

**FOOD SERVICES AGREEMENT
TOOELE COUNTY DIVISION OF AGING SERVICES
SWITCHPOINT INDUSTRIES, INC.**

AGREEMENT dated this 29th day of August, 2023, by and between Tooele County, a political subdivision of the State of Utah ("County"), and Switchpoint Industries, Inc. ("Switchpoint").

WHEREAS, County issued a Request for Proposals seeking a vendor to provide prepared meals for County's Home Delivered Meal Program (aka Meals on Wheels) and County's Congregate Meal Program; and

WHEREAS, Switchpoint submitted a proposal in response to the Request for Proposals; and

WHEREAS, County desires to accept Switchpoint's proposal; and

WHEREAS, Switchpoint desires to provide the required meals and related services;

THEREFORE, the parties mutually agree as follows:

1. **TERM.** This Agreement shall commence on September 1, 2023, and shall terminate on August 31, 2026. The parties may then extend this Agreement for up to two additional one-year periods.
2. **PAYMENTS.** During the first two years of this Agreement, Switchpoint shall charge, and County shall pay:

Home Delivered Meal Program

Senior Daily Meal	\$4.51 per meal
Paper Goods	\$1.00 per meal

Congregate Meal Program

Senior Daily Meal	\$4.51 per meal
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Labor/Wages

\$1,000.00 per week

For the third year and any extended years of this Agreement, the parties may adjust the above amounts pursuant to mutual written agreement.

After each calendar week during which meals are provided, Switchpoint shall invoice County for the amount due for that week, itemized according to above table. County shall pay each such invoice within 30 days of receipt.

3. SWITCHPOINT'S RESPONSIBILITIES

Switchpoint shall prepare meals for County's Home Delivered Meal Program and County's Congregate Meal Program pursuant to this Agreement, the Request for Proposals, and Switchpoint's proposal.

Switchpoint shall comply with all Federal, state, and local laws and regulations governing the preparation, handling, and serving of foods.

Switchpoint shall obtain, post as required by law, and keep in effect, all required licenses, permits, and food handler's permits.

Every Switchpoint employee who assists in meal preparation shall be free of communicable diseases and shall obtain and maintain a valid food handler's permit.

Switchpoint shall hire all employees necessary to perform its obligations pursuant to this Agreement.

Switchpoint shall pay all Federal, state, and local taxes assessed in connection with the operation of its services.

Switchpoint is solely responsible for all income tax withholding, social security withholding and contributions, workers compensation, and other taxes on the wages of its employees.

Switchpoint shall comply with applicable Federal, state, and local laws and regulations pertaining to wages and hours of employment.

Switchpoint shall purchase all required inventory, equipment, and services from vendors selected by Switchpoint. County has no liability to such vendors.

4. COUNTY'S RESPONSIBILITIES

County shall pick up and deliver prepared meals from Switchpoint's Salt Lake commercial kitchen pursuant to this Agreement, the Request for Proposals, and Switchpoint's proposal.

County shall designate a nutrition program manager, who shall:

- serve as the primary contact between County and Switchpoint;
- maintain County oversight of Switchpoint's services and operations;
- ensure Switchpoint's compliance with the terms and conditions of this Agreement, the Request for Proposals, and Switchpoint's proposal;
- address and resolve issues as they arise; and
- ensure meals meet the quality, safety, and nutritional specifications set forth in Federal law and the Request for Proposals.

County shall provide weekly meal orders via email to Switchpoint for the purpose of determining meal counts.

County shall provide training and support to Switchpoint for meal orders and meal preparation reports.

County shall, as required from time to time, amend meal preparation guidelines due to changes in program and/or meal preparation requirements imposed by Federal, state or local governments. County shall provide prompt notification to Switchpoint of such changes and shall work with Switchpoint to ensure such changes are appropriately and timely implemented.

5. LIABILITY INSURANCE. Switchpoint shall obtain and maintain general liability insurance that covers bodily injury and death. The policy must carry a minimum of \$1,000,000 per occurrence and \$3,000,000 aggregate. Switchpoint shall provide County with a certificate of insurance upon execution of this Agreement.

6. TERMINATION FOR CAUSE. Either party may terminate this Agreement upon 60 days' written notice to the other party arising from a breach of any term or condition of this Agreement. In addition, the following events may trigger immediate termination:

- outbreak of foodborne illness resulting in death or serious illness;
- revocation/suspension of required permits or licenses;
- material misstatements;
- failure to maintain required insurance coverages; and
- consistently poor quality of meals, as determined by County's nutrition program manager.

7. INDEPENDENT CONTRACTOR. Switchpoint is an independent contractor. This Agreement does not create any joint venture, partnership, undertaking or business arrangement between the parties. Switchpoint's employees are not County employees and have no authority to enter obligations on behalf of County.

8. NOTICES. All notices required to be given under this Agreement shall be in writing and shall be served either via email or USPS postage prepaid first-class mail, and addressed to the following:

County:
County Aging Services Director
151 North Main Street, Suite 200
Tooele, UT 84074

Switchpoint:
Christy Johnson
34 S. Main Street
Tooele, UT 84074

9. **ENTIRE AGREEMENT.** This Agreement, together with the Request for Proposals and Switchpoint's proposal, constitute the entire agreement between the parties. All other agreements, promises and representations with respect to the subject(s) of this Agreement are expressly revoked.

10. **GOVERNING LAW.** This Agreement shall be governed by and interpreted according to the laws of the State of Utah. Any legal action arising from this Agreement shall be brought in the Third District Court for Tooele County, State of Utah.

11. **SEVERABILITY.** The unenforceability, invalidity or illegality of any provision of this Agreement shall not render the other provisions unenforceable, invalid or illegal.

12. **FORCE MAJEURE.** Neither party to this Agreement shall be held responsible for delay or default caused by fire, riot, acts of God, war or pandemic beyond that party's reasonable control.

13. **SUCCESSORS AND ASSIGNS.** This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns, and their respective legal representatives. However, neither party may assign its rights or obligations under this Agreement without the express written consent of the other party, which consent shall not be unreasonably withheld.

14. **COSTS OF DEFAULT.** In the event of default by either party hereto, the defaulting party shall pay all costs and expenses of the non-defaulting party, including reasonable attorneys' fees, incurred by the non-defaulting party in enforcing its rights and remedies resulting from such default.

15. **NON-APPROPRIATION.** If the term of this Agreement extends beyond the current fiscal year, continuation of this Agreement is contingent on the appropriation and availability of funds, as determined in good faith by the Tooele County Council. If funds are not appropriated or available, this Agreement shall terminate at the end of the last funded fiscal year, and the parties shall be relieved of all further obligations.

16. **MUTUAL INDEMNIFICATION.** Switchpoint shall indemnify and hold harmless County and its officers and employees from and against all claims arising out of or related to Switchpoint's tortious acts and its obligations pursuant to this Agreement. County shall indemnify and hold harmless Switchpoint and its employees from and against all claims arising out of or related to County's tortious acts and its obligations pursuant to this Agreement.

17. **GOVERNMENTAL IMMUNITY.** County is a governmental entity in the State of Utah and is bound by the provisions of the Utah Governmental Immunity Act ("the Act"), Title 63G, Chapter 7, Utah Code. County does not waive any procedural or substantive defenses or benefits provided or to be provided by the Act or comparable legislative enactment, including without limitation, the provisions of Section 63G-7-604 regarding limitation of judgments. Any

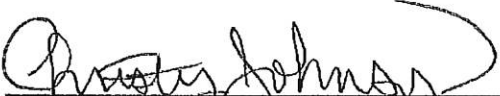
indemnity and insurance obligations incurred by County under this Agreement are expressly limited to the amounts identified in the Act.

18. ANTI-BOYCOTT CERTIFICATION. Switchpoint is not currently engaged in a boycott of the State of Israel and will not engage in a boycott of the State of Israel for the duration of this Agreement. Switchpoint is not currently engaged in a boycott action targeting a company that: (a) engages in the exploration, production, utilization, transportation, sale, or manufacture of fossil fuel-based energy, timber, mining, or agriculture; (b) engages in, facilitates, or supports the manufacture, distribution, sale, or use of firearms; (c) does not meet or commit to meet environmental standards, including standards for eliminating, reducing, offsetting, or disclosing greenhouse gas-emissions, beyond applicable state and federal law requirements; or (d) does not facilitate or commit to facilitate access to abortion or sex characteristic surgical procedures. Switchpoint shall notify County in writing if Switchpoint begins to engage in such a boycott and acknowledges that such notice may be grounds for termination of this Agreement.


TOOELE COUNTY:


James A. Welch
Tooele County Manager

SWITCHPOINT INDUSTRIES, INC.:


Printed Name: Christy Johnson
Title: Regional Director

TOOELE COUNTY HEALTH DEPARTMENT:


Jeff Coombs
Health Officer

APPROVED AS TO FORM:


Colin Winchester
Deputy County Attorney

