A shall be set forth in a written agreement signed by both parties.

D. The prices set forth on Exhibit B shall include those items as agreed upon and set forth on Exhibit B. Only those specifically described items shall be offered at the price set forth. Any additional items requested shall be subject to separate charges and billing.

E. Client shall advise its Nob Hill account representative of any change in Client's scheduling which may impact meal delivery, including but not limited to dates of service and time of delivery, a minimum of 14 calendar days in advance of any such scheduling change. If Client is not aware of scheduling changes within sufficient time to give the notice required in this paragraph, Client shall give notice of the change immediately, upon said information becoming available to Client, no later than 4 p.m. on the date that the client becomes aware of the change. Nob Hill shall use its best efforts to accommodate client with respect to schedule changes. If notice of a schedule change is given in an untimely manner, and Nob Hill is unable to cancel, Client shall pay all fees associated with any such order. Notice shall be given by email and pursuant to the provisions of Paragraph 16 below.

F. Each meal delivery shall be accompanied by an assortment of beverage items, to include milk, in such a manner that there shall be one beverage available for program participants for whom a meal is provided. The beverage items shall be in the form of an assortment of the items available on each delivery date. Therefore, there can be no guarantee that everyone will receive his or her preferred beverage item on each delivery date. With respect to free of charge or reduced charge meals, it is understood that due to applicable regulations milk shall be supplied as the sole available beverage.

G. Nob Hill shall provide standard utensils and condiments for use with menu items as is appropriate. A maximum of two condiment packages per meal item ordered shall be provided. Client may order additional condiments other than the standard condiments made available with each delivery to be held in inventory by Client. Any such additional condiments as are, from time to time, available shall be billed separately. A list of items available shall be set forth on Nob Hill's website and shall be ordered through the supply order form as set forth on the Nob Hill website. Client agrees to assist Nob Hill to ensure that only individuals ordering meals shall use utensils and condiments provided on each delivery date.

H. It is the policy of Nob Hill to provide meals in excess of the number ordered by Client in order to be certain that there is no "shortage" of meals as a result of a clerical error, additional need and the like. Client agrees, however, that any extra meals consumed by Client or its representatives, in excess of those meals actually ordered, shall be billed at the price set forth in Exhibit B. Those program participants who have authorized students to receive an extra meal shall receive one of the extra

meals. As to any client using a "drop off" service, the school shall be responsible for tracking the identity of any student who shall have received an extra meal. Nob Hill shall provide appropriate documentation for reporting the identity of the student who has received any extra meal. Upon request, Nob Hill shall provide shelf stable meals. Client shall be invoiced for shelf stable meals upon order pursuant to the applicable billing procedures then in effect. If there shall be food items remaining on site after all meals ordered are served, said food items shall be returned to Nob Hill and shall be re-inventoried or disposed of as is appropriate. It shall be the responsibility of Client to advise school personnel and volunteers that "extras" are available for consumption only upon payment therefore. **WITH RESPECT TO SCHOOLS THAT ORDER MEALS DIRECTLY FROM NOB HILL WITHOUT THE PARTICIPATION OF STUDENTS OR THEIR FAMILIES PURSUANT TO NO COST OR REDUCED COST MEAL PROGRAMS, IT IS UNDERSTOOD THAT ONLY THE NUMBER OF MEALS ORDERED WILL BE PROVIDED AND THAT THE PROVISIONS OF THIS PARAGRAPH REGARDING EXTRA MEALS ARE NOT APPLICABLE.**

I. If Client or any school associated with Client shall fail to confirm the quantity of items presented for distribution, Nob Hill shall not be responsible for shortages, it being the understanding of the parties that the final responsibility for check in and confirmation of quantity of items delivered lies with client or schools associated with client. Client shall report any shortages immediately to Nob Hill (Lunch Master) corporate office before the delivery driver leaves the delivery location. Nob Hill shall attempt to deliver any missing items before meal service. If missing items are not delivered before the time set for meal service, Client will be invoiced only for complete meals served to students and shall not be invoiced for incomplete meals. If Client shall fail to notify Nob Hill of missing items or incomplete meals, allowing Nob Hill the opportunity to correct any delivery errors, Nob Hill shall not be responsible for any steps taken by client to rectify any such error.

J. With respect to Nob Hill owned equipment remaining on site overnight or on weekends, Client agrees that all such Nob Hill owned equipment necessary to provide the school lunch service shall be stored at a reasonably safe location on the school premises. Client shall undertake reasonable precautions to ensure that Nob Hill owned equipment shall be safe from theft, damage or other loss. Client staff and volunteers shall undertake reasonable steps to protect the Nob Hill owned equipment used in drop off deliveries, including placing switches in the "off" position upon termination of usage. The cost of repair or replacement (if repair is not possible) to Nob Hill equipment as a result of a lack of reasonable care in the use or storage of said equipment shall be reimbursed to Nob Hill by client upon presentation of documentation reasonably establishing the cost of repair or replacement of any such equipment. A list of Nob Hill owned property or equipment located at each delivery premise shall be attached to this agreement.

K. Nob Hill recognizes that school lunch programs at schools operate in different and unique ways. If Client is operating a school lunch program staffed by volunteers at which Nob Hill provides only a "drop off" service, Nob Hill shall provide Client with training materials appropriate for use by volunteers with respect to

appropriate and healthy food distribution methods. If Client has elected to contract for Nob Hill to provide a server in connection with the food distribution service as set forth in the Meal Service Detail (Exhibit A), it is understood that the assistance of volunteers with respect to meal distribution shall not be necessary. If Nob Hill undertakes the task of meal distribution pursuant to the terms of the contract with Client, Nob Hill shall be solely responsible for the distribution of meals to those for whom a meal has been delivered.

4. **Payment.**

A. It is understood that the basic price meal service shall be paid directly by students or their parents or guardians and that a means of billing and paying for said meals shall be instituted, online, to the reasonable satisfaction of Nob Hill and Client. Specific procedures for posting of the menu, ordering and payment shall be agreed upon by the parties and shall be implemented by Nob Hill.

B. With respect to free of charge or reduced price meal program participants, it is understood that client may place meal orders directly on behalf of those participants or Client may allow the option to the families participating in the free of charge or reduced price meal program to order online. Nob Hill and Client shall separately agree upon a protocol which may be reasonably made available to Client and its students for meal selection. Client shall be responsible for payment for all meals ordered under the free of charge or reduced price meal program to the extent that students participating in any program do not complete payment in full in a timely fashion.

C. In order to facilitate payment owed by Client or students, Client and Nob Hill agree to cooperate with respect to creation of a merchant account payment system. Nob Hill shall assist Client in creation and implementation of a merchant account system. Client shall be responsible for payment of all fees necessary to maintain the merchant account. Client understands that it shall be necessary to commence the process of creation of a merchant account within a sufficient time before the date upon which lunch service shall commence under the terms of this contract in order to allow the merchant account to be up and running upon the commencement of service. Client understands that if the merchant account service is not created in a timely fashion Client may technically be out of compliance with the rules and regulations applicable to operation of the school lunch program. To the extent that the failure of Client to timely create and implement the merchant account system is as a result of failure of Client to timely create the account, Nob Hill shall not be responsible for any of the results accruing therefrom.

D. It is understood that from time to time Nob Hill will issue meal credits to program participants as a result of meal service cancellation by participants as described in this agreement. All such meal service credits shall be used during the school year in which they were generated. Meal credits shall not be carried over from one school year to the following school year without a separate written agreement between the parties to that effect. Within 30 days of the termination of each school year during which this contract is in effect, Nob Hill shall create and present to the client a reconciliation

regarding the issuance of meal credits and the subsequent use of those meal credits. With respect to any unused meal credits, all funds held by Client in its cafeteria account or in any other manner which are applicable to unused meal credits shall be paid to and shall become the property of Nob Hill immediately upon presentation of a reconciliation setting forth, in reasonable detail, a determination of the unused credits and the sum due as a result thereof.

5. **Party Representatives.**

A. Client shall designate a site contact person who shall be the primary point of contact between Nob Hill and Client with respect to all issues related to this contract. The initial site contact person designated by Client is **Roger Marionneaux**, whose job title is **Lead Food Service Coordinator**. The contact information for the initial site contact person is: rmarionneaux@mwacademy.org (510)-262-1511(insert telephone number and email address). Client may change the identity of the contact person pursuant to notice given as set forth in Paragraph 16 below.

B. Nob Hill shall designate an account representative responsible for administration of the school account. The initial Nob Hill account representative shall be **Mike Giouzelis**. Nob Hill may change the identity of the contact person pursuant to notice given as set forth in Paragraph 16 below.

C. To facilitate operation of the lunch service program and prompt and satisfactory resolution of problems, all issues regarding the subject matter of this contract, including but not limited to the meal service provided, shall be reported by the Client primary contact person to the Nob Hill account representative as soon as is reasonably practical under the circumstances in order to facilitate prompt and satisfactory resolution of issues that may arise. The primary method of communication shall be email. If telephone contact is made, email contact shall follow. All issues shall be resolved, to the extent reasonably possible, using email.

D. [✓] The parties acknowledge and agree that during the term of this agreement, it will be necessary for Client to correspond with parents, guardians or other users or potential users of the school lunch services. Client agrees that Client will provide to Nob Hill a copy of any and all correspondence to parents, guardians or any other user or potential user of the school lunch service, regardless of the purpose of issuing such correspondence or the method of delivery. For purposes of this paragraph, "correspondence" shall include letters, notifications, flyers, inclusion in newsletters or any other form of communication directed to parents, guardians, users or potential users of the school lunch service whether by hard copy, electronic or other delivery methods.

6. **Termination By Client or Nob Hill.**

A. If Client desires to terminate this Agreement for the convenience of client, and without cause, Client shall give a minimum of sixty days' notice of termination. Notice shall be given in the manner described in Paragraph 16 below. If Client desires to terminate this contract for cause, as defined in Paragraph 2.B above, Client shall give 30 days' notice of termination. Notice shall be given in the manner described in Paragraph 16 below, and should include a description of the "cause" relied upon.

B. If this contract is terminated by Client pursuant to the provisions of Paragraph 6.A above, Client agrees that timely notification to parents or other users of the service shall be given. Any such notification shall notify those individuals required to be notified of the termination of the service and the effective date of termination, along with such other information regarding any new service as shall be required. Any such notification shall refrain from discussing motivational reasons for termination of the service and shall advise the parents or other users that service by Nob Hill will continue through the date of termination unless the parties have agreed, in writing, to the contrary. In the event of termination, the parties shall cooperate, to the extent reasonably possible, with respect to transition to such other provider as may be selected by Client.

C. For the period between the receipt of notification of termination pursuant to Paragraph 6.A above, and the termination date, Client agrees that orders placed with Nob Hill shall continue for the duration of this contract. A minimum number of meals for delivery on each delivery date shall be established as set forth in this paragraph. The minimum number of meals shall be calculated by a determination of the average number of meals delivered by Nob Hill to Client on each delivery date for the sixty days preceding notice of termination. Upon calculation of said average number of meals delivered, the minimum number of meals to be delivered after notice of termination and before the date of termination shall be 90% of said average number of meals delivered. If meals ordered for delivery to Client shall fall below the minimum established pursuant to this paragraph for three dates, Nob Hill may, at its option, terminate service to Client on ten days' notice of termination given pursuant to Paragraph 16 below or Nob Hill may elect to continue service until the termination date.

D. If Client has not terminated this agreement pursuant to Paragraph 6. A. above, Nob Hill reserves the right to terminate this agreement for its convenience and without a showing of good cause. If service is terminated pursuant to the terms of this agreement, Nob Hill shall give a minimum of 30 days written notice of termination in the manner described in Paragraph 16 below. Any such notice shall specify the last day of service under this contract.

E. If Nob Hill has not received payment of any charges invoiced pursuant to paragraph 3. B. within 60 days of the date of the original invoice, including payment of any applicable service charge, Nob Hill reserves the right, at its option, to terminate service under this contract. Nob Hill shall give a minimum of 30 days' notice of its election to terminate service under this paragraph. Notice shall be given pursuant to Paragraph 16 below. Any such notice shall specify the last date of service under the terms of this contract.

7. **Food Quality Standards.**

A. In performing the services required under this agreement, Nob Hill shall comply with all applicable federal, state, county and city statutes, ordinances and regulations. In addition, Nob Hill shall comply with all applicable health, safety and food handling codes and regulations.

B. Client and Nob Hill agree that stockpiling or storage of food made available for service on any given day is inappropriate. All food should be consumed on the date of delivery (with the exception of breakfast items which are delivered on the day prior to the date of consumption) or returned to Nob Hill for restocking, storage or disposal. Client agrees not to serve any student with an item of food not provided on the date of delivery and Client agrees that Nob Hill shall not be liable for any complaints, injuries or damages arising out of serving of stockpiled or previously delivered food items.

C. Attached hereto and marked as Exhibit A is a list of all items which shall be provided with each meal. Exhibit A includes a list of items which shall be included with standard meals and a list of items provided with each free or reduced price meal.

8. **Field Trip Requirements.** Each customer, whether the customer be an individual student or client, shall be responsible for cancelling meal orders resulting from absence of students from the school location due to field trips. Cancellation of meals ordered as a result of field trip requirements shall be completed online pursuant to the current ordering and cancellation deadline as set forth on the Nob Hill website. With respect to schools ordering directly on behalf of students the school shall be responsible for notifying and clarifying to Nob Hill any adjustment of meals needed as a result of scheduled field trips.

9. **Client Responsibilities.**

A. In consideration of the services provided by Nob Hill, Client agrees to retain Nob Hill as its exclusive meal service provider during each service date agreed to herein. This covenant shall not require Client to use the services of Nob Hill with respect to special events scheduled from time to time by Client and shall be effective only with respect to meal services for the days upon which Nob Hill is contracted to provide meal service. School holidays and teacher conference days are excluded from this exclusivity covenant.

B. Client shall distribute all communications regarding services from Nob Hill in accordance with Client's standard process of distributing communications to the families of students.

C. Client shall allow Nob Hill to attend and participate in regularly scheduled school events associated with familiarizing families with the services available

through Client and schools operated by Client, including but not limited to Back to School Night, parent teacher conference days, registration days and other promotional activities. In order to promote success of the program, Client and Nob Hill agree to cooperate with respect to promotion of student participation in the school lunch program.

D. Unless to do so is in violation of applicable rules and regulations, Client authorizes Nob Hill to communicate directly with students and families of students who are using the services provided by Nob Hill in order to efficiently administer the school lunch program. Client agrees that an introduction to the school lunch program and ordering instructions shall be included on the school website.

E. By checking the box adjacent hereto, Client agrees to provide an electronic copy of any related school logo or mascot to Nob Hill. Client hereby grants Nob Hill a non-exclusive license to use or display its logo or mascot, without limitation, on the website operated by Nob Hill and in any and all communications prepared or distributed by Nob Hill in connection with this Agreement.

F. Client acknowledges and agrees that all trademarks, copyrights, patents and other intellectual property owned by Nob Hill and its subsidiaries or affiliated companies, inclusive of the name and representative logos, may not be used without the written consent of Nob Hill for any purpose, including school printed publications, signage, online content or in any other manner.

10. **Force Majeure.** Neither party hereto shall be liable for any delay or failure in its performance under this contract caused by events beyond the control of the parties, including but not limited to acts of terrorism, war, riots, labor strikes, interruption of utility services, fires, floods, earthquakes, pandemics, and other natural disasters and medical circumstances. The Parties understand that this shall include delays in delivery related to unanticipated traffic conditions, road closures, extreme weather conditions, fires, and unanticipated general medical conditions. Client or ordering party shall remain responsible for payment for all meals not cancelled pursuant to the Nob Hill standard cancellation policy in effect upon the date of cancellation as posted on the Nob Hill website.

11. **Entire Agreement.** This contract and all exhibits hereto contain the entire agreement between the parties with respect to the subject of this contract, and each party acknowledges that no representations, inducements, promises or agreements have been made by or on behalf of any party except the covenants and agreements embodied in this contract. Any agreement, statement or promise not contained in this contract shall not be valid or binding between the parties with respect to the subject of this contract, except for a subsequent written modification signed by the party to be charged.

12. **Amendment.** This contract may be amended or modified at any time with respect to any provisions by a written instrument executed by Nob Hill and Client.

13. **Non-Assignment.** Neither party may assign or transfer this agreement, in whole or in part, without the prior written consent of the other party.

14. **Attorney Fees.** If any legal action is brought to enforce or interpret the provisions of this contract, the prevailing party shall be entitled to recover reasonable attorney's fees from the other party. These fees, which may be set by the court in the same action or in a separate action brought for that purpose, are in addition to any other relief to which the prevailing party may be entitled.

15. **Dispute Resolution.**

A. Mediation. The parties hereby agree that any dispute between the parties hereto arising out of or related to the subject matter of this Agreement or services to be provided pursuant to this Agreement shall be subject to non-binding mediation prior to implementation of any other dispute resolution process. The mediator shall be a retired judge or practicing attorney to be agreed upon by the parties. Mediation shall be held in San Mateo County, California. The cost mediation shall be borne by the parties equally. The parties agree that all individuals or entities necessary for resolution of any such dispute shall participate in the mediation process, including but not limited to party principals, insurers, consultants, agents, contractors and subcontractors as is necessary. If the dispute is not resolved by mediation, each party shall thereafter be free to commence litigation or other dispute resolution process at the party's discretion. If a court of competent jurisdiction shall determine that any party hereto shall have failed to adequately and meaningfully participate in the mediation process prior to commencement of litigation or other dispute resolution, said finder of fact shall be empowered to deny attorney's fee to a non-participating party that would otherwise have been entitled to an award of attorney's fees.

B. By initialing below, the parties hereby irrevocably and unconditionally agree that all disputes arising out of or related to the subject matter of this Agreement or related to the services to be provided pursuant to this Agreement shall be resolved pursuant to binding arbitration proceedings. Arbitration proceedings shall be conducted by a single neutral arbitrator to be agreed upon by the parties. If the parties are unable to agree upon the identity of a single neutral arbitrator within thirty days of a demand for arbitration by any party hereto, said arbitrator shall be appointed by the presiding judge of the San Mateo County, California Superior Court or his designee. Arbitration proceedings shall be conducted pursuant to the provisions of the California Arbitration Act, Code of Civil Procedure Section 1280 and following. Discovery shall be allowed as described in the California Arbitration Act. The award of an arbitrator shall be final and binding and subject only to such collateral attack as shall be allowed pursuant to the terms of the California Arbitration Act. The award of an arbitrator may be entered as a judgment in any court of competent jurisdiction.

Nob Hill Initials: _____

Client Initials: _____

C. Exclusive jurisdiction and venue with respect to all dispute resolution matters arising out of or related to this contract or related to the services to be provided pursuant to the terms of this Agreement shall lie in the courts of the State of

California in and for the County of San Mateo. The parties agree that the courts in and for the County of San Mateo are convenient to the parties. Arbitration proceedings commenced pursuant to this Agreement shall be held in San Mateo County, California.

D. This contract shall be governed by and construed in accordance with the laws of California.

16. **Notices.** Any notice required or permitted to be given under this contract shall be written, and may be given by personal delivery or by registered or certified mail, first class postage prepaid, return receipt requested. Notice shall be deemed given upon actual receipt in the case of personal deliver or upon delivery to the United States Post Office for mailing. Mailed notices shall be addressed as follows. Each party may change address by written notice in accordance with this paragraph.

To Nob Hill: 601 Taylor Way
San Carlos, CA 94070
Email: mike@nobhillcatering.com

To Client: Making Waves Academy Schools
4123 Lakeside Dr., Richmond, CA 94806
Email: rmarionneaux@mwacademy.org

17. **Insurance.** During the term of this agreement Nob Hill shall keep and maintain in place the following insurance:

A. Commercial general liability insurance, including bodily injury and property damage as follows:

\$10,000,000 Aggregate Limit
\$9,000,000 Per Occurrence Limit
\$50,000 Fire Damage
\$0 Medical Expense
\$9,000,000 Personal & Adv. Injury
\$10,000,000 Products/Completed Operations Aggregate

B. Worker's compensation insurance in accordance with the laws of the State of California with a statutory policy limit of \$1,000,000.00 per accident.

C. Commercial automobile liability insurance for all owned, non-owned and hired automobiles with a \$1,000,000.00 combined single limit.

D. Upon request, Nob Hill shall provide certificates of insurance to Client evidencing each of the coverages outlined above.

18. **Indemnification and Hold Harmless.**

A. Nob Hill shall indemnify and hold Client and its administrators, agents and employees harmless from and against all liability, loss, damage and expense, including reasonable attorney's fees, arising out of or resulting from the obligations of Nob Hill pursuant to the terms of this agreement to the extent that any such loss, expense, damage or liability was legally caused by the negligence, intentional act or willful act or omission of Nob Hill, including without limitation its agents, employees or others employed by Nob Hill directly or indirectly. The duty and obligation to defend shall arise immediately upon tender of a claim or lawsuit to Nob Hill by an indemnified party. Counsel shall be reasonably selected by Nob Hill or its insurance carriers in the reasonable discretion of Nob Hill or its insurance carriers.

B. Client shall indemnify and hold Nob Hill and its administrators, agents and employees harmless from and against all liability, loss, damage and expense, including reasonable attorney's fees, arising out of or resulting from the obligations of Client pursuant to the terms of this agreement to the extent that any such loss, expense, damage or liability was legally caused by the negligence, intentional act or willful act or omission of Client, including without limitation its agents, employees or others employed by Client directly or indirectly. The duty and obligation to defend shall arise immediately upon tender of a claim or lawsuit to Client by an indemnified party. Counsel shall be reasonably selected by Client or its insurance carriers in the reasonable discretion of Client or its insurance carriers.

19. **Incentive Program.** Nob Hill offers a fundraising program, the terms and conditions of which are described on Exhibit C hereto. If School desires to participate in said fundraising program, the parties shall sign Exhibit C signifying that each of the parties agrees to the terms and conditions set forth thereon.

Dated: _____

NOB HILL CATERING, INC.

By:

Dated: _____

MAKING WAVES ACADEMY
SCHOOLS

By:

**EXHIBIT A
MEAL SERVICE DETAIL**

1. Ingredients that may not be used within reasonable capability of Nob Hill (Nob Hill is a nut free facility):

Client Initials: _____

2. Beverage service (Unless otherwise noted, beverage service shall include an assortment of 1% milk, non-fat milk, non-fat chocolate milk, 100% fruit juice and bottled water):

We will provide 1% milk, non-fat chocolate.

3. Special meals or medically accommodative meals shall be provided for program participants upon receipt of a medical statement (Form CNP 925) as is reasonably necessary and as described on the medical statement.

4. Service shall be provided Monday through Friday unless noted below:

5. The time upon which the first meal service shall begin and the time at which meal service shall be completed:

First lunch meal service: 11:10, Meal service ends: 1 p.m.

6. Upon agreement between Nob Hill and meal server, meal servers may be paid in meal credits. Volunteers shall earn ___ credits per volunteer service shift:

[] Yes [✓] No

7. Client desires to provide paid meal servers. This service requires Client to order a minimum order of _____ meals per day. If Client does not meet the minimum order requirement for 21 consecutive service dates, the paid meal server service shall terminate and service there after shall be on a "drop off" basis. The date upon which the change from server provided to drop off service shall be provided to Client by notice as provided in Paragraph 16.

Yes No

8. Labeled Meals:

All meals shall be labeled. The cost of labeling shall be as set forth on Exhibit B (Pricing Grid). Client will receive a master list setting forth each student's name identifying the meal ordered in order to assist in meal distribution. If Client desires to accept this option, mark "Yes" below. If Client declines this option, mark "No" below.

Yes No

9. Meal Tickets:

Meal tickets shall be provided for each meal. The cost of meal ticker service shall be as set forth on Exhibit B (Pricing Grid). If Client desires to accept this option, mark "Yes" below. If Client declines this option, mark "No" below.

Yes No

10. Field trip:

See Paragraph 8.

11. Cancellation and refund policy:

A. Pre-ordered and pre-paid meals may be canceled in exchange for future LunchMaster account credit subject to the policy set forth in this paragraph. In order to receive full credit, cancellation shall occur on or before ____p.m. on the ____ day prior to meal service. Cancellations received between ____p.m. on the day preceding service and 7:00a.m. on the date of service shall receive 50% credit. No credit will be given for meals canceled after 7:00a.m. on the date of service. All meals credited on the LunchMaster account shall remain on the account for use with respect to future meal orders. **NO CASH REFUNDS WILL BE PAID.**

B. With respect to clients who order service directly from Nob Hill, whether said meal service be basic price, reduced charge, or free or charge, all cancellations or modifications of service requested shall be received by Nob Hill no later than 5:00p.m. on the Tuesday before the week during which delivery is to be made. No cancellations or modifications of Client ordered meal service shall be accepted after 5:00p.m. on the Tuesday before the week during which service is to be completed.

**EXHIBIT B
PRICING GRID**

Meal Type	Cost per meal
Breakfast	\$1.90
Lunch	\$3.00
Snack	\$0.81
Field Trip Lunch	\$3.00
Shelf Stable Lunch	\$3.50

Supplies & Condiments delivered each day of service at no additional cost:

Ketchup
Mustard
Mayonnaise
Taco Sauce
Soy sauce
Ranch
BBQ sauce
Tajin

Spork packet (includes spork, napkin and straw)
Tongs

Supplies & Condiments available for an additional cost:

Trays / Boats
Tapatio
Cholula Sauce

Clorox Wipes (strictly dependent on availability)
Gloves (strictly dependent on availability)

Supplies, Condiments, Field Trip Lunches and shelf stable meals as well as current pricing for billable items is available here: <https://lunchmaster.wixsite.com/lmforms>