

Dorset County Council



Delivered in Primary School Meal Framework

Contract DN300799

Issue No.1

(
1 August 2018 to 31 July 2022

User Guide

Introduction

This User Guide outlines the Framework Agreement in respect of the following:

Delivered In Primary School Meals

Reference: DN300799

This is a 4 year framework which is available for use by all schools and academies in Dorset (including Bournemouth and Poole).

Geographical Lots

The Framework is split geographically over the following Lots:

Lot 1 – West Dorset
Lot 2 – Weymouth & Portland
Lot 3 – Dorchester Area
Lot 4 – North Dorset
Lot 5 – Blandford Area
Lot 6 – Purbeck Area
Lot 7 – East Dorset
Lot 8 - Bournemouth
Lot 9 – Poole

See Appendix 4 (map of lots).

Awarded Contractors (full details on page 3)

Chartwells

Local Food Links

Forerunner

Star Cuisine

Weyco

Framework Point of Contact

We have endeavoured to outline basic information within the User Guide however if further details are required or you have a query on any aspect of this agreement then please do contact the lead below.

Contact:

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Awarded Contractors' Details

Chartwells	Unit 4, Balena Close, Creekmoor Industrial Estate, Poole, Dorset, BH17 7DB. Nicola.Hernon@compass-group.co.uk
Local Food Links	Unit 17, St Michael's Trading Estate Bridport Dorset DT6 3RR caroline.morgan@localfoodlinks.org.uk
Forerunner Personal Catering	Unit 1, 163 Stourvale Rd, Bournemouth, Dorset, BH6 5HQ declan@hotmealsonwheels.com
Star Cuisine Ltd	The Hub Kitchen, Baden Powell & St Peter's School, Mill Lane, Poole, BH14 8UL peter@starcuisine.co.uk
Weyco Services Ltd	Weyco Services Ltd, Weymouth College, Cranford Avenue, Weymouth, DT4 7LQ Andy_Pye@weymouth.ac.uk

Operation of the Framework

AWARD PROCEDURE

1 Option 1 – Direct Award

- 1.1 If a Contracting Party decides to order Services through the Framework Agreement, it may award a Call-Off Contract in accordance with the terms laid down in this Framework Agreement without reopening competition.
- 1.11 A Contracting Party may carry out direct award if a comparison is possible between the Contractor's provision, which for this Framework shall primarily be in consideration of the price as set out in the Price Schedule and the Contractor is able to meet the requirements of the Order such as delivery.

Option 2 – Conducting Further Competition

- 1.2.1 Where the terms laid down in this Framework Agreement are not precise or complete enough for the particular Call-Off Contract, further competition will be held with all those contractors on the Framework Agreement capable of meeting the particular requirement.
- 1.2.2 The basic terms and conditions of the Framework Agreement cannot be renegotiated and the Specification cannot be substantively changed.

- 1.2.3 Price: A Contracting Party may conduct further competition based on evaluation of 100% price where it seeking best price from Contractors to meet the particular circumstances of the individual Call-Off Contract, and no element of quality is to be evaluated.
- 1.2.4 Price and Quality: A Contracting Party, when conducting further competition, may at their option vary the % weighting ratios as part of any further competition if both quality and price is to be evaluated.
- 1.2.5 The Contracting Party may wish to conduct further competition to reflect any particular circumstances of the Call-Off Contract and weigh the evaluation / award criteria according to the Contracting Party's requirements.
- 1.2.6 The Contractor acknowledges that:
 - 3.2.6.1 Contracting Bodies may opt to use electronic methods for running their further competitions, and that evaluation of tenders may be included within tan electronic process;
 - 3.2.6.2 Interview, presentations and/or site visits may be required as part of the process at further competition;
 - 3.2.6.3 An electronic reverse auction may be conducted as part of the Call-Off Contract award process at further competition stage (even though an e-auction was not used to appoint Contractors onto the Framework itself).
 - 3.2.6.4 Whilst further competition is likely to be conducted directly by an individual Contracting Party, further competition may also be run by a Contracting Party on behalf of a collaboration or group of Contracting Parties where necessary or desired.
- 1.2.7 The Contractor acknowledges that each Contracting Party is independently responsible for the conduct of its award of Call-Off Contracts under the Framework Agreement and that the Council is not responsible or accountable for and shall have no liability whatsoever in relation to:
 - 3.2.7.1 the conduct of other Contracting Parties in relation to the Framework Agreement; or
 - 3.2.7.2 the performance or non- performance of any Call-Off Contract between the Contractor and any other Contracting Parties entered into pursuant to the Framework Agreement.
- 1.2.8 Subject to clauses 3.1.1 to 3.2.7 above, each Contracting Party may place an Order with the Contractor in a form agreed with the Contractor.
- 1.2.9 The Order constitutes an offer by the Contracting Party to purchase the Services subject to the terms and conditions of the Call-Off Contract.

**For guidance on carrying out a further competition please see accompanying document:
Conducting a Mini Competition**

AWARD CRITERIA

Submitted tenders were evaluated to establish a framework of suppliers who can meet the Specification and provide competitiveness of price.

Evaluations were carried out by officers of the Council who followed systematic and comprehensive process in accordance with the Council's procedures, using the following evaluation criteria and weightings:

PRICE:

Meal Price 50%

QUALITY

Tender Response 30%

Site Visit to Tenderer's Production Kitchen 20%

Awarded Lots

	Chartwell	Local Food Links	Forerunner	*Star Cuisine	**Weyco Services Ltd
West Dorset		X			
Weymouth & Portland	X	X			X
Dorchester Area		X			X
North Dorset	X				
Blandford Area	X	X			
Purbeck Area	X				X
East Dorset	X		X		
Bournemouth	X		X		
Poole	X			X	

PLEASE NOTE:

Star Cuisine – Can only offer a DIH or DIH DDR service.

Weyco Services Ltd – Can only offer a cook chill service.

Evaluation Outcome (scores out of 100)

The following is the outcome of the evaluation of the tenders submitted by each successful Contractor.

Quality element evaluated on a total weighing of 50%.

Price evaluated on a total weighing of 50%.

Cook Chill

		Chartwell	Local Food Links	Forerunner	Weyco Services Ltd
QUALITY	Total Weighting 50%				
Tender Response	<i>Sub weighting @ 30%</i>	27.01%	28.76%	16.31%	18.68%
Site Visit to Tenderer's Production Kitchen	<i>Sub weighting @ 20%</i>	19.64%	20%	18.80%	16.28%
PRICE	Total weighting @ 50%	49%	45%	42%	50%
FINAL SCORE		95.65%	93.76%	77.11%	84.96%

Delivered in Hot

		Chartwell	Local Food Links	Forerunner	Star Cuisine Ltd
QUALITY	Total Weighting 50%				
Tender Response	<i>Sub weighting @ 30%</i>	27.01%	28.76%	16.31%	17.19%
Site Visit to Tenderer's Production Kitchen	<i>Sub weighting @ 20%</i>	19.64%	20%	18.80%	18.07%
PRICE	Total weighting @ 50%	50%	44%	43%	45%
FINAL SCORE		96.65%	92.76%	78.11%	80.26%

Delivered in Hot Dirty Dish Return

		Chartwells	Local Food Links	Forerunner	Star Cuisine Ltd
QUALITY	Total Weighting 50%				
Tender Response	<i>Sub weighting @ 30%</i>	27.01%	28.76%	16.31%	17.19%
Site Visit to Tenderer's Production Kitchen	<i>Sub weighting @ 20%</i>	19.64%	20%	18.80%	17.72%
PRICE	Total weighting @ 50%	50%	44%	44%	44%
FINAL SCORE		96.65%	92.76%	79.11%	79.26%

Packed Lunch

		Chartwells	Local Food Links Ltd	Forerunner	Weyco Services Ltd
QUALITY	Total Weighting 50%				
Tender Response	<i>Sub weighting @ 30%</i>	27.01%	28.76%	16.31%	18.68%
Site Visit to Tenderer's Production Kitchen	<i>Sub weighting @ 20%</i>	19.64%	20%	18.80%	16.28%
PRICE	Total weighting @ 50%	42%	39%	41%	50%
FINAL SCORE		88.65%	87.76%	76.11%	84.96%

Cook Chill (Where staff employed by Contractor)

		Chartwells	Local Food Links	Forerunner
QUALITY	Total Weighting 50%			
Tender Response	<i>Sub weighting @ 30%</i>	27.01%	28.76%	16.31%
Site Visit to Tenderer's Production Kitchen	<i>Sub weighting @ 20%</i>	19.64%	20%	18.80%
PRICE	Total weighting @ 50%	49%	42%	12%
FINAL SCORE		95.65%	90.76%	47.11%

DIH (Where staff employed by Contractor)

		Chartwells	Local Food Links	Forerunner
QUALITY	Total Weighting 50%			
Tender Response	<i>Sub weighting @ 30%</i>	27.01%	28.76%	16.31%
Site Visit to Tenderer's Production Kitchen	<i>Sub weighting @ 20%</i>	19.64%	20%	18.80%
PRICE	Total weighting @ 50%	49%	42%	12%
FINAL SCORE		95.65%	90.76%	47.11%

Price Schedules

This is the Maximum cost per meal between 1st September 2018 August 31st 2019.

	MODEL OF SERVICE	PRICE PER MEAL Chartwell	PRICE PER MEAL Local Food Links	PRICE PER MEAL Forerunner	PRICE PER MEAL Star Cuisine	PRICE PER MEAL Weyco Services
A	Cook chill	£1.95	£2.10	£2.20	N/A	£1.90
B	Delivered in hot	£2.00	£2.25	£2.30	£2.20	N/A
C	Delivered in hot – dirty dish return	£2.05	£2.30	£2.30	£2.30	N/A
D	Packed Lunch	£2.17	2.30	£2.25	N/A	£1.90
E	Cook Chill – Staff employed by contractor (TUPE applies)	£2.17	£2.50	£3.80	N/A	£2.80
F	Delivered in hot – Dirty dish return Staff employed by contractor (TUPE applies)	£2.20	£2.50	£3.80	N/A	N/A

Is online ordering available?	Yes	Yes	Yes	No	Yes
Additional Costs for online ordering	£0	£0	£200 per annum	N/A	£500 one off charge

Do you provide Hygiene Awareness Training?	Yes	Yes	No	Yes	Yes
If yes please state the cost of this per person	£0	£0	N/A	£0	£0

Details of the Framework Agreement

Background

1. Procurement Process

- 1.1. This Framework Agreement was secured in accordance with regulation 27 of the Public Contracts Regulations 2015 under an EU compliant Open Tender Process.
- 1.2. The Council placed a contract notice on in the Official Journal of the European Union (OJEU ref 2017/S 193-396249 EN, publication date 7/10/2017) seeking expressions of interest from Providers for the supply of delivered in primary school meals.

Scope, Structure and Duration of the Framework Agreement

1. Scope

- 1.1. This Framework Agreement is for the provision of delivered in primary school meals for schools and academies in Dorset (including Bournemouth and Poole).

- 1.2. Meals must be produced at premises in Dorset and providers must have an office in Dorset from where the service will be managed, total capacity of the facility must be at least 1,000 meals per day.
- 1.3. Menus must be a minimum of a three week cycle (changed termly) and must be fully compliant with the National Food Standards.
- 1.4. The meal price tendered must not exceed £2.30 which is the current amount funded for each Universal Infant Free School Meal.
- 1.5. A maximum of 5 suppliers will be awarded a place on each lot.
- 1.6. The Contractors shall provide services in accordance with Specification, Terms and Conditions of the Framework Agreement and Call-Off Terms, to the rates stated in the Price Schedule.

2. Structure

- 2.1. This Framework Agreement is for the provision of delivered in primary school meals.
- 2.2. The Framework is split geographically over the following Lots:
 - Lot 1 – West Dorset
 - Lot 2 – Weymouth & Portland
 - Lot 3 – Dorchester Area
 - Lot 4 – North Dorset
 - Lot 5 – Blandford Area
 - Lot 6 – Purbeck Area
 - Lot 7 – East Dorset Area
 - Lot 8 – Bournemouth
 - Lot 9 – Poole

3. Duration

- 3.1. This Framework Agreement is for the provision of delivered in primary school meals.
- 3.2. The Framework is for a period of four years commencing 1 August 2018 and ending 31 July 2022.
- 3.3. Individual contracts awarded under the Framework may be of any reasonable duration (regardless of when they commenced, i.e., an individual call-off contract may outlive the expiry of the Framework itself). The duration of any call-off shall be subject to an individual Contracting Body's own legal guidance.

Framework Access and Potential / Classification Of Contracting Bodies

1. Access

- 1.1. This framework is available for all schools and academies in Dorset (including Bournemouth and Poole).
- 1.2. Before conducting any activity potential Contracting Bodies are required to complete Appendix 2 - User Agreement to request access of this Framework.
- 1.3. Full details of the classification of potential Contracting Bodies and End User's geographical areas and organisation classification as detailed below.

Specification

Specification for the Provision of Delivered in Primary School Meals.

1. The Contractor shall during the Framework period provide in accordance with the specifications set out in the Schedules and Appendices and with the terms of these conditions all of the catering services required for pupils, staff and visitors at the all schools which he supplies.
 - 1.1. The contractor will provide chilled meals, hot meals or packed lunches as appropriate to the school / Academy. Packed meals will only be required for the following schools / academies: Christchurch Infants, Rushcombe Primary, Trinity First, The Compass Centre, The Forum Centre, Sylvan Primary school, Corpus

Christi Primary, Queens Park infants, St Osmunds Middle School and for away days. The above schools currently receive packed lunches – There will be no requirement to provide packed lunches (with the exception of away day lunches) to any other school / academy.

2. The Contractor will provide service instructions and training to lunchtime catering assistants at schools / academies to ensure that meals are prepared and served to a high standard with the correct portion size.
3. The Contractor shall produce meals in a kitchen(s) within the County of Dorset, the Contractor will provide Staff, food, equipment, materials, and other things whatsoever required in the production of meals.
4. It will be the school / academy's responsibility to ensure that lunch time assistant staff (who are employed by the school) receive hygiene awareness training (Contractors may be able to provide this – please refer to pricing schedule).
5. In schools / academies where lunchtime assistants are employed by the Contractor hygiene awareness training will be the responsibility of the Contractor.
6. The Contractor shall allocate a Contract Manager who will be the primary contact for schools / academies for which a service is provided.
7. Schools / academies will be responsible for the repairs, maintenance and replacement of any equipment in school kitchens.
8. The Contractor shall be responsible for any repair, maintenance and replacement of any equipment in schools which belongs to the Contractor.
9. The Contractor shall be responsible for transporting all meals in an appropriate manner to schools / academies ensuring that meals arrive at the school within an agreed timeframe and in good condition, any containers, transportation boxes etc. will be provided by the Contractor.
10. TUPE will apply at any school where the catering staff are currently employed by the Contractor (currently the following schools have staff employed the Contractor: Lockyers Middle, Chickerell Primary, Bovington Primary, The Epiphany Primary staff at other schools are employed by the school (and this will continue).
11. The Contractor in providing the Services shall comply with all relevant policies, rules, procedures and standards of the school / academy.
12. The Contractor shall use working methods, equipment, materials and consumables, which minimise environmental damage.
13. If the Contractor becomes aware of any act or omission or proposed act or omission by the school / academy which may prevent or hinder the provision of the Services by the Contractor in accordance with this Contract, they shall forthwith notify the Employer in writing. Such notice does not release or excuse the Contractor from fulfilling their contractual obligations unless prevented from doing so by the school / academy or by circumstances under the school / academy's control.
14. The Contractor shall provide an office from which the Service will be managed. The office shall be located within the contract geographical area.
15. The Contractor must have a formal complaints procedure in place which must facilitate the appropriate handling, documenting and corrective actions of all complaints received from the Customer.
16. The Contractor shall note that school populations fluctuate over the course of the year. Natural fluctuations in school / academy populations such as epidemics, falling school rolls or small numbers shall be at the risk of the Contractor. However, the Head of each school / academy will be required to give 48 hours' notice to the Contractor of organised changes to the number of the Contractor's customers i.e. school trips, work experience, study leave, snow days, strike action etc., and provided such notice is given, these, too, will be at the Contractor's risk.

17. PAID MEALS

- 17.1. The Contractor will be expected to promote the Service alongside the provision for free meal entitlement.
- 17.2. The meal offered for this Service should be the same in all aspects as those for free meals including price.
- 17.3. Contractors should offer an online ordering system for parents so that the Employer or the individual schools have minimal administrative burden placed upon them for ordering and payment of meals. Schools / academies may choose not to take up this option.

18. THE QUALITY OF FOOD

- 18.1. The standard and quality of foods must be maintained throughout the contract period.
- 18.2. Without prejudice to any more specific obligations imposed by the terms of this Framework, it shall be the duty of the Contractor to ensure that all food provided by the Contractor is safe, nutritious and wholesome and is such as to be suitable for and likely to be well regarded by the persons to whom such food is provided.
- 18.3. All ingredients and products used in the production of meals shall be of a good quality. All materials and stores will be available always for inspection by the school / academy / Catering Officer.
- 18.4. The Contractor shall maintain procedures and systems to ensure the identification / traceability of any product or ingredient is possible at any stage of processing or production.
- 18.5. All items supplied under the Contract must conform to the provisions of the Food Safety Act 1990, all subsequent amendments to that said Act, to all Statutory Instruments Regulations and Orders made pursuant thereto, to the Weights and Measures Act 1985 notwithstanding exemptions in those Regulations for catering sales and Food Information for Consumer Regulations.
- 18.6. All ingredients used in any food provided by the Contractor under this Contract must conform in all respects to the Contract Standard.
- 18.7. All goods supplied under this Contract shall conform strictly to all relevant statutory regulations governing the sale and/or delivery of such goods in the UK.
- 18.8. The Contractor must operate procedures for the selection, approval and continued monitoring of its suppliers to ensure a robust supply chain.
- 18.9. Contractors should keep the use of food additives to a minimum and where possible should use products that do not contain artificial colourings and flavourings when an alternative natural product is available.
- 18.10. No irradiated food is permitted.
- 18.11. No genetically modified food is permitted.
- 18.12. No foods containing nut or nut origin is permitted.
- 18.13. Specific requests for meals to customers of ethnic, religious, vegan and other special medical conditions need to be provided for where possible. Medical dietary requirements should be referred to the Employer who will require a doctor or dieticians note to confirm the medical condition and for agreement. In specific cases, a reimbursement may be provided to the parent to enable them to provide the meals themselves.
- 18.14. Vegetarians must be catered for in accordance with the required standards.

19. MENUS

- 19.1. The aim of this framework is to provide meals that are nutritionally balanced and from the variety of food served should introduce pupils to healthy eating choices regardless of their age or culture, menus should reflect the recommendations as detailed in the following reports or any other subsequent reports or regulations: -
- a) The Nutritional Standards and regulations for school lunches
 - b) The School Food Plan
- 19.2. Contractors must ensure that all allergens are clearly identified on menus and on the online ordering website.
- 19.3. Contractors should note that menus should conform to any future legislation regarding nutritional standards or policies that the Employer may enforce.
- 19.4. The contractor shall pay for all food and ingredients.
- 19.5. Contractors are encouraged to use locally sourced products where practical. The Authority would expect Contractors to work in partnership to develop performance indicators regarding the sourcing of local produce and services .to include Fairtrade, MSC, freedom foods, free range eggs, red tractor etc. These will be reviewed as part of Framework management.
- 19.6. To maintain the pupil's interest and maximise the take-up of the meals, contractors shall be expected to produce menus for hot meals, which contain variety and show flair and initiative.
- 19.7. The Contractor shall submit to the Catering Officer for agreement a menu cycle (which shall be no less than a three-week cycle) no later than 8 weeks before the commencement of the contract in accordance with all legislation and policies
- 19.8. Menus shall be developed together with schools and shall be changed termly in each academic year to consider seasonal food items. New menus should be agreed and their nutritional content analysed at least a term in advance of them being used, at least 30% of the main meal items must be changed each term.
- 19.9. The contractor will carry out trials of new items with pupils before incorporating them within the menu structure.
- 19.10. Contractors are required to provide copies of their proposed menus for both cold packed lunches and hot meals with their tender submission. These should be based on a minimum of a three-week menu cycle.
- 19.11. The Contract Manager may, but not unreasonably require the contractor to vary the content or portion size of any proposed menu. The decision of the Contract Manager is final.
- 19.12. The school / academy requires that portion sizes and meal price reflect value for money, meet customer needs and provide the opportunity for adequate nutritional intake.
- 19.13. A Christmas lunch will be provided to pupils unless notified by the school – this meal will be at no extra cost.

20. COLD PACKED MEALS

- 20.1. Each packed meal should contain a mixture of protein, carbohydrate, fruit, vegetable and dairy products.
- 20.2. A variety of breads and other carbohydrates (e.g. Pasta, rice) should be used within the menu structure.
- 20.3. The packed meal should consist of 5 items as follows: -
- (a) A protein filled sandwich or roll or carbohydrate with protein (e.g. tuna pasta salad)
 - (b) Vegetable Item (e.g. carrot sticks, cherry tomatoes)
 - (c) Fruit (e.g. Fruit bag, piece of fruit, dried fruit)
 - (d) Dairy – Yoghurt, fromage frais
 - (e) One more item, which could consist of a healthy treat such as a cake, biscuit, etc.

- (f) Bottled water should be offered as an optional extra within the meal price (if the school does not require this then the cost must be deducted from the meal price)

20.4. Vegetarians must be catered for in accordance with the required standards.

20.5. Contractors will be required to provide outing meals to those schools who request it. The outing menu specification should be compiled to ensure that all food safety legislation is met. These lunches will be charged at the same price as the hot meals served at the school and must arrive at the school / academy within an agreed timeframe.

20.6. The menus will be subject to termly reviews.

21. PACKAGING AND LABELLING OF MEALS

21.1 The Contractor must pack the cold packed meals and its contents in suitable individual packaging as approved by the Contract Manager. Any required disposable cutlery i.e. forks, spoons and straws should be included where necessary.

21.2 Contractors shall use materials which minimise environmental damage.

Each individual package should be labelled in accordance with the Food Labelling Regulations which were made under the Food Safety Act 1990 and the Quantitative Ingredients Declaration (QUID) regulations, article 7 Directive 79/112/EEC as amended by Direction 97/4/EC made under the Food Safety Act, require labelling the percentage of main ingredient i.e. % of chicken. Packaging must also comply with The Food Information for Consumer Regulations. EU Food Information for Consumers Regulation (EU FIC)

21.3 The contractor shall provide details of all the products in one document. This will be issued to the schools to ensure that the labelling regulations above are met.

21.4 Each individual package should also be identified as a primary, adult, vegetarian or outing type meal.

22. PRODUCTION, ORDERING AND DELIVERY OF MEALS

22.1 PRODUCTION

22.1.1 The production and delivery of the meals shall be in accordance with all statutory provisions, all Food acts and food safety legislation whether in force now or in the future.

22.1.2 Contractors shall submit with their tender (Q11.2.1) an outline of their proposed arrangements for producing, keeping, transporting and delivering covering: -

- (a) the premises to be used for producing the both hot meals and cold packed lunches;
- (b) the timetable for producing, keeping, transporting and delivering of meals;
- (c) the conditions in which meals will be stored and transported, indicating temperatures and any temperature-controlled facilities which will be used for storage and transportation;
- (d) the means of transport to be used.

22.1.3 Any meals produced before 9 am on the day of delivery, should be stored and transported in temperature-controlled conditions in accordance with food hygiene regulations through the use of suitable containers.

22.2 ORDERING OF MEALS

- 22.2.1 The Contractor will maintain an office manned during normal office hours in order to be available to deal with any enquires from schools / academies.
- 22.2.2 Schools / academies may alter their requirements by telephone fax or to a dedicated email address up to 12 noon (Monday – Friday) 72 hours before delivery is required. If no call is received then the previous order shall be produced and delivered.
In case of short notice bad weather closure where the above notice has not been given to cancel meals and meals are not subsequently required, for free meals no reimbursement will be made, for paid meals the parent will be credited with a free meal”
- 22.2.3 Schools / academies requiring an outing meal will order a minimum of one week prior to delivery. These meals should be delivered to the school on the day before the outings take place if necessary. The number of meals normally delivered should be adjusted the day following delivery of these meals.
- 22.2.4 The Contractor shall note that school populations fluctuate over the course of the year. Natural fluctuations in school / academy populations such as epidemics, falling school rolls or small numbers shall be at the risk of the Contractor. However, the Head of Site will be required to give reasonable notice to the Contractor of organised changes to the number of the Contractor's customers i.e. school trips etc., and provided such notice is given, these too will fall at the Contractor's risk. The number of free transported meals may also change and this too will be at Contractor's risk, as will be any changes in receiving schools / academies and their locations.
- 22.2.5 The contractor should facilitate the ordering of meals via their website, which can be accessed by individual parents or via the School / academy website (see 22.7)
- 22.2.6 The ordering system for meals should allow for flexibility and encourage maximum uptake of the meals.

23 DELIVERIES

- 23.1 Meals shall be delivered to each receiving school no later than 11.30am on each school day.
 - 23.1.1 At each delivery location, the Contractor shall present a numbered deliver note. The receipt must make clear the number and type i.e. pupil/adult, paid/free, cold/hot meals being delivered. The delivery note should also include HACCP information on the delivery temperatures and where the meals have been left. One copy of the delivery note is to be left at the school / academy.
 - 23.1.2 On delivery, the meals should be stored in the agreed containers/equipment supplied by the Contractor at an agreed location within the school / academy.
 - 23.1.3 The contractor will be responsible for supply, maintenance, cleaning and replacement of the insulated containers for the storage/transportation of the meals.
 - 23.1.4 When entering and leaving or parking or using school sites the Contractor shall take extreme care. Vehicles may not be driven on school playgrounds when children are present, nor within 3 metres of any child.
 - 23.1.5 Delivery vehicles must be fitted with automatic reversing beepers.
 - 23.1.6 All vehicles and containers used for transportation and storage shall be hygienically clean at all times.
 - 23.1.7 The School / academy shall, if dissatisfied with the hygiene condition of a delivery vehicle, be empowered to condemn its load and instruct the driver to return to his base.
 - 23.1.8 Contractors will be expected to carry out risk assessment of on-site delivery to the schools and carry out the necessary action resulting from these assessments.

23.1.9 Any errors, omissions or shortages in the supply of meals must be immediately rectified. The Contractor shall ensure that sufficient reserves of food are available at all times to meet any supply difficulty.

24. MARKETING AND MERCHANDISING

- 24.1 Contractors are encouraged to take an innovative approach to merchandising and develop a marketing plan to encourage the take up of meals.
- 24.2 The plan should consider healthy eating requirements and how these link with curriculum activities. The plan should include as a minimum some of the following:
- Proposals for promoting the service to ensure that pupils entitled to a free meal take up their entitlement and incentives for parents to buy into the service to increase the take-up of paid meals;
 - Advertising proposals to promote the service;
 - Annual and periodic surveys and any development proposals;
 - Sponsorship of Healthy Eating initiatives;
 - Proposals for future menu development including taster sessions.
- 24.3 Contractors will carry out annually, market research on customer trends and take the necessary steps subject to the approval of the Contract Manager to introduce initiatives as a result of such surveys.
- 24.4 Contractors will supply the Contract Manager with the results of such surveys within 4 weeks of undertaking each survey.
- 24.5 The Contractor shall provide a website that can be accessed by schools, parents and the Council / School / academy giving details of menus and healthy eating promotions etc. Contractors are encouraged to expand this to enable parents to order & purchase, paid meals on-line. Contractors to provide information and a link to the contractor's web page to be used on the School / academy website.

25. FOOD HYGIENE

- 25.1 The Contractor shall demonstrate legal compliance at all times in terms of hygiene, safety, sourcing, manufacturing, composition, storage and distribution processes to ensure that all products comply with food standards and food safety legislation.

The Contractor must comply with any direction made by the Employer in respect of food hygiene and safety policies.

The Contractor must adopt a system of HACCP/ Kitchen Management in managing and monitoring food safety, this must include:

- A policy for temperature control e.g. the heating and storage of food.
- A policy to prevent the contamination for example a cleaning schedule that specifies the safe storage of food whilst cleaning operations are in process.
- A policy for pest control for example a procedure that specifies preventative actions.
- A policy for transportation of food.

The Contractors HACCP/Kitchen Management procedures should be available at all times for inspection.

All practices involved in the delivery of the service should: -

- a) prevent food from the risk of contamination including harmful bacteria, poisons and foreign bodies;
- b) prevent any bacteria present from multiplying to an extent which would result in the illness of consumers or the early spoilage of food;

- c) ensure a pleasant and safe working environment;
- d) prevent the risk of pest infection;
- e) promote a favourable image to the customers.

25.2 The Contractor shall ensure that in or about the provision of the service: -

- a) no children or animals shall be allowed in any area under the Contractors jurisdiction
- b) food is not carried in any vehicle or container with any other article which may contaminate the food or with any live animal or live poultry.

Appendix 1: Framework Call-Off Terms and Conditions

1. GENERAL PROVISIONS

1.1 Contractor's Status

- 1.1.1 At all times during the Contract Period the Contractor shall be an independent Contractor and nothing in the Contract shall create a contract of employment, a relationship of agency or partnership or a joint venture between the Parties and, accordingly, neither Party shall be authorised to act in the name of, or on behalf of, or otherwise bind the other Party save as expressly permitted by the terms of the Contract.

1.2 Entire Agreement

- 1.2.1 This Contract constitutes the entire agreement and understanding between the Parties in respect of the matters dealt with in it and supersedes, cancels or nullifies any previous agreement between the Parties in relation to such matters.
- 1.2.2 In the event of any conflict between the Order, the clauses of the Contract and any document referred to in those clauses, the conflict shall be resolved in the following order of precedence:
- a) the Order;
 - b) the clauses of the Contract; and any other document referred to in the clauses of the Contract

1.3 Notices

- 1.3.1 Any notice to be given under this Contract shall be in writing and shall be hand delivered or sent by first class mail to the address of the Contractor and the Contracting Body at the head of the Contract or such other address as that Party may from time to time notify to the other Party in accordance with this clause.
- 1.3.2 Provided the notice sent as above is not returned as undelivered it shall be deemed to have been received:
- a) if delivered by hand before 4pm on a Working Day, at the time of delivery, otherwise receipt will be deemed to occur at 9am on the next following Working Day; or
 - b) if delivered by first class inland mail, two Working Days after the day of posting
- 1.3.3 In proving the giving of a notice it shall be sufficient to prove that the notice was left or that the envelope containing the notice was properly addressed and posted.

1.4 Conflicts of Interest

- 1.4.1 The Contractor shall take appropriate steps to ensure that neither the Contractor nor its Employees or any servant, agent, Contractor or sub-contractor is placed in a position where there is or may be an actual conflict or a potential conflict between the pecuniary or personal interests of the Contractor or such persons and the duties owed to the Contracting Body under the provisions of this Call-Off Contract. The Contractor will disclose to the Contracting Body full particulars of any such conflict of interest which may arise.

2. SUPPLY OF GOODS OR SERVICES

2.1 The Goods or Services

- 2.1.1 The Contractor shall supply the Goods or Services in accordance with the Contracting Body's requirements in the Framework Agreement, the Specification, the Order, any obligations implied by Section 12 or 14 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982 and all relevant specifications applicable to such including those of the British Standards Institution or European equivalent (or if there be no such specification shall be of the highest standard).
- 2.1.2 The Contractor acknowledges that the Contracting Body relies on the skill and judgment of the Contractor in the supply of the Goods or Services and the performance of its obligations under the Contract.

2.2 Delivery

- 2.2.1 The Contractor shall deliver the Goods or Services at the time(s) and date(s) specified in the Order and strictly in accordance with the Specification at all times.

- 2.2.2 The Contractor shall not make delivery of the Goods or Services without the Contracting Body's prior approval.
- 2.2.3 Time of delivery shall be of the essence and if the Contractor fails to deliver the Goods or Services within the time specified by the Contracting Body, the Contracting Body may release itself from any obligation to accept and pay for the Goods or Services and/or terminate the Contract, in either case without prejudice to any other rights and remedies of the Contracting Body.
- 2.2.4 The Contracting Body shall be under no obligation to accept or pay for any Goods or Services delivered in excess of the quantity ordered. If the Contracting Body elects not to accept such over-delivered Goods or Services it shall give notice in writing to the Contractor to remove them within five Working Days and to refund to the Contracting Body any expenses incurred by it as a result of such over-delivery (including but not limited to the costs of moving and storing the Goods), failing which the Contracting Body may dispose of such Goods and charge the Contractor for the costs of such disposal. The risk in any over-delivered Goods shall remain with the Contractor unless they are accepted by the Contracting Body. The Contracting Body shall be under no obligation to accept or pay for any Goods or Services supplied earlier than the date for delivery stated in the Order.
- 2.2.5 In delivering the Goods or Services to the Premises the Contractor shall take all reasonable care to avoid injury to persons thereon and damage to property.
- 2.2.6 The Contractor shall comply with all reasonable security requirements relating to the Premises and shall ensure that all its Employees, agents and sub-contractors shall likewise comply with such requirements.
- 2.3 Ownership and Risk**
- 2.3.1 Ownership and risk in the Goods shall, without prejudice to any other rights or remedies of the Contracting Body, pass to the Contracting Body at the time of acceptance of delivery.
- 2.3.2 The Contracting Body disclaims all responsibility for the security of Goods delivered and left on the Premises by the Contractor if they should fail to obtain receipt for their acceptance from a person authorised to receive them.
- 2.3.3 All equipment belonging to the Contractor which is brought onto the Contracting Body's Premises shall be at the Contractor's risk.
- 2.4 Non-Delivery**
- 2.4.1 Where specified by the Contracting Body on dispatch of any consignment of the Goods, the Contractor shall send the Contracting Body an advice note specifying the date of dispatch and the volume of the Goods. Where the Goods, having been placed in transit, fail to be delivered to the Contracting Body on the due date for delivery, the Contracting Body shall, (provided that the Contracting Body has been advised in writing of the dispatch of the Goods), within ten (10) Working Days of the notified date of delivery, give notice to the Contractor that the Goods have not been delivered and may request the Contractor free of charge to deliver substitute Goods within the timescales specified by the Contracting Body or terminate the Contract.
- 2.5 Rejection**
- 2.5.1 The Contracting Body may by written notice to the Contractor reject any of the Goods or Services which fail to meet the Contract requirements. Such notice shall be given within a reasonable time after delivery to the Contracting Body of such Goods or Services. If the Council rejects any of the Goods or Services pursuant to this clause the Contracting Body may (without prejudice to other rights and remedies) either:-
- a) have such Goods or Services promptly, and in any event within five (5) Working Days, replaced by the Contractor with Goods or Services which conform in all respects with the Order and due delivery shall not be deemed to have taken place until such replacement has occurred; or
 - b) treat the Contract as discharged by the Contractor's breach and obtain a refund from the Contractor in respect of the Goods or Services concerned together with payment of any additional expenditure reasonably incurred by the Contracting Body in obtaining other Goods or Services in replacement provided that the Contracting Body uses its reasonable endeavours to mitigate any additional expenditure in obtaining replacement Goods or Services.
- 2.5.2 The issue by the Contracting Body of a receipt note for the Goods or Services shall not constitute any acknowledgement of the condition, quantity or nature of those Goods or Services.
- 2.5.3 Any Goods or Services rejected or returned by the Contracting Body as described in clause 2.5.2 shall be returned to the Contractor at the Contractor's risk and expense.
- 3. CONTRACT PERFORMANCE**
- 3.1.1 The Contractor shall perform its obligations under the Contract:-

- a) with appropriately experienced, qualified and trained Employees with all due skill, care and diligence;
 - b) in a timely manner; and
 - c) in compliance with all applicable legislation, including but not limited to, any obligations implied by Section 12 and 14 of the Sale of Goods Act 1979 and Section 2 of the Supply of Goods and Services Act 1982.
- 3.1.2 The Contractor shall ensure that the Goods or Services conform in all respects with the Specification and are fit and sufficient for all the purposes for which such Goods or Services are ordinarily used and for any particular purpose made known to the Contractor by the Contracting Body.

4. **PAYMENT AND CONTRACT PRICE**

4.1 **Contract Price**

- 4.1.1 In consideration of the Contractor's performance of its obligations under the Contract, the Contracting Body shall pay the Contract Price in accordance with clause 4.2.
- 4.1.2 The Contracting Body shall, in addition to the Contract Price and following evidence of a valid VAT invoice, pay the Contractor a sum equal to the VAT chargeable on the value of the Goods or Services supplied in accordance with the Contract.
- 4.1.3 Payment shall, unless otherwise stated, be deemed to be inclusive of all costs, expenses and overheads of any kind incurred by the Contractor including delivery costs.

4.2 **Payment and VAT**

- 4.2.1 In consideration of the Contractor performing its obligations under the Contract, the Contracting Body shall pay all sums due to the Contractor in cleared funds within thirty (30) days of receipt of a valid invoice.
- 4.2.2 Invoices must legibly state:
- a) the full name and address of the Contracting Body that ordered the Goods or Services together with the official order number;
 - b) the address of the Premises where the Goods or Services were delivered;
 - c) a full and proper description of the Goods or Services delivered at the price set out in the Pricing Schedule.
 - d) and such other requirements as set out in the Specification.
- 4.2.3 All payments will be made in sterling unless otherwise agreed by the Parties.
- 4.2.4 If the Contracting Body intends to withhold all or any part of a payment it must not later than 5 Working Days before the final date for payment give notice to the Contractor to that effect which notice must specify the amount proposed to be withheld and the ground for doing so.

4.3 **Recovery of Sums Due**

- 4.3.1 Wherever under the Contract any sum of money is recoverable from or payable by the Contractor (including any sum which the Contractor is liable to pay to the Contracting Body in respect of any breach of the Contract), the Contracting Body may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Contractor under the Contract or under any other agreement or contract with the Contracting Body.
- 4.3.2 Any overpayment by either Party, whether of the Contract Price or of VAT or otherwise, shall be a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.
- 4.3.3 The Contractor shall make any payments due to the Contracting Body without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Contractor has a valid court order requiring an amount equal to such deduction to be paid by the Contracting Body to the Contractor.

5. **STATUTORY OBLIGATIONS AND REGULATIONS**

5.1 **Discrimination**

- 5.1.1 The Contractor shall not unlawfully discriminate in the supply of the Goods or Services either directly or indirectly on such grounds as race, colour, ethnic or national origin, culture and linguistic background, disability, gender or sexual orientation, religion, belief or age and without prejudice to the generality of the foregoing shall not unlawfully

discriminate within the meaning and scope of the Sex Discrimination Act 1975, the Equal Pay Acts 1970 and 1983, the Disability Discrimination Act 1995, the Race Relations (Amendment) Act 2000, the Employment Equality (Sexual Orientation) Regulations 2003, the Employment Equality (Religion or Belief) Regulations 2003, the Human Rights Act 1998, the Employment Equality (Age) Regulations 2006 or other relevant legislation, or any statutory modification or re-enactment.

5.1.2 The Contractor shall at all times operate a policy of equal opportunity in both staffing and service delivery which accords with that of the Contracting Body. The Contractor will forward a copy of this policy to the Contracting Body when required to demonstrate its operation in the supply of the Goods or Services.

5.1.3 The Contractor shall take all reasonable steps to secure the observance of clause 5.1.1 by all servants, Employees or agents of the Contractor and all Contractors and sub-contractors employed in the execution of the Contract.

5.2 **The Contracts (Rights of Third Parties) Act 1999**

5.2.1 A person who is not a Party to the Contract shall not have any rights under or in connection with it.

5.3 **Sustainability**

5.3.1 The Parties are committed to the protection of the environment and to promote sustainable development, especially ways in which to eliminate waste, recycle and re-use.

5.3.2 The Contractor shall comply with the obligations regarding sustainability set out in the Specification.

5.4 **Health and Safety**

5.4.1 The Contractor shall comply with the requirements of the Specification and of the Health and Safety at Work etc Act 1974 and all other Acts, orders, regulations and codes of practice relating to health and safety which may apply to the performance of the Contract.

5.4.2 The Contractor shall promptly notify the Contracting Body of any health and safety hazards or any incident which causes personal injury or damage which may arise in connection with the performance of the Contract.

5.4.3 The Contractor shall make its health and safety policy statement available on request.

5.4.4 The Contracting Body shall be empowered to suspend the performance of the Contract in the event of non-compliance by the Contractor with its legal duties in health and safety. The Contractor shall not resume performance of the Contract until the Contracting Body is satisfied that the non-compliance has been rectified.

6. **CONTROL OF THE CONTRACT**

6.1 **Assignment and Sub-Letting**

6.1.1 The Contractor shall not transfer, assign or sub-let directly or indirectly to any person or persons any portion of this Contract without the previous permission of the Contracting Body.

6.1.2 Sub-letting any part of this Contract shall not relieve the Contractor of any obligation or duty attributable to the Contractor under this Contract. The Contractor shall be responsible for the acts and omissions of its sub-contractors as though they are its own.

6.1.3 The Contracting Body shall be entitled to assign the benefit of this Contract or any part of it and shall give written notice of any assignment to the Contractor.

6.2 **Waiver**

6.2.1 Failure by the Contracting Body or the Contractor to insist on strict performance of the Contract or to exercise any right or remedy upon breach of any provision of the Contract shall not constitute a waiver of the Contract conditions or a waiver of any subsequent breach or Default in the performance of the Contract.

6.2.2 The rights and remedies provided in this Contract are cumulative and not exclusive of any rights and remedies provided by law.

6.3 **Variation**

6.3.1 Subject to the provisions of this clause 6.3, the Contracting Body may request a variation to Goods or Services ordered provided that such variation does not amount to a material change to the Order.

- 6.3.2 The Contracting Body may request a variation by giving sufficient information for the Contractor to assess the extent of the variation and any additional cost that may be incurred. The Contractor shall respond to a request for a variation within the time limits specified by the Contracting Body.
- 6.3.3 In the event that the Parties are unable to agree a change to the Contract Price, the Contracting Body may:-
- a) agree to continue to perform their obligations under the Contract without the variation; or
 - b) terminate the Contract with immediate effect, except where the Contractor has already delivered part of all of the Order, and in such a case the Parties shall attempt to agree upon a resolution to the matter. Where a resolution cannot be reached, the matter shall be dealt with under the Dispute Resolution Procedure detailed in clause 9.2.
- 6.3.4 If the Parties agree the variation, the Contractor shall carry out such variation and be bound by the same provisions so far as is applicable, as though such variation was stated in the Contract.
- 6.4 **Severability**
- 6.4.1 If any part of this Contract becomes invalid, illegal or unenforceable, the Parties shall negotiate in good faith in order to agree the terms of a mutually satisfactory provision to be substituted which gives effect to their original intentions.
- 6.5 **Remedies in the event of inadequate performance**
- 6.5.1 In the event that the Contracting Body is of the reasonable opinion that there has been a material breach of the Contract by the Contractor, then the Contracting Body may, without prejudice to its rights under clause 8, do any of the following:-
- a) without terminating the Contract, itself supply or procure the supply of all or part of the Goods or Services until such time as the Contractor shall have demonstrated to the reasonable satisfaction of the Contracting Body that the Contractor will once more be able to supply all or such part of the Goods or Services in accordance with the Contract;
 - b) without terminating the whole of the Contract, terminate the Contract in respect of part of the Goods or Services only (whereupon a corresponding reduction in the Contract Price shall be made) and thereafter itself supply or procure a third party to supply such part of the Goods or Services;
 - c) terminate, in accordance with clause 8 the whole of the Contract; and/or
 - d) charge the Contractor for, and the Contractor shall pay any costs reasonably incurred by, the Contracting Body (including any reasonable administration costs) in respect of the supply of any part of the Goods or Services by the Contracting Body or a third party to the extent that such costs exceed the payment which would otherwise have been payable to the Contractor for such part of the Goods or Services and provided that the Contracting Body uses its reasonable endeavours to mitigate any additional expenditure in obtaining replacement Goods or Services.
- 6.5.2 If the Contractor fails to supply any of the Goods or Services in accordance with the provisions of the Contract and such failure is capable of remedy, then the Contracting Body shall instruct the Contractor to remedy the failure and the Contractor shall at its own cost and expense remedy such failure (and any damage resulting from such failure) within 10 (ten) Working Days of the Contracting Body's instructions or such other period of time as the Contracting Body may direct.
- 6.5.3 In the event that the Contractor:-
- a) fails to comply with clause 6.5.2 above and the failure is materially adverse to the interests of the Contracting Body or prevents the Contracting Body from discharging a statutory duty; or
 - b) persistently fails to comply with clause 6.5.2 above;
- the Contracting Body may terminate the Contract with immediate effect by giving the Contractor notice in writing.
- 6.5.4 Without prejudice to any other right or remedy which the Contracting Body may have, if any Goods or Services are not supplied in accordance with, or the Contractor fails to comply with any of the terms of, the Contract the Contracting Body shall be entitled to avail itself of any one or more of the following remedies at its discretion whether or not any part of the Goods or Services have been accepted by the Contracting Body:-
- a) to rescind the Order;
 - b) to reject the Goods or Services (in whole or in part) and return them to the Contractor at the risk and cost of the Contractor on the basis that a full refund for the Goods or Services so returned shall be paid forthwith by the Contractor;

- c) at the Contracting Body's option to give the Contractor the opportunity at the Contractor's expense to either remedy any defect in the Goods or Services or to supply replacement Goods or Services;
 - d) to refuse to accept any further deliveries of the Goods or Services but without any liability to the Contracting Body; and
- 6.5.5 to claim such damages as may have been sustained in consequence of the Contractor's breach or breaches of the Contract.

7. LIABILITIES

7.1 Liability, Indemnity and Insurance

- 7.1.1 Nothing in the Contract shall be construed to limit or exclude either Party's liability for:-
- a) death or personal injury caused by its negligence or that of its Employees;
 - b) fraud or fraudulent misrepresentation by it or its Employees; or
 - c) any breach of any obligations implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982;
- 7.1.2 Subject to clause 7.1.3 and clause 7.1.4 the Contractor shall indemnify and keep indemnified the Contracting Body in full from and against all claims, proceedings, actions, damages, costs, expenses and any other liabilities which may arise out of, or in consequence of, the supply, or late or purported supply, of the Goods or Services or the performance or non-performance by the Contractor of its obligations under the Contract or the presence of the Contractor or any Employees on the Premises, including in respect of any death or personal injury, loss of or damage to property, financial loss arising from any advice given or omitted to be given by the Contractor, or any other loss which is caused directly or indirectly by any act or omission of the Contractor. The Contractor shall not be responsible for any injury, loss, damage, cost or expense if and to the extent that it is caused by the negligence or wilful misconduct of the Contracting Body or by breach by the Contracting Body of its obligations under the Contract.
- 7.1.3 Subject always to clause 7.1.1 and clause 7.1.4, the aggregate liability of either Party for all Defaults resulting in direct loss of or damage to the property of the other under or in connection with the Contract shall in no event exceed £1,000,000 (one million pounds).
- 7.1.4 Subject to clause 7.1.1, in no event shall either Party be liable to the other for any loss of profits, loss of business, loss of revenue, loss of or damage to goodwill, loss of savings (whether anticipated or otherwise) and/or any indirect or consequential loss or damage.
- 7.1.5 The Contracting Body may, amongst other things, recover as a direct loss:
- a) any additional operational and/or administrative expenses arising from the Contractor's Default ;
 - b) any wasted expenditure or charges rendered unnecessary and/or incurred by the Contracting Body arising from the Contractor's Default (to include wasted staffing costs in the event of delayed delivery); and
 - c) the additional cost of procuring replacement Goods or Services following termination of the Contract as a result of a Default by the Contractor.
- 7.1.6 The Contractor shall effect and maintain the following insurances at its own expense for the duration of the Contract arising out of the Contractor's performance of its obligations under the Contract, including death or personal injury, loss of or damage to property or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Contractor:
- a) a valid policy or policies of public liability insurance with a minimum level of indemnity of £5 million for any one claim;
 - b) a valid policy or policies of employer's liability insurance with a minimum level of indemnity of £10 million for any one claim in respect of all sums the Contractor is found legally liable to pay for injury, illness or disease suffered by an employee of the Contractor acting in course of his duties;
 - c) a valid policy or policies of product liability insurance with a minimum level of indemnity of £5 million for any one claim.
- 7.1.7 The Contractor shall give the Contracting Body, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

- 7.1.8 If, for whatever reason, the Contractor fails to give effect to and maintain the insurances required by the provisions of the Contract the Contracting Body may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Contractor.
- 7.1.9 The provisions of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under the Contract.

7.2 Warranties and Representations

- 7.2.1 The Contractor warrants and represents that:-
- a) it has full capacity and authority and all necessary consents to enter into and perform its obligations under the Contract and the Contract is executed by a duly authorised representative of the Contractor;
 - b) it will supply the Goods or Services using reasonable care, skill and diligence using suitably qualified personnel and in accordance with generally accepted industry standards and practice.
 - c) in entering the Contract it has not committed any fraud;
 - d) no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or its assets which will or might affect its ability to perform its obligations under the Contract;
 - e) it is not subject to any contractual obligation, compliance with which is likely to have an adverse affect on its ability to perform its obligations under the Contract;
 - f) no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Contractor or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Contractor's assets or revenue.

8. DEFAULT, DISRUPTION AND TERMINATION

8.1 Termination

- 8.1.1 The Contracting Body may terminate the Contract with immediate effect by giving notice in writing where the Contractor is a company and in respect of the Contractor:-
- a) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or
 - b) a petition is presented for its winding up (which is not dismissed within 14 days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to Section 98 of the Insolvency Act 1986; or
 - c) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or
 - d) an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or
 - e) it is or becomes insolvent within the meaning of Section 123 of the Insolvency Act 1986; or
 - f) the Contractor undergoes a change of control within the meaning of section 416 of the Income and Corporation Taxes Act 1988 which impacts adversely and materially on the performance of the Contract. The Contracting Body may only exercise its right to terminate within six months after a change of control occurs.
- 8.1.2 The Contracting Body shall be entitled to terminate this Contract immediately and recover from the Contractor the amount of any loss resulting from such cancellation if, in relation to any agreement with the Contracting Body, the Contractor or any person employed by him or acting on his behalf shall have committed an offence under the Prevention of Corruption Acts 1889 to 1916, or shall have given any fee or reward, the receipt of which is an offence under sub-section (2) of Section 117 of the Local Government Act 1972.
- 8.1.3 The Contracting Body may terminate the Contract by giving written notice to the Contractor with immediate effect if the Contractor commits a material Default and if:
- a) the Contractor has not remedied the Default to the satisfaction of the Contracting Body within ten (10) Working Days, or such other period as may be specified by the Contracting Body, after issue of a written notice specifying the Default and requesting it to be remedied; or

- b) the Default is not, in the opinion of the Contracting Body, capable of remedy.
- 8.1.4 The Contracting Body shall have the right to terminate the Contract at any time by giving 30 days written notice to the Contractor.
- 8.1.5 The Contracting Body may terminate the Contract by giving written notice to the Contractor with immediate effect if the Framework Agreement is terminated for any reason whatsoever.
- 8.2 Consequences of Expiry or Termination**
- 8.2.1 Where the Contracting Body terminates the Contract under clause 8.1.3 and then makes other arrangements for the supply of Goods or Services, the Contracting Body may recover from the Contractor the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Contracting Body throughout the remainder of the Contract Period. The Contracting Body shall take all reasonable steps to mitigate such additional expenditure. Where the Contract is terminated due to the Contractor's Default, no further payments shall be payable by the Contracting Body until the Contracting Body has established the final cost of making those other arrangements.
- 8.2.2 Subject to clause 8 where the Contracting Body terminates the Contract under clause 8.1.4, the Contracting Body shall indemnify the Contractor against any commitments, liabilities or expenditure which would otherwise represent an unavoidable loss by the Contractor by reason of the termination of the Contract, provided that the Contractor takes all reasonable steps to mitigate such loss. Where the Contractor holds insurance, the Contractor shall reduce its unavoidable costs by any insurance sums available.
- 8.2.3 The Contracting Body shall not be liable under clause 8.5.2 to pay any sum which:-
- a) was claimable under insurance held by the Contractor, and the Contractor has failed to make a claim on its insurance, or has failed to make a claim in accordance with the procedural requirements of the insurance policy; or
- b) when added to any sums paid or due to the Contractor under the Contract, exceeds the total sum that would have been payable to the Contractor if the Contract had not been terminated prior to the expiry of the Contract Period.
- 8.2.4 Save as otherwise expressly provided in the Contract, termination or expiry of the Contract shall be without prejudice to any rights, remedies or obligations accrued under the Contract prior to termination or expiration and nothing in the Contract shall prejudice the right of either Party to recover any amount outstanding at such termination or expiry.
- 8.3 Disruption**
- 8.3.1 The Contractor shall immediately inform the Contracting Body of any actual or potential industrial action, whether such action be by its own Employees or others, which affects or might affect its ability at any time to perform its obligations under the Contract.
- 8.3.2 In the event of industrial action by the Employees, the Contractor shall seek the Contracting Body's approval to its proposals for the continuance of the supply of the Goods or Services in accordance with its obligations under the Contract.
- 8.3.3 If the Contractor's proposals referred to in clause 8.3.2 are considered insufficient or unacceptable by the Contracting Body acting reasonably then the Contract may be terminated with immediate effect by the Contracting Body by notice in writing.
- 8.3.4 If the Contractor is temporarily unable to fulfil the requirements of the Contract owing to disruption of normal business by direction of the Contracting Body, an appropriate allowance by way of extension of time will be approved by the Contracting Body. In addition, the Contracting Body will reimburse any additional expense reasonably incurred by the Contractor as a direct result of such disruption.
- 8.4 Recovery upon Termination**
- 8.4.1 On the termination of the Contract for any reason, the Contractor shall:
- a) immediately deliver to the Contracting Body all property that may have been provided to the Contractor by the Contracting Body.
- b) assist and co-operate with the Contracting Body to ensure an orderly transition of the provision of the Services to the replacement Contractor and/or the completion of any work in progress.
- 8.5 Force Majeure**
- 8.5.1 Neither Party shall be liable to the other Party for any delay in performing, or failure to perform, its obligations under the Contract (other than a payment of money) to the extent that such delay or failure is a result of Force Majeure.

Notwithstanding the foregoing, each Party shall use all reasonable endeavours to continue to perform its obligations under the Contract for the duration of such Force Majeure. However, if such Force Majeure prevents either Party from performing its material obligations under the Contract for a period in excess of six Months, either Party may terminate the Contract with immediate effect by notice in writing.

8.5.2 Any failure or delay by the Contractor in performing its obligations under the Contract which results from any failure or delay by an agent, sub-Contractor or Contractor shall be regarded as due to Force Majeure only if that agent, sub-Contractor or Contractor is itself impeded by Force Majeure from complying with an obligation to the Contractor.

8.5.3 If either Party becomes aware of a Force Majeure event or occurrence which gives rise to or which is likely to give rise to any such failure or delay on its part as described in clause 8.5.1 it shall immediately notify the other by the most expeditious method then available and shall inform the other of the period during which it is estimated that such failure or delay shall continue.

9. **DISPUTES AND LAW**

9.1 **Law and Jurisdiction**

9.1.1 This Contract shall be governed by and interpreted in accordance with English law and each Party agrees to submit to the exclusive jurisdiction of the English courts

9.2 **Dispute Resolution**

9.2.1 It is the intention of the Parties to settle amicably by negotiation all disagreements and differences on matters relating to this Contract. Accordingly it is agreed that the procedures set out in this Clause shall be followed prior to the service of written notice terminating this Contract or in relation to any matter of dispute between the Parties.

9.2.2 In the event that any disagreement or difference of opinion arises out of this Contract the matter shall be dealt with as follows:

- a) the Contracting Body's contracting officer and the Contractor representative shall meet to seek resolution. In the event that they do not meet within ten Working Days of the date on which either party convenes a meeting to resolve the matter or should they not be able to resolve the matter within ten Working Days of the first meeting, the matter shall be promptly referred by either Party to the next level of management within the respective organisations for immediate resolution.
- b) if within fourteen Working Days of the matter having been referred to the next level of management no agreement has been reached as to the matter in dispute, the Parties shall thereafter seek to determine the matter in dispute by adopting the procedure set out below.

9.3 An independent expert shall be appointed by agreement between the Parties. The Parties shall promptly furnish to such expert all information relating to the dispute to enable him to give a decision as to what course of action in his reasonable opinion ought to be followed to give an outcome equitable to the Parties taking into account the respective rights and obligations of the Parties.

9.4 The decision of the expert shall be final and binding on the parties.

9.5 The Parties shall share equally the fees and expenses of the expert unless the expert directs otherwise.

9.6 In respect of all other disputes either Party may refer the matter for decision to arbitration whereupon the Parties shall comply with the following provisions:

9.6.1 the arbitration shall be governed by the provisions of the Arbitration Act 1996;

9.6.2 the arbitration fees shall be met by the Contracting Body and Contractor in equal shares;

9.6.3 the decision of the arbitrator shall be binding on the Parties.

Appendix 2: User Agreement

Framework for the Provision of Delivered in Primary School Meals.

This form is available as a separate electronic document.

Please email: r.allen@dorsetcc.gov.uk

TO BE COMPLETED BY THE END USER ORGANISATION

Before conducting any activity under this framework, please complete this form and return it (by post, fax or email) to Dorset County Council (*return details below*).

USER AGREEMENT

I confirm that the End User Organisation detailed below wishes to access the above-mentioned Framework Agreement, and that in doing so the End User Organisation:

- will act in accordance with the guidance and instructions set out in this User Guide and in accordance with the Public Contracts Regulations 20015, as amended;
- will comply in all respects with the Framework Agreement and the Call-Off Contract terms and conditions, which it is deemed to accept in entering into this Agreement, and will not do anything that may put the Contracting Authority in breach of its obligations under the Framework Agreement.
- will inform the Council immediately if it becomes aware of any issue that may give rise to a breach of the Framework Agreement.
- accepts that it is independently responsible for the conduct of its award of Call-Off Contracts under the Framework Agreement and that the Contracting Authority is not responsible or accountable for the conduct of the End User Organisation in relation to the Framework Agreement or for the performance or non-performance of any Call-Off Contract between the End User Organisation and any framework provider.
- will indemnify, defend and hold harmless the Contracting Authority against all actions, claims, costs, expenses and damages arising from any claim by or against any framework provider pursuant to entering into a Call-Off Contract under the Framework Agreement.
- will co-operate with the Contracting Authority to provide all such information as may be required by the Contracting Authority to monitor a framework provider's performance under the Framework Agreement.

Definition: Contracting Authority means Dorset County Council

I confirm I am authorised to enter into this Agreement on behalf of the User Organisation detailed below:-

Name of User Organisation:	
Address:	
Telephone:	

E-mail:	
Name:	
Position:	
Signature:	
Date:	
Contractor(s) of Interest:	
Lots:	<input type="checkbox"/> Lot 1 West Dorset
	<input type="checkbox"/> Lot 2 Weymouth & Portland
	<input type="checkbox"/> Lot 3 Dorchester Area
	<input type="checkbox"/> Lot 4 North Dorset Area
	<input type="checkbox"/> Lot 5 Blandford Area
	<input type="checkbox"/> Lot 6 Purbeck Area
	<input type="checkbox"/> Lot 7 East Dorset Area
	<input type="checkbox"/> Lot 8 Bournemouth
	<input type="checkbox"/> Lot 9 Poole

Return this form to:

Via Post: Roger Allen, Dorset County Council, Dorset Procurement, County Hall, Colliton Park, Dorchester, Dorset, DT1 1XJ

Or Via Fax: 01305 221279

Or via Email to:

r.allen@dorsetcc.gov.uk

Dorset County Council



Dorset County Council Acknowledgement (To be completed by DCC)

Name:	
Position:	
Signature:	
Date:	

Appendix 3: Feedback Form

Framework for the Provision of Delivered in Primary School Meals.

This form is available as a separate electronic document.

Please email: r.allen@dorsetcc.gov.uk

Name of Contracting Body / End User Organisation			
Your Details (Name, Title, E-mail address etc)			
1	Name of Contractor engaged by your organisation		
2	Approximate value of business placed with the Contractor – per annum		
3	Method of procurement?	<input type="checkbox"/> Direct call off	
		<input type="checkbox"/> Further Competition	
4	If via Further Competition exercise, how many Contractors submitted a bid?		
5	Overall performance of the Contractor	<input type="checkbox"/> Excellent	<input type="checkbox"/> Adequate
		<input type="checkbox"/> Good	<input type="checkbox"/> Poor
6	Quality of meals provided	<input type="checkbox"/> Excellent	<input type="checkbox"/> Adequate
		<input type="checkbox"/> Good	<input type="checkbox"/> Poor
5	Response to any issues raised	<input type="checkbox"/> Excellent	<input type="checkbox"/> Adequate
		<input type="checkbox"/> Good	<input type="checkbox"/> Poor
6	Support provided by the contractor	<input type="checkbox"/> Excellent	<input type="checkbox"/> Adequate
		<input type="checkbox"/> Good	<input type="checkbox"/> Poor
7	Any other feedback:		

Access to Framework

Before conducting any activity under this Framework it is a requirement for potential Users to complete the User Agreement (Appendix 2 on pages 26 to 27) and return it to r.allen@dorsetcc.gov.uk.

User Guide

We have endeavoured to outline basic information within this User Guide however if further details are required or you have a query on any aspect of this agreement then please do contact the lead below.

Contact:

Roger Allen Senior Procurement Officer

Email: r.allen@dorsetcc.gov.uk Tel: 01305 221279

Dorset County Council



Dorset Procurement, County Hall, Colliton Park, Dorchester, Dorset, DT1 1XJ