

# Food Services Agreement (Fee)

---

This food services agreement ("Agreement") dated July 1, 2024, is between Madison Board of Education ("**Client**") and Compass Group USA, Inc., by and through its Chartwells Division ("**Chartwells**"), who agree as follows:

## 1. Services/Responsibilities of the Parties

**A.** Client grants Chartwells the exclusive right to provide and manage the Client's food and beverage service program, and grants Chartwells the non-exclusive right to provide catering services (as requested) (collectively, the "**Services**") and the exclusive right to provide to students, employees, guests, and invitees of Client at the premises ("**Premises**") food and beverage products as set forth in the attached Statement(s) of Work ("**SOW**"), attached hereto as Exhibit A. This exclusivity provision shall be understood to grant Chartwells the right to be the exclusive commercial provider of food services during the regular school day, but shall not be understood to prohibit activities which are not reasonably construed as competitive, such as, without limitation, bake sales, fundraisers, and food sales associated with athletic or extracurricular activities.

**B.** A detailed responsibility summary of the Parties' responsibilities is set forth in Exhibit C, which is attached hereto and incorporated herein by this reference.

## 2. Term and Termination

**A.** The term of this Agreement shall begin on July 1, 2024 ("**Effective Date**") and end on June 30, 2025 ("**Term**"). The Agreement will continue for consecutive one year terms thereafter (each, a "**Renewal Term**"), unless terminated as permitted herein.

**B.** Either party may terminate this Agreement (or any SOW): (i) without cause upon 60 days' prior written notice or (ii) in the event of a Payment Default (as defined below). A non-breaching party may terminate this Agreement for cause if a party breaches this Agreement and fails to cure such breach within 30 days following written notice.

**C.** In the event of a termination for any reason, all amounts outstanding shall become due and payable to Chartwells immediately upon termination.

**D.** At the termination of this Agreement, the inventory of food and operational supplies shall remain the Client's property.

**E.** The termination or expiration of this Agreement shall not affect the rights, privileges, liabilities and/or responsibilities of the parties as they exist as of the effective date of termination. The parties shall cooperate fully with each other during the Term of the Agreement and subsequent thereto in order to ascertain and satisfy the liabilities of either party to the other.

## 3. Indemnification and Insurance

**A.** To the fullest extent permitted by law, each party shall indemnify, defend, and hold harmless the other party from any and all losses, damages, or expenses, including reasonable attorneys' fees, arising out of or resulting from claims or actions for bodily injury, death, sickness, property damage, any breach or default hereunder, or other injury or damage if caused by any negligent act or omission of, or breach by, or willful misconduct of the indemnifying party. Notwithstanding anything in the immediately preceding sentence to the contrary, Client shall be solely responsible for any and all contributions to state, local and/or other public sector retirement funds, systems and/or programs with respect to and/or on behalf of individuals who were Client employees immediately prior to the Effective Date and became Chartwells employees on the Effective Date (collectively, the "Public Sector Retirement Contributions"), and Client shall indemnify

and hold harmless Chartwells for any and all claims related to such Public Sector Retirement Contributions, including but not limited to claims for delinquent contributions, withdrawal liability, liquidated damages, interest and attorneys' fees. To effectively submit an indemnification claim, the indemnifying party must receive notice of the claim no later than ten days after the party to be indemnified receives notice of the claim or lawsuit. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR SPECIAL, INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR ANY DAMAGES CONSTITUTING LOST PROFITS, SUFFERED BY EITHER PARTY UNDER THIS AGREEMENT.

**B.** Chartwells shall maintain the insurance coverage set forth below provided by insurance companies authorized to do business in the State of Connecticut with an AM BestRating of A VII. A certificate of insurance indicating these amounts must be submitted prior to the execution of the contract:

Liability Insurance - Chartwells shall obtain and keep in force during this Agreement, for the protection of Chartwells, Commercial General Liability Insurance with combined single limit of not less than one million dollars (\$1,000,000) each occurrence for Bodily Injury & Property Damage with a general aggregate limit of not less than ten million dollars (\$10,000,000) and shall include, but be limited to, Personal Injury Liability, Broad Form Property Damage Liability, Blanket Contractual Liability, and Products Liability, and an Excess or Umbrella Liability policy with a limit of not less than fifteen million dollars (\$15,000,000) each occurrence and in the aggregate, covering Chartwells under this Agreement and shall deliver to the Client a certificate evidencing such policies and coverage within (30) days after the execution of this Agreement by the parties.

Workers' Compensation Insurance – Chartwells shall maintain workers' compensation insurance as required by state law covering all of its employees employed in connection with the Food Service operation.

1. Workers' Compensation – Statutory
2. Employer's Liability – one million dollars (\$1,000,000) each accident / each employee / policy limit

Automobile Liability Insurance – Chartwells shall maintain automobile liability insurance as required by state law with respect all owned, non-owned and hired automobiles in connection with the Food Service operations as follows:

1. Automobile Liability - five million dollars (\$5,000,000) Combined Single Limit each accident

The Madison Board of Education and the Town of Madison and their respective officers, agents, and employees shall be included as additional insured on the commercial general liability, automobile liability and excess/umbrella liability insurance policies.

The insurance policies shall provide for notice to the Madison Board of Education of cancellation of insurance policies thirty (30) days before such cancellation is to take

effect.

Chartwells and its insurers shall waive all rights of subrogation against the Madison Board of Education and Town of Madison, with respect to the commercial general liability, auto liability and workers compensation policies required herein for losses arising from work performed under the Agreement.

Minimum policy limits may be satisfied through a combination of primary, excess and/or umbrella policies.

The Client shall obtain and maintain insurance for the Food Service Facilities, service equipment, offices and utilities against risks covered by standard forms of fire, theft and extended coverage in such amounts and under such policies as appropriate.

Waiver of Recovery - Each party hereto waives its rights, and the rights of its subsidiaries and affiliates, to recover from the other party hereto and its subsidiaries and affiliates for loss or damage to such party's building, equipment, improvements, and other property of every kind and description resulting from fire, explosion, or other cause normally covered by standard broad form property insurance policies.

#### **4. Chartwells Vendors**

---

Chartwells shall purchase inventory, equipment, and services from sellers selected by Chartwells (each a "**Vendor**") under such terms Chartwells deems in its sole discretion as acceptable ("**Vendor Terms**"). All Vendor Terms are the exclusive obligation and property of Chartwells. Client does not have any liability under the Vendor Terms, and the Vendor Terms will not affect Client's obligations. Client accepts that Chartwells or its parent company, Compass Group USA, Inc. ("**Compass**") may receive volume, trade or cash discounts for items purchased as part of doing business at the Client Premise and that those discounts will accrue to Chartwells and/or Compass and will be passed back to Client.

#### **5. Financial**

---

**A.** The financial arrangements of this Agreement are set forth in Exhibit B.

**B. Payment Terms.** Client shall pay to Chartwells any amounts owed under this Agreement within 30 days of the invoice date, via Client check or electronic fund transfer. To dispute an invoice, Client must notify Chartwells specifying any billing errors within 30 days of invoice receipt. If Client fails to pay when due the full amount of any Client obligation under this Agreement ("**Payment Default**"), Client shall pay to Chartwells a default charge equal to 1.5% of the unpaid balance ("**Default Charge**"), which begins accruing on the first day following the due date. Chartwells's receipt and acceptance of any Default Charges does not constitute a waiver or cure of the Payment Default.

**C. Change of Circumstances.**

(i) The financial terms have been negotiated between the parties upon the condition that Chartwells will operate its Services at the same points of Service and remain in operation only the hours agreed to when Chartwells begins operations hereunder. If Client desires Chartwells to operate its Services for additional points of Service and/or additional hours, Client and Chartwells shall mutually agree on the appropriate financial arrangements for the new additional points of Service and/or additional hours.

(ii) The financial and operational terms of this Agreement are also based on conditions in existence on the date Chartwells commences service, including without limitation, Client's student population; labor costs (including but not limited to benefits and insurance costs); and food and supply costs. In the event of material changes in the conditions at the Premises (including but not limited to student population changes, migration to online/distance learning, school closures, disruption in operation, or changes in participation rates), the parties shall renegotiate the financial and operational terms of this Agreement. If the parties are unable to agree upon alternate financial and/or operational terms by the end of a 30 day negotiation period, Chartwells may terminate this Agreement and/or a SOW for cause effective upon 30 days' written notice.

(iii) If a Force Majeure Event causes the shutdown of the food service program operations, and in order to ensure the continuity of food service operations at the conclusion of such Force Majeure Event, Client shall continue to pay to Chartwells during the length of the Force Majeure Event, the Management Fee, Administrative Fee, and salaries of salaried employees. Such costs are annual costs incurred by Chartwells, but billed to Client on a monthly basis. As such, Client shall still be responsible for such costs even in the event of a temporary shutdown of services.

**D. Taxes/Assessments.** Chartwells shall pay when due all applicable federal, state, local, and other governmental taxes or assessments in connection with its respective obligations under this Agreement.

**E. Audit.** Chartwells shall keep all records relevant to this Agreement on file for a period of three years from the date the record is made. Chartwells will allow Client (upon at least five days prior written notice and at Client's sole expense at the location(s) where the records are normally maintained) to inspect the business records that are solely and directly relevant to the Services. The parties shall keep such information confidential in accordance with the terms of section 7. Records shall remain on the Client's property and shall be provided to the Client per request at no charge.

## **6. Employees**

---

**A.** Chartwells shall provide the necessary employees or personnel to perform its Services. Client shall conduct, to the extent permitted by law, criminal background checks, Department of Children and Families Registry checks, sexual offender registry checks, and employment verification checks in accordance with Section 10-222c of the Connecticut General Statutes for all Chartwells employees performing services in accordance with this Agreement who will have, or may have, direct contact with students. Chartwells shall require that any and all such employees comply with said background checks, shall provide, both at the commencement of the Agreement during the Term, the Client the identities of Chartwells employees who require background checking, and shall provide all necessary forms and/or documentation regarding such employees to the Client. Upon being hired, employees shall be subject to such health examination as proper federal, state and local authority may require in connection with their employment. Chartwells agrees that its employees and agents shall comply with and observe all applicable rules and regulations concerning conduct on the Premises that Client imposes upon Client's employees and agents and which are provided to Chartwells in writing.

**B.** All qualified and eligible employees of the Client working in food service operations prior to the Effective Date shall be given the right of first refusal for positions of employment with Chartwells in accordance with this Agreement prior to and upon the Effective Date.

**C.** Notwithstanding any other provision of this contract to the contrary, Client is solely responsible for any and all Public Sector Retirement Contributions, as defined in Section 3(A), and Chartwells shall not be liable or responsible for the payment of such Public Sector Retirement

Contributions or otherwise indemnify Client for Client's obligations with respect to the Public Sector Retirement Contributions.

D. Client shall not, during the term of this Agreement nor for one year thereafter, solicit to hire, hire, or contract with any employee, manager, director, or officer of Chartwells or its affiliates. In the event that Client breaches the terms of this provision, Client shall pay Chartwells two times the annual salary of such employee.

E. **The parties shall abide by the requirements of Connecticut law and regulations regarding non-discrimination and the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). The parties acknowledge their understanding that these regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin, and these regulations require that employers take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.**

F. The Client reserves the right to request the removal of any Chartwells employee from the performance of services in accordance with this Agreement and/or from Board property, including, without limitation, any Chartwells employee who violates health requirements or conducts himself/herself in a manner that is detrimental to the physical, mental, or moral well-being of the students. Such request for removal shall not be considered a breach of this Agreement.

## **7. Confidentiality**

---

A. Chartwells and the Client shall designate any information they consider confidential or proprietary, including recipes, surveys and studies, management guidelines, operating manuals, and similar documents which it regularly uses in the operation of their business or which they develop independently during the course of this Agreement. Information so designated and identified shall be treated as confidential by Chartwells and the Client, and Chartwells and the Client shall exercise the same level of care in maintaining the confidences of the other party as they would employ in maintaining their own confidences. All such materials shall remain the exclusive property of the party that developed them and shall be returned to that party immediately upon termination of this Agreement.

B. Consistent with the Family Educational Rights and Privacy Act (FERPA), Chartwells and its officials, agents, and employees who have involvement with or are performing services for the Client pursuant to this Agreement and who have a legitimate educational interest in student records shall be considered as "school officials" pursuant to 34 CFR § 99.31(a). To allow the sharing of records subject to state and federal confidentiality laws and to ensure that the required confidentiality of personally identifiable student information is always maintained, Chartwells and officials, agents, and employees of Chartwells who have involvement with or are performing services for the Client pursuant to this Agreement shall comply with the provisions of FERPA. For the purposes of this Agreement and the specific functions conducted pursuant to this Agreement, FERPA includes any amendments or other relevant provisions of federal law, as well as all requirements of 34 CFR Part 99 and 20 U.S.C. § 1232g. Nothing in this Agreement may be construed to allow Chartwells and its officials, agents, and employees who have involvement with or are performing services for the Client pursuant to this Agreement to maintain, use, disclose, or share student record information in a manner not allowed under state or federal law or regulation or rule or the Client policy or regulation.

C. Each party agrees that it will execute and comply with the Student Data Privacy Rider attached hereto as Exhibit D and made a part hereof.

## **8. Information Technology Security**

---

Chartwells may need to operate certain information technology systems not owned by the Client ("**Chartwells Systems**"), which may need to interface with or connect to Client's networks, internet access, or information technology systems ("**Client Systems**"). Chartwells is responsible for all Chartwells Systems, and Client is responsible for Client Systems, including taking the necessary security and privacy protections as are reasonable under the circumstances. If Chartwells serves as the merchant-of-record for any credit or debit card transactions in connection with any of the Services, then Chartwells will be responsible for complying with all applicable laws, regulations and payment card industry data security standards related to the protection of cardholder data ("**Data Protection Rules**"). If Chartwells Systems interface with or connect to Client Systems, then Client shall implement, at its own expense, the changes to the Client Systems that Chartwells reasonably requests and believes are necessary or prudent to ensure Chartwells's compliance with the Data Protection Rules. Each party shall indemnify, defend and hold harmless the other party from all claims, liabilities, damages and costs (including reasonable attorneys' fees) to the extent caused by the indemnifying party's failure to comply with its obligations in this section.

## **9. Proprietary Marks**

---

The names, logos, service marks, trademarks, trade dress, trade names, and patents, whether or not registered, of Chartwells ("**Chartwells Marks**") are proprietary. Client may not use the Chartwells Marks except as expressly permitted in writing. Upon termination of this Agreement, the Client shall discontinue the use and display of any Chartwells Marks and shall allow Chartwells to remove all goods bearing any such Chartwells Marks.

The names, logos, service marks, trademarks, trade dress, trade names, and patents, whether or not registered, of Client ("**Client Marks**") are proprietary. Chartwells may not use the Client Marks except as expressly permitted in writing. Upon termination of this Agreement, Chartwells shall discontinue the use and display of any Client Marks.

## **10. Notice**

---

All notices required under this Agreement must be made by registered or certified mail (return receipt requested) or overnight air courier guaranteeing next-day delivery to the addresses below. All such notice will be deemed to have been given upon receipt. Rejection or other refusal to accept such notice shall not affect the validity or effectiveness of the notice given.

To Chartwells: 2400 Yorkmont Road, Charlotte, NC 28217, Attn: CEO  
With a copy to: 2400 Yorkmont Road, Charlotte, NC 28217, Attn: General Counsel

To Client: Madison Board of Education, 10 Campus Drive, Madison, CT 06443, Attn: Director of Administrative Services

**11. Miscellaneous**

---

i) Each party shall comply with all federal, state and local ordinances, laws and regulations applicable to its respective obligations hereunder; ii) Chartwells shall obtain, and maintain at all times during the Term, all applicable licenses and permits that are required for its operation; iii) Chartwells is performing such Services as an independent contractor; iv) Nothing contained in this Agreement establishes an employment relationship, partnership or joint venture between the parties or the parties' employees; v) Neither party may assign or subcontract this Agreement to an unaffiliated business entity without the prior written consent of the other party; the parties may assign this Agreement to an affiliated company or wholly owned subsidiary with prior approval and without being released from any of their responsibilities hereunder; vi) This Agreement supersedes all prior and contemporaneous agreements, understandings and representations. Any modifications will be deemed effective only if such modification is in writing and signed by both parties; vii) If a party's performance of any obligations hereunder shall be delayed, prevented or hindered because of compliance with any governmental agency or authority, or because of riots, war, public disturbances, strikes, lockouts, fire, flood, Act(s) of God, epidemic, pandemic, or any other reason whatsoever which is not within the control of the party whose performance is interfered with and which, by exercise of reasonable diligence said party is unable to prevent ("**Force Majeure Event**"), the party so suffering may at its option suspend, without liability, the performance of its obligations hereunder (except for those obligations set forth in Section 5(C)(iii) above) during the period such cause continues, and, if mutually agreed, extend the term of this Agreement for the period of such suspension; viii) Neither party may deduct, setoff, or apply any payment owed against any sums due from the other party; provided, however, that in the event of a breach or default of a payment obligation by Client, Chartwells may (i) deduct, setoff, recoup, or otherwise apply any investment, deposit, advance, or prepayment made by Client under this Agreement against, and in satisfaction of, such breached or defaulted payment obligation and (ii) require that such investment, deposit, advance, or prepayment be replenished by Client as a condition of Chartwells's further performance under this Agreement; ix) This Agreement may be executed in any number of counterparts; x) The laws of Connecticut govern this Agreement; and xi) In the event of a conflict between this Agreement and any SOW, this Agreement will control, except for (a) matters that under the terms of this Agreement are to be established in the SOW and (b) provisions in the SOW which, by their express terms, are intended to supersede the corresponding provision in this Agreement.

**Compass Group USA, Inc. by and through  
its Chartwells Division**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Madison Board of Education**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Exhibit A:**  
**Statement of Work**

**A. Client Premises; Hours of Operation; & Responsibilities**

---

**Client Premises:** Kathleen H Ryerson Elementary School, 982 Durham Rd., Madison, CT 06443;  
J Milton Jeffrey Elementary School, 331 Copes Rd., Madison, CT 06443;  
DR Robert H Brown Intermediate School, 980 Durham Rd., Madison, CT 06443;  
Walter C Polson Middle School, 302 Green Hill Rd., Madison, CT 06443;  
Daniel Hand High School, 286 Green Hill Rd., Madison, CT 06443

1. Client shall, without cost to Chartwells, provide Chartwells, at all times during the Term, with a revocable license to use the necessary space for the operation of the Services and shall furnish, without cost to Chartwells all utilities and Facilities reasonable and necessary for the efficient performance of this Agreement by Chartwells including, but not limited to, heat, hot and cold water, gas, lights and electric current, garbage removal services, exterminator services, sewage disposal services, duct and vent cleaning, office space and equipment and telephone service. For purposes of this Agreement, the term "Facilities" shall include, without limitation, the food preparation, dining and storage areas, and suitably furnished office space at the Client Premises.

The Client retains the right to use, license, rent or lend out the food service facilities during non-school hours or weekends, provided that such use does not interfere with Chartwells use of the food service facilities to perform the Services under this Agreement. If mutually agreed upon by the parties, Chartwells may provide a staff member to be on duty for such third-party use, the costs of such staff member shall be considered a Chartwells' Cost of Business. The Client shall return food service facilities, including any food service equipment used, to Chartwells in the same condition as received, normal wear and tear accepted, after such use. The Client shall leave the Facilities and equipment in clean and orderly condition after each such use. The Client shall have unlimited access to all areas at each of the Premises, including the Facilities, for purposes of inspections and audits. Client further agrees to indemnify, defend, and hold harmless Chartwells from and against all claims, liabilities, causes of action, damages, judgments, attorneys' fees, and expenses which arise out of or are related to third-party use of the food service facilities. To avoid any doubt, the foregoing sentence shall not be read to include any claims, liabilities, causes of action, damages, judgments, attorneys' fees, and expenses which arise out of or are related to any negligent acts or omissions of any Chartwells employee utilized for any third-party use of the food service facilities.

2. The Client shall, at its cost and expense, provide the Facilities, equipment and floor space necessary for the efficient provision of Chartwells's Services hereunder. The Client shall maintain, repair and replace said equipment and Facilities at its own expense. The Client shall keep such equipment and Facilities maintained in a safe operating condition such that no Chartwells employee is exposed to or subjected to any unsafe situation which would violate the Occupational Safety and Health Act including, but not limited to, the general duty and the specific duty clauses thereof or any other similar federal, state or local law or regulation. However, if equipment provided by the Client becomes inoperative, hazardous or inefficient to operate, Chartwells shall have the right to undertake repairs or replacements at the expense of the Client if the Client fails to do so after having been given a reasonable amount of time to correct the equipment deficiency. Client shall permit Chartwells to have the use of all such equipment and Facilities in the performance of its



obligations hereunder, subject to the duty to exercise reasonable care in the use thereof. Chartwells agrees that all equipment and items of equipment now or hereafter furnished by the Client to Chartwells are the sole property of the Client and Chartwells agrees not to change, deface, or remove any symbol or mark of identity upon said equipment or items of equipment furnished by the Client.

3. In addition to the responsibilities set forth herein, Client shall be responsible for the items set forth in Exhibit C (Responsibility Summary).

**B. Chartwells Services & Responsibilities**

---

1. **Purchasing.** Chartwells shall purchase on Client's behalf, as an Operating Charge, all inventories of food, beverages, paper supplies, cleaning items, and other supplies necessary for the provision of the Services as detailed in Exhibit B; provided however, Chartwells shall invoice Client for the cost of such inventory, and upon receipt of payment, title to such inventory shall vest in Client.

2. **Food Services.** Chartwells shall provide:

a. **Dining Services.** Meal service in the cafeterias of the Client Premises listed above (and in temporary locations upon request) during agreed upon operating hours;

b. **Catering Services.** Catered food service for meetings, conferences, dinners, parties, and other functions, provided as mutually agreed on a per event basis.

3. **Smallwares and Expendable Equipment.** If necessary and with prior approval from the Client, Chartwells will provide (as an Operating Charge) an initial supply of china, flatware, glassware, cooking utensils, measuring/mixing tools, knife sharpening tools, bowls, pots, pans, linens, employee uniforms, and other related items needed for its services. If necessary and with prior approval from the Client, replenishment of par stock levels shall be at Client expense.

4. In addition to the responsibilities set forth herein, Chartwells shall be responsible for the items set forth in Exhibit C (Responsibility Summary), provided that the cost associated with such services shall be included as an Operating Charge.

**Exhibit B:**  
**Financial Arrangements**

Chartwells shall provide the Services hereunder on a Management and Administrative Fee basis whereby Chartwells shall receive a Management Fee and an Administrative Fee, as described herein, and shall be reimbursed for Chartwells's Costs of Business, as defined herein (collectively, the Management Fee, Administrative Fee and Costs of Business will be referred to as the "**Operating Charges**").

Client shall bear all Operating Charges resulting from the provision of Services.

**1. Operating Charges** include but are not limited to:

**a. Management Fee.** A charge of \$0.0631 per meal equivalent. For management fee purposes, the number of meal equivalents shall be determined by dividing the total of all sales revenue by the meal equivalency factor equal of 4.00.

**b. Administrative Fee.** Chartwells's administrative fee of \$9,934.10 per month for ten (10) months from September to June.

The renegotiation of price terms under this Agreement is permitted only by mutual agreement of both parties. Chartwells shall submit a proposed budget to the Client's Director of Administrative Services each year for the following school year, upon request, to be used by the Madison Board of Education in its budget process. Notwithstanding the foregoing: (i) the administrative fee shall be adjusted on the first day of each renewal term at a rate equal to the greater of the increase in the (1) Employment Cost Index, Private Industry, Compensation, Not Seasonally Adjusted - CIU201000000000A ("ECI") and (2) Consumer Price Index- Food Away From Home ("CPI") for the preceding year; and (ii) the management fee shall be adjusted on the first day of each renewal term at a rate equal to the greater of the increase in the (1) ECI and (2) CPI for the preceding year. All fee increases will be negotiated in good faith and by mutual agreement of the parties. In these negotiations, the parties agree to account for impacts, if any, to Chartwells' financials and agree to consider modifications to the food service program to address or mitigate such impacts.

**c. Cost of Business** include but are not limited to:

(i) The costs of all Chartwells labor performing services with respect to this Agreement, either on a full time or part time basis, including but not limited to wages (including overtime), salaries, vacation pay, holiday pay, Workmen's Compensation Insurance premiums or costs, unemployment insurance, F.I.C.A., group insurance premiums, payroll taxes, severance pay, travel expenses concerning this Agreement, regular health examination cost, pension cost, salary personnel Thrift Plan cost, employee meals, approved bonuses, sick pay, benefits and related costs and other similar costs;

(ii) The direct expense to cover payroll taxes and employee benefit costs (medical plans, life insurance, FICA, FUI, SUI, Workers' Compensation insurance, state disability insurance, 401(k), payroll, pension and benefit plan participation and processing and associated legal costs). Chartwells shall notify Client of any changes in the above, which may be adjusted periodically;

(iii) The costs of all Products, merchandise, materials, and supplies incurred with

respect to this Agreement;

(iv) The costs of all other operating expenses, including but not limited to such operating expenses as, vehicle expense; computer lease; computer access charges; bank charges; credit and debit card processing fees; cellular and long distance telephone; VPN corporate access charge; e-mail account charge; uncollected student accounts; liability insurance; third party quality assurance audits and evaluations; background checks; training; sales promotion; expendable equipment; taxes; licenses; merchandising; sales promotion; permits; parts and equipment and maintenance and rental thereof; small equipment rentals; postage; special security costs; and other similar cash losses or disappearances incurred by Chartwells on the Premises not involving Chartwells employees or agents; and

(v) Any additional expenses related to the provision of Services.

Chartwells will adjust the Operating Charges to reflect a) changes in any federal, state or local law, regulatory or legislative mandates; b) changes in any federal, state, or local taxes including social security taxes, unemployment taxes, or payroll taxes; c) an increase in the minimum wage rate or the enactment of any “living wage” or similar laws by any governmental entity; or d) an increase in employee benefits whether as a result of a change in federal, state, or local laws or a federal, state, or local legislative or regulatory mandate. Such increases will be based upon the projected change in costs to Chartwells from the date such change occurs. If an appropriate governmental authority determines that the Subsidy payment, either in part or in full, is subject to any sales tax or any similar tax, the full amount of such tax and any interest and/or penalties will be an Operating Charge, regardless of the year in which such determination is made.

**2. Guarantee Subsidy.** Chartwells guarantees that the bottom line of the operational financial report (exclusive of the cost of equipment repairs, maintenance, replacements, and smallwares) for the 2024-2025 school year will reflect a loss no greater than \$100,000. If the actual bottom line (exclusive of the cost of equipment repairs, maintenance, replacements, and smallwares) reflects a loss greater than this amount, Chartwells will pay to the Client the difference between the actual and the guaranteed amount, but in no event shall the reimbursement obligation exceed Chartwells’s combined Management and Administrative Fees. The Guaranteed Subsidy and Chartwells’s reimbursement obligation are based on the following conditions and assumptions. The Guaranteed Subsidy to the Client shall be reduced to account for increased cost or loss of revenue by Chartwells if the following conditions are not met during the school year:

- The number of days lunch meals are served during the school year will not be less than 179 Elementary School days, 179 Middle School days, and 171 High School days;
- Student enrollment for the term of the contract period will not be less than 2,300, including kindergarten;
- The agreed selling prices of base meals as defined by mutual agreement, will be \$3.75 for elementary schools (grades K-4), \$4.00 for lower middle (grades 5 & 6), \$4-5.50 for upper middle school (grades 7 & 8), and \$4-5.50 for high school (grades 9-12);
- Selling prices of a la carte selections will not be less than the prior year, and increases to selling prices shall be based on Chartwells’ recommendation and approved at the client’s discretion;
- No changes in legislation or regulation (e.g., minimum wages, fringe and benefits, taxes, unionization, etc.) that would impact the cost of Chartwells to provide the services;

- No strikes, work stoppages or school closings, and all make-up days due to inclement weather shall have at least equal sales revenue as a normal day of operation;
  - Service hours, service requirements, type and number of facilities selling food and/or beverages on Client Premises remain constant throughout the school year. Client shall not engage in direct competitive food sales;
  - The level of wages, salaries, and fringe benefits will not exceed \$677,000 annually. In the event of an increase in wages or fringe benefits payable to employees as a result of unionization or changes in minimum wage rates or taxes, the guarantee shall from the date of increase in wages, minimum wage rates, taxes or fringe benefits be adjusted by such actual increase; and
  - There will be no bad debts, including losses from uncollectible accounts.
- 3. Reporting:** Chartwells will provide monthly and other mutually agreed reports to the Client, which describe operating costs, meals per labor hour and meals served. Chartwells shall maintain such records (supported by invoices, receipts or other evidence) to support its monthly reporting responsibilities and shall submit monthly operating statements in a format mutually agreeable to both parties. Chartwells shall provide the Client with a year-end statement for each year during which services are provided pursuant to this Agreement.

**Exhibit C:**  
**Responsibility Summary**

[Responsibility Matrix shows the detailed responsibilities of both Chartwells and the Client. The costs associated with Chartwells responsibilities are treated as a Cost of Business and subject to reimbursement by the Client.]

	<u>CHARTWELLS</u>	<u>CLIENT</u>
<b>FOOD</b>		
Food Purchasing	X	
Processing of Invoices	X	
Payment of Invoices	X	
<b>NON-MANAGEMENT LABOR</b>		
Payment of regular full-time salaries	X	
Payment of student (part-time) salaries	X	
(if through Independent School Work Study Program)	X	
Payment of sick leave pay earned after Chartwells starts services	X	
Payment of holiday pay	X	
Payroll taxes	X	
Fringe benefits and insurance	X	
Preparation of payroll	X	
Processing of payroll	X	
Training and development cost	X	
<b>MANAGEMENT</b>		
Salaries	X	
Taxes, fringe benefits and insurance	X	
District and regional management costs	X	
Management relocation	X	
<b>ADDITIONAL ITEMS</b>		
Telephone local		X
Telephone long distance		X
Removal of trash and garbage from kitchen	X	
Payment for the removal of trash and garbage from Premises		X
Depreciation of equipment (if applicable)	X	
Replacement of china, glass, flatware		X
Initial inventory of dishes, silverware, and other foodservice equipment		X
Replacements of expendable equipment (pots, pans, etc.)		X
Repair to infrastructure (vents to outside, gas line)		X
Cost of repairing equipment		X
Fire insurance		X

Products and public liability insurance	X	
Gas and electric utilities metered to foodservice		X
	<u>CHARTWELLS</u>	<u>CLIENT</u>

**SUPPLIES**

Detergent	X	
Paper supplies	X	
Postage	X	
Taxes/licenses	X	
Pest control		X
Laundry	X	
Uniforms	X	
Menu paper	X	

**SALES AND USE TAX**

Sales & Use Tax on cash sales and purchases from Service vendor	X	
Sales & Use Tax on Board Plan and declining balance (if applicable)		X

**CLEANING**

Equipment and hoods		X
Vent from hoods to outside		X
Floors in food storage and food preparation areas		X
Floors in dining areas		X
Walls up to 6 feet		X
Walls above 6 feet		X
Ceilings and fans		X
Light Fixtures		X
Tables and Chairs (K-8: end of each lunch wave; 9-12: end of meal service)	X	
Locker Rooms (foodservice associates)		X
Public Restrooms		X

**SERVICES**

Bussing of dishes from tables in cafeteria, i.e. Self-bussing	X	
Banking receipts	X	

## Exhibit D:

### Student Data Privacy Addendum

In compliance with Conn. Gen. Stat. §§ 10-234aa *et seq.*

This Addendum (“Addendum”) is entered into on the dates indicated below between the Madison Board of Education (the “Board”) and Compass Group USA, Inc., by and through its Chartwells Division (“Contractor”) (collectively, the “Parties”) for the purpose of identifying the obligations of the Parties relative to the confidentiality of student data.

#### Article I. Definitions

For purposes of this Addendum, “directory information,” “de-identified student information,” “school purposes,” “student information,” “student records,” “student-generated content,” and “targeted advertising,” shall be as defined by Conn. Gen. Stat. § 10-234aa. “Education records” and “personally-identifiable information,” shall be defined by the Family Educational Rights and Privacy Act of 1974 (“FERPA”), codified at 20 U.S.C § 1232g (as amended); and its implementing regulations, 34 CFR 99.1 - 99.67 (as amended).

#### Article II. Purpose of Addendum

The Parties agree that the purpose of this Addendum is to detail the obligations of both Parties relative to the safety and confidentiality of student information, student records and student-generated content (collectively, “student data”), which student data may be provided to Chartwells in connection with Chartwells’ provision of food services management.

#### Article III. General Provisions

- A. The Parties agree that this Addendum controls over any inconsistent terms or conditions contained within any other agreement entered into by the Parties concerning student data.
- B. Any modifications made by Chartwells to its separate Privacy Policy or any other policy, procedure or practice of Chartwells regarding student data that is applicable to Client, shall be made in strict accordance with Connecticut laws as they may be amended from time-to-time and with this Addendum. Chartwells shall notify Client promptly of any such changes.
- C. All student data provided or accessed pursuant to this Addendum is and remains under the control of the Client. All student data are not the property of, or under the control of, Chartwells.
- D. The Client may request that Chartwells delete any student data in the Chartwells’ possession that is not (1) otherwise prohibited from deletion or required to be retained under state or federal law, or (2) stored as a copy as part of a disaster recovery storage system and that is (a) inaccessible to the public, and (b) unable to be used in the normal course of business by the Chartwells, provided the Client may request the deletion of

any such student data if such copy has been used by Chartwells to repopulate accessible data following a disaster recovery. Such request by the Client shall be made by electronic mail to Chartwells. Chartwells will delete the requested student data within fifteen (15) calendar days of receiving such a request.

- E. Chartwells shall not use student data for any purposes other than those authorized in this Addendum, and may not use student data for any targeted advertising.
- F. If Chartwells receives a request to review student data from a student, parent, or guardian, Chartwells agrees to refer that individual to the Client and to notify the Client within five (5) business days of receiving such a request. Chartwells agrees to work cooperatively with the Client to permit a student, parent, or guardian to review personally identifiable information in student data that has been shared with Chartwells, and correct any erroneous information therein, by following the amendment procedures outlined in the Client's Confidentiality and Access to Education Records Policy.

#### **Article IV. Security and Confidentiality of Student Data**

- A. As applicable, Chartwells and the Client shall ensure that they each comply with the FERPA.
- B. Further, Chartwells shall, as applicable, take actions designed to ensure the security and confidentiality of student data, that, based on the sensitivity of the data and the risk of unauthorized access, include but are not limited to, as applicable:
  - 1. Using technologies and methodologies consistent with the guidance issued in the American Recovery and Reinvestment Act of 2009, Public Law 111-5, § 13402(h)(2), 42 U.S.C. § 17932;
  - 2. Maintaining technical safeguards relating to the possession of education records in a manner consistent with 45 C.F.R. 164.312;
  - 3. Otherwise meeting or exceeding industry standards relating to the safeguarding of confidential information.

#### **Article V. Prohibited Uses of Student Data**

- A. Chartwells shall not use student data for any purposes other than those authorized pursuant to this Addendum.
- B. Chartwells shall not retain, and the Board shall not otherwise make available, any student data upon completion of the contracted services, except a student, parent, or legal guardian of a student may choose to independently establish or maintain an



electronic account with Chartwells after the expiration of this Addendum for the purpose of storing student-generated content.

- C. During the entire effective period of this Addendum, the Client shall have control of any and all student data provided to or accessed by Chartwells. If a student, parent or guardian requests deletion of student data, Chartwells agrees to notify the Client immediately, but no later than five (5) business days after receiving such a request, and agrees to not delete such student data because it is controlled by the Client. Chartwells shall destroy any and all student data within a reasonable period of time if the Client requests the deletion of such student data.
- D. Chartwells shall not collect, store, or use student data or persistent unique identifiers for purposes other than the furtherance of school purposes, as determined by the Client.
- E. Chartwells shall not sell, rent or trade student data. In the event Chartwells merges or is purchased by another entity, Chartwells must notify the Client in writing and receive written approval from the Client prior to providing for any purpose any student data covered under this Addendum to its successor.

**Article VI. Duties Regarding Unauthorized Release, Disclosure or Acquisition of Student Data.**

- A. As applicable, Chartwells shall comply with Con. Gen. Stat. § 10-234dd.

**MADISON BOARD OF EDUCATION**

**By:**

\_\_\_\_\_

**Name:**

\_\_\_\_\_

**Title:**

\_\_\_\_\_

**Date:**

\_\_\_\_\_

**COMPASS GROUP USA, INC., by and through its Chartwells Division**

**By:**

\_\_\_\_\_

**Name:**

\_\_\_\_\_

**Title:**

\_\_\_\_\_

**Date:**

\_\_\_\_\_