REQUEST FOR PROPOSAL

232005

COLLECTION, PROCESSING, RECYCLING, AND TRANSPORT
OF WASTE MATERIALS

DUE: 3:00 P.M., MST, 4/29/2020

Deadline for Inquiries 3:00 P.M., MST, 4/15/2020

Time and Date Set for Closing 3:00 P.M., MST, 4/29/2020
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SECTION I – REQUEST FOR PROPOSAL

RFP 232005

Arizona State University is requesting sealed proposals from qualified firms or individuals for Collection, Processing, Recycling, and Transport of Waste Materials.

Proposals must be emailed to PurchasingFacilities@asu.edu on or before 3:00 PM, MST, 04/29/2020 at which time a representative of Purchasing and Business Services will announce publicly the names of those firms or individuals submitting proposals via Zoom https://asu.zoom.us/j/101968077. No proposals will be accepted after this time. All times noted are Mountain Standard Time (MST) and Daylight Savings Time is NOT observed. No telephone, hard copy, or facsimile proposals will be considered.

The list of proposers will then be available on the Bid Board at https://cfo.asu.edu/construction-facilities-bid-board. No other public disclosure will be made until after award of the contract.

ARIZONA STATE UNIVERSITY

Erik Villescaz

Erik Villescaz
Buyer
Erik.Villescaz@asu.edu
SECTION II – PURPOSE OF THE RFP

1. INTENT

The Arizona State University (ASU) is requesting proposals for the hauling and processing of non-hazardous waste and recyclable materials. ASU is seeking a vendor with an innovative business model and capabilities to help ASU increase landfill diversion rates and increase cost and labor efficiencies. ASU expects the successful bidder to work with university staff to achieve ASU’s Zero Waste and Circular Resource Goals as provided in Exhibit D – Zero Waste Annual Report.

2. BACKGROUND INFORMATION

Arizona State University is a new model for American higher education, an unprecedented combination of academic excellence, entrepreneurial energy and broad access. This New American University is a single, unified institution comprising four differentiated campuses positively impacting the economic, social, cultural and environmental health of the communities it serves. Its research is inspired by real world application blurring the boundaries that traditionally separate academic disciplines. ASU serves more than 100,000 students in metropolitan Phoenix, Arizona, the nation’s fifth largest city. ASU champions intellectual and cultural diversity, and welcomes students from all fifty states and more than one hundred nations across the globe.


3. TERM OF CONTRACT

The initial contract term will be for three (3) year(s) with the possibility of two (2) successive one (1) year renewals, for a total term not to exceed five (5) years. The contract will be available for use by other University departments during this term.
SECTION III – PRE-PROPOSAL CONFERENCE

X   No pre-proposal conference will be held.
SECTION IV – INSTRUCTIONS TO PROPOSERS

1. Your proposal must be emailed to PurchasingFacilities@asu.edu on or before 3:00 PM, MST, 04/29/2020 at which time a representative of Purchasing and Business Services will announce publicly the names of those firms or individuals submitting proposals via Zoom https://asu.zoom.us/j/101968077. You may withdraw your proposal at any time prior to the time and date set for closing by contacting the buyer.

2. You may withdraw your proposal at any time prior to the time and date set for closing.

3. No department, school, or office at the University has the authority to solicit or receive official proposals other than Purchasing and Business Services. All solicitations are performed under the direct supervision of the Chief Procurement Officer and in complete accordance with University policies and procedures.

4. The University reserves the right to conduct discussions with proposers, and to accept revisions of proposals, and to negotiate price changes. During this discussion period, the University will not disclose any information derived from proposals submitted, or from discussions with other proposers. Once a contract is executed, the solicitation file, and the proposals contained therein, are in the public record and will be disclosed upon request.

5. Proposers submitting proposals which meet the selection criteria and which are deemed to be the most advantageous to the University may be requested to give an oral presentation to a selection committee. Purchasing and Business Services will do the scheduling of these oral presentations.

6. The award shall be made to the responsible proposer(s) whose proposal is determined to be the most advantageous to the University based on the evaluation factors set forth in this solicitation. Price, although a consideration, will not be the sole determining factor.

7. The University reserves the right to award all or part of this RFP to one or more suppliers at its sole discretion.

8. The University reserves the right at its sole discretion to share this RFP and its results with other public universities, and with public Procurement Cooperatives to which the University is a member, for the purposes of utilizing the award for their own contract.

   a. Any resultant contract between awardee(s) and other public universities or public Procurement Cooperatives is solely between those two parties. Awardee(s) are under no obligation to honor pricing or terms resulting from a negotiated contract with ASU.

   b. Awardee(s) will be required to pay the University a 2% annual administration fee based on total net revenue from any public university or public Procurement Cooperative utilizing the results of this RFP as their own award.

   c. The administration fee may be charged by the supplier directly to other public universities or public Procurement Cooperatives.

9. Other public Arizona entities, including but not limited to, Northern Arizona University, University of Arizona, and Maricopa County Community College District may use the award and contract resulting from this RFP.
10. **Central Receiving and Last Mile Distribution Fee for real goods shipped to the University:** ASU operates centralized receiving warehouses that will be used for the majority of campus deliveries. The University’s Central Receiving Unit will charge a fee to the supplier for all centralized shipments in the form of a Last Mile Distribution Fee.

   a. This fee can, in turn, be billed back to the University in the cost of goods or added as a separate delivery fee.
   
   b. This fee, totaling 5% of the gross funds paid to the Supplier, shall be paid directly to the Centralized Receiving Unit. This fee will apply to any and all products sold by the Supplier that are delivered to Central Receiving.

   The Fee will be calculated based on all sales transacted. The Supplier will submit the Fee, along with quarterly reports documenting all sales, to the University within 30 days following the end of each calendar quarter. Each quarterly report shall include, as a minimum, all purchased goods, price paid, and quantity for all sales within the calendar quarter just ended. Other options for last mile compensation can be discussed in the proposal, but responses should include acknowledgement of willingness to engage.

11. If you are submitting any information you consider to be proprietary, you must email it with your proposal, in a separate file, labeled "Proprietary Information". If the Chief Procurement Officer concurs, this information will not be considered public information. The Chief Procurement Officer is the final authority as to the extent of material, which is considered proprietary or confidential. Pricing information cannot be considered proprietary. Any watermarks, footnotes, copyright or reference to Confidential and/or Proprietary throughout the submitted proposal will be disregarded as boilerplate markings.

12. Your proposal should be submitted in the format shown in Section X. Proposals in any other format will be considered informal and may be rejected. Conditional proposals will not be considered. An individual authorized to extend a formal proposal must sign all proposals. Proposals that are not signed may be rejected.

13. The University reserves the right to reject any or all proposals or any part thereof, or to accept any proposal, or any part thereof, or to withhold the award and to waive or decline to waive irregularities in any proposal when it determines that it is in its best interest to do so. The University also reserves the right to hold all proposals for a period of **one hundred twenty (120) days** after the opening date and the right to accept a proposal not withdrawn before the scheduled proposal opening date.

14. **EXCEPTIONS:** The Arizona State University contract terms and conditions are included in this Request for Proposal in Section XII. These terms and conditions will be incorporated into the contract between the University and the successful proposer. **Proposals that are contingent upon any changes to these mandatory contract terms and conditions may be deemed nonresponsive and may be rejected.** All exceptions must be submitted with justification and alternate language, and MUST be submitted with the proposal. In no event is a Proposer to submit its own standard contract terms and conditions as a response to this RFP.

15. Unless specifically stated to the contrary, any manufacturer’s names, trade names, brand names or catalog numbers used in the specifications of this Request for Proposal are for the purpose of describing and/or establishing the quality, design and performance required. Any such reference is not intended to limit or restrict an offer by any proposer and is included in order to advise the potential proposer of the requirements for the University. Any offer, which proposes like quality, design or performance, will be considered.
16. **Days:** Calendar days

**May:** Indicates something that is not mandatory but permissible/desirable.

**Shall, Must, Will:** Indicates mandatory requirement. Failure to meet these mandatory requirements will result in rejection of your proposal as non-responsive.

**Should:** Indicates something that is recommended but not mandatory. If the proposer fails to provide recommended information, the University may, at its sole option, ask the proposer to provide the information or evaluate the proposal without the information.

17. Any person, firm, corporation or association submitting a proposal shall be deemed to have read and understood all the terms, conditions and requirements in the specifications/scope of work.

18. All proposals and accompanying documentation will become the property of the University at the time the proposals are opened. **It will be the proposer’s responsibility to request that samples be returned to the proposer and provide a method for doing so at the expense of the proposer.** If a request is not received and a method of return is not provided, all samples shall become the property of the University 10 days from the date of the award.

19. All required performance and payment bonds shall be held by the University in a secure location until the performance of the contract and the payment of all obligations rising there under have been 100% fulfilled. Upon completion of the project and all obligations being fulfilled, it shall be the proposer’s responsibility to request the surety bonding company to submit to the University the necessary documents to approve the release of the bonds. Until such time the bonds shall remain in full force and effect.

20. **All communications,** including formal inquiries, requests for significant or material clarification or interpretation, and/or notification to the University of errors or omissions relating to this Request for Proposal must be directed, in writing, to Erik Villescaz at erik.villescaz@asu.edu.

All formal inquiries must be submitted at least ten (10) calendar days before the time and date set for closing this Request for Proposal. Failure to submit inquiries by this deadline may result in the inquiry not being answered.

Note that the University will not answer informal questions orally. The University makes no warranty of any kind as to the correctness of any oral answers and uses this process solely to provide minor clarifications rapidly. Oral statements or instructions shall not constitute an amendment to this Request for Proposal. Proposers shall not rely on any verbal responses from the University.

Proposers are prohibited from communicating directly to any member of the RFP committee other than the named Buyer during the RFP process except those activities conducted under the committee’s purview. Participants with other business with the University that does not fall under the purview of this RFP may conduct that business as would normally be required to maintain that business.

21. The University shall not reimburse any proposer the cost of responding to a Request for Proposal.
22. In accordance with an executive order titled “Air Pollution Emergency Proclamation” modified by the Governor of Arizona on July 16, 1996, the University formally requests that all products used in the performance of any contract that results from this Request for Proposal be of low- or no-content of reactive organic compounds, to the maximum extent possible.

23. Arizona requires that the University purchase ENERGY STAR® products or those certified by the Federal Energy Management Program as energy efficient in all categories available. If this Request for Proposal is for a product in a category for which ENERGY STAR® or certified products are available, please submit evidence of the ENERGY STAR® status or certification for the products you are bidding. Please note that if you fail to submit this information but a competitor does, the University will select your competitor’s product as meeting specifications and deem your product as not meeting specifications. See A.R.S. §34-451.

24. The University requires that all desktop computers, notebooks, and monitors purchased must meet Electronic Product Environmental Assessment Tool (EPEAT) Gold status as contained in the IEEE 1680 Standard for the Environmental Assessment of Personal Computer Products. The registration criteria and a list of all registered equipment are at http://www.epeat.net on the Web.

25. To the extent applicable to any contract resulting from this Request for Proposal, the proposer shall comply with the Standards for Privacy of Individually Identifiable Information under the Health Insurance Portability and Accountability Act of 1996 contained in 45 CFR Parts 160 and 164 (the “HIPAA Privacy Standards”) as of the effective date of the HIPAA Privacy Standards on April 14, 2003 or as later determined. Proposer will use all security and privacy safeguards necessary to protect Protected Health Information (PHI), as defined by HIPAA, and shall immediately report to University all improper use or disclosure of PHI of which it becomes aware. Proposer agrees to ensure that its agents and subcontractors agree to and abide by these requirements.

26. The University believes that it can best maintain its reputation for treating suppliers in a fair, honest, and consistent manner by conducting solicitations in good faith and by granting competitors an equal opportunity to win an award. If you feel that we have fallen short of these goals, you may submit a protest pursuant to the Arizona Board of Regents procurement procedures, section 3-809, protests should be directed to Jamon Hill at Jamon.Hill@asu.edu.
SECTION V – SPECIFICATIONS/SCOPE OF WORK

The successful vendor will manage all waste streams from ASU facilities listed in Exhibit A - Solid Waste Containers and Streams. This includes all regularly generated solid, non-hazardous waste and recyclables.

The Zero Waste Department is housed under Facilities Development and Management within Arizona State University in Tempe, AZ. The contract will be managed by Facilities Development and Management, and will be referred to within this proposal as FDM.

1. Service Scope/Specifications
   A. Compactors and Containers
      i. The successful vendor will provide hauling and processing services to outdoor centralized compactors and bins for all of the University’s campus locations. For the purpose of this RFP, trash, primary recycling streams, and special waste streams have been individually addressed in Exhibit A.
      ii. ASU owns 52 compactors (both self-contained and break-away). The vendor will be required to supply and service front-load and roll-off containers, and service ASU-owned compactors and roll-offs. See Exhibit A for a full list of container sizes and types.
      iii. All vendor-supplied containers (seasonal, term-of-contract, and for purchase) must be numbered, labeled with appropriate safety labels, and a determination of what type of material may be placed in the container. FDM reserves the right to refuse any equipment that does not meet aesthetic or operational standards. The vendor must be able to provide the following types of equipment within a two (2) week time frame after contract award.
         • Self-Contained solar or non-solar Compactors (15 to 35 yard capacity, visible gauges, security doors on hopper, 3-phase compaction) for purchase. Purchases are as-needed. Vendor will be required to install new compactors
         • Break-Away solar or non-solar Compactors (20 to 35 yard capacity, visible gauges, 3-phase compaction) for purchase. Purchases are as-needed. Vendor will be required to install new compactors.
         • Open-Top Roll-Offs (ranging in size from 12 yard to 40 yard capacity) for temporary seasonal placement and placement for the term of the contract.
         • Front-Load Containers (ranging in size from 2 yard to 10 yard capacity, with lids, wheeling when requested) for temporary seasonal placement and placement for the term of the contract.
      iv. FDM reserves the right to purchase any containers provided by the vendor at a depreciated cost appropriate to the age of the container or compactor.
      v. Service locations added by FDM at any time within the contract period will fall under contracted pricing.
      vi. Containers or compactors custom-made for specific FDM locations will be purchased by FDM if the contract is terminated by FDM before the end of the contract period. FDM also reserves the right to purchase any containers or compactors at any point during the contract period or upon termination of the contract.
      vii. ASU may purchase solid waste handling equipment as part of enterprise expansion and program improvements.
      viii. Any changes to locations or frequency would also be automatically incorporated into the awarded contract.
B. Compactor and Container Maintenance
   i. The vendor will be responsible for basic maintenance of all vendor and FDM owned compactors and containers, including normal breakage and wear. Basic maintenance includes seasonal preventative maintenance (PM) of hydraulics and gauges on compactors, lid repair and replacement on front-load containers, and replacement or maintenance of existing signage/labels. Guidelines for PM and basic maintenance responsibilities will be agreed upon by both FDM and the vendor with assignment of the contract. See Exhibit B – Compactor Annual Maintenance and Repair Requirements for example of current maintenance scope.
   ii. The successful vendor will be required to respond to repair requests within two (2) hours of initial notification. Guidelines for response time will be agreed upon by FDM and the vendor upon assignment of contract.
   iii. Major repairs or replacement of vendor-owned compactors and containers will be the responsibility of the vendor. FDM will be responsible for the cost of repairs to FDM-owned compactors. Guidelines for responsibility of major repair or replacement of compactors and containers will be agreed upon by both FDM and the vendor. FDM will initiate all requests for repair or replacement work.
   iv. The vendor will also be required to paint, sanitize, and re-label all compactors inside and out one (1) time a year as jointly scheduled by FDM and the vendor upon contract award. The vendor must also provide the cost to FDM for additional sanitation outside of the contracted yearly cleanings.

C. Service Locations
   i. The vendor will be required to provide containers and service to ASU on-campus and affiliated off-campus sites.
   ii. Exhibit A provides a list of locations and pick-up schedule required by the vendor. Service includes all labor, vehicles, and containers necessary to pick up, dump, and return all compactors and containers. Opening gates, closing gates, and wheeling containers up to 30 feet will be required in some locations. FDM may request additional containers or pick-ups at any time during the contract term to meet seasonal needs. All listed locations are fully accessible and container-ready.

D. Vendor Equipment
   i. Vehicles that will be used by the vendor to provide any service to FDM must be clearly marked identifying the vendor and the fleet vehicle number. The vendor is responsible for maintaining a fleet of vehicles appropriate for handling the tonnage (Exhibit D – Zero Waste Annual Report) and container types (Exhibit A) requested in this RFP.

E. Service and Response
   i. Hours of Operation: The vendor must be able to service compactors and open-top roll-offs between the hours of 4am and 5pm, Monday through Saturday. Front load service will be Monday through Sunday, between the hours of 4am and 5pm.
   ii. Emergency and Holiday Response: The vendor must be able to provide emergency services to any FDM containers 24-hours a day, seven days a week, 365 days a year. Emergency response time will be determined upon award by FDM.
   iii. On-Call Service: The vendor must provide next-day service to on-call containers, unless otherwise indicated at the time of call. Next-day service response time to be determined upon contract award.
   iv. Service Time Restrictions/Flexibility: The vendor must adhere to service time restrictions in noise-sensitive areas, which will be provided by FDM upon contract award. The vendor must also be able to provide seasonal off-hours services for large events.

F. Communication:
   i. Dispatch: A contact number must be provided for scheduling services and repairs during regular business hours, 6am to 5pm, Monday through Saturday. An emergency
dispatch number must also be provided that is answered 24-hours a day, seven days a week, 365 days a year. Response to messages left by FDM representatives in regard to container services must be returned within one hour of message time.

ii. Administration: A single vendor representative must be assigned to handle the FDM account. Contact information, including phone number and email address, will be supplied upon commencement of the contract period. This vendor representative will be required to attend regular and seasonal meetings, dates to be determined.

iii. The vendor must report to FDM if scheduled service cannot be performed by end of the business day of which the service was scheduled.

G. Reporting, Invoicing, and Payments
   i. The vendor will provide all reports, invoices, and rebates by the 15th of the month following the service month.
   ii. FDM will accept only one monthly invoice for each Campus for all services rendered at that Campus. All invoices must be emailed to designated FDM contact, provided upon contract award.
   iii. Front-load volume-to-weight conversion will be determined jointly by FDM and the vendor.
   iv. The vendor will supply the following information on monthly invoices: service location names and account numbers, tonnages, detailed charges for service at each location, and totaled charges/rebates.
   v. The vendor will supply the following information on a separate monthly report to FDM: campus, segment, number of service instances, tonnage, material type, contaminated loads, reasons for contamination, monthly contamination report with photos, waste handling facility where material was delivered, and percent contamination when applicable. Additional information will be determined by FDM and the vendor upon commencement of the contract.
   vi. The vendor will supply weight slips and specific service details upon request by FDM.

2. Solid Waste Management
   A. Background: ASU currently separates recyclable solid waste into multiple different streams to maximize landfill diversion. Materials are removed from various containers inside and outside of buildings to outdoor centralized compactors, roll-offs, front loads, and other bins. See Exhibit C – Recycling and Compost Streams for minimum definitions of these material streams.
   B. Primary Recycling: From the first day of the contract, the successful vendor will be responsible for hauling and processing the following continuous streams:
      i. Commingled recycling (50% bagged, 50% loose)
      ii. Cardboard
      iii. Wood
      iv. Inert Waste
      v. Scrap Metal
      vi. Food Waste
      vii. Yard/Green Waste
      viii. The vendor will also haul seasonal or occasional streams at FM’s discretion
   C. Seasonal Roll-Off Needs: For two (16) day periods of each calendar year (residential move-in time and move-out time) ASU will require 20 (+/- 10%) additional roll-offs placed and serviced 7 days per week for both Landfill and Commingled Recycling Streams.
3. **Value Added Services**

Provide a summary of any other value added services or programs which may contribute to the overall value of your proposal, including but not limited to:

a. Demonstration of active reduction of vendor carbon footprint, such as, but not limited to:
   i. Electric plug-in or plug-in hybrid fleet
   ii. Use of renewable energy and energy use reduction practices
   iii. Use of grey-water and water use reduction practices
   iv. Use of an Environmentally Preferable Purchasing (EPP) program
   v. Land management and wildlife protection programs

b. Demonstration of vendor support of Arizona communities, such as, but not limited to:
   i. Use of local markets
   ii. Investment in and support of development of innovative, local waste management infrastructure solutions
   iii. Waste education programs
   iv. Charitable giving programs

c. Plan of support for the ASU community, such as, but not limited to:
   i. Facilitated collaboration with ASU researchers on development of new technologies and methodologies
   ii. Paid internship opportunities for ASU students
   iii. Communications support including signage, marketing items, and training materials
   iv. Educational tours of vendor and partner facilities
   v. Participation in ASU job fairs
   vi. Support of zero waste-related student and staff activities, such as student organization or staff council event sponsorship

d. Agreement that the vendor will support twice-yearly focused waste assessments as agreed upon by FDM and the vendor

e. Demonstration of vendor ability to provide system information management to support “dashboarding” and waste reduction modelling

f. Site specific plan for remote compactor monitoring systems and automated service scheduling

g. Provide a yearly supply of indoor collection bins for Residence Halls and Student Centers, as agreed upon by FDM and the vendor

h. Funding of innovation program to implement novel and creative solutions for waste reduction
   1. Student projects
   2. Pilot programs

i. Ability to furnish actual weights for front load containers, either by fork scales or a dedicated route

j. Training

k. Industry partnerships

l. Support of ASU’s Charter and goals not otherwise addressed in this section

m. Support of Sustainable development (including sustainability education programs), veterans’ affairs, initiatives in support of women, wellness, and our changing regional demographics

n. Support and enhancement of ASU’s reputation as an innovative, foundational model for the New American University

o. Commitment to provide significant financial and non-financial support for the University and its signature programs
4. Exhibits

The following list provides the Exhibits as referenced in the RFP:

Exhibit A – Solid Waste Containers and Streams
Exhibit B – Compactor Maintenance and Repair Requirements
Exhibit C – Recycling and Compost Streams
Exhibit D – Zero Waste Annual Report
SECTION VI – GREEN PURCHASING REQUIREMENTS/SPECIFICATIONS

In order to reduce the adverse environmental impact of our purchasing decisions the University is committed to buying goods and services from manufacturers and suppliers who share the University’s environmental concern and commitment. Green purchasing is the method wherein environmental and social considerations are taken with equal weight to the price, availability and performance criteria that we use to make purchasing decisions.

Proposer shall use environmentally preferable products, materials and companies where economically feasible. Environmentally preferable products have a less or reduced effect on human health and the environment when compared to other products and companies that serve the same purpose. If two (2) products are equal in performance characteristics and the pricing is within 5%, the University will favor the more environmentally preferable product and company.

If you are citing environmentally preferred product claims, you must provide proper certification or detailed information on environmental benefits, durability and recyclable properties.

The University and the supplier may negotiate during the contract term to permit the substitution or addition of Environmentally Preferable Products (EPPs) when such products are readily available at a competitive cost and satisfy the university’s performance needs.

Proposer shall minimize packaging and any packaging/packing materials that are provided must meet at least one of, and preferably all, of the following criteria:

- Made from 100% post-consumer recycled materials
- Be recyclable
- Reusable
- Non-toxic
- Biodegradable

Further, proposer is expected to pick up packaging and either reuse it or recycle it. This is a requirement of the contract or purchase order.
SECTION VII – PROPOSER QUALIFICATIONS

The University is soliciting proposals from firms, which are in the business of providing services as listed in this Request for Proposal. Your proposal shall include, at a minimum, the following information. Failure to include these items may be grounds for rejection of your proposal.

1. The proposer shall present evidence that the firm or its officers have been engaged for at least the past five (5) years in providing services as listed in this Request for Proposal.

2. The proposer must provide a minimum of three (3) references for the three (3) largest (and most recently) completed projects which are similar in magnitude and complexity to this RFP. Describe the firm’s experience in providing this service or experience most like this RFP. Please limit each of the three (3) descriptions to a maximum of two (2) pages.

3. Provide a project outline describing your firm’s development of a large and small scale project that minimized municipal solid waste from being disposed of in landfills or incinerators. No more than three (3) pages.

4. Provide an organizational chart outlining your firm’s staffing, managerial ability, and support personnel. This should include contact names and information for essential staff.

5. Provide samples of your firm’s reporting and invoicing documents which demonstrate the comprehensive level of data collected as well as the accuracy of data.

6. Provide an asset report outlining fleet size, collections equipment and containers, and any waste processing equipment available to the contract.

7. Provide a statement outlining the general maintenance plan as addressed in Section V, 1., B. Compactor and Container Maintenance. Include staffing, response time, and protocols for repair and service.

8. Proposer must provide an outline of hours of operation, service hours, and business hours as required in Section V.1.E-F Service and Response and Communication.

9. Provide downstream flow charts for the materials identified in Section V, 2., B. i-viii Primary Recycling. Outline, at a minimum, material movement from point of generation (ASU) to re-manufacturing facilities.

10. Provide evidence on how your company is innovating within the waste industry.

11. Provide any experience your company has with waste minimization and landfill diversion. Explain how this will this be applied to assist ASU in meeting our published Circular Resource and Zero Waste Goals as defined in Exhibit D.


13. Proposer shall describe ability to accommodate hauling material to processing vendors that ASU already has, or will, maintain relationships with.

14. Proposer should be able to accept all of the materials as provided in Exhibit C which depicts the current makeup of Compost and Commingled Recycling. Vendor must list any of these
materials they are unable to accept. Proposer may list any materials not on this list that can be accepted.

15. Proposer must review and acceptance of ASU standard contract terms. Note: all exceptions with justification and alternative language must be submitted with the proposal.

16. Proposer shall describe all customer and service level standards that will be applied to this contract.
SECTION VIII - EVALUATION CRITERIA

Proposals will be evaluated on the following criteria, listed in order of their relative priority with most important listed first:

1. Response to Specifications/Scope of Work (30%)
2. Response to Qualifications (25%)
3. Response to Pricing Schedule (25%)
4. Sustainability Efforts and Sustainability Questionnaire (10%)
5. Acknowledgement and acceptance of ASU Terms and Conditions (10%)

Confidential and/or Proprietary Information must be submitted per the instructions in Section IV, item 11. Any watermarks, footnotes or reference to Confidential and/or Proprietary throughout the submitted proposal will be disregarded as boilerplate markings.
SECTION IX – PRICING SCHEDULE

Proposer shall submit a detailed cost proposal to include all aspects of providing the scope of work associated with this Request for Proposal. A separate rate schedule must be submitted for any additional services and/or value adds proposed.

1. Provide pricing for the general maintenance plan as addressed in Section V.1. B. Compactor and Container Maintenance.

2. Complete the following Rate Sheets; Organics Containers, Recycling Containers, Landfill Containers, Recycling Rebate etc where applicable. Where not applicable, please denote with N/A.

<table>
<thead>
<tr>
<th>Organics Containers</th>
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SECTION X – FORM OF PROPOSAL/SPECIAL INSTRUCTIONS

Content of Submittal

If proposer fails to provide any of the following information, with the exception of the mandatory proposal certifications, the University may, at its sole option, ask the proposer to provide the missing information or evaluate the proposal without the missing information.

1. Mandatory Certifications per Section XIII
2. Section V – Specifications/Scope of Work
3. Section VII – Proposer Qualifications
4. Section IX – Pricing Schedule
5. Section VI – Green Purchasing Requirements/Specifications
6. Section XI - Acknowledgement and acceptance of all ASU Terms and Conditions. All exceptions must be submitted with justification and alternate language, and MUST be submitted with the proposal
SECTION XI – Intentionally Omitted
This Agreement is made between the Arizona Board of Regents for and on behalf of Arizona State University (ASU) and ____________ (Supplier), effective as of ____________ (the Effective Date). The Agreement will apply to the following: written offers, purchase orders, and other documents issued by ASU to Supplier for furnishing equipment, materials (Goods) and/or services (Services) to ASU (the Goods/Services). This Agreement together with any Purchase Order issued by ASU (the PO), any other written agreements signed by both parties, and any other documents incorporated by reference therein or herein collectively constitute the Agreement.

ASU issued a Request for Proposal 232005 for Collection, Processing, Recycling, and Transport of Waste Materials. Supplier responded with its proposal. ASU and Supplier desire to enter into this non-exclusive Agreement for the purpose of Supplier providing ASU with services related to Collection, Processing, Recycling, and Transport of Waste Materials.

In consideration of the mutual obligations specified in this Agreement, the parties agree as follows:

1. **Offer and Acceptance.** ASU retains Supplier, as of the Effective Date, and Supplier accepts such engagement, to provide the Goods/Services as and when described on Exhibit A. The Agreement is subject to cancellation by ASU at any time prior to acceptance by Supplier. Supplier accepts all of the Agreement’s terms and conditions, without qualification, upon the sooner of the following: 1) any written acceptance by Supplier; or 2) shipment, delivery, or performance of all or any of the Goods/Services. Any term or condition in any invoice, offer, or other document issued by Supplier that modifies, adds to, or changes the Agreement is rejected, and will not be part of the Agreement unless agreed by ASU in writing.

2. **Order of Precedence.** In the event of an inconsistency or conflict between or among the provisions of the Agreement, the inconsistency or conflict will be resolved by giving precedence in the following order: i) this Agreement; ii) the PO; and iii) any other agreement or document signed by authorized signatories of both the parties.

3. **Modifications.** Any modification to the Agreement, including changes to the PO, quantity, price, terms of payment, delivery terms, specifications, etc. must be agreed to in writing signed by both parties and their duly authorized agents.

4. **Term and Termination.**

   a. The obligations of the parties will commence on the Effective Date and, unless sooner terminated expire on the earlier of the date of acceptance of the Agreement by Supplier to the final delivery, acceptance, and payment of services, or three (3) years after the Effective Date (the Term). Following the initial Term, the Agreement may be extended for successive one (1) year periods by mutual written agreement. The total Term will not exceed five (5) years.

   b. ASU may terminate the Agreement, in whole or in part, with or without cause, upon 30 days written notice to Supplier. Subject to the provision of any Transition Services (as defined below), upon termination, Supplier will refund to ASU all prepaid amounts for Goods/Services not delivered or performed. If the Agreement is terminated pursuant to this section, subject to the provision of any Transition Services, ASU will pay Supplier, as full compensation under the Agreement: (1) the portion of Goods/Services delivered or performed and accepted prior to the effective date of termination based on the unit prices in the Agreement, or, if no unit prices are provided, the pro rata amount of the total order price based on the amount delivered or performed; and (2) a reasonable amount, not otherwise recoverable from other sources by Supplier, and as approved by ASU, with respect to the undelivered, unperformed, or unacceptable portion of the Good/Services. In no event will compensation paid previously under the Agreement together with compensation paid under this section exceed the total PO or Agreement price.

   c. ASU may terminate the Agreement, in whole or in part, if Supplier defaults on any of its obligations in the Agreement and fails to cure such default within 7 days after receiving notice of default from ASU. In the event of such a default, ASU may procure the Goods/Services from other sources and Supplier will be liable to ASU for any excess costs ASU incurs.
d. ASU may terminate the Agreement at any time if Supplier files a petition in bankruptcy, or is adjudicated bankrupt; or if a petition in bankruptcy is filed against Supplier and not discharged within 30 days; or if Supplier becomes insolvent or makes an assignment for the benefit of its creditors or an arrangement pursuant to any bankruptcy law; or if a receiver is appointed for Supplier or its business.

e. **Transition Services.** Upon termination of the Agreement or termination of any Services (regardless of the reason for termination), the parties will work in good faith to transition the terminated Services to ASU or its designees, with minimum interruption to ASU’s business. At ASU’s option, Supplier will continue to provide Services and will provide transition support at rates consistent with the terms of the Agreement for a period of no longer than 180 days following the termination date (the **Transition Period**). Supplier will provide the post-termination Services (the **Transition Services**) at least at the same levels of quality and timeliness of performance as Services were provided prior to termination, in a professional manner, with high quality, and in accordance with industry standards. The parties may, by written agreement, modify the Transition Services to be provided and the length of the Transition Period.

5. **Survival.** All provisions of the Agreement that anticipate performance after the termination of the Agreement, and all provisions necessary or appropriate to interpret and enforce such provisions, will survive termination of the Agreement.

6. **Compensation.** ASU will pay Supplier for the Goods/Services as and when set forth in Exhibit B. Unless described with specificity on Exhibit B, Supplier will be solely responsible for all expenses it incurs in connection with Suppliers obligations under this Agreement and ASU must receive all Goods/Services prior to payment. All Prices will be as listed in the PO or, if not listed in the PO, will be as otherwise set forth in the Agreement. Unless otherwise specified in the Agreement: 1) all prices are in US Dollars; 2) prices include any cost for shipping, and handling; and 3) prices will include any travel, labor, interest, import/export fees, and other costs associated with providing the Goods/Services. ASU will reimburse Supplier for expenses that are specifically identified in the PO. To obtain reimbursement for pre-approved expenses, Supplier must submit all receipts and any required backup documentation to ASU within 60 days after the applicable expenses were incurred. If any reimbursable expenses include travel expenses, all reimbursable travel expenses must be authorized in writing by ASU in advance of the planned travel and must be consistent with ASU Financial Services Policy FIN 421-01.

7. **Settlement Method and Terms.** Payment will be subject to the provisions of Title 35 of the Arizona Revised Statutes, as amended from time to time (ARS), relating to time and manner of submission of claims. ASU’s obligation will be payable only and solely from funds appropriated for the purpose of the Agreement. After delivery and acceptance of the Goods/Services, Supplier will submit an acceptable invoice to ASU. Invoices must be itemized, reference the Agreement or PO number, and include sufficient detail to document the invoiced amount. Unless otherwise specified on the PO, ASU will pay Supplier for the Goods/Services delivered and accepted net 45 days after receipt by ASU of an invoice meeting the requirements of this section.

8. **Taxes.** Unless otherwise specified in the Agreement, prices will include all taxes and fees, including, without limitation, sales, use, or excise taxes, import duties, value added taxes, permit fees, license fees, or similar charges (Taxes). Taxes do not include ASU income taxes or taxes related to ASU’s employees.

9. **Inspection.** Supplier will supply the Goods/Services to ASU exactly as specified in the Agreement. The Goods/Services will meet the highest and best industry practices. ASU will have the right to inspect any Goods/Services prior to and a reasonable amount of time after delivery. If ASU determines that any Goods/Services are incomplete, defective, or not in compliance with the specifications or other requirements of the Agreement, ASU may reject such Goods/Services in whole or in part.

10. **Warranties.** In addition to any implied warranties, Supplier warrants to ASU that: 1) the Goods/Services will be free from any defects in design, workmanship, materials, or labor; 2) all of the Services will be performed in a professional and workmanlike manner and in conformity with highest and best industry standards by persons reasonably suited by skill, training and experience for the type of services they are assigned to perform; 3) Supplier will comply, and will be responsible for ensuring Supplier Parties, as defined below, comply with all applicable laws, rules, and regulations in the performance of the Agreement; 4) Supplier owns or has sufficient rights in the Goods/Services that they do not infringe upon or violate any Intellectual Property, as defined below, of any third parties, and are free and clear of any liens or encumbrances; 5) any data, code, or software developed or delivered by Supplier to ASU will not contain any viruses, worms, Trojan Horses, or other disabling devices or code; 6) all sensitive data, personal data, and personally identifiable data, as those terms may be defined in applicable laws, rules and regulations (PII) provided by Supplier to ASU was obtained legally and Supplier has obtained all requisite permissions from the individuals whose PII is being provided for (a) Supplier to provide the PII to ASU, and (b) ASU to use the PII for the purposes and in the jurisdictions set forth in the Agreement; 7) the prices of Goods/Services in the Agreement are the lowest prices at which these or similar goods or...
services are sold by the Supplier to similar customers in similar quantities. In the event of any price reduction between execution of the Agreement and delivery of the Goods/Services, ASU shall be entitled to such reduction, and 8) all Goods/Services delivered by Supplier will conform to the specifications, drawings, and descriptions set forth in the Agreement, and to any samples furnished by Supplier. In the event of a conflict among the specifications, drawings, samples, and description, the specifications will govern.

11. **Indemnification.** Supplier will indemnify, defend, save and hold harmless the State of Arizona, its departments, agencies, boards, commissions, universities, and its and its officials, agents and employees (collectively, Indemnitee) for, from, and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys’ fees, and costs of claim processing, investigation, and litigation) for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property to the extent caused, or alleged to be caused, by (i) the negligent or willful acts or omissions of Supplier, or any of its owners, officers, directors, members, managers, agents, employees, contractors or subcontractors at all tiers (together with Supplier, the Supplier Parties); (ii) a breach of the Agreement; or (iii) failure to comply with any applicable law, rule, or regulation. Supplier will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable.

12. **Responsibility.** Each party is responsible for the negligent or willful acts or omissions of its employees and contractors when acting under such party's direction and supervision. In addition, Supplier is responsible to ASU for compliance with the Agreement by the Supplier Parties. ASU recognizes an obligation to pay attorneys’ fees or costs only when assessed by a court of competent jurisdiction. Notwithstanding the terms of the Agreement or any other document: (i) other than for employees and contractors acting under ASU’s direction and supervision, ASU is not responsible for any actions of any third parties, including its students; and (ii) no person may bind ASU unless they are an authorized signatory in PUR-202.

13. **Intellectual Property Ownership.** All Intellectual Property (as defined below) that Supplier or any of the Supplier Parties make, conceive, discover, develop or create, either solely or jointly with any other person or persons including ASU, specifically for or at the request of ASU in connection with the Agreement (Contract IP), will be owned by ASU. To the extent any Contract IP is not considered work made for hire for ASU (or if ownership of all rights therein does not otherwise vest exclusively in ASU), Supplier hereby irrevocably assigns, and will cause the Supplier Parties to so assign, without further consideration, to ASU all right, title and interest in and to all Contract IP, including all copyright rights of ownership. Intellectual Property means all ASU Data, as defined below, any and all inventions, designs, original works of authorship, formulas, processes, compositions, programs, databases, data, technologies, discoveries, ideas, writings, improvements, procedures, techniques, know-how, and all patent, trademark, service mark, trade secret, copyright and other intellectual property rights (and goodwill) relating to the foregoing. Supplier will make full and prompt disclosure of the Contract IP to ASU. Supplier will, and will cause the Supplier Parties to, as and when requested by ASU, do such acts, and sign such instruments to vest in ASU the entire right, title and interest to the Contract IP, and to enable ASU to prepare, file, and prosecute applications for, and to obtain patents and/or copyrights on, the Contract IP, and, at ASU’s expense, to cooperate with ASU in the protection and/or defense of the Contract IP.

14. **Supplier’s Intellectual Property.** Supplier will retain ownership of its pre-existing Intellectual Property, including any that may be incorporated into the Contract IP, provided that Supplier informs ASU in writing before incorporating any pre-existing Intellectual Property into any Contract IP. Supplier hereby grants to ASU a perpetual, irrevocable, royalty- free, worldwide right and license (with the right to sublicense), to freely use, make, have made, reproduce, disseminate, display, perform, and create derivative works based on such pre-existing Intellectual Property as may be incorporated into the Contract IP or otherwise provided to ASU in the course of performing under the Agreement.

15. **Data Use, Ownership, and Privacy.** The terms of this section apply if Supplier receives, has access to, stores, or analyzes any ASU Data (as defined below). As between the parties, ASU will own, or retain all of its rights in, all data and information that ASU provides to Supplier, as well as all data and information managed by Supplier on behalf of ASU, including all output, reports, analyses, and other materials relating to, derived from, or generated pursuant to the Agreement, even if generated by Supplier, as well as all data obtained or extracted through ASU’s or Supplier’s use of such data or information (collectively, ASU Data). ASU Data also includes all data and information provided directly to Supplier by ASU students and employees, and includes personal data, metadata, and user content.

ASU Data will be ASU’s Intellectual Property and Supplier will treat it as ASU Confidential Information (as defined below). Supplier will not use, access, disclose, or license, or provide to third parties, any ASU Data, except: (i) to fulfill Supplier’s obligations to ASU hereunder; or (ii) as authorized in writing by ASU. Without limitation, Supplier will not use any ASU Data, whether or not aggregated or de-identified, for product development, marketing, profiling, benchmarking, or product demonstrations, without, in each case, ASU’s prior written consent. Supplier will not, directly or indirectly: (x) attempt to re-identify or de-aggregate de-identified or aggregated information; or (y) transfer de-identified and aggregated information...
to any third party unless that third party agrees not to attempt re-identification or de-aggregation. For ASU Data to be considered de-identified, all direct and indirect personal identifiers must be removed, including names, ID numbers, dates of birth, demographic information, location information, and school information. Upon request by ASU, Supplier will deliver, destroy, and/or make available to ASU, any or all ASU Data.

16. **Nondisclosure and Trade Secrets.** Supplier may receive (or has received) from ASU and otherwise be exposed to confidential and proprietary information relating to ASU's business practices, strategies, and technologies, ASU Data, as well as confidential information of ASU necessary to perform and/or provide the Goods/Services (collectively, **ASU Confidential Information**). ASU Confidential Information may include, but is not limited to, confidential and proprietary information supplied to Supplier with the legend “ASU Confidential and Proprietary,” or other designations of confidentiality. As between Supplier and ASU, the ASU Confidential Information is the sole, exclusive, and valuable property of ASU. Accordingly, Supplier will not reproduce or otherwise use any of the ASU Confidential Information except in the performance or provision of the Goods/Services, and will not disclose any of the ASU Confidential Information in any form to any third party, either during or after the Term, except with ASU’s prior written consent. Upon termination of the Agreement, Supplier will cease using, and will return to ASU, all originals and all copies of the ASU Confidential Information, in all forms and media, in Supplier’s possession or under Supplier's control.

Supplier will not disclose or otherwise make available to ASU any confidential information of Supplier or received by Supplier from any third party.

Supplier will have no obligation to maintain as confidential ASU Confidential Information (other than ASU Data) that Supplier can show: (i) was already lawfully in the possession of or known by Supplier before receipt from ASU; (ii) is or becomes generally known in the industry through no violation of the Agreement or any other agreement between the parties; (iii) is lawfully received by Supplier from a third party without restriction on disclosure or use; (iv) is required to be disclosed by court order following notice to ASU sufficient to allow ASU to contest such order; or (v) is approved in writing by ASU for release or other use by Supplier.

17. **Information Security.** This section applies if: 1) ASU is purchasing or leasing software, or processing a software renewal; 2) Supplier is creating any code for ASU; 3) Supplier receives, stores, or analyzes ASU Data (including if the data is not online); 4) Supplier is hosting, or managing by infrastructure outside of ASU, including in the cloud, ASU Data; or 5) Supplier is collecting PII or ASU Data via a link on an ASU.edu or another ASU managed webpage.

All systems, software, services, and devices that store, transmit, or otherwise process ASU Data (each, a **System**) must be designed, managed, and operated in accordance with information security best practices and in compliance with all applicable laws, rules, and regulations. **ASU Data** means: all data and information that ASU provides to Supplier, as well as all data and information managed by Supplier on behalf of ASU, including all output, reports, analyses, and other materials relating to, derived from, or generated pursuant to this Agreement, even if generated by Supplier, as well as all data obtained or extracted through ASU's or Supplier’s use of such data or information. ASU Data also includes all data and information provided directly to Supplier by ASU students and employees, and includes personal data, metadata, and user content.

a. With respect to each System, Supplier and its contractors at all tiers (directly and through their third party service providers) will meet the following requirements:

1. **Access Control.** Control access to ASU's resources, including ASU Data, limiting access to legitimate business need based on an individual's job-related assignment, approve and track access to ensure proper usage and accountability, and make such information available to ASU for review, upon ASU's request.

2. **Incident Reporting.** Report information security incidents that affect ASU Data immediately to ASU (including those that involve information disclosure incidents, unauthorized disclosure of ASU Data, successful network intrusions, malware infection, and unauthorized access or modifications).

3. **Off Shore.** Ensure (i) that all development or modification of software for ASU is performed only within the borders of the United States, and (ii) all ASU Data (including any backup copies) are stored, accessed from, and otherwise processed only within the borders of the United States.

4. **Patch Management.** Carry out updates and patch management for all Systems in a timely manner and to the satisfaction of ASU. Updates and patch management must be deployed using an auditable process that can be reviewed by ASU upon ASU's request.
5. **Encryption.** Ensure all Systems use an industry standard encryption protocol for sensitive data, personal data, or personally identifiable data, as those terms may be defined in applicable laws, rules and regulations (PII), in transit and at rest (as documented in NIST 800-57, or equivalent).

6. **Notifications.** Notify ASU immediately if Supplier receives any kind of subpoena for or involving ASU Data, if any third party requests ASU Data, or if Supplier has a change in the location or transmission of ASU Data. All notifications to ASU required in this Information Security paragraph will be sent to ASU Information Security at [Infosec@asu.edu](mailto:Infosec@asu.edu), in addition to any other notice addresses in this Agreement.

7. **Backup and Restoration.** Ensure that all ASU Data is available and accessible, and that adequate systems are in place to restore the availability and accessibility of all ASU Data in a timely manner in the event of a physical or technical threat.

8. **Privacy by Design.** When developing, designing, selecting, and using Systems for processing sensitive data, personal data, or personally identifiable data, as those terms may be defined in applicable laws, rules and regulations (PII), Supplier will, with due regard to the state of the art, incorporate and implement data privacy best practices.

b. In addition to Section 17(a) above, the following provisions apply if: (i) Supplier receives, stores, or analyzes ASU Data (including if the data is not online); or (ii) Supplier is hosting, or managing by infrastructure outside of ASU, including in the cloud, ASU Data:

1. **Third Party Security Audits.** Complete certified third party audit (such as SOC2 Type II or substantially equivalent) in accordance with then current industry standards, which audits are subject to review by ASU upon ASU’s request. Currently, no more than two audits per year are required.

2. **Penetration Tests.** Perform periodic third party scans, including penetration tests, for unauthorized applications, services, code, and system vulnerabilities on each System in accordance with industry standards and ASU standards (as documented in [NIST 800-115](https://csrc.nist.gov/publications/pubs/nistpubs/800-115/SP800-115-v1.pdf) or equivalent), and Supplier must provide proof of testing to ASU upon ASU’s request.

3. **Vulnerability Scanning.** All web-based Systems are required to have a remediation plan and third party web application security scans in accordance with then current industry best practices or when required by applicable industry regulations or standards. Supplier must correct weaknesses within a reasonable period of time, consistent with applicable industry regulations or standards, and consistent with the criticality of the risk, and Supplier must provide proof of testing to ASU upon ASU’s request.

c. In addition to Sections 17(a)–(b) above, the following provision applies if: (i) ASU is purchasing or leasing software, or processing a software renewal; (ii) Supplier is creating any code for ASU; or (iii) Supplier is hosting, or managing by infrastructure outside of ASU, including in the cloud, ASU Data:

1. **ASU Rights.** Allow ASU (directly or through third party service providers) to scan and/or penetration test any System regardless of where it resides.

d. In addition to Sections 17(a)–(c) above, the following provision applies if: (i) ASU is purchasing or leasing software, or processing a software renewal; (ii) Supplier is creating any code for ASU; (iii) Supplier is hosting, or managing by infrastructure outside of ASU, including in the cloud, ASU Data; or (iv), Supplier is collecting PII or ASU Data via a link on an ASU.edu or other ASU managed webpage:

1. **Secure Development.** Use secure development and coding standards including secure change management procedures in accordance with industry standards. Prior to releasing new software versions, Supplier will perform quality assurance testing and penetration testing and/or scanning. Supplier will provide to ASU for review, upon ASU request, evidence of a secure software development life cycle (SDLC).

18. **Privacy; No Waivers or End User Agreements.** Supplier will not require any ASU faculty, staff, or students to waive any privacy rights (including under FERPA or the European Union’s General Data Protection Regulation (GDPR)) as a condition for receipt of any Goods/Services, and any attempt to do so will be void. If Supplier requires ASU faculty, staff or students to accept a clickwrap, click-through, end user license, or other similar agreement (End User Agreement), the terms of the End User Agreement that conflict or are inconsistent, with the terms of the Agreement or ASU’s Privacy
19. **Background Checks.** Supplier will exclude from any direct participation in Supplier’s performance under the Agreement, any unqualified persons. In addition, at the request of ASU, Supplier will, at Supplier’s expense, conduct reference checks and employment, education, SSN trace, National Sex Offender Registry, and criminal history record checks (collectively, Screenings) on requested persons employed or contracted by Supplier to perform work under the Agreement. Supplier will maintain as part of the records Supplier is required to maintain hereunder, all Screening information and all documentation relating to work performance for each employee or contractor who performs work hereunder. Supplier will abide by all applicable laws, rules and regulations including the Fair Credit Reporting Act and any equal opportunity laws, rules, and regulations.

20. **Payment Card Industry Data Security Standard.** The terms of this section apply if Supplier is processing credit or debit card transactions as part of the Agreement. For e-commerce business and/or payment card transactions, Supplier will comply with the requirements and terms of the rules of all applicable payment card industry associations or organizations, as amended from time to time (PCI Security Standards), and be solely responsible for security and maintaining confidentiality of payment card transactions processed by means of electronic commerce up to the point of receipt of such transactions by a qualified financial institution.

Supplier will, at all times during the Term, be in compliance with the then current standard for Payment Card Industry Data Security Standard (PCI DSS), Payment Application Data Security Standard (PA-DSS) for software, and PIN Transaction Security (PCI PTS) for hardware. Supplier will provide attestation of compliance to ASU annually by delivering to ASU current copies of the following: (i) Supplier’s “Attestation of Compliance for Onsite Assessments – Service Providers;” (ii) an attestation that all ASU locations are being processed and secured in the same manner as those in Supplier’s “PCI Report on Compliance;” and (iii) a copy of Supplier’s PCI Report on Compliance cover letter. Supplier will notify ASU immediately if Supplier becomes non-compliant, and of the occurrence of any security incidents (including information disclosure incidents, network intrusions, successful virus attacks, unauthorized access or modifications, and threats and vulnerabilities).

Supplier’s services must include the following:

a. Supplier maintains its own network operating on its own dedicated infrastructure. Supplier’s network includes a firewall that (i) includes access control rules that separate Supplier’s PCI network from ASU, and (ii) restricts any communication between Supplier’s network devices and ASU systems.

b. Supplier treats the ASU network as an untrusted network and no unencrypted cardholder data traverses or otherwise is stored on ASU’s network, and ASU has no ability to decrypt cardholder data.

c. All devices must be SRED (secure reading and exchange of data), EMV (Europay, MasterCard and VISA) and PTS POI compliant.

21. **Americans with Disabilities Act and Rehabilitation Act.** To the extent applicable, Supplier will comply with all applicable provisions of the Americans with Disabilities Act, the Rehabilitation Act of 1973, and all applicable federal regulations, as amended from time to time (ADA Laws). All electronic and information technology and products and services to be used by ASU faculty/staff, students, program participants, or other ASU constituencies must be compliant with ADA Laws. Compliance means that a disabled person can acquire the same information, engage in the same interactions, and enjoy the same services as a nondisabled person, in an equally effective and integrated manner, with substantially equivalent ease of use.

22. **Foreign Corrupt Practices Act/UK Bribery Act/Local Anti-corruption Law Compliance.** Supplier warrants that it is familiar with the U.S. laws prohibiting corruption and bribery under the U.S. Foreign Corrupt Practices Act and the United Kingdom laws prohibiting corruption and bribery under the UK Bribery Act. In connection with Supplier’s work under the Agreement, Supplier will not offer or provide money or anything of value to any governmental official or employee or any candidate for political office in order to influence their actions or decisions, to obtain or retain business arrangements, or to secure favorable treatment in violation of the Foreign Corrupt Practices Act, the UK Bribery Act, or any other local anti-corruption law, either directly or indirectly. Any breach of the U.S. Foreign Corrupt Practices Act, the UK Bribery Act, or other local anti-corruption law, will be a material breach of the Agreement.

23. **Export Controls.** If any of the Goods/Services are export-controlled under the U.S. Export Administration Regulations, U.S. International Traffic in Arms Regulations, or through the sanctions and embargoes established through the Office of Foreign Assets Control (collectively, the Export Control Laws), Supplier will provide ASU with written notification that
identifies the export-controlled Goods/Services and such Goods/Services export classification. None of the work undertaken pursuant to the Agreement will require either party to take or fail to take any action that would cause a violation of any of the Export Control Laws. The parties will cooperate to facilitate compliance with applicable requirements of the Export Control Laws.

24. **Assignment.** Supplier may not transfer or assign the Agreement or any of Supplier’s rights or obligations thereunder, either directly or indirectly, or by operation of law, without ASU’s prior written consent, and any attempt to the contrary will be void.

25. **Governing Law and Venue.** The Agreement will be governed by the laws of the State of Arizona without regard to any conflicts of laws principles. ASU’s obligations hereunder are subject to the regulations/policies of the Arizona Board of Regents. Any proceeding arising out of or relating to the Agreement will be conducted in Maricopa County, Arizona. Each party consents to such jurisdiction, and waives any objection it may now or hereafter have to venue or to convenience of forum.

26. **Packaging.** Supplier will package the Goods in accordance with good commercial practice. Each shipping container will be clearly and permanently marked as follows: (i) Supplier’s name and address; (ii) ASU’s name, address, and purchase order number; (iii) container number and total number of containers, e.g., box 1 of 4 boxes; and (iv) the number of the container bearing the packing slip. Supplier will bear cost of packaging unless otherwise provided.

27. **Shipment Under Reservation Prohibited.** Supplier will not ship the Goods under reservation and no tender of a bill of lading will operate as a tender of the Goods.

28. **Title and Risk of Loss.** The title and risk of loss of the Goods will not pass to ASU until they are delivered, received, and the contract of coverage has been completed. All risk of transportation and all related charges will be the responsibility of Supplier. Supplier will insure and file all claims for visible and concealed damage. ASU will notify Supplier promptly of any damaged Goods and will assist Supplier in arranging for inspection. Notice of rejection may be made to Supplier at any time within 1 month after delivery to ASU.

29. **No Replacement of Defective Tender.** Every tender of Goods will fully comply with all provisions of the Agreement as to time of delivery, quantity, quality, and the like. If a tender is made that does not fully conform, this will constitute a breach and Supplier will not have the right to substitute a conforming tender.

30. **Business Continuity Plan.** If requested by ASU, Supplier will provide to ASU, within 30 days after such request, a comprehensive plan for continuing the performance of its obligations during a Public or Institutional Emergency (the Business Continuity Plan). The Business Continuity Plan, at a minimum, will address the following: 1) identification of response personnel by name; 2) key succession and performance responses in the event of sudden and significant decrease in workforce; 3) contingency plans for the Supplier to continue the performance of its obligations under the Agreement, despite the emergency and 4) if Supplier will store, have access to, or otherwise process any ASU Data, a data recovery plan that includes the following: identification of data recovery personnel by name, how ASU Data will be recovered, recovery point and recovery time objectives, and steps to be taken to recover ASU Data. If ASU requires a data recovery plan, upon ASU’s request, Supplier will provide ASU with evidence that Supplier annually tests the data recovery plan. In the event of a Public or Institutional Emergency, Supplier will implement the applicable actions set forth in the Business Continuity Plan and will make other commercially practicable efforts to mitigate the impact of the event. For clarification of intent, Supplier will not be entitled to any additional compensation or extension of time by virtue of having to implement a Business Continuity Plan, unless otherwise agreed to by ASU in writing. A Public or Institutional Emergency means a natural or human made event that creates a substantial risk to the public, that causes or threatens death or injury to the general public, or that causes a significant disruption to the day-to-day business operations of ASU.

31. **Gratuities.** Supplier will not give or offer any gratuities, in the form of entertainment, gifts or otherwise, or use an agent or representative of Supplier to give or offer a gratuity, to any officer or employee of the State of Arizona with a view toward securing an agreement or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such Agreement. If ASU determines that Supplier has violated this section, ASU may, by written notice to Supplier, cancel the Agreement. If the Agreement is canceled by ASU pursuant to this section, ASU will be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the costs incurred by Supplier in providing gratuities.

32. **Modifications.** The Agreement may be modified or rescinded only by a writing signed by both parties.

33. **Interpretation-Parol Evidence.** The Agreement is intended by the parties as a final expression of their agreement and
is intended to be a complete and exclusive statement of the terms of their agreement. No course of prior dealings between the parties and no usage of the trade will be relevant to supplement or explain any term used in the Agreement. Acceptance or acquiescence in a course of performance rendered under the Agreement will not be relevant to determine the meaning of the Agreement even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity for objection.

34. **No Waiver.** No waiver by ASU of any breach of the provisions of the Agreement by Supplier will be construed to be a waiver of any future breach or bar ASU’s right to insist on strict performance of the Agreement.

35. **Assignment of Anti-Trust Overcharge Claims.** In actual economic practice, overcharges resulting from anti-trust violations are borne by the ultimate purchaser. Therefore, Supplier hereby assigns to ASU any and all claims for such overcharges.

36. **Sales and Use Tax.** Supplier will comply, and require all of the Supplier Parties to comply, with all applicable state and sales excise tax laws and compensation use tax laws and all amendments to same. Supplier will indemnify, defend, and hold harmless ASU, for, from, and against any and all claims and demands made against it by virtue of the failure of Supplier or any subcontractor to comply with the provisions of any or all tax laws and amendments. ASU is not exempt from state sales excise tax and compensation use tax.

37. **Purchasing.** Supplier will obtain all parking permits and/or decals required while performing any work on ASU premises. If needed, Supplier should contact ASU Parking and Transit, http://cfo.asu.edu/pts.

38. **Campus Deliveries and Mall Access.** Supplier will familiarize itself with ASU parking, campus delivery options, and loading zones. Not all campus buildings are directly accessible and some require Supplier to unload at lots or loading areas that may not be adjacent to the delivery or work location. As a result, Supplier must then transport Goods by using electric style golf carts, dolly, or other manual device across pedestrian malls. Many campuses include features and pedestrian malls that may have limited access for Supplier vehicle and carts. Walk-Only Zones prohibit access to all wheeled traffic during enforcement times, and deliveries or work requiring vehicular or cart access may need to be arranged outside of enforcement times. For details about parking permits, supplier permits, loading zones, mall access, and pedestrian mall restrictions, go to http://cfo.asu.edu/pts. For additional information, go to http://walk.asu.edu.

39. **Health Insurance Portability and Accountability Act.** To the extent applicable, Supplier will abide by all laws and regulations that protect the privacy of healthcare information to which Supplier obtains access under the Agreement. Certain portions of the Administrative Simplification section of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as codified at 42 U.S.C. § 1320d through d-8, and the federal privacy regulations as contained in 45 CFR Part 164 may apply to Supplier and ASU, and their relationships and operation under the Agreement. If necessary, Supplier and ASU will enter into a standard Business Associate Agreement, and any other required HIPAA agreements. To the extent the terms thereof relate to Supplier’s performance under the Agreement, the provisions of the Business Associate Agreement will control.

40. **Liens.** All Goods/Services delivered and performed under the Agreement will be free of all liens and, if ASU requests, Supplier will deliver to ASU a formal release of all liens.

41. **Performance and Payment Bonds.** At the request of ASU, Supplier will provide and pay for performance and payment bonds. Bonds will cover the faithful performance (100%) of the Agreement and the payment of all obligations (100%) thereunder, in such form as ASU may prescribe. Supplier will deliver the required bonds to ASU not later than the date of executing the Agreement. Supplier will require the attorney in fact who executes the required bonds on behalf of surety to affix thereto a certified and current copy of his/her power of attorney indicating the monetary limit of such power. Surety will be a company licensed to do business in the State of Arizona and will be acceptable to ASU. Supplier will increase the bond amount to include any change order, at 100% of the total value amount of each change order.

42. **Price Adjustment.** ASU normally considers price changes at the end of one contract period and the beginning of another. Price change requests will be supported by evidence of increased costs to Supplier. ASU will not approve price increases that will merely increase gross profitability of Supplier at the expense of ASU. Price change requests will be a factor in the contract extension review process. ASU will determine whether any requested price increase or an alternate option is in the best interest of ASU. Any price adjustment to the Agreement will require an updated PO.

43. **Academic Freedom and Accreditation.** ASU will maintain ultimate authority over all curriculum. Nothing in the
Agreement will limit ASU’s academic freedom or require ASU to violate any of the policies, standards, and requirements of ABOR or any accrediting entities.

44. **Essence of Time.** Time will be of the essence as to matters contemplated by the Agreement.

45. **Non-Discrimination.** The parties will comply with all applicable laws, rules, regulations, and executive orders governing equal employment opportunity, immigration, and nondiscrimination, including the Americans with Disabilities Act. If applicable, the parties will abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

46. **Conflict of Interest.** If within 3 years after the execution of the Agreement, Supplier hires as an employee or agent any ASU representative who was significantly involved in negotiating, securing, drafting, or creating the Agreement, then ASU may cancel the Agreement as provided in ARS § 38-511.

47. **Arbitration.** The parties agree to arbitrate disputes filed in Arizona Superior Court that are subject to mandatory arbitration pursuant to ARS § 12-133.

48. **Dispute Resolution.** If a dispute arises under the Agreement, the parties will exhaust all applicable administrative remedies provided for under Arizona Board of Regents Policy 3-809.

49. **Records.** To the extent required by ARS § 35-214, Supplier will retain all records relating to the Agreement. Supplier will make those records available at all reasonable times for inspection and audit by ASU or the Auditor General of the State of Arizona during the term of the Agreement and for 5 years after the completion of the Agreement. The records will be provided at ASU in Tempe, Arizona, or another location designated by ASU on reasonable notice to Supplier.

50. **Failure of Legislature to Appropriate.** In accordance with ARS § 35-154, if ASU’s performance under the Agreement depends on the appropriation of funds by the Arizona Legislature, and if the Legislature fails to appropriate the funds necessary for performance, then ASU may provide written notice of this to Supplier and cancel the Agreement without further obligation of ASU. Appropriation is a legislative act and is beyond the control of ASU.

51. **Weapons, Explosives, and Fireworks.** ASU’s Weapons, Explosives, and Fireworks Policy prohibits the use, possession, display or storage of any weapon, explosive device or fireworks on all land and buildings owned, leased, or under the control of ASU or its affiliated entities, in all ASU residential facilities (whether managed by ASU or another entity), in all ASU vehicles, and at all ASU or ASU affiliate sponsored events and activities, except as provided in ARS § 12-781, or unless written permission is given by ASU’s Police Chief or a designated representative. Supplier will notify all persons or entities who are employees, officers, subcontractors, consultants, agents, guests, invitees or licensees of Supplier of this policy and Supplier will enforce this policy against all such persons and entities.

52. **Confidentiality.** ASU, as a public institution, is subject to ARS §§ 39-121 to 39-127 regarding public records. Any provision regarding confidentiality is limited to the extent necessary to comply with Arizona law.

53. **Indemnification and Liability Limitations.** Because ASU is a public institution, any indemnification, liability limitation, releases, or hold harmless provisions are limited as required by Arizona law, including Article 9, Sections 5 and 7 of the Arizona Constitution and ARS §§ 35-154 and 41-621. ASU’s liability under any claim for indemnification is limited to claims for property damage, personal injury, or death to the extent caused by acts or omissions of ASU.

54. **Advertising, Publicity, Names and Marks.** Supplier will not do any of the following, without, in each case, ASU’s prior written consent: (i) use any names, service marks, trademarks, trade names, logos, or other identifying names, domain names, or identifying marks of ASU (ASU Marks), including online, advertising, or promotional purposes; (ii) issue a press release or public statement regarding the Agreement; or (iii) represent or imply any ASU endorsement or support of any product or service in any public or private communication. Any permitted use of ASU Marks must comply with ASU’s requirements, including using the ® indication of a registered mark.

55. **Privacy; Educational Records.** Student educational records are protected by the U.S. Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g and its implementing regulations (FERPA). Supplier will not require any ASU students or employees to waive any privacy rights (including FERPA or the European Union’s General Data Protection Regulation (GDPR)) as a condition for receipt of any educational services, and any attempt to do so will be void. Supplier will comply
with FERPA and will not access or make any disclosures of student educational records to third parties without prior notice to and consent from ASU or as otherwise provided by law. If the Agreement requires or permits Supplier to access or release any student records, then, for purposes of the Agreement only, ASU designates Supplier as a “school official” for ASU under FERPA, as that term is used in FERPA. In addition, any access or disclosures of student educational records made by Supplier or any Supplier Parties must comply with ASU’s definition of legitimate educational purpose in SSM 107-01: Release of Student Information, at http://asu.edu/aad/manuals/ssm/ssm107-01.html. If Supplier violates the terms of this section, Supplier will immediately provide notice of the violation to ASU.

56. **Data Protection.** Supplier will ensure that all services undertaken pursuant to the Agreement are performed in compliance with applicable privacy and data protection laws, rules, and regulations. In addition, Supplier is responsible to ASU for compliance with the Agreement by all Supplier Parties. If Supplier will serve as a Processor of ASU Data that includes Personal Data of Data Subjects in the European Union, Supplier will cooperate with ASU to comply with the GDPR with respect to such Personal Data and Data Subjects. This includes ensuring that all Data Subjects have signed appropriate Consents, and signing and complying with all documents and agreements reasonably requested by ASU, including any data processing agreements. All capitalized terms in this section not otherwise defined in the Agreement are defined in the GDPR.

57. **Authorized Presence Requirements.** As required by ARS § 41-4401, ASU is prohibited from awarding a contract to any contractor or subcontractor that fails to comply with ARS § 23-214(A) (verification of employee eligibility through the e-verify program). Supplier warrants that it and its subcontractors comply fully with all applicable immigration laws, rules, and regulations that relate to their employees and their compliance with ARS § 23-214(A). A breach of this warranty will be a material breach of the Agreement that is subject to penalties up to and including termination of the Agreement. ASU retains the legal right to inspect the papers of any contractor or subcontractor employee who works hereunder to ensure that the contractor or subcontractor is complying with the above warranty.

58. **Small Business.** If subcontracting (Tier 2 and higher) is necessary, Supplier will make commercially reasonable efforts to use Small Business (SB) and Small Diverse Business (SDB) in the performance of the Goods/Services. ASU may request a report at each annual anniversary date and at the completion of the Agreement indicating the extent of SB and SDB participation.

59. **Tobacco Free.** ASU is tobacco-free. For details visit www.asu.edu/tobaccofree.

60. **Title IX Obligation.** Title IX protects individuals from discrimination based on sex, including sexual harassment. ASU fosters a learning and working environment built on respect and free of sexual harassment. ASU's Title IX Guidance is available online. Supplier will: (i) comply with ASU's Title IX Guidance; (ii) provide ASU's Title IX Guidance to any Supplier Parties reasonably expected to interact with ASU students or employees, in person or online; and (iii) ensure that all Supplier Parties comply with ASU's Title IX Guidance.

61. **No Boycott of Goods or Services from Israel.** If the Goods/Services provided under this Agreement include the acquisition of services, supplies, information technology or construction with a value of at least $100,000 and Supplier is engaged in for-profit activity and has 10 or more full-time employees, then, to the extent required by ARS § 35-393.01, Supplier certifies it is not currently engaged in, and during the term of this Agreement will not engage in, a boycott of goods or services from Israel.

62. **Insurance Requirements.** Without limiting any liability of or any other obligation of Supplier, Supplier will purchase and maintain (and cause its subcontractors to purchase and maintain), until all of their obligations have been discharged or satisfied, including any warranty periods under the Agreement, insurance against claims that may arise from or in connection with the performance of the work hereunder by Supplier, its agents, representatives, employees or subcontractors, as described at PO Insurance Requirements. In addition, Supplier and ASU will reasonably cooperate to reach mutual agreement if the State of Arizona requires modification or variation from the Insurance Requirements.

63. **Provision of Goods/Services to ASU Component Units.** In addition to providing the Goods/Services to ASU, Supplier will provide some or all of the Goods/Services to each of ASU’s Component Units that so requests. Supplier will enter into a Consent and Agreement to be Bound with each such requesting Component Unit, and except as may be set forth in the Consent and Agreement to be Bound, Supplier will provide the Goods/Services to each such Component Unit to the same extent and on the same terms provided to ASU under this Agreement. ASU’s Component Units are described in ASU’s Comprehensive Annual Financial Reports (Note B to Financial Statements).

64. **Third Party Arrangements.** From time to time, ASU may enter into arrangements with third parties that may require Supplier to work cooperatively with and/or connect and use infrastructure with third parties. On a case-by-case basis,
ASU and Supplier will work cooperatively, timely, and in good faith to take such actions as may be necessary or appropriate to give effect to ASU’s third party agreements. Supplier will not be bound to terms and conditions of a third party that are different from this Agreement unless expressly agreed in writing. If the third party terms and conditions conflict with this Agreement’s terms, impact Supplier’s ability to meet service level agreements of this Agreement, or may cause Supplier to incur additional costs, then the parties will enter into good faith negotiations for an amendment to this Agreement prior to Supplier agreeing to compliance with the third party terms and conditions.

65. Independent Contractor. Supplier is an independent contractor. Neither ASU nor Supplier may bind the other. None of the Supplier Parties will be employees, agents, partners, or joint venturers of ASU. None of the Supplier Parties will be eligible for any benefits from ASU, including worker’s compensation coverage. Supplier is responsible to ASU for compliance with the Agreement by the Supplier Parties. Supplier will determine Supplier’s hours of work, and will provide all tools, equipment, and supplies. Supplier determines to be necessary to deliver and perform the Goods/Services. Supplier will maintain all business registrations and licenses required to deliver and perform the Goods/Services. Supplier is using its own knowledge, skill, and technical know-how in the delivery and performance of the Goods/Services, and is not being supervised by ASU. The conduct and control of Services lies solely with Supplier, and ASU is interested only in final results.

66. Notices. All notices and communications required or permitted under this Agreement will be in writing and will be given by personal delivery against receipt (including private courier such as FedEx), or certified U.S. Mail, return receipt requested. All notices and communications will be sent to the addresses below or such other addresses as the parties may specify in the same manner.

To ASU: With a copy to:
Assistant Director
Preparedness and Security Initiatives
Arizona State University
Mailing Address:
PO Box 875112
Tempe, AZ 85287-5112
Delivery Address:
1551 S Rural Rd.
Tempe, AZ 85287

To Supplier:

With a copy to:

Notices, if delivered, and if provided in the manner set forth above, will be deemed to have been given and received on the date of actual receipt or on the date receipt was refused. Any notice to be given by any party may be given by legal counsel for such party.

67. Federal Funding Provisions. If the Agreement involves the use of United States federal funds, including from a government grant or funds from a subcontract at any tier relating to a federal government grant, the following terms apply to the Agreement:

a. Byrd Anti-Lobbying Amendment. If the Agreement is for $100,000 or more, Supplier will file the certifications required by 31 U.S.C 1352 and associated regulations. Each tier certifies to the tier above that it will not or has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31U.S.C. 1352. Each tier will also disclose any lobbying with non-federal funds that takes place in connection with obtaining a federal award. Such disclosures are forwarded from tier to tier up to ASU.

b. Debarment & Suspension. Supplier represents and warrants that neither it nor any of its subcontractors supplying the Goods/Services have either directly or indirectly or through subcontractors, been suspended, debarred, or otherwise excluded from participation in or penalized by any federal or state procurement, non-
procurement, or reimbursement program. Supplier affirms that it has confirmed the above statement by checking The System for Award Management (SAM) www.uscontractorregistration.com within 180 days prior to commencing work under the Agreement. Supplier will provide immediate written notice to ASU upon learning that it or any of its subcontractors are under any investigation or proposed action that could result in such exclusion, suspension, or debarment.

c. **Rights to Inventions Made Under an Agreement or Agreement.** If this Agreement is a “funding agreement” under 37 CFR 401.3, the Parties agree to incorporate by this reference the standard patent rights clause found in 37 CFR 401.14 and any implementing regulations issued by the awarding agency.

d. **Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.** To the extent any of the provisions of 2 CFR Appendix II to Part 200 apply to this Agreement, such provisions are incorporated by reference.

68. **Government Subcontract Provisions.** If this order is a subcontract under a U.S. government prime contract, the clauses referenced below from the Federal Acquisition Regulations (FAR) and the Defense Federal Acquisition Regulations (DFAR), or the Armed Services Procurement Regulations (ASPR) are incorporated into the Agreement by this reference. Each regulation contains criteria for determining applicability of the regulation to a particular contract.

In the following clauses, the terms "Government" and "Contracting Officer" will mean ASU; the term "Agreement" will mean the Agreement and the term "Contractor" will mean Supplier. Supplier will comply with all applicable federal laws and regulations, including but not limited to Uniform Guidance (2 CFR Part 200) and Debarment and Suspension (45 CFR 620).

For purchases funded with federal funds, the following provisions are incorporated into the Agreement by reference where applicable and form a part of the terms and conditions of the Agreement. Supplier agrees to flow down all applicable clauses to lower-tier entities.

**Federal Acquisition Regulations (FAR)**

52.202-1 Definitions
52.203-3 Gratuities
52.203-5 Covenant Against Contingent Fees
52.203-6 Restrictions on Subcontractor Sales to the Government 52.203-7 Anti-Kickback Procedures
52.203-12 Limitation on Payments to Influence Certain Federal Transactions 52.204-2 Security Requirements
52.209-6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended or Proposed for Debarment
52.211-15 Defense Priority and Allocation Requirements 52.214-27 Price Reduction For Defective Cost or Pricing Data 52.215-1 Instructions to Offerors—Competitive Acquisition.
52.215-2 Audit and Records - Negotiation 52.215-12 Subcontractor Cost or Pricing Data 52.215-13 Subcontractor Cost or Pricing Data – Modifications 52.215-14 Integrity of Unit Prices 52.219-8 Utilization of Small Business Concerns 52.219-9 Small Business Subcontracting Plan 52.222-1 Notice to the Government of Labor Disputes
52.222-4 Contract Work Hours and Safety Standards Act Overtime Compensation 52.222-6 Davis-Bacon Act [Construction Wage Rate Requirements]
52.222-20 Walsh Healey Public Contracts Act [Contracts for Materials, Supplies, Articles, and Equipment Exceeding $15,000.]
52.222-21 Prohibition of Segregated Facilities 52.222-26 Equal Opportunity
52.222-35 Equal Opportunity for Veterans
52.222-36 Equal Opportunity for Workers with Disabilities 52.222-37 Employment Reports on Veterans
52.222-40 Notification of Employee Rights Concerning Payment of Union Dues or Fees 52.222-41 Service Contract Act of 1965, as Amended
52.222-50 Combating Trafficking in Persons
52.223-3 Hazardous Material Identification and Material Safety Data 52.223-6 Drug-Free Workplace
52.225-1 Buy American Act – Supplies
52.225-13 Restrictions on Certain Foreign Purchases 52.227-1 Authorization and Consent (Alt I in all R&D)
52.227-14 Rights in Data – General 52.233-1 Disputes
52.242-1 Notice of Intent to Disallow Costs 52.242-15 Stop-work order
The parties have signed this Agreement as of the Effective Date.

Arizona Board of Regents for and on behalf of Arizona State University

By: ____________________________________________
Name: _________________________________________
Title: ___________________________________________
Date Signed: _________________________________

Supplier

By: ____________________________________________
Name: _________________________________________
Title: ___________________________________________
Date Signed: _________________________________

Exhibit A – Statement of Work
Exhibit B - Compensation
Exhibit C - Insurance Requirements
EXHIBIT A – STATEMENT OF WORK
TBD
EXHIBIT B – COMPENSATION
TBD
Insurance Requirements

Without limiting any liabilities or any other obligation of Supplier, Supplier will purchase and maintain (and cause its subcontractors to purchase and maintain), until all of their obligations have been discharged or satisfied, including any warranty periods under the Agreement, insurance against claims that may arise from or in connection with the performance of the work hereunder by Supplier, its agents, representatives, employees or subcontractors, as described below.

These insurance requirements are minimum requirements for the Agreement and in no way limit any indemnity covenants in the Agreement. ASU does not warrant that these minimum limits are sufficient to protect Supplier from liabilities that might arise out of the performance of the work under the Agreement by Supplier, its agents, representatives, employees, or subcontractors. These insurance requirements may change if Supplier is a foreign entity, or with foreign insurance coverage.

A. Minimum Scope and Limits of Insurance: Supplier’s insurance coverage will be primary insurance with respect to all other available sources. Supplier will provide coverage with limits of liability not less than those stated below:

1. Commercial General Liability – Occurrence Form. Policy will include bodily injury, property damage, personal injury, and broad form contractual liability coverage.
   - General Aggregate $5,000,000
   - Products – Completed Operations Aggregate $1,000,000
   - Personal and Advertising Injury $1,000,000
   - Contractual Liability $1,000,000
   - Fire Legal Liability (only if Agreement is for leasing space) $50,000
   - Each Occurrence $5,000,000
   a. Policy will include the following additional insured language: “The State of Arizona, its departments, agencies, boards, commissions, universities, and its officers, officials, agents, and employees, will be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of Supplier.”
   b. Policy will contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities, and its officers, officials, agents, and employees, for losses arising from work performed by or on behalf of Supplier.

2. Automobile Liability. If Supplier will be driving on ASU campus or on ASU business the following section will apply: Policy will include Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of the Agreement in the following amounts. If Supplier is an individual then coverage will be a combined single limit of $5,000,000. If Supplier is an individual then coverage will be $100,000 per person, $300,000 per accident, and $50,000 property damage.
   a. Policy will include the following additional insured language: “The State of Arizona, its departments, agencies, boards, commissions, universities, and its officers, officials, agents, and employees, will be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of Supplier, involving vehicles owned, leased, hired, or borrowed by Supplier.”
   b. Policy will contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities, and its officers, officials, agents, and employees, for losses arising from work performed by or on behalf of Supplier.
   c. Policy will contain a severability of interest provision.

3. Worker’s Compensation and Employers’ Liability: Applicable statutory limits, as amended from time to time.
   a. Employer’s Liability in the amount of $1,000,000 injury and disease.
   b. Policy will contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities, and its officers, officials, agents, and employees, for losses arising from work performed by or on behalf of Supplier.
This requirement will not apply to any contractor or subcontractor exempt under ARS § 23-901, when such contractor or subcontractor signs the Sole Proprietor Waiver Form.

4. Technology/Network Errors and Omissions Insurance. The terms of this section apply if: 1) ASU is purchasing or leasing software, or processing a software renewal; 2) Supplier is creating any code for ASU; 3) Supplier receives, stores, or analyzes ASU Data (including if the data is not online); 4) Supplier is hosting, or managing by infrastructure outside of ASU, including in the cloud, ASU Data; OR 5) ASU is purchasing or leasing equipment that will connect to ASU's data network.

- Each Claim: $2,000,000
- Annual Aggregate: $4,000,000

a. This insurance will cover Supplier's liability for acts, errors and omissions arising out of Supplier's operations or services, including loss arising from unauthorized access, or use that results in identity theft or fraud.

b. If the liability insurance required by the Agreement is written on a claims-made basis, Supplier warrants that any retroactive date under the policy will precede the effective date of the Agreement, and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of 2 years beginning at the time work under the Agreement is completed.

c. Policy will cover professional misconduct for those positions defined in the scope of work of the Agreement.

5. Professional Liability (Errors and Omissions Liability). If the Supplier will provide ASU Services under the Agreement, the Policy will include professional liability coverage as follows:

- Each Claim: $1,000,000
- Annual Aggregate: $2,000,000

a. If the professional liability insurance required by the Agreement is written on a claims-made basis, Supplier warrants that any retroactive date under the policy will precede the effective date of the Agreement; and that either continuous coverage will be maintained or an extended discovery period will be exercised for 2 years beginning at the time work under the Agreement is completed.

b. Policy will cover professional misconduct for those positions defined in the scope of work of the Agreement.

B. Cancellation; Material Changes: Cancellation notices will be delivered to ASU in accordance with all policy provisions. Notices required in this Section must be sent directly to ASU Purchasing and Business Services, email insurance.certificates@asu.edu or mail to PO Box 875212, Tempe, AZ, 85287-5212.

C. Acceptability of Insurers: Insurance is to be placed with duly licensed or approved non-admitted insurers in the State of Arizona with an “A.M. Best” rating of not less than A- VII. ASU in no way warrants that the above required minimum insurer rating is sufficient to protect Supplier from potential insurer insolvency. Self-Insurance may be accepted in lieu of or in combination with insurance coverage requested.

D. Verification of Coverage: Each insurance policy required by the Agreement must be in effect at or prior to commencement of work under the Agreement and remain in effect for the term of the Agreement. Failure to maintain the insurance policies as required by the Agreement, or to provide evidence of renewal, is a material breach of contract.

If requested by ASU, Supplier will furnish ASU with valid certificates of insurance. ASU’s project or purchase order number and project description will be noted on each certificate of insurance. The State of Arizona and ASU may require complete, certified copies of policies at the time of notice of any loss or claim.

E. Subcontractors. Supplier’s certificate(s) may include all subcontractors as insureds under its policies as required by the Agreement, or Supplier will furnish to ASU upon request, copies of valid certificates and endorsements for each subcontractor. Coverages for subcontractors will be subject to the minimum requirements identified above.

F. Approval. These insurance requirements are the standard insurance requirements of ASU. Any modification or variation from the insurance requirements in the Agreement will require the approval of ASU's Department of Risk
6. **Contractor’s Pollution Liability.** Supplier will provide contractor’s pollution liability coverage as follows:

- Each Claim: $5,000,000
- Annual Aggregate: $5,000,000

a. The policy is to be written on an “occurrence” basis with no sunset clause. In the event that the Pollution Liability insurance required by this Agreement is written on a claims-made basis, Supplier warrants that any retroactive date under the policy shall precede the effective date of this Agreement. That either continuous coverage will be maintained, or an extended discovery period will be exercised, for a period of ten (10) years beginning at the time this Agreement is terminated.

b. The policy shall include Non-Owned disposal Site coverage.

c. Policy will include the following additional insured language: “The State of Arizona, its departments, agencies, boards, commissions, universities, and its officers, officials, agents, and employees, will be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of Supplier, involving vehicles owned, leased, hired, or borrowed by Supplier.”

d. Policy will contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities, and its officers, officials, agents, and employees, for losses arising from work performed by or on behalf of Supplier.

e. Supplier agrees that for any project within the City of Phoenix the policy shall name the City of Phoenix as an additional insured and will include a waiver of subrogation against the City of Phoenix. This requirement to add the City of Phoenix is in addition to the standard required endorsement waiver of subrogation in each insurance policy listed herein.
SECTION XIII – MANDATORY CERTIFICATIONS

Fillable PDF versions of mandatory certifications are at: https://cfo.asu.edu/business/do-business-asu under the Formal Solicitations tab. ORIGINAL signatures are REQUIRED for either version.

CONFLICT OF INTEREST CERTIFICATION

(Date)

The undersigned certifies that to the best of his/her knowledge:  (check only one)

( ) There is no officer or employee of Arizona State University who has, or whose relative has, a substantial interest in any contract resulting from this request.

( ) The names of any and all public officers or employees of Arizona State University who have, or whose relative has, a substantial interest in any contract resulting from this request, and the nature of the substantial interest, are included below or as an attachment to this certification.

__________________________ ________________________________
(Email address)   (Address)

__________________________
(Signature required)  (Phone)

__________________________
(Print name)       (Fax)

__________________________
(Print title)
FEDERAL DEBARRED LIST CERTIFICATION

Certification Regarding Other Responsibility Matters (April 2010)

_____________________

(Date)

In accordance with the Federal Acquisition Regulation, 52.209-5:

(a) (1) The Offeror certifies, to the best of its knowledge and belief, that—

(i) The Offeror and/or any of its Principals—

(A) (check one) Are (    ) or are not (    ) presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency; (  

(B) (check one) Have (    ) or have not (    ), within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(C) (check one) Are (    ) or are not (    ) presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision.

(D) (check one) Have (    ) or have not (    ) within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds $3,500 for which the liability remains unsatisfied.

(ii) The Offeror (check one) has (    ) or has not (    ), within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) (a) “Principal,” for the purposes of this certification, means an officer; director; owner; partner; or, person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

(b) The Offeror shall provide immediate written notice to the University if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror’s responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by University may render the Offeror nonresponsible.
(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the University may terminate the contract resulting from this solicitation for default.

__________________________________________________________
(Email address)                                                  (Address)

__________________________________________________________
(Signature required)                                             (Phone)

__________________________________________________________
(Print name)                                                     (Fax)

__________________________________________________________
(Print title)
ANTI-LOBBYING CERTIFICATION

Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions
(Sept 2007)

______________________________
(Date)

In accordance with the Federal Acquisition Regulation, 52.203-11:

(a) The definitions and prohibitions contained in the clause, at FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions, included in this solicitation, are hereby incorporated by reference in paragraph (b) of this certification.

(b) The offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that on or after December 23, 1989—

(1) No Federal appropriated funds have been paid or will be paid to 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 on his or her behalf in connection with the awarding of this contract;

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to 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 on his or her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the University; and

(3) Offeror will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of $100,000 shall certify and disclose accordingly.

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by Section 1352, Title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than $10,000, and not more than $100,000, for each such failure.

__________________________________________________________
(Email address)  (Address)

__________________________________________________________
(Signature required)  (Phone)

__________________________________________________________
(Print name)  (Fax)

__________________________________________________________
(Print title)
SUPPLIER SUSTAINABILITY QUESTIONNAIRE – SMALL COMPANY

The Supplier Sustainability Questionnaire must be completed and returned with your Proposal. This questionnaire is applicable to firms that provide services as well as those that provide goods.

Arizona State University’s vision is to be environmentally sustainable while expanding our education, research, and community support programs. The University seeks suppliers who share our sustainability vision. Accordingly, please answer the following questions.

To each question please provide at least one of the following types of responses:
- An explanation or description
- A URL of your policy or program

An electronic copy of your illustrative policies or programs must be provided if requested. If the question does not apply, answer with N/A and provide an explanation as to why.

Energy
1. What is your firm doing to be energy efficient?
2. What plan is in place to reduce greenhouse gas emissions in the future?

Solid Waste
1. What is your firm doing to reduce waste to landfill?
2. What plan is in place to reduce waste to landfill generated in the future?

Water Waste
1. What is your firm doing to reduce water waste?
2. What plan is in place to reduce water waste in the future?

Packaging
1. What is your firm’s plan to minimize packaging and/or describe your firm’s packaging “Take Back” program?
2. What kind of reusable, recyclable, and/or compostable packaging materials does your firm use?
3. What does your firm do to encourage/require your suppliers to minimize packaging and/or use reusable, recyclable, or compostable packaging materials?

Sustainability Practices
1. What programs does your firm have to encourage your employees to use alternative transportation while commuting to work and travelling locally?
2. What sustainability guidelines or environmental statement does your firm have to guide the firm as a whole?
3. What are your firm’s sustainable purchasing guidelines?
4. What kind of position(s) or team(s) does your firm have dedicated to overseeing sustainability initiatives?
5. List the sustainability related professional associations of which your firm is a member.
6. What kind of effort does your firm make to reduce the use of environmentally harmful materials?
7. Does your firm use Green Seal/EcoLogo certified or biodegradable/eco-friendly cleaning products?
8. Has your firm been cited for non-compliance of an environmental or safety issue in the past ten years?
9. Name any third party certifications your firm has in regards to sustainable business practices?
10. Describe any other initiatives your firm has taken to integrate sustainability practices principles into your operations.

Community
1. What charity, community development, educational programs, or environmental programs is your firm involved in within your local community?
2. What educational programs does your firm have to develop employees?
SUPPLIER SUSTAINABILITY QUESTIONNAIRE – LARGE COMPANY

Firm Name: ______________________ Date: ______________________

The Supplier Sustainability Questionnaire must be completed and returned with your Proposal. This questionnaire is applicable to firms that provide services as well as those that provide goods.

Arizona State University’s vision is to be environmentally sustainable while expanding our education, research, and community support programs. The University seeks suppliers who share our sustainability vision. Accordingly, please answer the following questions.

To each question please provide at least one of the following types of responses:

• An explanation or description
• A URL of your policy or program

An electronic copy of your illustrative policies or programs must be provided if requested. If the question does not apply, answer with N/A and provide an explanation as to why.

Energy
1. What is your firm doing to be energy efficient?
2. What are your firm’s annual greenhouse gas emissions in metric tons of carbon dioxide equivalent? (Enter total metric tons of CO2 equivalency [includes the following GHGs: CO2, CH4, N2), SF6, HFCs and PFCs])
3. What plan is in place to reduce greenhouse gas emissions in the future?

Solid Waste
1. What is your firm doing to reduce waste to landfill?
2. What is your firm’s annual waste to landfill generated in metric tons? (Enter total metric tons)
3. What plan is in place to reduce waste to landfill generated in the future?

Water Waste
1. What is your firm doing to reduce water waste?
2. What is your firm’s annual water waste in gallons? (Enter total gallons)
3. What plan is in place to reduce water waste in the future?

Packaging
1. What is your firm’s plan to minimize packaging and/or describe your firm’s packaging “Take Back” program?
2. What kind of reusable, recyclable, and/or compostable packaging materials does your firm use?
3. What does your firm do to encourage/require your suppliers to minimize packaging and/or use reusable, recyclable, or compostable packaging materials?

Sustainability Practices
1. What programs does your firm have to encourage your employees to use alternative transportation while commuting to work and travelling locally?
2. What sustainability guidelines or environmental statement does your firm have to guide the firm as a whole?
3. What are your firm’s sustainable purchasing guidelines?
4. What kind of position(s) or team(s) does your firm have dedicated to overseeing sustainability initiatives?
5. List the sustainability related professional associations of which your firm is a member.
6. What kind of effort does your firm make to reduce the use of environmentally harmful materials?
7. Has an environmental life-cycle analysis of your firm’s products been conducted by a certified testing organization?
8. Does your firm use Green Seal/EcoLogo certified or biodegradable/eco-friendly cleaning products?
9. Has your firm been cited for non-compliance of an environmental or safety issue in the past ten years?
10. Name any third party certifications your firm has in regards to sustainable business practices?
11. Describe any other initiatives your firm has taken to integrate sustainability practices principles into your operations.

Community
1. What charity, community development, educational programs, or environmental programs is your firm involved in within your local community?
2. What educational programs does your firm have to develop employees?

If your firm is just beginning the sustainability journey, or is looking for tools and resources, here are some suggestions:

Energy
Greenhouse Gas Protocol provides tools to calculate emissions that are industry specific:
- [http://www.ghgprotocol.org/calculation-tools](http://www.ghgprotocol.org/calculation-tools)

Solid Waste
The EPA’s pre-built excel file to help measure and track your waste and recycling:
- [http://www.epa.gov/smm/wastewise/measure-progress.htm](http://www.epa.gov/smm/wastewise/measure-progress.htm)

Water Waste
EPA information about conserving water:
- [http://water.epa.gov/polwaste/nps/chap3.cfm](http://water.epa.gov/polwaste/nps/chap3.cfm)

Packaging

Sustainability Practices
Ideas for alternative transportation programs:
The EPA environmentally preferable purchasing guidelines for suppliers:
- [http://www.epa.gov/epp/](http://www.epa.gov/epp/)

EPA life cycle assessment information:
- [http://www.epa.gov/nrmrl/std/lca/lca.html](http://www.epa.gov/nrmrl/std/lca/lca.html)

Ecologo cleaning and janitorial products: