\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **Sponsor Name CTD Number**

This checklist must be completed and submitted to the Arizona Department of Education (ADE), along with the referenced documents, for all contract approvals. Forms not accurately completed or returned with sections left blank will delay your approval.

Please answer the questions below and check each box for which information and/or documents have been provided.

1. What is the estimated contract dollar amount? $\_\_\_\_\_\_\_\_\_\_\_\_\_
2. How many vendors did you contact for quotes? \_\_\_\_\_\_\_ How many vendors responded? \_\_\_\_\_\_\_

1. Catering Company Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. Provide the following signed certifications/documents:

Caterer’s Current Health Certifications (section 2.9.2 of contract)

Caterer’s Permit to Operate (section 2.10.2 of contract)

Certification of Independent Price Determination (section 5.1 of contract; ***signed*** by the Caterer **and** Sponsor)

Certification regarding Lobbying and Disclosure of Lobbying Activities (section 5.5 of contract;

include for contracts > $100,000; ***signed*** by the Caterer)

1. Meal Types:  Breakfast  Lunch  Snacks

6. Sponsor Contact (Liaison) Information:

*(Provide the following information for the individual* ***employed by the Sponsor*** *responsible for answering questions and correspondence concerning its food service operation and contract)*

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Job Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Mailing Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Mailing City, State, Zip: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Telephone Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Email Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

I certify that the information and documentation provided herein is true and correct to the best of my knowledge.

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Signature) (Position/Title)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Printed name of person signing) (Date)

***State Agency Use***

**Date Received**:\_\_\_\_\_\_\_\_\_\_\_\_ **Date Approved**: \_\_\_\_\_\_\_\_\_\_\_\_\_ **Specialist:**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State Agency Reviewer**:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Changes required/missing information:

**Contract Dates**: \_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_*Signed Contract* \_\_\_*Signed Contract*

*\_\_\_Cert of Price*

*\_\_\_Lobbying*

*\_\_\_Lobbying Disclosure*

*\_\_\_Permit to Operate*

*\_\_\_Health Certifications*

*\_\_\_Approval Letter*

*\_\_\_Approval Letter Emailed*

*\_\_\_On-Line System*

*\_\_\_CNP Web Checklist*

*\_\_\_Data Base*

**2020 STANDARD AGREEMENT TO PROVIDE FOOD SERVICE**

between a seamless summer option (sso) sponsor

and a caterer

This agreement (“Agreement”) is entered into on **<Insert date>** by and between **<Insert name of Sponsor and CTD#>** (“Sponsor”) and **<Insert name of Caterer>** (“Caterer”) for SSO summer meals. The total estimated contract amount is: $**<Insert estimated value of this agreement>**

**BACKGROUND**

Whereas, it is not within the capability of the Sponsor to prepare specified meals under the **Seamless Summer Option (SSO) program**;

Whereas, the facilities and capabilities of the Caterer are adequate to prepare and deliver specified meals to the Sponsor’s facility(ies); and

Whereas, the Caterer is willing to provide such services to the Sponsor on a Fixed-Price contract basis.

Therefore, both parties agree as follows:

**AGREEMENT**

**1. Terms and Conditions**

1.1. Duration: This Agreement shall become effective after both parties sign it and ADE approves it. The Caterer shall provide meals during the period starting on **<Insert beginning date>** and ending on **<Insert ending date>**.

* 1. Food Services:

1.2.1. The Caterer agrees to prepare specified meals for delivery **INCLUSIVE/EXCLUSIVE *(Choose one)*** of milk to the site(s), specified in Paragraph 1.3, per the required menu planning option specified in Section 2.1.

1.2.2. The Caterer shall not subcontract any portion of this Agreement.

1.2.3. The Caterer will not offer a la carte food service unless free, reduced, and full price reimbursable meals are offered to all eligible children.

1.2.4. The Caterer agrees to provide staff to serve the meals. ***(Delete if not applicable)***

1.3. Service Site(s): For the purpose of this Agreement, the Caterer shall make and deliver meals that



comply with the programs listed in the Background Section of this Agreement to the food service site(s) **at the following location(s):**



**<Insert the Sponsor site(s) and address(es)>**

1.4. Delivery Requirements: The Caterer shall make deliveries of the meals within the hours and on the days designated below. The Caterer shall make deliveries only to the authorized Site(s) specified in Paragraph 1.3 **on the day(s) and time(s) listed below:**

**<Insert the day(s) and time(s) that the Caterer will make the deliveries>**

1.5. Price: The Caterer’s price for each meal as based on the Sponsor’s written estimate of meals needed, except as provided in Section 2.5. The prices shall be firm for the term of the contract.

Each SSO **breakfast** meal is $ **<Insert breakfast price here or write N/A>**

Each SSO **lunch** meal is $ **<Insert lunch price here or write N/A>**

Each SSO **snack** meal is $ **<Insert snack price here or write N/A>**

**2. Program Regulations**

2.1. Meal Pattern:

2.1.1. The Caterer shall assure that each meal provided to the Sponsor under this Agreement meets the minimum requirements for reimbursable meals that meet the Public Law 111-296, the Healthy, Hunger-Free Kids Act of 2010 (HHFKA).

2.1.2. The Caterer must follow the single Food-Based Menu Planning (FBMP) meal patterns as described in 7 CFR 210.10 for NSLP and 220.8 for SBP. The meal shall include the following components: fruits, vegetables, grains, meat/meat alternates, and fluid milk. The Caterer shall meet grade level caloric, saturated fat, sodium and trans-fat requirements.

2.1.3. The Caterer shall provide reimbursable meals to meet the appropriate calorie and nutrient levels for the ages/grades of the children.

2.1.4. The Caterer shall plan and produce at least enough food to offer each child the minimum quantities under the meal pattern.

2.2. Buy American Provision:

2.2.1. The Caterer will Buy American domestic commodities and products for school meals to the maximum extent practicable. Domestic products are those that are produced in the United States and those that are processed in the United States substantially (51 percent or more) using agricultural commodities produced in the United States. [7 CFR 210.21(d)]

2.2.2. Exceptions to the Buy American Provision should be used as a last resort; however, an alternative or exception may be approved upon request. Exceptions include:(1) The product is not produced or manufactured in the U.S. in sufficient and reasonable available quantities of a satisfactory quality, or (2) competitive bids reveal the costs of a U.S. product are significantly higher than the non-domestic product.

2.2.3. To be considered for the alternative or exception, the request must be submitted in writing to a designated official of the Sponsor, a minimum of **<Insert number>** **days** in advance of delivery. The request must include: (1) the alternative substitutes that are domestic and meet the required specifications, with price of the domestic food alternative substitute and the availability of the domestic alternative substitute in relation to quantity ordered and (2) the reason for exception, whether limited/lack of availability or price. If price, include the price of the domestic food product and the price of the non-domestic product that meets the required specification of the domestic product.

2.2.4. The Sponsor will approve the Caterer’s requests for exception to the Buy American Provision and keep on file.

2.3. Menu Preparation and Approval:

2.3.1. The Caterer shall provide the Sponsor, for approval, a proposed cycle menu for the operational period, at least **<Insert number>** **business days** prior to the beginning of the period to which the menu applies.

2.3.2. The Sponsor shall notify the Caterer in writing within **<Insert number>** **business** **days** of receipt of the next period's proposed cycle menu, of any changes, additions, or deletions.

2.3.3. Any changes to the menu made after Sponsor approval must be agreed upon by the Sponsor and documented on the menu records. Menu items may be adjusted in writing by the mutual consent of both parties.

2.3.4. The Caterer shall adjust the menus at the request of the Sponsor whenever the Sponsor determines certain items to be unacceptable. Such items can be determined to be unacceptable because of:

(1) a monotonous diet resulting from items served frequently or the similarity to other items;

(2) the nutritional needs of the students;

(3) susceptibility to spoilage; or

(4) excessive waste resulting from unpopularity of items with students.

2.3.5. Such adjustments shall be made at the earliest convenience of both parties, but in no instance later than one week after request except that in the case of spoilage adjustment shall be made in such a manner that the children in attendance on the day spoilage is discovered shall receive acceptable meals meeting meal requirements.

2.4. Meal Accommodations:

2.4.1. The Sponsor is required, based on Federal law and USDA regulations, to make reasonable modifications to accommodate children with disabilities. Modifications would include providing special meals, at no extra charge, to children with a disability when the disability restricts the child’s diet. Modification requests shall be supported by a written statement from a State licensed healthcare professional. [USDA Memo SP 59-2016]

2.4.2. The Sponsor and the Caterer shall work together to implement procedures for parents or guardians to request modifications to meal service for children with disabilities and to resolve grievances. [7 CFR 15b.25 and 7 CFR 15b.6(b)]

2.5. Meal Estimates:

2.5.1. The Sponsor shall provide in writing, no later than **<Insert number>** **business days** before the first day of operation, a reasonably accurate estimate of the number of meals to be delivered to the Sponsor each day.

2.5.2. The Caterer shall allow the Sponsor to increase or decrease the number of meal orders as needed.

2.5.3. The Sponsor shall notify the Caterer in writing of necessary increases or decreases in the number of meal orders within **<Insert number>** **hours** of the scheduled delivery time.

2.5.4. Errors in meal order counts made by the Sponsor shall be the sole responsibility of the Sponsor.

2.6. Meal Delivery:

2.6.1. The Caterer’s meal delivery vehicle must be adequately constructed so as to protect the food, foodservice equipment, and utensils from contamination at all times during transportation. The delivery vehicle interior surfaces must be clean at all times during transportation of meals.

2.6.2. During the transportation of meals, hot foods that are temperature controlled for safety, must be kept at a minimum temperature of 135° F at all times.

2.6.3. During the transportation of meals, cold foods that are temperature controlled for safety, must be kept at or below 41° F at all times and be transported in containers capable of maintaining temperatures at or below 41° F.

2.6.4. The Caterer must monitor and document temperatures of menu items prior to transport, upon arrival, and at the time of serving. A temperature log for each menu item served must be completed daily and maintained. The Caterer temperature log must be made available to the Sponsor once requested.

2.7. Recordkeeping:

2.7.1. The Caterer shall maintain, and provide to the Sponsor daily, full and accurate production and menu records for the meals that are produced. The records must show how the meals contribute to the required food components (M/MA, V, F, G, and Fluid Milk). In addition, the records must show how the meals contribute to the applicable nutrition standards for the selected grade group. [7 CFR 210.10(a)(3)]

2.7.2. The Caterer shall also maintain and make available:

(1) Standardized Recipes, Nutrition Facts labels, Child Nutrition (CN) labels or product specification sheets related to the menus served;

(2) Such cost records as invoices, receipts or other documentation that exhibit the purchase, or otherwise availability to the Caterer, of the meal components and quantities itemized in the meal production records; and

(3) On a daily basis, an accurate count of the number of meals, by meal type, prepared for and delivered to the Sponsor. Meal count documentation must include the number of meals requested by the Sponsor in writing.

2.7.3. The Sponsor shall assure production records are being completed daily and kept on file. A separate record must be kept for breakfast and lunch. The Sponsor shall ensure the requirements of 7 CFR 210.10(a)(3) are included.

2.8. Records:

2.8.1. The Caterer shall retain all records related to this Agreement in its possession for five (5) years after the expiration of the Agreement. [7 CFR 210.16(c)(1)]

2.8.2. The Caterer shall make books and records pertaining to operations under this Agreement available to the Sponsor at any reasonable time. The records are subject to inspection or audit by representatives of the Sponsor, State Agency, the US Department of Agriculture, and the US General Accounting Office at any reasonable time and place.

2.8.3. The Caterer will provide accurate Administrative Review information to the Sponsor and ADE to ensure that the meal pattern is executed per the regulations.

2.9. Health Certifications and Food Safety:

2.9.1. The Caterer must have two (2) Food Safety Inspections completed every school year at the facility in which it prepares meals.

2.9.2. **The Caterer shall provide the Sponsor with a copy of current health inspections for the food service facility in which it prepares meals for the programs listed in the Background Section of this Agreement.** The Caterer also agrees to notify the Sponsor of the results of any health inspection that is made during the duration of this Agreement.

2.9.3. The Caterer shall maintain proper sanitation practices and health standards in conformance with all applicable State and local laws and regulations.

2.9.4. The Caterer shall assure that all food is properly stored, prepared, packaged, and transported. Any substance that the food contacts or which is used in conjunction with the food shall be so handled as to assure that it does not become contaminated.

2.10. Licenses:

2.10.1. The Caterer shall maintain, in current status, all Federal, State, and local licenses and permits required for the operation of the business conducted by the Caterer.

2.10.2. The Caterer must have a State or local “Permit to Operate” for any facility outside the school in which it prepares meals. The Caterer shall maintain a current “Permit to Operate” for the duration of the contract. **The Caterer must provide a copy of the permit to operate with this contract.**

2.11. HACCP:

2.11.1. The Caterer shall ensure compliance with a food safety management system that complies with the Hazard Analysis and Critical Control Point (HACCP) principles or meets the USDA guidance for developing a process approach to HACCP. [Public Law 108-265] The Caterer will ensure compliance with site-specific written food safety plans based on HACCP.

2.11.2. The Caterer will provide the Sponsor, upon request, evidence of daily worksheets that detail Hazard Analysis and Critical Control Point (HACCP) compliance from receipt to delivery of the finished product.

2.12. Invoicing:

2.12.1. The Caterer shall present to the Sponsor an invoice accompanied by reports no later than the **<Insert number>** **day** of each **WEEK/MONTH *(Choose one)*** which itemizes the previous delivery.

2.12.2. The Sponsor shall pay the Caterer by the **<Insert number>** **day** of each **WEEK/MONTH *(Choose one)*** the full amount as presented on the monthly itemized invoice.

2.12.3. The Sponsor shall notify the Caterer within forty-eight (48) hours of receipt of any discrepancy in the invoice. The Sponsor shall pay the Caterer for all meals delivered in accordance with this Agreement.

***Neither ADE nor USDA will assume any liability for payment of the difference between the number of meals prepared and delivered by the Caterer and the number of meals served by the Sponsor that are eligible for reimbursement. In addition, neither ADE nor USDA will be responsible for resolving issues of partial or non-payment per the terms of this Agreement.***

2.13. Unacceptable Meal:

2.13.1. The Sponsor shall be responsible for informing the Caterer of its reasons for determining that a meal is unacceptable in writing within forty-eight (48) hours of when the meal is delivered to the site.

2.13.2. The Caterer agrees to forfeit payment for meals which are not ready within one (1) hour of the agreed upon delivery time, are spoiled or unwholesome at the time of delivery, or do not otherwise meet the meal requirements contained in this Agreement.

2.13.3. In cases of nonperformance or noncompliance on the part of the Caterer, the Caterer shall pay the Sponsor for any excess costs the Sponsor incurs by obtaining meals from another source.

2.14. Program Compliance: The Sponsor shall assure that the Caterer has a copy of 7 CFR Part 210.10, the Meal Pattern that is to be followed; the USDA Team Nutrition Menu Planner and Food Buying Guide; the Arizona Nutrition Standards pursuant to Arizona Revised Statute 15-242 effective July 1, 2006; the Competitive Food Standards; and all other technical assistance materials pertaining to the food service requirements of the programs listed in the Background Section of this Agreement. The Sponsor will, within twenty-four (24) hours of receipt from the ADE Health and Nutrition Services Division, advise the Caterer of any changes in the food service requirements.

2.15. Program Regulations: The Caterer shall be in conformance with the applicable portions of the Sponsor’s Permanent Food Service Agreement under the program. [7 CFR 210.16(a)(2)] The Caterer will conduct program operations in accordance with 7 CFR Parts 210, 215, 220, 225, and 250.

2.16. Program Monitoring: The Sponsor will monitor all meals to ensure the food service is in conformance with program regulations. [7 CFR 210.16(a)(8)]

2.17. USDA Foods/DoD Fresh: ***(If you will not be using USDA Foods/DoD Fresh, delete 2.17.1, 2.17.2, 2.17.3, and 2.17.4 below and write N/A here)***

2.17.1. The Caterer agrees to accept USDA Foods/DoD Fresh from the Sponsor. These USDA Foods/DoD Fresh will only be used in the preparation of meals provided for the programs listed in the Background Section of this Agreement. The Caterer can only obtain the USDA Foods at the Sponsor site **unless approved for the Alternative Delivery Site Program.**

2.17.2. The Caterer must credit the Sponsor monthly for the value of all USDA Foods/DoD Fresh received for use in the Sponsor’s meal service in the school year, including both entitlement and bonus food, including the market value of donated foods contained in processed end products. Credit issued by the Caterer to the Sponsor for USDA Foods/DoD Fresh received shall be recorded on the monthly bill/invoice as separate line items and shall be clearly identified and labeled.

2.17.3. The Caterer must ensure that it has a perpetual inventory record maintained and submitted to the Sponsor on a monthly basis. Failure of the Caterer to maintain a perpetual inventory shall be considered as evidence of improper distribution or loss of USDA Foods/DoD Fresh.

2.17.4. The Caterer shall accept liability for any negligence on its part that results in any loss of, improper use of, or damage to USDA Foods/DoD Fresh.

**3. Specific Sponsor Responsibilities**

3.1. Cleaning: The Sponsor shall be responsible for cleaning the eating areas daily.

3.2. Contract Document: The Sponsor will prepare all contract documents.

3.3. Financial Responsibility: The Sponsor will retain control of the nonprofit school food service account and overall financial responsibility for the nonprofit food service operation. [7 CFR 210.16(a)(4)]

3.4. Food Service Operation Conformance: The Sponsor will ensure that the food service operation is in conformance with the School’s Agreement with the Arizona Department of Education (ADE) to participate in Child Nutrition Programs.

3.5. Household Application: The Sponsor will review, approve or deny, and verify applications for free and reduced-price school meals in accordance with 7 CFR 245. The Sponsor will provide

hearings related to eligibility determinations in accordance with 7 CFR 245.7 and provide hearings related to adverse actions resulting from verification in accordance with 7 CFR 245.6a(e).

3.6. Price Control: The Sponsor will retain control of the establishment of all prices, including price adjustments, for meals served under the nonprofit school food service account, e.g., pricing for reimbursable meals, a la carte service including vending machines, and adult meals. [7 CFR 210.16(a)(4)]

3.7. Procurement:

3.7.1. The Sponsor will maintain a written code of conduct that prohibits real or apparent conflict of interest and disciplinary actions that are to be applied for violations of such standards. [2 CFR 200.318(c)(1)]

3.7.2. The Sponsor will maintain written procurement procedures that ensure full and open competition exists to the maximum extent possible. [2 CFR 200.319]

3.7.3. The Sponsor will conduct all procurement for the Child Nutrition Programs in accordance with

2 CFR 200.318-326.

3.8. Retain Control of Food Service Program: The Sponsor will retain control of the quality, extent, and general nature of the food service, including counting and claiming meals, and ordering and accounting for USDA Foods. [7 CFR 210.16(a)(5), 210.21(b)]

3.9. Signature Authority: The Sponsor will retain signature authority on the State Agency Food Program Permanent Service Agreement, Free and Reduced-Price Policy statement, and claims. The Sponsor will retain signature authority for the annual Child Nutrition Programs application and by electronically submitting required information to ADE. [7 CFR 210.16(a)(5), 210.21(b)]

3.10. Sponsor Representative Duties:

3.10.1. The Sponsor shall ensure that a Sponsor representative is available at each delivery site, at the specified time on each specified delivery day to receive, inspect, and sign for the requested number of meals. This individual will verify the temperature, quality, and quantity of each meal delivery.

3.10.2. The Sponsor assures the Caterer that this individual will be trained and knowledgeable in the record keeping and meal requirements of the programs listed in the Background Section of this Agreement and with local health and safety codes.

**4. General Terms**

4.1. Affordable Care Act: The Caterer understands and agrees that it shall be solely responsible for compliance with the patient Protection and Affordable Care Act, Public Law 111-148 and the Health Care and Education Reconciliation Act, Public Law 111-152 (collectively the Affordable Care Act “ACA”). The Caterer shall bear sole responsibility for providing health care for its employees who provide service to the Sponsor as required by State or Federal law.

4.2. Agreement Modification, Nonperformance or Default:

4.2.1. This Agreement constitutes the entire understanding between the Caterer and the Sponsor with respect to the subject matter hereof and there is no other written or oral understandings or agreements with respect hereto. No variation or modification of the Agreement and no waiver of its provisions shall be valid unless in writing and signed by the duly authorized officers of the Sponsor and the Caterer. No assignment or transfer of this Agreement may be made, in whole or in part, without the prior written consent of the Sponsor.

4.2.2. The Sponsor may, upon written notice of default to the Caterer, terminate the whole or any part of this Agreement in any one of the following circumstances:

(1) If the Caterer fails to make delivery of meals, other agreed upon items (i.e. eating utensils, supplies, storage equipment), or to perform the services within the time specified herein; or

(2) If the Caterer fails to perform any of the other provisions of this Agreement in accordance with its terms and does not correct such failure within forty-eight (48) hours after requested to do so.

4.3. Amendments to the Agreement: The parties cannot alter any provision in this Agreement that is required by any law, rule, or regulation. The parties cannot otherwise amend or alter this Agreement, except as to minor, non-substantive provisions or issues that do not materially affect the scope of work or the cost of the Agreement. The parties must mutually agree, in a written document signed by both parties and attached to this Agreement, amend, add, or delete an Article or Appendix. Any amendment to this Agreement shall become effective at the time specified in the amendment and after ADE approves it.

4.4. Applicable Law: The law of the State of Arizona shall govern this Agreement.

4.5. Assignment: This Agreement may not be assigned by either party without the prior written consent of the other party.

4.6. Audit: The Sponsor shall have the right, at its expense, to inspect the books and records of the Caterer to verify its performance and expenses submitted under this Agreement. Inspection shall take place during normal business hours at the Caterer’s place of business.

4.7. Authority: The Sponsor is the responsible authority without recourse to USDA or ADE for the settlement and satisfaction of all contractual and administrative issues arising in any way from this contract. Such authority includes, but is not limited to, source evaluation, protests, disputes, claims, or other matters of a contractual nature.

4.8. Cancellation: The Sponsor may cancel this Agreement under Arizona Revised Statutes 38-511 (Cancellation for conflict of interest - [www.azleg.state.az.us/ars/38/00511.htm](http://www.azleg.state.az.us/ars/38/00511.htm)) for a violation of that statute. This notice complies with the requirements of that statute.

4.9. Civil Rights Compliance: The Caterer shall ensure compliance that in the operation of the Program, no child shall be denied benefits or be otherwise discriminated against because of race, color, national origin, age, sex, or disability. State Agencies and Sponsors shall comply with the requirements of: Title VI of the Civil Rights Act of 1964; title IX of the Education Amendments of 1972; section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; the Americans with Disabilities Act; FNS Instruction 113-1, Civil Rights Compliance and Enforcement in School Nutrition Programs; Executive Order 13166; Sections VII, XII and Appendix B, USDA Guidance on Services for Persons with LEP; and Department of Agriculture regulations on nondiscrimination. [7CFR§210.23(b)]

4.10. Construction and Effect: A waiver of any failure under this Agreement shall neither be construed as, nor constitute a waiver of, any subsequent failure. This Agreement supersedes all prior negotiations, representations, or Agreements. The Article and Paragraph headings are used solely for convenience and shall not be deemed to limit the subject of the Articles and Paragraphs or be considered in their interpretation. The appendixes referred to herein are made part of this Agreement by the respective references to them. This Agreement may be executed in several counterparts, each of which shall be deemed an original.

4.11. Employment: The Caterer shall comply with all applicable Federal, State, and local laws and regulations pertaining to wages, hours, conditions of employment, and nondiscrimination in employment. USDA is an Equal Opportunity Provider.

4.12. Energy Policy and Conservation Act: The Caterer shall meet the mandatory standards and policies relating to energy efficiency which are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act. (Pub. L. 94–163, 89 Stat. 871.3016.36)(i)(13)

4.13. Equal Employment Opportunity: The Vendor shall comply with Executive Order 11246 of September 24, 1965, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60).

[Appendix II to 2 CFR 200(C)]

4.14. E-Verify Requirement: The Caterer shall comply with all federal immigration laws and regulations relating to employees and shall comply with ARS 23-214, Subsection A (After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program.)

4.15. Indemnity:

4.15.1. The Caterer shall indemnify, defend and hold the Sponsor harmless against any loss of damage (including attorney’s fees and costs of litigation) caused by the Caterer’s negligent act or omission, theft by the Caterer’s employees, or the negligent or intentional acts or omissions of the Caterer’s agents or employees. The Caterer shall defend any suit against the Sponsor alleging personal injury or property damage arising out of the transportation of meals or other items to the Site(s) or out of the acts of the Caterer’s employees, and any suit alleging bodily injury, sickness, or disease arising out of the consumption of the meals delivered by the Caterer to the Food Service Site(s), and shall be liable for any damages agreed to by the parties or awarded as a result of such litigation.

4.15.2. The Sponsor shall promptly notify the Caterer in writing of any claims against the Caterer or the Sponsor and, in the event a suit is filed, shall promptly forward to the Caterer all papers in connection therewith. The Caterer shall not incur any expense or make any settlement without the Sponsor’s consent. However, if the Caterer refuses or neglects to defend any such suit, the Sponsor may defend, adjust, or settle any such claim, and the costs of such defense, adjustment, or settlement, including reasonable attorney’s fees, shall be charged to the Caterer.

4.16. Insurance:

4.16.1 During the term of this Agreement, the Caterer shall maintain insurance policies described below issued by companies licensed in Arizona with a current A.M. Best rating of A: VIII or better. The Caterer shall also name the Sponsor as additionally insured under the liability policy for the duration of the contract. And upon request, the Caterer will provide the Sponsor with a certificate evidencing such insurance coverage.

(1) Commercial General Liability insurance with a limit of not less than $1,000,000 per occurrence for bodily injury, property damage, personal injury, products and completed operations, and blanket contractual coverage, including but not limited to, the liability assumed under the indemnification provisions of this Agreement; and

(2) Automobile Liability insurance with a combined single limit for bodily injury and property damage of not less than $1,000,000 each occurrence with respect to the Caterer’s owned, hired, and non-owned vehicles.

4.17. Non-Discrimination: The Caterer shall not discriminate in either the provision of services, or in employment, against any person because of sex, race, disability, marital or family status, national origin, veteran’s status, sexual preference, or religion. The Caterer agrees to comply with all applicable Federal and State laws, rules, regulations, and executive orders relating to non-discrimination, affirmative action, and equal employment opportunity.

4.18. Payroll Taxes and Costs: The Caterer shall pay its employees directly and shall withhold and pay all applicable Federal and State employment taxes and payroll insurance with respect to its employees, including an applicable income, social security, Medicare and employment taxes, and workers compensation costs.

4.19. Termination:

4.19.1. Either party may, at any time during the life of this Agreement, terminate this Agreement without cause by giving thirty (30) days written notice to the other party of its intention to do so.

4.19.2. The Sponsor may also terminate this Agreement upon written notice if the Caterer fails to fully comply with the terms and conditions.

4.19.3. All notices to the Sponsor shall be addressed to the Sponsor at the address listed on the signature page, and all notices to the Caterer shall be addressed to the Caterer at the address listed on the signature page.

4.20. Unavailability of Funds: The Sponsor may terminate this Agreement, without penalty, if its Governing Board fails to appropriate funds in subsequent fiscal years to support the program that is the subject of this Agreement. The Sponsor shall give the Caterer prompt written notice after it knows that funding will not be available.

4.21. Workers Compensation: The Caterer shall maintain a system of coverage for workers compensation in conformance with applicable State law covering all of its employees who may be employed in connection with food service provided to the Sponsor.

**5. Caterer Certification Statements**

5.1. Certificate of Independent Price Determination: The Caterer admits that all prices in this Agreement have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other caterer or with any competitor certification regarding non-collusion. ***Complete and submit Certificate of Independent Price Determination form.***

5.2. Conflict of Interest: The Caterer’s signature on this Agreement indicates there is no conflict of interest associated with the award of this Agreement. No one employed by the Sponsor is related to or has any other personal or professional relationship with the Caterer and/or his/her family.

5.3. Contract Work Hours and Safety Standard Act: The Caterer is required to follow Sections 103 and 107 of the Contract Work Hours and Safety Standard Act (40 USC 327-330) as supplemented by Department of Labor Regulations (29 CFR Part 5). It requires the Caterer to pay employees overtime (one and one-half times their basic rate of pay) for all hours worked over forty (40) in a workweek. This Act also prohibits unsanitary, hazardous, or dangerous working conditions. [2 CFR Appendix II to 200(E)] ***(Delete entire clause if the contract is under $2,500)***

5.4. Debarment, Suspension, Ineligibly, and Voluntary Exclusion: The Caterer, by signing this Agreement, certifies that they have not been debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549 and 12689. [2 CFR Appendix II to 200(H)] ***(Delete entire clause if the contract is under $25,000)***

5.5. Certification Regarding Lobbying: The Caterer must sign and submit a Certification Regarding Lobbying and Disclosure of Lobbying Activities. The Caterer states that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions. [2 CFR Appendix II to 200(I)] ***Complete and submit Lobbying and Lobbying Disclosure forms.* *(Delete entire clause if the contract is under $100,000)***

5.6. Clean Air Act, Clean Water Act, and Environmental Protection Agency Regulation: The Caterer shall comply with all applicable standards, orders, and requirements issued under Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738 and Environmental Protection Agency regulations which prohibit the use, under nonexempt federal contracts, grants or loans to facilities included on the EPA List of Violating Facilities. Sponsor shall report all violations to the grantor agency and to the USEPA Administrator for Enforcement (EN-329). ***(Delete entire clause if the contract is under $100,000)***

**6. Signatures**

For the Sponsor: For the Caterer:

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Name of Representative Name of Representative

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Title of Representative Title of Representative

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Signature Signature

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Date Date

*In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.*

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*This institution is an equal opportunity provider.*

**Meal Patterns – School Breakfast, School Lunch, and After School Care Snack**







