

**Inter-Agency Catering Agreement for School Year \_\_\_\_\_\_\_\_\_\_**

**Between a School Food Authority and a Catering School Food Authority**

This agreement (“Agreement”) is entered into on **<Insert date>** by and between **<Insert name of School Food Authority (SFA)>** (“SFA”) and **<Insert name of Catering SFA>** (“Catering SFA”) for school meals.

**BACKGROUND**

Whereas, it is not within the capability of the SFA to prepare specified meals under the following program(s): **National School Lunch Program (NSLP); School Breakfast Program (SBP); After School Care Snack (ASCS); Simplified Summer Food Service Program (SFSP); Seamless Summer Option (SSO); CACFP Programs (Snack/Pre-School); and At-Risk Afterschool Meals Component.** ***(Delete the programs that are NOT part of this agreement)***

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

Whereas, the Catering SFA is willing to provide such services to the SFA 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 Arizona Department of Education (ADE) approves it. The Catering SFA shall provide meals during the period beginning on **<Insert beginning date>** and ending on **<Insert ending date>**.

* 1. Food Services:

1.2.1. The Catering SFA 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 2.3.2.

1.2.2. The Catering SFA will deliver the meals in **UNITIZED/BULK *(Choose one)*** form.

 1.2.3. The Catering SFA shall not subcontract any portion of this Agreement.

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

1.2.5. The Catering SFA agrees to provide staff to serve the meals. ***(Delete if servers are not needed)***

1.3. Service Site(s): For the purpose of this Agreement, the Catering SFA 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 SFA site address(es)>**

 ***(Choose one Section 1.4 and delete the other)***

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

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

**(or)**

1.4 Meal Pick Up Requirements: The SFA shall pick up the meals at the Catering SFA for the authorized Site(s) specified in Paragraph 1.3 within the hours and on the days designated below. The SFA shall pick up meals from the Catering SFA **on the following day(s) and time(s):**

 **<Insert the day(s) and time(s) that the SFA will pick up the meals>**

1.5. Student Meal Prices: The Catering SFA’s price for each meal as based on the SFA’s written estimate of meals needed, except as provided in Section 2.8. The prices shall be firm for the term of the contract.

Each National School Lunch (NSLP) meal is $ **<Insert lunch price here>**

Each School Breakfast (SBP) meal is $ **<Insert breakfast price here>**

Each After-School Care Snack (ASCS) meal is $ **<Insert snack price here>**

Each Simplified Summer (SFSP) breakfast meal is $ **<Insert SFSP breakfast price here>**

Each Simplified Summer (SFSP) lunch meal is $ **<Insert SFSP lunch price here>**

Each Seamless Summer Option (SSO) breakfast meal is $ **<Insert SSO breakfast price here>**

Each Seamless Summer Option (SSO) lunch meal is $ **<Insert SSO lunch price here>**

Each Child and Adult Care (CACFP) snack/meal is $ **<Insert CACFP price here>**

Each At-Risk snack meal is $ **<Insert At-Risk snack price here>**

Each At-Risk supper meal is $ **<Insert At-Risk supper price here>**

***(Delete the program prices that are not part of this agreement)***

1.6. Adult Meal Prices: The prices shall be firm for the term of the contract. ***(Delete if not applicable)***

Each adult lunch meal is $ **<Insert lunch price here>**

Each adult breakfast meal is $ **<Insert breakfast price here>**

**2. Program Regulations**

2.1. Food Service Specifications:

 2.1.1. The Catering SFA shall purchase all food and non-food at the lowest price possible consistent with maintaining quality standards and service.

 2.1.2. Specifications shall cover items such a grade, purchase units, style, condition, weight, ingredients, formulations, and delivery time. Official U.S. grade standards for all meal components are available from <http://www.fns.usda.gov/fdd/specifications-us-grade-standards>.

|  |  |  |  |
| --- | --- | --- | --- |
| Beef | USDA inspected | Fresh fruits | US Fancy |
| Poultry | USDA inspected | Canned fruits | US Fancy |
| Variety meats | High quality | Canned vegetables  | US Fancy |
| Dairy products | Grade A | Frozen fruits | High quality |
| Eggs | Fresh Grade A | All other items | High quality |
| Fish | Government Inspected |  |  |

2.2. Buy American Provision:

2.2.1. The Catering SFA will purchase, to the maximum extent practicable, domestic agricultural commodities or products for Program meals and snacks in accordance with 7 CFR 210.21(d) and 7 CFR 220.16(d).

2.2.2. A “domestic commodity or product” is defined as one that is either produced in the U.S. and its territories or is processed in the U.S. and its territories substantially using agricultural commodities that are produced in the U.S. and its territories. “Substantially” means the final processed product contains over 51% domestically grown agricultural commodities. [7 CFR 210.21(d)]

2.2.3. This provision applies to all food purchases paid from the nonprofit school food service account.

2.2.4. 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.

2.2.5. To be considered for the alternative or exception, the request must be submitted in writing to a designated official of the SFA, 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.

2.2.6. The SFA will approve the Catering SFA’s requests for exceptions to the Buy American Provision. The exceptions must be kept on file for review.

2.3. Meal Pattern:

2.3.1. The Catering SFA shall assure that each meal provided to the SFA under this Agreement meets nutrition standards stated in section 201 of the Healthy, Hunger-Free Kids Act of 2010 (Pub. L. 111-296, HHFKA amended Section 4(b) of the NSLA, 42 USC 1753(b)).

2.3.2. The Catering SFA must follow the single Food-Based Menu Planning (FBMP) meal patterns as described in 7 CFR 210.10 for NSLP and 7 CFR 220.8 for SBP. If the SFA participates in SFSP, the Catering SFA shall meet the requirements of 7 CFR 225.

2.3.3. The Catering SFA shall ensure that At-Risk afterschool snacks meet the meal pattern requirements for snacks in 7 CFR 226.20(b)(6) and/or 7 CFR 226.20(c)(4). At-Risk afterschool meals must meet the meal pattern requirements for meals in 7 CFR 226.20(b)(6) and/or 7 CFR 226.20(c)(1), (c)(2), or (c)(3), 7 CFR 210.10, or 7 CFR 220.8.

2.3.4. The meal shall include the following components: fruits, vegetables, grains, meat/meat alternates, and fluid milk. Snacks must contain two (2) of the listed components and must comply with regulations as described in 7 CFR 210.10. The Catering SFA shall provide reimbursable meals that meet the appropriate nutrient levels and caloric, saturated fat, sodium, and trans-fat requirements for the ages/grades of the students.

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

2.3.6. The Catering SFA must select a cooking method to produce healthy food which meets the standards of the Child Nutrition Program.

 2.4. Menu Preparation and Approval:

2.4.1. The Catering SFA shall provide the SFA, for approval, a proposed cycle menu for the designated operation period developed in accordance with the meal pattern requirements specified in 7 CFR 210.10 for the programs listed in the Background Section of this agreement. The Catering SFA must adhere to the approved proposed cycle menu.

2.4.2. The Catering SFA shall provide successive cycle menus that offer the same level of quality, variety, and nutritional value as the initial cycle menu.

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

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

2.4.5. The Catering SFA shall adjust the menus at the request of the SFA whenever the SFA 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.

2.4.6. The SFA shall be responsible for informing the Catering SFA 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.

2.4.7. 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.

 2.5. Meal Accommodations:

2.5.1. The SFA 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 and SP 26-2017]

2.5.2. The SFA and the Catering SFA 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)]

 2.6. Meal Charge Policy:

2.6.1. The SFA is required to have in place a written and clearly communicated system to address meal charges. The policy, or standard practice, must consist of a written document explaining how the SFA will handle situations where children eligible to receive reduced or paid meals do not have money in their account or in hand to cover the cost of their meal at the time of service. The policy or standard practice must be implemented throughout the SFA.

2.6.2. The SFA must ensure the meal charge policy is provided in writing to all households at the start of each school year and to households transferring to the school or district during the school year. The policy must also be provided to all SFA staff responsible for collecting payment for meals at the point of service, staff involved in notifying families of low or negative balances, and staff involved in enforcing any other aspects of the meal charge policy. [USDA Memo SP23-2017]

2.7. Meal Delivery: ***(Change “Catering SFA” to “SFA” if meals are being picked up instead of delivered)***

2.7.1. The **Catering SFA**’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.

 2.7.2. 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.

2.7.3. 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.

2.7.4. The **Catering SFA** 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 Catering SFA’s temperature log must be made available to the SFA when requested.

 2.8. Meal Estimates:

2.8.1. The SFA shall provide in writing, before the first day of operation, a reasonably accurate estimate of the number of meals to be delivered to the SFA each day.

2.8.2. The Catering SFA shall allow the SFA to increase or decrease the number of meal orders, as needed.

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

2.8.4. Errors in meal order counts made by the SFA shall be the sole responsibility of the SFA.

2.9. Menu Records and Documentation:

2.9.1. The Catering SFA shall maintain full and accurate records/production worksheets that document:

(1) The menus provided to the SFA during the term of the agreement,

(2) A listing of how the meals contribute to the required food components (M/MA, V, F, G, and fluid milk),

(3) A listing of how the meals contribute to the applicable daily and weekly nutrition standards for the selected grade group, and

(4) An itemization of the quantities and portion sizes of each component used to prepare each meal.

2.9.2. The Catering SFA shall provide the SFA with copies of all documents.

2.9.3. The Catering SFA agrees to provide meal preparation documentation by using yield factors for each food item as listed in the USDA Food Buying Guide when calculating and recording the quantity of food prepared for each meal.

2.9.4. The Catering SFA shall also maintain and make available:

(1) Recipes, Nutrition Facts labels, Product Formulation Statements and Specifications, and any necessary 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 Catering SFA, of the meal components and quantities itemized in the meal production records,

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

2.9.5. The SFA shall assure production records are being completed daily and kept on file. A separate record must be kept for each reimbursable meal/snack served and claimed. The SFA shall ensure the requirements of 7 CFR 210.10(a)(3) are included.

2.9.6. The Catering SFA will provide accurate Administrative Review information to the SFA and ADE to ensure that the meal pattern is executed per the regulations.

2.10. Records:

2.10.1. The Catering SFA 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)]

2.10.2. If the SFA participates in a provision program, the records must be maintained for five (5) years past the end of the provision cycle.

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

 2.10.4. The SFA shall have the right, at its expense, to inspect and audit the records of the

 Catering SFA to verify its performance and expenses submitted under this Agreement. Inspection shall take place during normal business hours at the Catering SFA’s place of business.

2.10.5. The Catering SFA shall provide accurate Procurement Review information to the SFA and ADE to ensure that the agreement is being executed per the regulations.

2.11. Health Certification and Safety:

2.11.1. The SFA must have two (2) Food Safety Inspections completed at each site in which meals are served.

2.11.2. The Catering SFA must have two (2) Food Safety Inspections completed every school year at the facility in which it prepares meals. The Catering SFA shall maintain this health certification for the duration of the agreement. [7 CFR 210.16(c)(2)]

2.11.3. The Catering SFA shall provide the SFA with copies of the current health inspections. The Catering SFA also agrees to notify the SFA of the results of any health inspection that is made during the duration of this agreement.

2.11.4. The Catering SFA shall be responsible for maintaining the premises, equipment, and facilities in a condition satisfactory to the SFA. The Catering SFA shall adhere to the standards of cleanliness and sanitary practices as required by the Health Department, the School Board standards, and USDA standards to ensure continual sanitation in all functions and matters related to the food service program.

2.11.5. In the storage, preparation, and service of food, the Catering SFA shall maintain proper sanitation and health standards in conformance with all applicable State and local laws and regulations and comply with the food safety requirements. [7 CFR 210.9(b)(14)]

2.11.6. The Catering SFA shall assure that all food is properly stored, prepared, packaged, and transported. In addition, 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.

2.12. Licenses:

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

2.12.2. The Catering SFA must have a State or local “Permit to Operate” for any facility where it prepares meals. The Catering SFA shall maintain a current “Permit to Operate” for the duration of the agreement. **The Catering SFA must provide a copy of the permit to operate with this agreement.**

2.13. HACCP:

 2.13.1. The Catering SFA 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 Catering SFA will ensure compliance with site-specific written food safety plans based on HACCP.

2.13.2. The Catering SFA will provide the SFA, upon request, evidence of daily worksheets that detail Hazard Analysis and Critical Control Point (HACCP) compliance from receipt to delivery of the finished product. [7 CFR 210.13(c)]

2.14. Invoicing/Payment:

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

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

2.14.3. The SFA shall pay the Catering SFA for all meals delivered when due in accordance with the Agreement. If the SFA does not make a payment when due, no interest can be paid to the Catering SFA from Child Nutrition Program funds.

2.14.4. The SFA shall notify the Catering SFA within forty-eight (48) hours of receipt of any discrepancy in the invoice. The SFA shall pay the Catering SFA for all meals delivered that are in compliance with this Agreement.

2.14.5. No payment shall be made for meals that are spoiled or unwholesome at the time of service, do not meet specifications developed by the SFA for each food component specified in 7 CFR 210.10, or do not otherwise meet the requirements of this Agreement.

2.14.6. No deduction in payment shall be made by the SFA unless the SFA notifies the Catering SFA in writing within forty-eight (48) hours of the meal service for which the deduction is to be made, specifying the number of meals for which a deduction is to be made and describing the reasons for the deduction.

2.14.7. The Catering SFA 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. In cases of nonperformance or noncompliance on the part of the, the Catering SFA shall pay the SFA for any excess costs the SFA incurs by obtaining meals from another source Catering SFA.

***Neither ADE nor USDA will assume any liability for payment of the difference between the number of meals prepared and delivered by the Catering SFA and the number of meals served by the SFA 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.***

2.15. Program Compliance: The SFA shall assure that the Catering SFA 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 (“Smart Snacks”); and all other technical assistance materials pertaining to the food service requirements of the programs listed in the Background Section of this Agreement. The SFA will, within twenty-four (24) hours of receipt from ADE Health & Nutrition, advise the Catering SFA of any changes in the food service requirements.

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

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

2.18. USDA Foods/DoD Fresh: ***(Delete 2.18.1-2.18.18 below and write N/A here if not applicable)***

 2.18.1. The SFA participates in the USDA Foods/DoD Fresh program, and it is the intent of the SFA that such items will be included in menus for the selected program(s) listed in the Background Section of this Agreement to the greatest extent possible.

2.18.2. The Catering SFA agrees to accept USDA Foods/DoD Fresh from the SFA.

2.18.3. The SFA shall ensure that all USDA Foods/DoD Fresh received by the SFA and made available to the Catering SFA shall be used only for the benefit of the SFA’s food service operation and be used only in the preparation of meals provided for the programs listed in the Background Section of this Agreement.

2.18.4. No USDA Foods/DoD Fresh will be used for special functions outside of the Child Nutrition Programs listed in the Background Section of this Agreement.

2.18.5. The SFA shall retain title to all USDA Foods/DoD Fresh and the Catering SFA will conduct all activities relating to USDA Foods/DoD Fresh for which it is responsible in accordance with 7 CFR Parts 250, 210, 220, 225, and 226, as applicable.

2.18.6. The SFA shall assure that the maximum amount of USDA Foods/DoD Fresh is received

and utilized by the Catering SFA. [7 CFR 210.9(b)(15)]

2.18.7. USDA Foods will be delivered to the SFA’s site address. The Catering SFA will pick up the USDA Foods at the SFA location unless approved for the Alternative Delivery Site Program (separate application and approval necessary).

2.18.8. DoD Fresh will be delivered to the SFA’s site address. The Catering SFA shall pick up DoD Fresh only at the SFA’s location.

2.18.9. The Catering SFA must credit the SFA monthly for the value of all USDA Foods/DoD Fresh **received** for use in the SFA’s meal service in the school year, including both allocated and surplus foods, and the value of donated foods contained in processed end products.

2.18.10. The Catering SFA shall subtract from the SFA’s monthly bill/invoice the market value of all USDA Foods/DoD Fresh received for use in the SFA’s food service as separate line items, including the monthly and year-to-date totals.

2.18.11. The SFA shall ensure that the Catering SFA has credited it for the value of all USDA Foods/DoD Fresh received for use in SFA’s meal service in the school year, including both allocated and surplus foods, and including the value of donated foods contained in processed end products.

2.18.12. The SFA shall ensure that, in crediting it for the value of USDA Foods/DoD Fresh, the Catering SFA uses the donated food values determined by ADE, in accordance with 7 CFR 250.58(e).

2.18.13. The SFA shall maintain responsibility for procuring processing agreements, private storage facilities, or any other aspect of financial management relating to USDA Foods/DoD Fresh.

2.18.14. The Catering SFA will be responsible for the following activities relating to USDA Foods. The Catering SFA assures that such activities will be performed in accordance with the applicable requirements in 7 CFR Part 250.

(1) Preparing and serving meals

(2) Storage and inventory management of donated foods

(3) Maintaining accurate and complete records with respect to the receipt, use/disposition storage, and inventory of USDA Foods/DoD Fresh, to document its compliance with requirements in accordance with 7 CFR 250.54(b)

(4) Ensuring that a perpetual inventory record is maintained and submitted to the SFA on a monthly basis

 (a) Failure of the Catering SFA to maintain a perpetual inventory shall be considered as evidence of improper distribution or loss of USDA Foods/DoD Fresh

(5) Payment of the delivery and processing fees or submittal of refund requests ***(Delete if not applicable)***

(6) Ordering and selection of USDA Foods in coordination with the SFA, and in accordance with 7 CFR 250.58(a) ***(Delete (6) and 2.18.15 below if not applicable)***

2.18.15. The SFA chooses to authorize secondary users to receive access to the myFoods system according to the following guidelines: ***(Delete if not applicable)***

(1) The additional users are secondary to the management of entitlement dollars and food ordered through the system,

(2) Any transfers of entitlement must have the primary and secondary users included in the request submitted,

(3) The management of USDA Foods and the myFoods ordering system is the ultimate responsibility of the SFA, and

(4) The SFA must monitor myFoods monthly to ensure that foods are ordered and used correctly.

2.18.16. The Catering SFA shall allow the SFA and/or any Federal or State representative or auditor, including the Auditor General and USDA, or their duly authorized representatives, to perform onsite reviews of the Catering SFA’s food service operation, including the review of records, to ensure compliance with requirements for the management and use of USDA Foods/DoD Fresh. [7 CFR 250.53(a)(10)]

2.18.17. The Catering SFA 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.

2.18.18. USDA Foods delivery fees must be paid in accordance with the terms and conditions set forth in the Agreement between the SFA and US Foods.

2.19. Simplified Summer Food Service Program (SFSP): ***(Delete 2.19.1-2.19.10 below and write N/A here if not applicable)***

2.19.1. For any SFSP program that is over $100,000, the Catering SFA shall obtain a Performance Bond in an amount not less than ten (10) percent and not more than twenty-five (25) percent of the SFSP contract amount. [7 CFR 225.15(m)(6)]

SFSP Estimated Contract Amount $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ x 10% = Performance Bond Amount $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2.19.2. The shall obtain the performance bond from only surety companies listed in the current Department of Treasury Catering SFA Circular 570. The Catering SFA may not post any “alternative” forms of performance bond, including but not limited to cash, certified checks, letters of credit, or escrow accounts. [7 CFR 225.15(m)(7)]

2.19.3. All meals prepared for the Simplified Summer Food Service Program (SFSP) shall be unitized with or without milk or juice, unless the SFA has an ADE approved exception to the unitizing requirement for certain components of a meal. [7 CFR 225.6(h)(2)(i)]

2.19.4. All SFSP meals served will meet the meal pattern requirements listed in 7 CFR 225.16.

2.19.5. The meals served under the Agreement shall conform to the cycle menus, meal quality standards, and food specifications approved by ADE. The SFA shall approve any changes to the menus no later than two (2) weeks prior to service after the initial cycle has been used. The SFA shall inform ADE of menu changes for the SFSP. The meals shall be delivered in accordance with the delivery schedule prescribed. [7 CFR 225.6(h)(3)]

2.19.6. The Catering SFA may use USDA Foods to conduct SFSP in accordance of the Standard Terms and Conditions for USDA Foods/DoD Fresh and 7 CFR Part 225.

2.19.7. The Catering SFA shall not subcontract for the total meal, with or without milk, or for the assembly of the meal. [7 CFR 225.6 (g)(2)(ii)]

2.19.8. The Catering SFA must have State or local health certification for the facility in which it proposes to prepare meals for use in the Simplified Summer Food Program. The Catering SFA must ensure that health and sanitation requirements are met at all times. In addition, the Catering SFA must ensure that meals are inspected periodically to determine bacteria levels present in the meals and that the bacteria levels found to be present in the meals conform to the standards set by local health authorities. The results of the inspections must be submitted promptly to the SFA and ADE. [7 CFR 225.6 (g)(2)(v)]

2.19.9. The SFA, shall be responsible for all management responsibilities of the SFSP, as described in 7 CFR 225.15(a)(3). The SFA shall be responsible for determining eligibility of all SFSP sites and will make the final determination of the opening and/or closing dates of all SFSP sites.

2.19.10. The SFA, as an SFSP Operator, is responsible for conducting and documenting the required SFSP site visits of all sites for pre-approval and during operation of the program. The SFA will provide the Catering SFA a list of approved sites along with the approved number of meals that will be claimed for reimbursement for each site. The SFA will notify the Catering SFA of all sites which have been approved, cancelled, or terminated subsequent to submission of the initial approved site list and of any changes in the approved meals. Such notification will be provided within the time limits mutually agreed upon.

[7 CFR 225.6 (g)(2)(iii)]

2.20. Seamless Summer Option (SSO): ***(Delete 2.20.1-2.20.4 below and write N/A here if not applicable)***

 2.20.1. The agreed upon guidelines in this agreement will be followed unless USDA nationwide waivers released for 2022-2023 supersede any of those guidelines.

 2.20.2. SFAs with closed enrolled sites/camps, as applicable, will review, approve, or deny,

 and verify applications for free and reduced-price school meals in accordance with 7 CFR 245.

2.20.3. SFAs with open sites, determine area eligibility based on the percentage of enrolled children approved for free and reduced-price meals as of the last day of operation of the most recent school year.

2.20.4. Meals served at approved SSO sites must be served free of charge to all children. SFAs that sponsor camps may charge for meals served to children who are not eligible to receive free or reduced-price meals.

2.21. Child and Adult Care Food Service Program (CACFP) Snack/Pre-School: ***(Delete 2.21.1-2.21.3 below and write N/A here if not applicable)***

2.21.1. All meals served will meet the meal pattern requirements listed in 7 CFR 226.20.

2.21.2. The Catering SFA shall not subcontract for the total meal, with or without milk, or for the assembly of the meal. [7 CFR 226.21(e)]

2.21.3. The Catering SFA shall be in conformance with all applicable portions of the SFA’s agreement under the program. [7 CFR 226.6 (i)(6)]

**3. Specific SFA Responsibilities**

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

3.2. Contract Documents: The SFA will prepare all contract documents.

3.3. Financial Responsibility: The SFA 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 SFA will ensure that the food service operation is in conformance with the SFA’s Agreement with the Arizona Department of Education (ADE) to participate in Child Nutrition Programs.

3.5. Household Application: The SFA shall maintain responsibility for the application process for all free and reduced-price meals and shall establish and notify parents and guardians of program criteria for eligible students. The SFA shall be responsible for verifying applications for free and reduced-price meals as required by USDA regulations. The SFA will ensure that no child is discriminated against on the basis of race, color, national origin, age, sex, or disability. Both the SFA and the Catering SFA shall be responsible for protecting the anonymity of students receiving free or reduced-price meals. [7 CFR 245.6]

3.6. Price Control: The SFA 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, and adult meals). [7 CFR 210.16(a)(4)]

3.7. Procurement:

3.7.1. The SFA 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 SFA 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 SFA 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 SFA will retain control of the quality, extent, and general nature of the food service, including counting and claiming meals. [7 CFR 210.21(b)]

3.9. Signature Authority: The SFA will retain signature authority on the State Agency Food Program Permanent Service Agreement, Free and Reduced-Price Policy statement, and claims. The SFA 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. SFA Representative Duties:

3.10.1. The SFA shall ensure that an SFA 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 SFA assures the Catering SFA 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. Advice of Counsel:Each party acknowledges that, in executing this Agreement, such party has had the opportunity to seek the advice of independent legal counsel and has read and understood all the terms and provisions of this agreement. Arizona Department of Education (ADE) is not a party to any contractual relationship between the SFA and the Catering SFA. ADE is not obligated, liable, or responsible for any action or inaction taken by the SFA or the Catering SFA based on this agreement. ADE’s review of the agreement is limited to assuring compliance with Federal and State procurement requirements and program regulations. ADE does not review or judge the fairness, advisability, efficiency, or fiscal implications of this agreement.

4.2. Affordable Care Act: The Catering SFA 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 Catering SFA shall bear sole responsibility for providing health care for its employees who provide service to the SFA as required by Federal or State law.

4.3. Agreement Modification, Nonperformance, or Default: This Agreement constitutes the entire understanding between the Catering SFA and the SFA 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, signed by the duly authorized officers of the SFA and the Catering SFA, and approved by ADE. No assignment or transfer of this Agreement may be made, in whole or in part, without the prior written consent of the SFA.

4.4. 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 approved by ADE.

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

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

4.7. Authority: The SFA 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 agreement. Such authority includes, but is not limited to, source evaluation, protests, disputes, claims, or other matters of a contractual nature.

4.8. Assurance of Civil Rights Compliance: The Catering SFA hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C.§ 2000d et seq.); Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794); the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.); Title II and Title III of the Americans with Disabilities Act (ADA) of 1990 as amended by the ADA Amendment Act of 2008 (42 U.S.C. 12131-12189); Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency." (August 11, 2000); All provisions required by the implementing regulations of the Department of Agriculture (USDA) (7 CFR Part 15 et seq.); Department of Justice Enforcement Guidelines (28 CFR Parts 35, 42 and 50.3); Food and Nutrition Service (FNS) directives and guidelines to the effect that, no person shall, on the grounds of race, color, national origin, sex (including gender identity and sexual orientation), age, or disability, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination under any program or activity for which the Program applicant receives Federal financial assistance from USDA; and hereby gives assurance that it will immediately take measures necessary to effectuate this Agreement; The USDA non-discrimination statement that 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, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs).

This assurance is given in consideration of and for the purpose of obtaining any and all Federal financial assistance, grants, and loans of Federal funds, reimbursable expenditures, grant, or donation of Federal property and interest in property, the detail of Federal personnel, the sale and lease of, and the permission to use Federal property or interest in such property or the furnishing of services without consideration or at a nominal consideration, or at a consideration that is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale, lease, or furnishing of services to the recipient, or any improvements made with Federal financial assistance extended to the Program applicant by USDA. This includes any Federal agreement, arrangement, or other contract that has as one of its purposes the provision of cash assistance for the purchase of food, and cash assistance for purchase or rental of food service equipment or any other financial assistance extended in reliance on the representations and agreements made in this assurance.

By accepting this assurance, the Catering SFA agrees to compile data, maintain records, and submit records and reports as required, to permit effective enforcement of nondiscrimination laws and permit authorized USDA and State agency personnel during hours of program operation to review and copy such records, books, and accounts, access such facilities and interview such personnel as needed to ascertain compliance with the nondiscrimination laws. If there are any violations of this assurance, the Department of Agriculture, FNS, shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Catering SFA, its successors, transferees and assignees as long as it receives assistance or retains possession of any assistance from USDA. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Catering SFA.

4.9. Claim Liability:

 4.9.1. The Catering SFA accepts liability caused by the Catering SFA’s negligence or for claims assessed as a result of Federal or State reviews/audits, corresponding with the Catering SFA’s period of liability.

4.9.2. The SFA shall be responsible for ensuring the resolution of Program reviews and audit findings. The Catering SFA shall fully cooperate with the SFA in resolving review and audit issues, and the Catering SFA shall indemnify the SFA for any fiscal action, claims, losses or damages, fault, fraud, required repayment or restoration of funds, including reasonable attorney’s fees incurred in defending or resolving such issues, that results from the Catering SFA’s intentional or negligent acts.

4.9.3. The Catering SFA shall indemnify, defend, and hold the SFA harmless against any loss of damage (including attorney’s fees and costs of litigation) caused by the Catering SFA’s negligent act or omission, theft by the Catering SFA’s employees, or the negligent or intentional acts or omissions of the Catering SFA’s agents or employees. The Catering SFA shall defend any suit against the SFA 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 Catering SFA’s employees, and any suit alleging bodily injury, sickness, or disease arising out of the consumption of the meals delivered by the Catering SFA 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.

4.9.4. The SFA shall promptly notify the Catering SFA in writing of any claims against the Catering SFA or the SFA and, in the event a suit is filed, shall promptly forward to the Catering SFA all papers in connection therewith. The Catering SFA shall not incur any expense or make any settlement without the SFA’s consent. However, if the Catering SFA refuses or neglects to defend any such suit, the SFA 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 Catering SFA.

4.9.5. The Catering SFA accepts liability for any negligence on its part that results in any loss of, improper use of, or damage to USDA Foods/DoD Fresh. In the event the SFA is assessed a fine or penalty, as the result of an unsatisfactory or failed food service audit, the Catering SFA shall be responsible for paying one hundred percent (100%) of the fine or penalty as a result of negligence on behalf of the Catering SFA. ***(Delete if not using USDA Foods/DoD Fresh)***

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.

4.11. Contract Termination:

 4.11.1. 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.

 4.11.2. The SFA may terminate this Agreement upon written notice if the Catering SFA fails to fully comply with the terms and conditions.

4.11.3. The SFA may terminate this Agreement under Arizona Revised Statutes 38-511 (Cancellation for conflict of interest - www.azleg.state.az.us/ars/38/00511.htm) for a violation of that statute. This notice complies with the requirements of that statute.

4.11.4. The SFA may, upon written notice of default to the Catering SFA, terminate the whole or any part of this Agreement in any one of the following circumstances:

(1) If the Catering SFA 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 Catering SFA 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.

4.11.5. Availability of Funds: The SFA 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 SFA shall give the Caterer prompt written notice after it knows that funding will not be available. No liability shall accrue to the SFA in the event this provision is exercised, and the SFA shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

4.11.6. All notices to the SFA shall be addressed to the SFA at the address listed on the signature page, and all notices to the Catering SFA shall be addressed to the Catering SFA at the address listed on the signature page.

4.12. Employment: The Catering SFA 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.

4.13. Energy Policy and Conservation Act: The Catering SFA 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. (42 U.S.C. 6201) [Appendix II to 2 CFR 200(H)]

4.14. Equal Employment Opportunity: The Catering SFA 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)]

4.15. E-Verify Requirement:

 4.15.1. The Catering SFA shall comply with all Federal immigration laws and regulations relating to employees and shall comply with A.R.S. 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.)

4.15.2. A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the Agreement and the Catering SFA may be subject to penalties up to and including termination of the Agreement.

4.15.3. Failure to comply with an SFA audit process to randomly verify the employment records of the Catering SFA and subcontractors shall be deemed a material breach of the Agreement and the Catering SFA may be subject to penalties up to and including termination of the Agreement.

4.15.4. The SFA retains the legal right to inspect the papers of any employee who works on the Agreement to ensure that the Catering SFA or subcontractor is complying with A.R.S. 41-4401(A)(1).

4.16. Fingerprint Checks:

4.16.1. In accordance with A.R.S. 15-512(H), a contractor, subcontractor, or vendor or any employee of a contractor, subcontractor or vendor who is contracted to provide services on a regular basis at an individual school may be required to obtain a valid fingerprint clearance card pursuant to Title 41, Chapter 12, Article 3.1. An exception to this requirement may be made as authorized in Governing Board policy.

4.16.2. The Catering SFA, and their employees, shall not provide services on SFA properties until authorized by the SFA.

4.16.3. The Catering SFA shall comply with the Governing Board’s fingerprinting policies of the SFA.

 4.17. Indemnification:

4.17.1. The Catering SFA shall indemnify, defend, and hold the SFA harmless against any loss of damage (including attorney’s fees and costs of litigation) caused by the Catering SFA’s negligent act or omission, theft by the Catering SFA’s employees, or the negligent or intentional acts or omissions of the Catering SFA’s agents or employees. The Catering SFA shall defend any suit against the SFA 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 Catering SFA’s employees, and any suit alleging bodily injury, sickness, or disease arising out of the consumption of the meals delivered by the Catering SFA 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.

4.17.2. The SFA shall promptly notify the Catering SFA in writing of any claims against the Catering SFA or the SFA and, in the event a suit is filed, shall promptly forward to the Catering SFA all papers in connection therewith. The Catering SFA shall not incur any expense or make any settlement without the SFA’s consent. However, if the Catering SFA refuses or neglects to defend any such suit, the SFA 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 Catering SFA.

4.18. Insurance:

4.18.1 During the term of this Agreement, the Catering SFA shall maintain insurance policies described below issued by companies licensed in Arizona with a current A.M. Best rating of A: VIII or better. Upon request, the Catering SFA will provide the SFA 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) Business 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 Catering SFA’s owned, hired, and non-owned vehicles, and

(3) Workers’ Compensation: The Catering SFA 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 SFA.

4.19. Non-Discrimination: The Catering SFA shall comply with State Executive Order No. 99-4, 2000-4 and all other applicable Federal and State laws, rules, and regulations, including the Americans with Disabilities Act. The Catering SFA 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 Catering SFA 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.

4.20. Payroll Taxes and Costs: The Catering SFA 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.

**6. Signatures**

For the SFA: For the Caterer:

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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, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.*

*Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language), should contact the responsible state or local agency that administers the program or USDA’s TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.*

*To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at:*[*https://www.usda.gov/sites/default/files/documents/USDA-OASCR%20P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.pdf*](https://www.usda.gov/sites/default/files/documents/USDA-OASCR%20P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.pdf)*, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant’s name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:*

1. *mail:  U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights
          1400 Independence Avenue, SW
          Washington, D.C. 20250-9410;*
2. *fax: (833) 256-1665; or (202) 690-7442*
3. *email:**program.intake@usda.gov**.*

*This institution is an equal opportunity provider.*

**5-Day Meal Patterns –Breakfast, Lunch, Supper, and Snack**







