

AMENDMENT NO. 1

TO

PUBLIC SCHOOLS OF BROOKLINE – FOOD SERVICE AGREEMENT

THIS AMENDMENT No. 1 (“Amendment”), dated as of July 1, 2018, is between **PUBLIC SCHOOLS OF BROOKLINE** (“SFA”) and **WHITSONS NEW ENGLAND, INC.** (“FSMC”), and collectively with SFA, the “Parties”).

WITNESSETH:

WHEREAS, the Parties entered into a certain agreement, dated as of July 1, 2017 (“Agreement”), pursuant to which FSMC was engaged to manage and operate the SFA’s food service operation in Brookline, Massachusetts; and

WHEREAS, Section 3.1 of the Agreement contemplates that the SFA shall have the option to extend the Agreement for three (3) additional one-year renewals (capitalized terms used herein without definition shall have the meaning given to them in the Agreement); and

WHEREAS, the Parties now desire to extend and amend the Agreement as more fully set forth below;

NOW, THEREFORE, in consideration of the promises herein contained and for other good and valuable consideration, the Parties hereto agree as follows:

1. The term of the Agreement is hereby extended for a period commencing July 1, 2018 through June 30, 2019.

2. Section 11.4 of the Agreement is hereby amended to reflect a new Administrative Fee of \$76,950.00 payable in ten (10) monthly installments (\$7,695.00) and a new Management Fee of \$41,040.00 payable in ten (10) monthly installments (\$4,104.00). These new Administrative and Management fees reflect a 2.6% increase in the May U.S. Consumer Price Index – Food Away from Home, Boston-Cambridge-Newton (formerly known as Boston-Brockton-Nashua) over the prior fiscal year.

3. The Guarantee set forth in Section 11.5 of the Agreement is hereby deleted in its entirety and replaced with the following:

“11.5 Guaranteed Return; General Funds Subsidy. FSMC projects the food service program hereunder will generate a loss of \$91,827.00 during the 2018-2019 Renewal Term (the “Guarantee”). This Guarantee is calculated based on the total revenues generated by the program on an annual basis, less the FSMC’s actual total costs of operating the program as identified in the FSMC’s monthly and annual operating statements provided hereunder. The SFA will transfer funds from its General funds account to cover this Guarantee. Except as and to the extent otherwise set forth in Section 11.5.1 below, the Guarantee is capped and cannot be adjusted unless by or through recommendation of the Food Service Advisory Committee (FSAC) to the Brookline School Committee. Should a recommendation of the FSAC require additional subsidy of the Guarantee, the School Committee shall vote to authorize the Guarantee to be adjusted. This will be the SFA’s and Whitsons’ exclusive remedy for Whitson’s failure to achieve the Guarantee, and in no event shall Whitsons be liable for any amount in excess of 100% of its Management Fee. The Guarantee for any Renewal Term shall be as mutually negotiated by the Parties and reflected in a duly executed Amendment to this Agreement”.

4. This Amendment may be executed in one or more counterparts. Each such counterpart and facsimile, digital or electronic signatures shall be deemed to be an original, but all of which taken together shall constitute a single instrument.

5. This Amendment shall become effective as July 1, 2018. Except as otherwise set forth herein, all other provisions, terms and conditions contained in the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the duly authorized officers of the parties have executed this Amendment, as of the date first above written.

PUBLIC SCHOOLS OF BROOKLINE

WHITSONS NEW ENGLAND, INC.

By: _____

By: _____

Name(printed): _____

Name(printed): _____

Title: _____

Title: _____