

RESTATED STRATEGIC BANKING RELATIONSHIP MASTER  
AGREEMENT

This RESTATED STRATEGIC BANKING RELATIONSHIP MASTER AGREEMENT ("Agreement") is executed this 29th day of August, 2016, and is by and between the ARIZONA BOARD OF REGENTS, for and on behalf of ARIZONA STATE UNIVERSITY ("University"), a constitutional state university having its principal place of business located at 300 E. University Drive, Tempe, Arizona 85281 and MIDFIRST BANK ("MidFirst"), a federally chartered savings association, with its principal place of business located at 501 NW Grand Boulevard, Oklahoma City, OK 73118.

**RECITALS**

- A. Upon the culmination of the negotiation process following MidFirst's response to University's Request for Proposal #281105 for a Strategic Banking Relationship Partner, University and MidFirst entered into the Strategic Banking Relationship Master Agreement as of January 13, 2012, effective as of January 1, 2012 (the "Original Agreement").
- B. University and MidFirst entered into the Original Agreement for the purpose of establishing a strategic business alliance that will advance the objectives of University and MidFirst. This alliance reflects the values and long-term vision of University in terms of technical innovation, personalized experience, and marketing excellence.
- C. The Original Agreement was amended by Amendment No. 1 to Strategic Banking Relationship Master Agreement and Mutual Termination of Addendum #4 dated as of July 1, 2013 ("Amendment No. 1"), and Amendment No. 2 to Strategic Banking Relationship Master Agreement dated June 29, 2016 ("Amendment No. 2"), and has been supplemented by the exhibits and addenda described in Section 20.1 and attached hereto (such Original Agreement, as amended and supplemented, the "Amended Agreement").
- D. The Original Agreement established the agreement for the strategic business alliance, and separate statements of agreement, terms and conditions for each component of the alliance have been and will be developed, as needed, as separate addenda thereto and hereto.
- E. University and MidFirst desire to restate the Amended Agreement in its entirety to reflect the amendments made by Amendment No. 1 and Amendment No. 2 to the Original Agreement, without any further substantive changes.

**AGREEMENT TERMS**

Subject to the terms and conditions set forth herein and in any attached Exhibits and Addenda, if any, intending to be legally bound, the Parties hereby agree as follows:

**1. TERM.**

This Agreement will begin on January 1, 2012 ("Effective Date") and expire on December 31, 2022 for an initial eleven (11) year contract period. Thereafter, the term may be extended by mutual written agreement for up to two (2) additional consecutive five (5) year periods.

2. **DEFINITIONS.**

The following terms shall have the meanings for all purposes under this Agreement:

- 2.1. **"ABOR"** shall mean the Arizona Board of Regents.
- 2.2. **"ADA"** shall mean the Americans with Disabilities Act.
- 2.3. **"ATM"** shall mean automated teller machine.
- 2.4. **"Account"** shall mean any Student Checking Account and/or Affinity Checking Account
- 2.5. **"Account Opening Date"** shall mean the date on which a particular Account was opened with MidFirst.
- 2.6. **"Active Account"** shall mean a Student Checking Account or Affinity Checking Account that has customer-initiated activity within the last six (6) months.
- 2.7. **"Active Affinity Checking Account"** shall mean an Affinity Checking Account that has customer-initiated activity within the last six (6) months and was opened on or after the Effective Date.
- 2.8. **"Active Student"** shall mean a student who is enrolled in the University.
- 2.9. **"Active Student Checking Account"** shall mean a Student Checking Account that has customer-initiated activity within the last six (6) months and was opened on or after the Effective Date.
- 2.10. **"Addenda"** shall mean all addenda to this Agreement.
- 2.11. **"Advertising Materials"** shall mean all MidFirst-created marketing, advertising, and solicitation materials which contain the University's Marks.
- 2.12. **"Affinity Checking Account"** shall mean a demand deposit or checking account opened with an Affinity Debit Card or Bankable Faculty/Staff ID Card on or after the Effective Date that features the University's Marks.
- 2.13. **"Affinity Checking Account Royalties"** shall mean those royalties described in Section 5.2.3.1.1.
- 2.14. [Intentionally Omitted]
- 2.15. [Intentionally Omitted]
- 2.16. [Intentionally Omitted]
- 2.17. **"Affinity Debit Card"** shall mean the co-branded check card offered by MidFirst that features the University's Marks and is tied to an Affinity Checking Account.
- 2.18. **"Affinity Debit Card Transaction Royalties"** shall mean those royalties described in Section 5.2.3.1.2.

- 2.19. "Affinity Program Incentive-Based Royalties" shall mean collectively the royalties paid on the Affinity Checking Accounts and Affinity Debit Cards.
- 2.20. "Affinity Program" shall have the meaning set forth below in Section 3.4.1.
- 2.21. "Agreement" shall mean collectively this Agreement, any addenda, exhibits or attachments to this Agreement, and any subsequent written amendments hereto executed by University and MidFirst.
- 2.22. "Alumni" shall mean any person who has earned a degree from the University.
- 2.23. "Alumni List" shall mean the complete and accurate list of all University Alumni.
- 2.24. "Anniversary Date" shall mean the annual recurrence of the Account Opening Date.
- 2.25. "Annual Minimum Royalty Guarantee" shall have the meaning set forth below in Section 5.2.1.
- 2.26. "Approved Point of Sale Transactions" or "Approved POS Transactions" shall mean the debit card purchase or payment transactions that receive an approval code from the applicable card association network and MidFirst.
- 2.27. "Bank Customer" shall mean any University student, Alumni, faculty or staff, parent of a University student, Sun Devil Athletic fan or other friend or supporter of the University who has entered into a banking relationship with MidFirst to provide or engage in Retail Banking Services and Products as part of the Program as well as any person who has entered into a banking relationship with MidFirst outside of the Program.
- 2.28. "Bank Customer Information" shall mean any non-public, non-published information regarding current or potential Bank Customers.
- 2.29. "Bankable Faculty/Staff ID Card" shall mean a faculty or staff member's school identification card that also has debit or check card capabilities tied to a Affinity Checking Account
- 2.30. "Bankable Student ID Card" shall mean a student's school identification card that also has debit or check card capabilities tied to a Student Checking Account.
- 2.31. "Bankable Student ID Card Transaction Royalties" shall mean those royalties described in Section 5.2.2.2.
- 2.32. "Banking Relationship Elements" shall mean the elements of the strategic business alliance between the Parties outlined in Section 3.
- 2.33. "CPMG" shall mean University's Capital Program Management Group.
- 2.34. "Capital Equipment" shall have the meaning set forth below in Section 9.2.
- 2.34A. "Cash Management Regulations" shall mean those Program Integrity and Improvement regulations promulgated by the U.S. Department of Education amending 34 CFR Part 668, as published in the Federal Register at Vol. 80, No. 210, which regulations are effective July 1, 2016.

- 2.35. "Claims" shall have the meaning set forth below in Section 17.16.1.
- 2.36. "Constituents" shall mean those individuals or entities attending an event at the Wells Fargo Arena.
- 2.37. "Converted Account" shall mean any Student Checking Account that converts or transitions to an Affinity Checking Account.
- 2.37A. "Complaint" shall have the meaning set forth below in Section 6.18.
- 2.38. "Design Intent" shall mean the detail explanation of the ideas, concepts and criteria that are defined by MidFirst to be important to a renovation or improvement.
- 2.39. "Downtown Campus" shall mean the University's campus located in downtown Phoenix.
- 2.40. "Effective Date" shall have the meaning set forth above in Section 1.
- 2.41. "Exceptions" shall mean: (i) the Wells Fargo naming and marketing rights within the Wells Fargo Arena; (ii) the Wells Fargo Tempe campus banking center in the Memorial Union but only until the lease expires on June 30, 2013 at which point it will no longer be an exception; (iii) any business, including any and all ATMs, conducted by Arizona State Credit Union; (iv) competing banks' on-campus ATMs but only until the existing contracts expire at which point the ATMs will no longer be an exception; and (v) any competing banks on Premises as a sponsor for a University-registered student organization's event which are typically no longer than one (1) week and only during the regular five (5)-day class week and provided that the competing bank does not in any way utilize the Marks and University does not endorse the competing bank.
- 2.42. "Execution Date" shall mean January 13, 2012, the date of the mutual execution by the Parties of the Original Agreement.
- 2.43. [Intentionally Omitted]
- 2.44. "Faculty/Staff List" shall mean the complete and accurate list of all faculty and staff currently employed at University.
- 2.45. "GLB" shall have the meaning set forth below in Section 17.18.
- 2.46. "ID" shall mean identification.
- 2.47. "ISDN" shall mean integrated services digital network.
- 2.48. "Improvements" shall mean the Capital Equipment and Remodeling together.
- 2.49. "Indemnatee" shall have the meaning set forth below in Section 17.16.1.
- 2.50. "Information" shall have the meaning set forth below in Section 10.
- 2.51. "Interchange Revenue Bonus" shall mean the bonus described in Section 5.7.

- 2.52. "Key" shall mean any metal, electromagnetic, combination lock, or any other method the University chooses, at its sole discretion, to utilize locking Premises to which MidFirst is given access hereunder.
- 2.52A. "Limited Customer Information" shall have the meaning set forth in Section 10.4.
- 2.53. "Marks" or "University's Marks" shall mean the design, image, visual representation, logo, service mark, trade dress, trade name or trademark, with exception of the official seal of the University used or acquired by the University or any University Affiliate during the term of this Agreement. "Marks" or "University's Marks" can be accessed at <http://commguide.asu.edu>.
- 2.54. "MidFirst" shall mean MidFirst Bank.
- 2.55. "MidFirst Club" shall mean the 120- 200-person capacity hospitality club situated on the suite level of the Sun Devil Stadium.
- 2.56. "MidFirst's Marks" shall mean the design, image, visual representation, logo, service mark, trade dress, trade name or trademark, used or acquired by MidFirst or any of its affiliates during the term of this Agreement.
- 2.57. "Milestone Bonus" shall mean the bonus described in Section 5.2.4.
- 2.58. "PM" shall mean a University Project Manager.
- 2.59. "Party" shall mean individually either University or MidFirst.
- 2.60. "Parties" shall mean collectively the University and MidFirst.
- 2.61. "Pitchfork ID Card Program" shall have the meaning set forth in Section 3.1.1.
- 2.62. "Pitchfork ID Card Program Incentive-Based Royalties" shall mean collectively the royalties paid on Student Checking Accounts and the Bankable Student ID Card described in Section 5.2.2.
- 2.63. "Plans" shall have the meaning set forth below in Section 9.1.
- 2.64. "Premises" shall mean any and all areas of University's four (4) campuses (Tempe, Downtown, Polytechnic and West) and any other locations as mutually agreed upon by the Parties.
- 2.65. "Program" shall mean the marketing, promotion and administration of the collective Banking Relationship Elements, including the Retail Banking Services and Products, in combination with the University's Marks as may be offered and provided by MidFirst pursuant to this Agreement.
- 2.66. "Related Parties" shall mean the directors, officers, employees, agents, subcontractors, contractors, or representatives of a receiving party and its affiliates and subsidiaries, to the extent such entities or persons receive Confidential information.
- 2.67. "Remodeling" shall have the meaning set forth below in Section 9.2.

- 2.68. "Retail Banking Services and Products" shall mean retail banking services and products offered by banking institutions, including but not limited to debit cards, stored-value cards, gift cards, checking or demand deposit accounts, savings accounts, time deposit accounts, credit cards, trust accounts, consumer loans, mortgage loans, home equity loans, and commercial loans.
- 2.69. "Royalty" or "Royalties" shall mean the collective compensation set forth below in Section 5.2.
- 2.70. "Signing Bonus" shall mean the bonus set forth below in Section 5.1.
- 2.71. "Student Checking Account" shall mean a demand deposit or checking account opened with a Bankable Student ID Card on or after the Effective Date that features the University's Marks.
- 2.72. "Student Checking Account Royalties" shall mean the royalties described in Section 5.2.2.1.
- 2.73. "Student List" shall mean the complete and accurate list of all Active Students.
- 2.74. "Sun Devil Card" shall mean collectively University-issued identification cards.
- 2.75. "Supplement" shall have the meaning set forth below in Section 17.16.1.
- 2.75A. "Supplier" shall have the meaning set forth below in Section 6.18.
- 2.76. "Treasury Management Services" shall mean a suite of banking services and products offered to business customers to maximize efficiencies with the collection of receivables, disbursement of payables and gathering of information.
- 2.77. "University" shall mean the Arizona Board of Regents for and on behalf of Arizona State University.
- 2.78. "University Affiliate" shall mean any entity which, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership or control of the University.
- 2.79. "Vendor Parties" shall have the meaning set forth below in Section 17.12.
- 2.80. "Wells Fargo" shall mean Wells Fargo, N.A.

**3. BANKING RELATIONSHIP ELEMENTS.**

**3.1. Enhanced Sun Devil Card Services.**

**3.1.1.** MidFirst shall have the exclusive right to market, promote, advertise and produce the Bankable Student ID Card and Student Checking Accounts (collectively referred to as the "Pitchfork ID Card Program").

**3.1.1.1. Marketing and Student Communications.** MidFirst and the University shall cooperate to ensure that the communications with students regarding the Student Checking Accounts, including without limitation the communications which constitute or may be deemed to constitute the student selection

process described in 34 CFR 668.164(d)(4), are conducted in a manner that is consistent with the Cash Management Regulations.

MidFirst shall conduct its marketing activities in a manner that is consistent with the requirements of the Cash Management Regulations. In any marketing materials in which MidFirst states that a Student Checking Account or Bankable Student ID Card may be utilized for direct receipt of Title IV student financial aid, MidFirst shall include a statement to the effect that such account or card is not required for direct receipt of such payments.

**3.1.1.2. Fees.** MidFirst shall not charge any fees to students for or relating to opening or activating a Student Checking Account; or in-network ATM balance inquiries or transactions.

**3.1.1.3. Fees.** The service fees charged by MidFirst for Student Checking Accounts shall at all times be consistent with or below the prevailing market rates for such services. Unless required more often by applicable law or regulation, MidFirst shall on or about July 1, 2016 and every two years thereafter during the Term, provide (i) a summary to the University of the applicable fees charged to students in connection with the Student Checking Accounts, a schedule of the relevant prevailing market rates for such services by financial institutions in the same geographic region as the University and that offer comparable products, services, and distribution channels to those of MidFirst, and (ii) an officer's certificate to the effect that to the best knowledge of such officer, the fees charged by MidFirst to students in connection with the Student Checking Accounts are, on the whole, consistent with or below the prevailing market rates for such services.

**3.1.1.4. Marketing or Conversion to Credit Card.** The Student Checking Accounts shall not be marketed as, portrayed as, or converted into credit card accounts.

**3.1.2.** MidFirst shall also have the exclusive right to market, promote, advertise and produce the Bankable Faculty/Staff ID Card.

**3.1.3.** In exchange for the exclusive rights provided in Section 3.1.1 and for the term of this Agreement, the University will earn incentive-based account royalties contemplated by the Pitchfork ID Card Program Incentive-Based Royalties described in Section 5.2.2. In exchange for the exclusive rights provided in Section 3.1.2 and for the term of this Agreement, the University will earn incentive-based account royalties contemplated by the Affinity Checking Account and Affinity Debit Card Transaction Royalties described in Section 5.2.3.1.

**3.2. Retail Banking Sites.**

**3.2.1. Tempe Campus**

**3.2.1.1.** MidFirst shall have the exclusive right for the term of this Agreement and upon the expiration of the University's lease with Wells Fargo, to construct

and open a full-service banking center in the University Memorial Union on the University's Tempe campus.

- 3.2.1.2. MidFirst shall operate the full-service banking center during all regular University hours. MidFirst will offer, as allowed by applicable law, hours during evenings, weekends, and for special events as mutually agreed upon by the Parties. The banking center will follow the University academic calendar for holiday observances as allowed by the applicable law.
- 3.2.1.3. The location of the MidFirst banking center in the Memorial Union will include the space currently occupied by Wells Fargo. Wells Fargo's lease expires on June 30, 2013, at which time MidFirst will take over and begin occupying the banking center space. MidFirst also has the rights to utilize and continue to utilize for the term of this Agreement the space attached to the Sun Devil Card office for providing banking and card issuance services.
- 3.2.1.4. A portion of the Royalties described in Section 5.2 will serve as consideration, for the term of this Agreement, for the exclusive rights granted under this Section.
- 3.2.1.5. The Parties will execute a separate lease agreement to document the Parties' responsibilities and obligations with respect to MidFirst's Tempe campus banking center.

**3.2.2. Downtown Campus.**

- 3.2.2.1. MidFirst shall have the exclusive right for the term of this Agreement, to construct and open a full-service banking center in the University Center building on the University's Downtown Campus.
- 3.2.2.2. MidFirst shall operate the full-service banking center during all regular University hours. MidFirst will offer, as allowed by applicable law, hours during evenings, weekends, and for special events as mutually agreed upon by the Parties. The banking center will follow the University academic calendar for holiday observances as allowed by the applicable law.
- 3.2.2.3. MidFirst will share a portion of the space with the Sun Devil Card office and, as mutually agreed upon, share space for the University's Downtown Campus cashier service.
- 3.2.2.4. In exchange for the exclusive rights granted by this Section, MidFirst will make the payments contemplated by the Annual Downtown Sponsorship described in Section 5.5.
- 3.2.2.5. The Parties will execute a separate lease agreement to document the Parties' responsibilities and obligations with respect to MidFirst's Downtown Campus banking center.



**3.2.3. Other Campus Banking Center Sites.**

**3.2.3.1.** Other campus banking center locations may be added upon mutual agreement of the Parties and evidenced in writing.

**3.2.3.2.** The Parties will execute separate lease agreements, as applicable, to document the Parties' responsibilities and obligations with respect to the other banking centers.

**3.3. On-Campus ATM Network.**

**3.3.1.** Subject to the Exceptions, MidFirst shall have the exclusive right, for the term of this Agreement, to offer and provide ATM services on the Premises.

**3.3.2.** MidFirst will provide a network of ATMs on the Premises with the number and placement of the ATMs to be decided by the Parties. All competing banks' or institutions' ATMs, with the exception of the Arizona State Credit Union's ATMs, will be removed, at the expense of the competing banks, upon the expiration of the existing ATM contracts. As described below in Section 4.3 and for the term of this Agreement, these competing bank or institution ATM contracts will not be renewed upon their expiration.

**3.3.3.** In exchange for the exclusive rights granted by this Section, MidFirst will make the payments contemplated in Section 5.6 below.

**3.3.4.** The Parties agree that the number of surcharge-free in-network ATMs to be installed and maintained on campus shall be established at a level sufficient in number, and housed and serviced such that the funds maintained in Student Checking Accounts are reasonably available to the Student accountholders, including at the times the University makes direct payments of Title IV funds into such accounts, all in accordance with the requirements of 34 CFR 668.164(f)(4)(vi). The Parties have determined that as of June 29, 2016, the current number and locations of ATMs satisfy this requirement. The Parties will cooperate to reassess the number and locations of ATMs in the future as appropriate in light of changes in University enrollment, campus geography, guidance from the Department of Education or other relevant factors.

**3.4. Affinity Checking Account and Affinity Debit Card.**

**3.4.1.** For the term of this Agreement, MidFirst shall be the exclusive provider of all Retail Banking Services and Products for the University. As part of the Retail Banking Services and Products, MidFirst will offer Affinity Debit Cards and Affinity Checking Accounts ("Affinity Program"). The Affinity Program will be offered to University Alumni, University faculty and staff, parents of University students, Sun Devil Athletic fans and other friends or supporters of the University.

**3.4.2.** In exchange for the exclusive right to offer the Affinity Program, University will earn the incentive-based royalties contemplated in Section 5.2.3.

**3.5. Financial Literacy Training.**

MidFirst will provide on-going financial literacy training and programs to students through various events and activities, including but not limited to, a school-year kickoff event and through MidFirst's website for University students. The cost of supplies and materials for training will be the responsibility of MidFirst.

**3.6. Program Sponsorships.**

MidFirst may participate, as to be mutually agreed upon in writing by the Parties, in various University program sponsorships.

**3.7. Sun Devil Annual Sports Marketing Contract.**

**3.7.1.** MidFirst will sponsor certain University Sun Devil athletic sponsorship elements as will be outlined in an addendum to this Agreement.

**3.7.2.** In exchange for the elements granted in this Section, MidFirst will make the payments contemplated in Section 5.3.

**3.8. Sun Devil Annual Athletics Inventory.**

**3.8.1.** University grants MidFirst the athletic naming rights, signage, usage and ticket allotment inventory as will be outlined in an addendum to this Agreement.

**3.8.2.** MidFirst will receive the right of first opportunity on any stadium naming rights package for Sun Devil Stadium that may be offered to another banking or financial institution. Should MidFirst decline a stadium naming rights package for Sun Devil Stadium offered through a right of first opportunity and the University sells the stadium naming rights to another banking or financial institution, MidFirst shall, in its discretion, have the option to continue or terminate any of its naming rights. If MidFirst chooses to terminate any of its naming rights, MidFirst's payment obligations for those naming rights outlined in Section 5.4 would cease for any unused years. MidFirst's Annual Sports Marketing Contract described in Section 3.7 and in an addendum to this Agreement would continue unaffected in the event the University sold the stadium naming rights for Sun Devil Stadium to another banking or financial institution.

**3.8.3.** In the event the current Sun Devil Stadium becomes unusable as a result of a renovation or remodel, the affected naming rights will either terminate or suspend until the Sun Devil Stadium re-opens. The decision to terminate or suspend this agreement shall be at MidFirst's discretion. If the current Sun Devil Stadium is demolished, then the naming rights package, as will be outlined in an addendum to this Agreement, will terminate and MidFirst shall have no further monetary obligation with respect to the naming rights package.

**3.8.4.** In exchange for the athletics inventory granted in this Section, MidFirst will make the payments contemplated in Section 5.4.

**3.9. University Club Membership.**

**3.9.1.** This Agreement includes an annual membership for MidFirst to the University Club for the entire term of Agreement.

**3.9.2.** This membership allows up to five (5) members of MidFirst to use the services of the University Club, which includes:

**3.9.2.1.** Access to the Club Room for free coffee each weekday morning (7am - 10 am) and access to major newspapers (Arizona Republic, Wall Street Journal & New York Times);

**3.9.2.2.** The ability to charge meals to the MidFirst account which will be billed monthly;

**3.9.2.3.** Access to conference rooms depending upon availability at no cost other than catering services; and

**3.9.2.4.** Reciprocity with the downtown Phoenix University Club plus over 100 other University Clubs nationwide.

**3.9.3.** In addition, MidFirst members will be invited to all University Club events including but not limited to high teas (limited availability), tailgate parties, annual holiday parties, and colloquiums.

**3.9.4.** MidFirst is responsible for all charges related to meals at the Bistro or catered events.

**3.10. Optional Services.**

During the term of this Agreement, University may request additional banking or financial services from MidFirst, including but not limited to the following:

**3.10.1. Treasury Services.** At the University's request, MidFirst will have the opportunity to supply the Treasury Management Services needed to facilitate the distribution of student financial aid and related refunds and will have the opportunity to bid on the University's other Treasury Management Service needs.

**3.10.2. Procurement Card Services.** At the University's request, MidFirst will have the opportunity to bid on the University's Procurement Card Services.

**3.10.3. Financing of Renewable Energy Projects.** At the University's request, MidFirst will have the opportunity to bid on the financing of the various renewable energy projects being installed on the Premises.

**4. EXCLUSIVITY.**

**4.1.** Subject to the Exceptions, MidFirst shall have the exclusive right to market, promote, offer and administer the Retail Banking Services and Products, including but not limited to the Bankable

Student ID, Student Checking Account, Bankable Faculty/Staff ID Card, Affinity Debit Card and Affinity Checking Account, which are offered in combination with the Marks.

- 4.2. Subject to the Exceptions, specifically the Arizona State Credit Union, MidFirst shall be the sole banking institution on the Premises and no other banking institutions shall have the authority to market or solicit students, faculty, staff or Alumni on the Premises.
- 4.3. As provided above in Section 3.3 and subject to the Exceptions, MidFirst shall have the exclusive right to offer and provide ATM services on the Premises. As stated in Section 3.3.2, both Parties acknowledge there are existing competing banks' or institutions' ATM contracts that will be expiring after the Execution Date of this Agreement. After the Execution Date, University shall not renew and shall take commercially reasonable steps to ensure that none of its departments renew or execute any ATM contracts. Should a new ATM contract get executed by one of its departments, upon discovery, the University shall, at its own expense, take whatever steps necessary to terminate such contract. In any event, this Agreement and its exclusivity provisions shall supersede those contracts and render them void.
- 4.4. With respect to the Exceptions, Wells Fargo, until their naming rights agreement with the University expires, may offer financial products to Constituents inside the Wells Fargo Arena provided that (i) the programs and marketing materials associated with such product offerings do not utilize the Marks; and (ii) no Constituent mailing list shall be provided to Wells Fargo to solicit Constituents with such products.
- 4.5. Traditional print advertising contracts between the University and other banking or financial institutions are allowed under this Agreement, provided there is no express endorsement by the University of any credit card, debit card or checking account that may be advertised and there is no usage of the University's Marks.

## 5. ROYALTIES AND GUARANTEED PAYMENTS.

MidFirst will be responsible for the monetary payments contemplated by this Section.

- 5.1. Signing Bonus. MidFirst will pay to University a signing bonus of one million dollars (\$1,000,000.00) ("Signing Bonus") payable within thirty (30) days of the Execution Date.
- 5.2. Royalties. The University will earn the following Royalties over the course of this Agreement:
  - 5.2.1. Annual Minimum Royalty Guarantee. MidFirst will guarantee a minimum royalty payment of three hundred fifteen thousand and no/100 dollars (\$315,000.00) per year, for years 2 through 11 of this Agreement, beginning January 1, 2013 ("Annual Minimum Royalty Guarantee") such Annual Minimum Royalty Guarantee payments shall be made within thirty (30) days following the annual anniversary of the Effective Date of this Agreement. In each of years 2 through 11, Pitchfork ID Card Program Incentive- Based Royalties described in Section 5.2.2, the Affinity Program Incentive-Based Royalties described in Section 5.2.3 and the Interchange Revenue Bonus described in Section 5.7 earned in a particular year shall accrue against the Annual Minimum Royalty Guarantee paid in the particular year until such Royalties equal or exceed such Annual Minimum Royalty Guarantee. Any incremental Pitchfork ID Card Program Incentive-Based Royalties,

the Affinity Program Incentive-Based Royalties and/or the Interchange Revenue Bonus earned in a particular year in excess of the Annual Minimum Royalty Guarantee will be paid to the University on a quarterly basis once the Annual Minimum Royalty Guarantee amount has been met for the applicable year. The incremental payments shall be made by the end of the second month following the end of the applicable calendar quarter in which such incremental royalties are earned. For clarification purposes, to the extent the Pitchfork ID Card Program Incentive-Based Royalties, the Affinity Program Incentive-Based Royalties and Interchange Revenue Bonus earned in a particular year do not equal or exceed the Annual Minimum Royalty Guarantee paid in such year, the deficiency shall not be carried forward to any future year or repaid to MidFirst.

**5.2.2. Pitchfork ID Card Program Incentive-Based Royalties.**

**5.2.2.1. Student Checking Account Royalties.** For the term of this Agreement, the University will earn incentive-based account royalties at a rate of (i) fifteen dollars (\$15.00) for each new Active Student Checking Account on the first Anniversary Date and (ii) two dollars and fifty cents (\$2.50) annually on each subsequent Anniversary Date of each Active Student Checking Account while the account holder remains an Active Student with the University.

**5.2.2.2. Bankable Student ID Card Transaction Royalties.** For the term of this Agreement, the University will earn incentive-based transaction royalties at a rate of four cents (\$0.04) for each Bankable Student ID Card Approved POS Transaction.

**5.2.2.3. Pitchfork ID Card Program Incentive-Based Royalties Payment Terms.** The Pitchfork ID Card Program Incentive-Based Royalties volume will begin accumulating as of the Effective Date. MidFirst will make the royalty payments contemplated by this Section on a quarterly basis. The payments shall be made by the end of the second month following the end of the applicable calendar quarter and shall be accompanied by a compensation report detailing the calculation of such payment.

**5.2.3. Affinity Program Incentive-Based Royalties.**

**5.2.3.1. Affinity Checking Account and Affinity Debit Card Transaction Royalties.**

**5.2.3.1.1. Affinity Checking Account Royalties.** For the term of this Agreement, the University will earn incentive-based account royalties at a rate of (i) fifteen dollars (\$15.00) for each new Active Affinity Checking Account on the first Anniversary Date and (ii) six dollars (\$6.00) annually on each subsequent Anniversary Date of each Active Affinity Checking Account up to three (3) years following the Anniversary Date. University will not earn the incentive-based account royalties on a Converted Account; however, the Converted Account will earn Affinity Debit Card Transaction Royalties.

5.2.3.1.2. Affinity Debit Card Transaction Royalties. For the term of this Agreement, the University will earn incentive-based transaction royalties at a rate of ten cents (\$0.10) for each Affinity Debit Card or Bankable Faculty/Staff ID Card Approved POS Transaction.

5.2.3.1.3. Affinity Program Incentive-Based Royalties Payment Terms. The Affinity Program Incentive- Based Royalties volume will begin accumulating as of the Effective Date. MidFirst will make the royalty payments contemplated by this Section on a quarterly basis. The payments shall be made by the end of the second month following the end of the applicable calendar quarter and shall be accompanied by a compensation report detailing the calculation of such payment.

5.2.3.2. [Intentionally Omitted]

5.2.3.2.1. [Intentionally Omitted]

5.2.3.2.2. [Intentionally Omitted]

5.2.4. Milestone Bonus.

5.2.4.1. MidFirst will make an additional incentive-based bonus payment of four hundred thousand and no/100 dollars (\$400,000.00) in 2014 and three hundred seventy-five thousand and no/100 dollars (\$375,000.00) in 2016, if the following cumulative Active Account goals are met on December 31st of each respective year:

2014 Total Account Target	48,000 Accounts
2016 Total Account Target	56,250 Accounts

5.2.4.2. If realized, the Milestone Bonus will be due and payable by the end of the second month following the end of the applicable calendar year and shall be accompanied by a compensation report detailing the calculation of such payment.

5.3. Sun Devil Annual Sports Marketing Contract. In consideration of the rights granted under Section 3.7 above, MidFirst will make a payment to the University of three hundred fifty thousand dollars (\$350,000.00) in 2012 and a payment in subsequent years adjusted by a two percent (2%) annual escalator (described in Schedule 5.3 below). The payment contemplated by this Section is payable on or before June 15th of the applicable year.

**Schedule 5.3**

<b>Year</b>	<b>Amount of Annual Payment</b>
2012	\$350,000
2013	\$357,000
2014	\$364,140
2015	\$371,423
2016	\$378,851
2017	\$386,428
2018	\$394,157
2019	\$402,040
2020	\$410,081
2021	\$418,282
2022	\$426,648

- 5.4. Sun Devil Annual Athletics Inventory Payments. In consideration of the rights granted Section 3.8 above, MidFirst will make a payment to the University of five hundred fifty thousand dollars (\$550,000.00) in 2012 and a payment in subsequent years adjusted by a two percent (2%) annual escalator (described in Schedule 5.4). The payment contemplated by this Section is payable on or before June 15<sup>th</sup> of the applicable year with the exception of the portion of the payment that relates to the MidFirst Club. MidFirst will make the portion of the payment that relates to the new MidFirst Club once the build-out of the MidFirst Club is complete and MidFirst Club is operational.

**Schedule 5.4**

<b>Year</b>	<b>Annual Payment Amount*</b>
2012	\$550,000
2013	\$561,000
2014	\$572,220
2015	\$583,664
2016	\$595,338
2017	\$607,244
2018	\$619,389
2019	\$631,777
2020	\$644,413
2021	\$657,301
2022	\$670,447

- \* Annual payment amount(s) to be reduced by the value of the MidFirst Club if the MidFirst Club is not operational by August 1, 2012. MidFirst Club value for 2012 is provided in the addendum describing the Sun Devil Athletics Inventory. Subsequent years' MidFirst Club values are subject to the two percent (2%) annual escalator.

- 5.5. Annual Downtown Sponsorship. In consideration for the rights related to the Downtown Campus banking center location described above in Section 3.2.2, MidFirst will make a payment to the University of fifty thousand dollars (\$50,000.00) in 2012 and a payment in subsequent years adjusted by a two percent (2%) annual escalator (described in Schedule 5.5). The payment

contemplated by this Section is due and payable within thirty (30) days of January 1<sup>st</sup> of the applicable year with the exception of 2012. The payment for 2012 is due and payable within thirty (30) days of and will be prorated from the date on which MidFirst takes occupancy and begins functioning as a banking center. If University for any reason loses or terminates its lease with the City of Phoenix for the building housing the Downtown Campus banking center, MidFirst's payment obligations under this Section will cease.

**Schedule 5.5**

Year	Amount of Annual Payment
2012	\$50,000*
2013	\$51,000
2014	\$52,020
2015	\$53,060
2016	\$54,122
2017	\$55,204
2018	\$56,308
2019	\$57,434
2020	\$58,583
2021	\$59,755
2022	\$60,950

\* Amount to be prorated based upon the number of months in 2012 that the MidFirst banking center is functioning as a banking center.

- 5.6. ATM Surcharge Fee Revenue Sharing. MidFirst will share fifteen percent (15%) of its on-campus foreign ATM surcharge income which will be paid on a quarterly basis. The payments shall be made by the end of the second month following the end of the applicable calendar quarter.
- 5.7. Interchange Revenue Bonus. MidFirst will pay an Interchange Revenue Bonus to the University amounting to twenty-one and one half percent (21.5%) of the gross debit interchange income derived from the Bankable Student ID Card Approved POS Transactions and Affinity Debit Card or Bankable Faculty/Staff ID Card Approved POS Transactions (as described in an addendum to this Agreement), net of the Bankable Student ID Card Transaction Royalties and the Affinity Debit Card Transaction Royalties. The Interchange Revenue Bonus will be paid to the University on a quarterly basis.

**6. MIDFIRST RESPONSIBILITIES**

- 6.1. MidFirst shall provide, at its cost, all banking services functionality for the Bankable Student ID Card, Student Checking Accounts and Bankable Faculty/Staff ID Card.
- 6.2. MidFirst agrees to actively and continually promote and offer, and the University agrees to actively promote and support MidFirst in its efforts, the Bankable Student ID Card, Student Checking Account, Bankable Faculty/Staff ID Card, Affinity Checking Account, and Affinity Debit Card in MidFirst banking centers located within the State of Arizona.



- 6.3.** MidFirst shall be solely responsible for and agrees to pay all costs associated with its management of this Agreement and the successful performance of its obligations hereunder, except as noted otherwise in this Agreement. MidFirst shall operate on its own credit and shall pay all costs of operations from its own banking account(s).
- 6.4.** MidFirst shall be responsible for the installation, maintenance, replenishment, ownership, and/or removal of its network of ATMs placed on the Premises. MidFirst will supply a wireless data connectivity router for the operation for the MidFirst ATMs. If wireless data connectivity is unavailable, then the Parties will work on determining a mutually agreeable alternative such as an ISDN.
- 6.5.** MidFirst shall work with the University to obtain University approval for placement of any and all ATMs on the Premises and shall abide by applicable building code(s) and regulations such as ADA.
- 6.6.** MidFirst will provide a support phone line visible on all ATM machines to report all repair or service issues.
- 6.7.** MidFirst shall obtain and maintain at its sole expense, and in its name, all necessary licenses and permits required to perform the services described herein.
- 6.8.** MidFirst shall have the right of prior approval, not to be unreasonably withheld or delayed, of any signage using MidFirst's Marks.
- 6.9.** In the event of loss of any data or records necessary for the performance of this Agreement where such loss is due to the error or negligence of MidFirst or its employees or agents, MidFirst shall take commercially reasonable efforts, irrespective of the cost to MidFirst, to recreate such lost data or records.
- 6.10.** MidFirst shall abide, and require its employees to abide, by applicable University regulations and policies. Upon written request, University shall provide MidFirst with copies of applicable policies, and timely inform MidFirst of any changes.
- 6.11.** MidFirst shall conform to University wage, benefits, and human resource practices as outlined in Exhibit A- A Values Based Standard for Business Relationships with Significant University Service Providers. If a conflict arises between these standards and this Agreement, this Agreement shall control.
- 6.12.** MidFirst shall abide by all federal, state, and local laws applicable to its operation.
- 6.13.** MidFirst shall be responsible for any loss or damage to property owned by University that is in MidFirst's possession or control or is caused by MidFirst or its employees or agents in the course and scope of their employment.
- 6.14.** MidFirst shall only use Premises for permitted uses under this Agreement.
- 6.15.** MidFirst shall be responsible for assuring that its employees, agents and representatives comply with all University parking regulations. MidFirst shall be responsible for obtaining and payment of all parking permits or decals required for MidFirst employees, agents and representatives.

- 6.16. MidFirst shall provide reporting on a quarterly basis, within sixty (60) days of the close of each quarter, for each of the products provided by MidFirst under this Agreement.
- 6.17. Effective no later than July 1, 2017 or such other effective date as required by the Department of Education, prior to opening a Student Checking Account, MidFirst shall disclose to the student or confirm that ASU has duly disclosed to the student, the major features and commonly assessed fees associated with such account and the URL for the terms and conditions of such account, as required by and in the format required by 34 CFR 668.164(d)(4)(i)(B)(2). ASU shall cooperate with MidFirst in connection with any such required information or disclosure modality that is controlled by ASU.
- 6.18. MidFirst shall provide the Pitchfork ID Card Program, Student Checking Accounts, and ATM services to students hereunder at a high quality of service level that meets or exceeds generally accepted industry standards. If the University receives repeated Complaints from students related to the Pitchfork ID Card Program or in-network ATM services which indicate a failure by MidFirst to meet this standard, the University may request a meeting with MidFirst and the designated representatives of the Parties shall meet to discuss such matters within 30 days of such notice. Unless MidFirst provides information to the University reasonably demonstrating that the alleged service failures did not occur or have already been corrected, MidFirst shall within 30 days of such meeting provide to the University a written plan reasonably acceptable to the University to address such service deficiencies and thereafter promptly implement such plan in accordance with its terms.

MidFirst shall provide information to University regarding Complaints, including the number of Complaints, and a description of the issue and MidFirst's response to each Complaint, on a monthly basis within 45 days of month end. MidFirst shall not be required to provide personally identifiable financial information of Students if doing so would violate applicable privacy laws, regulations or other legal requirements.

For purposes of this provision, the Parties agree that: (x) a "Complaint" shall mean a (i) statement or allegation by a Student of wrongful or unethical conduct by MidFirst, or its affiliates or Suppliers, or (ii) a statement by a Student of dissatisfaction regarding a Student Checking Account, Bankable Student ID Card, or the services or business practices related thereto, but a Complaint shall not include any statement or allegation that MidFirst reasonably determines to be inaccurate or frivolous, or that does not identify a specific practice, concern or other set of facts; and (y) a "Supplier" shall mean a third party that (i) offers products or services to, or (ii) has direct contact with Students on behalf of or in partnership with MidFirst.

- 6.19. No later than August 1, 2017 and thereafter within 30 days after the end of each award year ending June 30, MidFirst shall provide to the University the information described in 34 CFR 668.164(f)(4)(iv)(B) in respect of such award year regarding the number of Student Checking Accounts and the mean and median of the actual costs incurred by those account holders.

University will use commercially reasonable efforts to provide to MidFirst copies of the contract and contract information to be posted on University's website pursuant to Sections (f)(4)(iii) or (iv) of the Cash Management Regulations a reasonable time in advance of such posting for MidFirst's review and comment, provided that University shall have the sole discretion to determine the scope and substance of any such postings.

**7. UNIVERSITY RESPONSIBILITIES.**

- 7.1. As stated in Section 4, the University hereby grants MidFirst the exclusive right to market, promote, offer and administer the Retail Banking Services and Products that are offered in combination with the Marks.
- 7.2. University grants MidFirst a limited, non-exclusive, non-transferrable license to use the Marks in conjunction with the Program.
- 7.3. With the exception of the Arizona State Credit Union, University grants MidFirst the exclusive right to deploy ATMs using the Marks on the Premises on the terms and conditions set forth in this Agreement. University shall supply any necessary dedicated electrical current for the operation of MidFirst ATMs as well as install new dedicated electrical current or supply as necessary for new ATM locations as determined by the Parties. University further agrees to provide reasonable access to any electrical lines or "ties-ins" to provide appropriate electrical current to MidFirst ATMs for functioning purposes. The University will take all commercially reasonable steps to not impair access or visibility to the MidFirst ATMs. If the University becomes aware of circumstances that may impair access or visibility, it will contact MidFirst and discuss alternatives or solutions.
- 7.4. Subject to the Exceptions, the University will take necessary steps to cause any other entity to cease and desist from (i) marketing, promoting, offering or administering the Retail Banking Services and Products and (ii) utilizing the University's Marks for the marketing, promoting, offering or administering the Retail Banking Services and Products to the extent in conflict with the rights granted by this Agreement.
- 7.5. University shall provide, at its cost, the University services functionality of the Bankable Student ID Card.
- 7.6. The University shall have the right of prior approval, not to be unreasonably withheld or delayed, of Advertising Materials.
- 7.7. The University shall not, individually or in conjunction with others, directly or indirectly, take any action which would violate, or cause the University to violate, the terms of this Agreement.
- 7.8. University's designated Contract Administrator shall manage and monitor for University compliance. University hereby designates the Associate Vice President for University Business Services as its initial Contract Administrator for this Agreement.
- 7.9. University shall keep MidFirst informed of any information related to moving the Sun Devil Card office from its current location or making changes to the processes or systems related to the technology or data if it impacts the production of a Bankable Student ID Card or Bankable Faculty/Staff ID Card.
- 7.10. University shall take all commercially reasonable steps to actively promote and support the Program and the Retail Banking Services and Products. University will not take any actions that would in any way negatively impact MidFirst's rights granted herein. At such time that the University becomes aware of any circumstances that will in any way affect MidFirst's rights under

this Agreement, the University shall provide notice to MidFirst and the Parties shall work together to develop a mutually acceptable solution and protect each Party's interest resulting from the Program.

**7.11.** University shall provide MidFirst with such information and assistance as may be reasonably requested by MidFirst in connection with the Program.

**7.11.1.** Further, the University will provide, per an agreed upon schedule, all releasable information, subject to the applicable law, on University students, incoming students, graduating students, Alumni, faculty and staff to allow MidFirst to manage the calculation of Royalties related to the Program. With respect to students and faculty and staff, this information will be provided on the Student List and Faculty/Staff List, respectively. Should a person's record be marked as a non-publishable record, MidFirst will not receive the data from the University but may obtain it only from the individual.

**7.11.2.** Within thirty (30) days of the Effective Date, the University shall provide MidFirst with initial versions of the Student List, the Faculty/Staff List and the Alumni List. University shall then provide such lists to MidFirst on at least a quarterly basis.

**7.11.3.** Notwithstanding anything in this Agreement or any addenda to the contrary, MidFirst acknowledges and agrees that University shall be required to share student information under this Agreement only to the extent permitted by applicable law. In particular, the Parties agree that the University shall not be required to provide any personally identifiable information about a student unless and until the student consents to opening an account, except information that constitutes directory information that is disclosed as permitted in 34 CFR 668.164(f)(4)(i)(A).

## **8. REPRESENTATIONS AND WARRANTIES.**

**8.1.** The University and MidFirst each represents and warrants to the other that as of the Effective Date and throughout the term of this Agreement:

**8.1.1.** It is duly organized, validly existing and in good standing.

**8.1.2.** It has all necessary power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement.

**8.1.3.** It will comply with applicable federal, state and local laws, rules, and regulations applicable to the terms and obligations of this Agreement.

**8.1.4.** This Agreement constitutes a legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, receivership, reorganization or other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity.

- 8.1.5. No consent, approval or authorization from any third party is required in connection with the negotiation, execution, delivery and performance of this Agreement, except such as have been obtained and are in full force and effect.
- 8.1.6. The execution, delivery and performance of this Agreement by such Party will not constitute a violation of any law, rule, regulation, court order or ruling applicable to such Party.
- 8.2. The University represents to MidFirst as of the Execution Date and throughout the term of this Agreement that it has the right and power to license the Marks to MidFirst for use as contemplated by this Agreement. To the extent permitted by law, the University shall defend, indemnify and hold harmless MidFirst, its directors, officers, agents, employees, affiliates, successors and assigns from any and all claims, suits, actions, damages, judgments, and costs (including attorneys' fees), arising from the Mark license granted herein or from MidFirst's use of the Marks in reliance thereon. Each Party shall promptly notify the other Party in the manner provided herein upon learning of any claims or complaints relating to such license or the use of any Marks.
- 8.3. The University represents and warrants that it has the authority to lease the Downtown Campus banking center location to MidFirst.

**9. RENOVATIONS/IMPROVEMENTS.**

Any renovations/Improvements to MidFirst banking centers or locations on the Premises shall be in accordance with this Section 9 and at MidFirst's sole expense.

- 9.1. MidFirst shall not make or suffer to be made any alterations, additions or Improvements to any University Premises associated with this Agreement without first obtaining the prior written consent of the University, which consent may be refused or conditioned in the University's sole and absolute discretion. MidFirst shall prepare complete plans and specifications for any renovations/Improvements for review and approval by University, and shall work closely with University to develop mutually acceptable plans ("Plans").
- 9.2. Renovations/Improvements may include furniture, trade fixtures, and equipment that are readily removable ("Capital Equipment") and third-party design and project management services, third-party architectural and engineering services, cabling and infrastructure, floor and wall coverings, decorating, lighting, and fixtures that are not readily removable ("Remodeling"). Capital Equipment and Remodeling each include all replacements, additions and extensions paid for by MidFirst, whenever installed.
- 9.3. All Capital Equipment purchased by MidFirst and not attached as a fixture to real estate will remain the property of MidFirst.
- 9.4. Any infrastructure Improvements are considered part of the building and University maintains the right to keep the Improvements.
- 9.5. MidFirst shall not remove any University-owned equipment from Premises without prior written permission from the Contract Administrator.

- 9.6. Improvements shall meet or exceed the requirements of the Americans with Disabilities Act and all other applicable codes, laws and regulations, and shall be in accordance with MidFirst's Design Intent documents.
- 9.7. MidFirst shall secure and pay for any necessary building permits and for all other permits, fees, licenses and inspections necessary for the proper execution and completion of Improvements and shall immediately deliver copies to University. MidFirst shall be responsible for complying with all applicable federal, state and local laws, codes, notice requirements, and regulations specifically related to MidFirst's use. MidFirst shall be responsible for and pay any costs associated with or arising from any non-compliance. Usual city building permit and inspection fees are not applicable to work constructed on University's property. University shall issue the necessary building permits and conduct inspections for work on University property. MidFirst shall pay for such permits and inspections.
- 9.8. All Plans shall be submitted to CPMG for review and approval prior to commencing work. When University has given final approval to the Plans, MidFirst shall submit an installation and construction schedule to University for approval. University shall review and comment on the Plans and schedule in a reasonable time frame to allow the project completion date to be met.
- 9.9. For any alterations, renovations, construction, or modifications to any fixed property of University the following items must be adhered to:
- (a) A PM (either CPMG or Facilities Management) has to be assigned to the project.
  - (b) All work must be submitted for University review and permitting by the University PM.
  - (c) University is the permitting and inspection authority for work on University-owned property.
  - (d) For work/projects on Premises, any and all utility shutdowns and startups are to be done by University personnel and these services are an upfront cost to the project and MidFirst.
  - (e) All special inspections such as structural steel or welding are done by outside qualified personnel and are charged to the project and are not covered by the PM Fee.
  - (f) All work must be done by licensed contractors as chosen in MidFirst's sole discretion.
  - (g) Payment and performance bonds may be required to be submitted.
  - (h) Any and all changes are required to comply with University's design and sustainability guidelines.
  - (i) MidFirst is required to comply with University's signage policy, restrictions, and process.
  - (j) All large format plans and project records/documents are the property of the University.

- (k) Two (2) paper sets of large format plans stamped "as-built" or "record set" must be delivered to CPMG within ninety (90) days of certificate of occupancy.
  - (l) All computer/CAD files must be delivered to CPMG within ninety (90).days of certificate of occupancy.
  - (m) All small format documents and project records must be delivered to CPMG within ninety (90) days of certificate of occupancy.
- 9.10. MidFirst shall neither encumber nor obstruct any entrances, hallways, stairs, or other means of ingress and egress, and shall adhere to all ADA code compliance within the space occupied and shall maintain the same in a clean condition, free from debris.
- 9.11. MidFirst shall not suffer or permit to be enforced and shall indemnify and hold harmless University and the Premises from and against all mechanic's, materialmen's, contractor's, subcontractor's, and all other liens, claims, security interests and demands of every kind and nature arising out of any work performed, materials furnished or obligations incurred by or on behalf of MidFirst. If within sixty (60) days following the filing of any such lien or claim of lien, MidFirst does not cause such lien to be released in a manner satisfactory to University, University shall have the right but not the obligation to cause the same to be released by any means University shall deem proper. All sums not timely paid by University and all expenses incurred by the University, outside the scope of this Agreement, on behalf of MidFirst as a result of MidFirst's default under the terms of this Agreement, shall be payable by MidFirst to University upon demand, together with interest at the rate of ten percent (10%) per annum from the date incurred. University shall have the right to post on the Premises any notices permitted or required by law or that University shall deem proper for the protection of University and the Premises against liens.

**10. CONFIDENTIALITY.**

- 10.1. The terms and conditions of this Agreement and any proposal, financial information, and proprietary information provided by or on behalf of one Party to the other Party prior to, contemporaneously with, or subsequent to, the execution of this Agreement ("Information") are confidential as of the date of disclosure. Such Information will not be disclosed by such other Party to any other person or entity, except as permitted under this Agreement, as required by operation of law, or as mutually agreed in writing.
- 10.2. MidFirst and the University shall be permitted to disclose such Information (a) to their accountants, legal, financial and marketing advisors, and employees as necessary for the performance of their respective duties, provided that said persons agree to treat the Information as confidential and (b) as required by law or requested by any governmental regulatory authority.
- 10.3. MidFirst specifically recognizes that the University is a state agency and is subject to the Arizona Public Records Law.
- 10.4. University will not have access to any Bank Customer Information except the following limited information provided by MidFirst to University regarding Bank Customers who have opened an account subject to the Royalty payments set forth in Section 5.2: the combination of the

following pieces of information with respect to each individual Bank Customer provided by MidFirst to University: (i) student or faculty/staff name, (ii) University ID number, and (iii) the type of card selected (i.e., Pitchfork Card, Sun Card or Bankable Faculty/Staff ID Card) (the "Limited Customer Information"). The Parties agree that it is their intent to protect disclosure of the combination of the three components of such Limited Customer Information, not the individual components of such information. For example, and not by way of limitation, University shall not be prohibited from disclosing (1) student or faculty/staff names or their University ID numbers if allowed or required by law or University policies, (2) general information regarding the Pitchfork Cards, Sun Cards or Bankable Faculty/Staff ID Cards, or (3) any similar information, so long as such information does not list on a per-Bank Customer basis the combination of components (i) through (iii) above or otherwise act to disclose that any individual is a Bank Customer, provided, however, ASU shall be allowed to notify appropriate ASU personnel or MidFirst that the holder of the Pitchfork Card, Sun Card or Bankable Faculty/Staff ID Card has a valid ASU identification card. The Limited Customer Information is being shared with University for the sole purpose of administering and distributing the Bankable Student ID Card and Bankable Faculty/Staff ID Cards. University acknowledges that its access to the Limited Customer Information described in this paragraph is regulated by federal banking laws, and agrees to comply with the following terms and conditions with respect to the Limited Customer Information:

- (a) University will not use or disclose the Limited Customer Information to any persons for any purpose other than to carry out the purpose for which MidFirst disclosed the information or as permitted under this Agreement. The University specifically acknowledges and agrees that the Limited Customer Information will not be used for any marketing or promotional purposes.
- (b) University will maintain reasonable security procedures to protect against the unauthorized use, publication, destruction, or disclosure of the Limited Customer Information. Such procedures shall include, but shall not be limited to the following: the use of appropriate security control technologies (including but not limited to, encryption of data, firewalls, passwords, authentication, data access and transmission controls and procedures, virus and anti-spy protection software), and physical security measures (including, but not limited to, limited security access to facilities, and proper disposal procedures). University agrees to reasonably cooperate with MidFirst in efforts to assess the security measures for the protection of the Limited Customer Information through the use of questionnaires or reasonable audits, not to exceed two (2) audits in an calendar year during the term of this Agreement.
- (c) University will notify MidFirst of any actual or suspected breach of the Limited Customer Information, and shall reasonably cooperate with MidFirst to halt the unauthorized disclosure and mitigate any damages. University shall be responsible for the acts and omissions of itself and its Related Parties and, to the extent permitted by applicable law, shall hold MidFirst harmless with regard to such acts or omissions.

10.5. Nothing in this Agreement shall be construed to conflict with the disclosure requirements in the Cash Management Regulations.



**11. INFORMATION SECURITY.**

All MidFirst systems containing sensitive University data must be designed, managed, and operated in accordance with information security information best practices and in compliance with all applicable federal and state laws, regulations, and policies. In addition, systems must be managed in such a way that they are in compliance and are consistent with University's policies and standards regarding data usage and information security located at <http://getprotected.asu.edu/governance#university>. University will notify MidFirst if this link changes. In an effort to diminish information security threats, MidFirst will (or will require the third party host appointee to):

- (a) Complete security reviews in accordance with University policies located at the link shown above, as the same may be amended from time to time, which reviews are subject to review and approval by University. At the present time, no more than two (2) reviews per year are required. In the event University policy requires an audit status report (such as a SAS70 or other equivalent audit documentation applicable to MidFirst), MidFirst and University shall mutually agree who shall pay for fees associated with such audit and/or review.
- (b) Perform periodic scans, including penetration tests for unauthorized applications, services, code and system vulnerabilities on the delegated services network and systems at regular intervals in accordance with University policies and standards. Weaknesses must be corrected within a specified period of time as defined in University policies and standards as amended from time to time.
- (c) Use secure development and coding standards, including secure change management procedures in accordance with applicable University policies and standards, as provided to MidFirst in advance and as the same may be amended from time to time. MidFirst will provide a summary of its annual testing results.
- (d) Carry out updates and patch management in a timely manner and to the satisfaction of University. Updates and patch management must be deployed using an auditable process that can be reviewed by University upon request.
- (e) Control access to University's resources, including sensitive data, limiting access to legitimate business need based on an individual's job-related assignment. Access should be approved and tracked by the system owner to ensure proper usage and accountability and shall be subject to review by University upon request.
- (f) Report, upon discovery, information security incidents affecting University information including, but not limited to those that involve information disclosure incidents, network intrusions, successful virus attacks, unauthorized access or modifications, and threats and vulnerabilities.

**12. KEY CONTROL.**

MidFirst shall be responsible for the control and safekeeping of all Keys issued to MidFirst by the University. If a Key is lost, MidFirst shall be responsible for the replacement cost, including if necessary, changing the lock(s) to maintain building security. MidFirst's Key management program shall be approved by the University and must adhere to University Key policies and procedures.

**13. SECURITY.**

Each Party shall be responsible for the security of all its own property and of personal property under its custody and control on Premises (including the personal property of the Parties' employees and agents), and for any repairs to or replacement or compensation for such property which may arise out of any theft, loss or damage; provided that, each Party shall be responsible for any theft, loss or damage to the other's property or the personal property of its employees and agents caused by the negligence or misconduct of its employees or agents.

**14. CORRECTION OF ERRORS, DEFECTS, AND OMISSIONS.**

Each Party agrees to promptly correct any errors, defects, and omissions that may arise in connection with the Program under this Agreement without undue delays and without cost to the other Party, provided that such correction, errors, defects, or omissions are within that Party's control. The acceptance of the work by either Party set forth herein shall not relieve either Party of the responsibility of subsequent correction of any such errors, defects, or omissions.

**15. TERMINATION OF AGREEMENT.**

- 15.1.** University may terminate this Agreement upon the occurrence of any of the following events: (a) MidFirst becomes insolvent, dissolves or makes an assignment for the benefit of its creditors, files or has filed against it any bankruptcy or reorganization proceeding, or becomes unable, or admits in writing its inability, to meet its obligations; (b) the cancellation, suspension or other revocation of licenses, permits or authorization necessary for MidFirst to conduct its business in accordance with this Agreement; (c) MidFirst makes any materially false or misleading statement, representation, or claim to the University that causes material damage to University or the Program; (d) MidFirst breaches any material term or condition of this Agreement and fails to cure such breach within thirty (30) days following written notice from the University to MidFirst of such breach. To the extent the breach cannot be cured within thirty (30) days, MidFirst shall, upon notice to University, have up to ninety (90) days following written notice from the University to cure the breach. Written notice of termination must be within ninety (90) days of the expiration of the cure period.
- 15.2.** MidFirst may terminate this Agreement upon the occurrence of any of the following events: (a) University becomes insolvent, dissolves or makes an assignment for the benefit of its creditors, files or has filed against it any bankruptcy or reorganization proceeding, or becomes unable, or admits in writing its inability, to meet its obligations; (b) University makes any materially false or misleading statement, representation, or claim to MidFirst that causes material damage; (c) any material portion of or MidFirst's obligations under the Program become illegal or unlawful due to a change in law; or (d) University breaches any material term or condition of this Agreement and fails to cure such breach within thirty (30) days following written notice from MidFirst to the University of such breach. To the extent the breach cannot be cured within thirty (30) days, University shall, upon notice to MidFirst, have up to ninety (90) days following written notice from the University to cure the breach. Written notice of termination must be within ninety (90) days of the expiration of the cure period.
- 15.3.** Without prejudice to any other remedy for breach of this Agreement, upon termination of this Agreement, no refunds shall be made to either Party for those sums paid and earned prior to the termination. However, each Party shall be released from the payment of any sum owed to

another Party that was not earned prior to termination or the performance of any obligation for which payment has not been made by one Party and received by the other Party prior to the termination. All amounts incurred or earned prior to the termination date are due and payable as of the termination date. Notwithstanding the above, termination by either Party within the first three (3) years of the Agreement will result in the return of one-half (1/2) of the Signing Bonus to MidFirst.

15.4. [Intentionally Omitted]

**16. DEPART OF ANY UNIVERSITY CAMPUS FROM THE PREMISES.**

If any of the University campuses are removed or shut down from the Premises, the University agrees to provide MidFirst with a pro-rata refund of the Signing Bonus, if the change occurs within three (3) years of the Effective Date, and a pro-rata reduction in the Annual Minimum Royalty Guarantee due to the change in potential customer population. The refund of the Signing Bonus or the reduction in the Annual Minimum Royalty Guarantee shall be adjusted by the percentage of reduction in the student population. By way of example, if the University shuts down its Polytechnic campus in 2013 and the student population reduces by twenty percent (20%), then the University will refund two hundred thousand dollars (\$200,000) of the Signing Bonus and MidFirst will reduce the Annual Minimum Royalty Guarantee for all future years by sixty-three thousand and no/100 dollars (\$63,000.00).

**17. UNIVERSITY TERMS AND CONDITIONS.**

- 17.1. FORCE MAJEURE.** Neither Party shall be held responsible for any losses resulting if the fulfillment of any terms or provisions of this Agreement are delayed or prevented by any cause not within the control of the Party whose performance is interfered with, and which by the exercise of reasonable diligence, said Party is unable to prevent.
- 17.2. ANTI-KICKBACK.** In compliance with FAR 52.203-7, the University has in place and follows procedures designed to prevent and detect violations of the Anti-Kickback Act of 1986 in its operations and direct business relationships.
- 17.3. GRATUITIES.** The University may, by written notice to MidFirst, cancel this Agreement if it is found by the University that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by MidFirst, or any agent or representative of MidFirst, to any officer or employee of the State of Arizona with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such contract. In the event this Agreement is canceled by University pursuant to this provision, the University shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by MidFirst in providing such gratuities.
- 17.4. EQUAL OPPORTUNITY CLAUSE.** The Provisions of Section 202 of Executive Order 11246, 41 C.F.R. § 60-1.4, 41 C.F.R. § 60-250.4 and 41 C.F.R. § 60-741.4 are incorporated herein by reference and shall be applicable to this Agreement unless this Agreement is exempted under the rules, regulations or orders of the Secretary of Labor.

- 17.5. **NO WAIVER.** No waiver by either Party of any breach of the provisions of this Agreement by the other Party shall in any way be construed to be a waiver of any future breach or bar the either Party's right to insist on strict performance of the provisions of this Agreement.
- 17.6. **LABOR DISPUTES.** MidFirst shall give prompt notice to the University of any actual or potential labor dispute which delays or may delay performance under this Agreement.
- 17.7. **CONTRACT CLAIMS AND CONTROVERSIES.** All contract claims and controversies arising under this Agreement shall be resolved pursuant to the ABOR procurement procedures, section 3-809, in particular section 3-809C.
- 17.8. **ASSIGNMENT OF ANTI-TRUST OVERCHARGE CLAIMS.** The Parties recognize that in actual economic practice overcharges resulting from anti-trust violations are in fact borne by the ultimate purchaser.
- 17.9. **INSPECTION AND AUDIT.** All books, accounts, reports, files, security procedures and other records relating to this Agreement shall be subject at all reasonable times to inspection and audit by the ABOR, Arizona State University or the Auditor General of the State of Arizona, their agents or MidFirst's auditors or regulators for five (5) years after completion of this Agreement. Such records shall be produced at Arizona State University, MidFirst's Arizona corporate headquarters (located at 3030 E. Camelback Road, Phoenix, Arizona 85016) or such other reasonable location as designated by the appropriate Party, upon reasonable notice to the other Party.
- 17.10. **OFFSHORE PERFORMANCE OF WORK PROHIBITED.** Due to security and identity protection concerns, direct services under this Agreement shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve Arizona State University and may involve access to secure or sensitive data or personal client data or development or modification of software for the University shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or "overhead" services, redundant back-up services or services that are incidental to the performance of this Agreement. This provision applies to work performed by subcontractors at all tiers.
- 17.11. **NON-DISCRIMINATION.** MidFirst shall comply with all applicable state and federal statutes and regulations governing Equal Employment Opportunity, Non-Discrimination, and Immigration.
- 17.12. **UNIVERSITY WEAPONS POLICY.** The University 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 the University or University Affiliates; in all University residential facilities (whether managed by the University or another entity); in all University vehicles; and at all University or University Affiliate-sponsored events and activities, except as provided in § 12-781 of the *Arizona Revised Statutes* or unless written permission is given by the University Police Department. Notwithstanding the above, University shall allow MidFirst's armored car vendor, whose employees are usually armed, to make cash deliveries on Premises in order to replenish the MidFirst ATMs and deliver cash to MidFirst banking centers or locations. With respect to all other persons or entities who are employees, officers, subcontractors, consultants, agents, guests, invitees, or licensees of MidFirst ("Vendor Parties"), MidFirst must provide notification to those

Vendor Parties that this policy is a condition and requirement of this Agreement. MidFirst further agrees to take commercially reasonable steps to ensure Vendor Parties comply with this Section.

**17.13. BYRD ANTI-LOBBYING AMENDMENT (31 U.S.C. 1352).** MidFirst shall file a certification with the University that it or its contractors who apply or bid for an award of \$100,000 have not used Federally-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 31 U.S.C. 1352. MidFirst shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining a Federal award.

**17.14. DEBARMENT AND SUSPENSION.** University shall fully comply with the requirements stipulated in 2 C.F.R. § 180. University is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 2 C.F.R. § 180, entitled "Covered Transactions", includes a term or condition requiring compliance with Subpart C. University also is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transaction. University acknowledges that failing to disclose the information required under 2 C.F.R. § 180.335 may result in the termination of the award, or pursuance of other available remedies, including suspension and debarment. Recipients may access the Excluded Parties List System at <http://epls.arnet.gov>.

**17.15. INSURANCE REQUIREMENTS.** Without limiting any liabilities or any other obligation of MidFirst, MidFirst shall purchase and maintain (and cause its subcontractors to purchase and maintain), in a company or companies lawfully authorized to do business in the State of Arizona, and rated at least A- VII in the current A.M. Best's, the minimum insurance coverage below.

MidFirst and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Agreement, are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by MidFirst, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement. The University in no way warrants that the minimum limits contained herein are sufficient to protect MidFirst from liabilities that might arise out of the performance of the work by MidFirst, its agents, representatives, employees or subcontractors under this Agreement and MidFirst is free to purchase additional insurance.

A. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** MidFirst shall provide coverage with limits of liability not less than those stated below.

1. **Commercial General Liability- Occurrence Form**

Insurance policy shall include bodily injury, property damage, personal injury and broad form contractual liability coverage.

General Aggregate	\$2,000,000
Products Completed Operations Aggregate	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Blanket Contractual Liability- Written and Oral	\$1,000,000
Fire Legal Liability	\$ 50,000
Each Occurrence	\$1,000,000

- a. The insurance policy shall be endorsed to include the following additional insured language: "The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of MidFirst."
- b. Insurance policy shall 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 MidFirst.

**2. Business Automobile liability**

Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Agreement.

Combined Single Limit	\$1,000,000
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- a. The insurance policy shall be endorsed to include the following additional insured language: "The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of MidFirst, involving automobiles owned, leased, hired or borrowed by MidFirst."
- b. Policy shall 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 MidFirst.

**3. Worker's Compensation and Employers' liability**

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$ 500,000
Disease- Each Employee	\$ 500,000
Disease- Policy Limit	\$1,000,000

- a. Insurance policy shall 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 MidFirst.

- b. This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. § 23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

B. **ADDITIONAL INSURANCE REQUIREMENTS:** The insurance policies shall include, or be endorsed to include, the following provisions:

1. The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees wherever additional insured status is required. Such additional insured shall be covered to the full limits of liability purchased by MidFirst, even if those limits of liability are in excess of those required by this Agreement.
2. MidFirst's insurance coverage shall be primary insurance with respect to all other available sources.
3. Coverage provided by MidFirst shall not be limited to the liability assumed under the indemnification provisions of this Agreement.

C. **NOTICE OF CANCELLATION:** Each insurance policy required by the insurance provisions of this Agreement shall provide the required coverage and shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the University. Such notice shall be sent directly to the University, Purchasing and Business Services, PO Box 875212, Tempe, Arizona 85287 and shall be sent by certified mail, return receipt requested.

D. **VERIFICATION OF COVERAGE:** MidFirst shall furnish the University with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Agreement. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the University before work commences. Each insurance policy required by this Agreement must be in effect at or prior to commencement of work under this Agreement and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Agreement, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Agreement shall be sent directly to Arizona State University, Purchasing and Business Services, PO Box 875212, Tempe, Arizona 85287. The University project/contract number and project description shall be noted on the certificate of insurance. The University reserves the right to require complete, certified copies of all insurance policies required by this Agreement at any time.

**17.16. INDEMNIFICATION.**

17.16.1. MidFirst shall indemnify, defend, save and hold harmless the University, its departments, agencies, boards, commissions, universities and its *officers*, officials, agents, and employees (hereinafter referred to as "Indemnatee") 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) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of MidFirst or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the Parties that the Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by MidFirst from and against any and all claims. It is agreed that MidFirst will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable.

17.16.2. To the extent permitted by applicable law, University shall defend, indemnify and hold harmless MidFirst, its directors, *officers*, agents, employees, affiliates, successors and assigns from any and all claims, suits, actions, damages, judgments, and costs (including reasonable attorneys' fees) arising out of any: (i) damage, destruction or loss of any property (including but limited to MidFirst's property); or (ii) injury to or death of any person (including but not limited to any employee of MidFirst); which results from or arises out of negligent or willful acts or omissions of University, its *officers*, agents or employees, in the performance of this Agreement.

17.16.3. Each Party will give the other Party prompt written notice of any claim, suit, action, damage, judgment or cost coming within the scope of these indemnities. Upon the written request of an indemnitee, the indemnitor will assume the defense of any claim, demand or action against the indemnitee and will permit the indemnitee, at the indemnitee's expense, to participate in the defense of claim. Settlement by the indemnitee without the indemnitor's prior written consent, which will not be unreasonably withheld, will release the indemnitor from the indemnity as to the claim, demand or action so settled. Termination of this Agreement will not affect the continuing obligations of the parties as indemnitors under this Agreement.

**17.17. LIMITATION OF LIABILITY.** No party shall have any liability for any incidental, special, or consequential damages including, without limitation, loss of profit or business opportunities, whether or not the party was advised of the possibility of such; provided, however, that this limitation of liability will not apply to any claim arising from the gross negligence or willful misconduct of a party, its directors, officers, employees, agents or subcontractors, any claim arising from breach of the confidentiality provisions of this agreement.



**17.18. THE ARIZONA STATE UNIVERSITY CONFIDENTIAL FINANCIAL INFORMATION ADDENDUM.** University and MidFirst mutually agree to comply with the requirements of the Gramm Leach Bliley Act ("GLB") dealing with the confidentiality of customer information and the Safeguarding Rule. If any conflict exists between the terms of the original Agreement and the Addendum, as attached hereto as Exhibit B, the terms of the Addendum shall govern.

**17.19. STUDENT RECORDS.** The University and MidFirst recognize that student educational records are protected by the federal Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g). FERPA permits disclosure of student record information to "other school officials" who have a legitimate educational interest in the information. The federal Family Compliance Office has recognized that institutions can designate other entities, including vendors and consultants, as "other school officials". Designated representatives of MidFirst will be designated as "other school officials" for purposes of this Agreement. No designated representative of MidFirst shall disclose information it receives under this Agreement to any third party, except with the consent of the student or as required by law. Any disclosures made by MidFirst should comply with the University's definition of legitimate educational purpose. If any designated representative discloses or misuses any educational record, the University will take appropriate action against the designated representative that is similar to action University would take against one of its employees who disclosed or misused the educational records of its students.

**17.20. INDEPENDENT CONTRACTOR STATUS.** The relationship of the parties is that of independent contractors, and no tenancy, partnership, joint venture, agency, fiduciary or other relationship is created. Neither Party may order any goods nor services, incur any indebtedness, or enter into any obligation or commitment on the other Party's behalf.

**18. NOTICES.**

All notices, requests, and other communications required or permitted under this Agreement shall be deemed to have been duly given when received if sent by recognized overnight courier or first class mail, postage prepaid, to the following address, or such other address as the parties may specify by notice:

<p><b><u>To University:</u></b> Associate VP University Business Services Arizona State University P.O. Box 877505 Tempe AZ 85287-7505</p>	<p><b><u>To MidFirst:</u></b> Garland Wilkinson Senior Executive VP/Chief Operating Officer MidFirst Bank 501NW Grand Blvd. Oklahoma City OK 73118</p>
<p><b><u>With copy to:</u></b> Executive Director Purchasing &amp; Business Services Arizona State University P.O. Box 875121 Tempe AZ 85287-5212</p>	<p><b><u>With copy to:</u></b> Randy Sparks General Counsel MidFirst Bank 501NW Grand Blvd. Oklahoma City, OK 73118</p>

Or to such other addresses as may be specified from time to time in a written notice given by a Party in accordance with this Section. The Parties agree to acknowledge in writing the receipt of any written notice, report, request, or other communication under this Section that is delivered in person.

**19. AGREEMENT.**

- 19.1.** This Agreement constitutes the entire agreement and is the sole expression of the understanding of the Parties with respect to its subject matter. No prior or contemporaneous agreement or understanding will be effective with exception of the Addenda to this Agreement. This Agreement may not be modified, amended, or waived except in writing signed by an authorized representative of each Party.
- 19.2.** This Agreement shall be construed, interpreted, and enforced according to the laws of the State of Arizona, and all claims and disputes not subject to ABOR Policy 3-809 shall be brought to court in the State of Arizona in the Superior Court of Maricopa County. The Parties hereby agree that venue is proper in those courts, hereby consent to such venue in and personal jurisdiction over them by those courts, and hereby waive all objections to such venue and to the courts' personal jurisdiction over them.
- 19.3.** No right or interest in this Agreement shall be assigned, or any obligation delegated, by MidFirst without the written permission of the University. Any attempted assignment or delegation by MidFirst shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.
- 19.4.** University and MidFirst agree that those obligations of the Parties, which by their terms require performance after termination or expiration of this Agreement, shall survive the termination or expiration of this Agreement.
- 19.5.** The Proposal Certifications signed by MidFirst and submitted with MidFirst's response to the University's Request for Proposal #281105 are incorporated by reference into this Agreement. In the event of discrepancy between this Agreement and the Proposal, this Agreement shall take precedence.
- 19.6.** The paragraph headings contained herein are inserted only for convenience of reference and are in no way to be construed as part of this Agreement or as a limitation of the scope of the particular paragraphs to which they refer.
- 19.7.** If any provision of this Agreement is finally adjudicated illegal, invalid, in excess of the authority of either Party hereto, or otherwise unenforceable, then such provision shall be *severed*, and the remainder of this Agreement shall remain in force as if such adjudicated provision were never included in this Agreement. In the event any provision of this Agreement is deemed non-binding, then the Parties agree to negotiate and agree upon a new binding provision, which most closely resembles the Parties' original intent, to replace the non-binding provision. The newly negotiated, binding provision together with the remaining terms and conditions of this Agreement shall have full force and effect.

19.8. Each Party shall execute and deliver, at any time and from time to time upon the request of the other Party, such further instruments, papers or documents as may be necessary or appropriate to consummate the transactions contemplated hereby, to implement or perfect any transfers, and to take such other action as the other Party may reasonably request to effectuate the purposes of this Agreement.

19.9. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which shall be one (1) document binding on all the Parties even though each of the Parties may have signed different counterparts. Electronic/facsimile signatures on this Agreement shall be deemed to be originals for all purposes; however, Parties will endeavor to provide original ink signatures upon request.

**20. ADDITIONAL TERMS AND CONDITIONS IMPLEMENTING THIS AGREEMENT.**

20.1. The additional terms and conditions set forth in the following exhibits and addenda, each of which is attached to this Agreement, are incorporated herein. References in such exhibits and addenda to the "Strategic Banking Relationship Master Agreement", "Agreement", "Original Agreement" or the like shall be deemed to be references to the Amended Agreement, as restated in this Agreement.

Exhibit A:	A Values Based Standard for Business Relationships with Significant University Service Providers
Exhibit B:	Arizona State University Confidential Financial Information Addendum
Addendum 1:	Sun Devil Sports Marketing
Addendum 2:	Sun Devil Athletics Inventory
Addendum 3:	On-Campus Automated Teller Machines
Addendum 4:	[Intentionally Omitted]
Addendum 5:	Checking Accounts and Debit Cards
Addendum 6:	Network Services
Addendum 7:	MidFirst Bank Customer Information

**20.2.** Notwithstanding anything to the contrary in Addenda 1 through 7, the provisions in the following sections of this Agreement, which were added by Amendment No. 2, shall control over any conflicting provision in any such Addenda:

3.1.1.1 through 3.1.1.4;

3.3.4;

6.17 through 6.19;

7.11.3;

10.5.

[SIGNATURE PAGE FOLLOWS]

The individual signing below on behalf of each Party hereby represents and warrants that he or she has full right, power and is duly authorized to execute and deliver this Agreement on behalf of such Party and that this Agreement is binding upon such Party in accordance with its terms.

UNIVERSITY

CONTRACTOR

THE ARIZONA BOARD OF REGENTS, a body corporate,  
acting for and on behalf of ARIZONA STATE  
UNIVERSITY

MIDFIRST BANK, a federally chartered savings  
association

By: Loric Sheppard

By: 

Printed: Loric Sheppard

Printed: Daniel Adams

Title: Interim Associate Director

Title: Senior Vice President

## EXHIBIT A

### A VALUES BASED STANDARD FOR BUSINESS RELATIONSHIPS WITH SIGNIFICANT UNIVERSITY SERVICE PROVIDERS

University is a public institution established under the Arizona Constitution and governed by ABOR. University is subject to ABOR policy, and applicable federal and State of Arizona rules, regulations and laws.

As a public institution, University has responsibilities to its stakeholders, including the tax payer citizens of Arizona, the students we educate and the faculty who teach them. As a general guiding business principle and in accordance with the ABOR procurement policy, University believes that its business is best conducted in a free market environment where goods and services are obtained through open competition to satisfy specific price performance objectives.

University also recognizes the obligation it has to the community beyond its institutional boundaries and the opportunity presented by its ability to influence public policy, economic development and business practices. In articulating its vision for "the New American University" we have incorporated design elements that include societal transformation, emphasis on the individual and social embeddedness. Implicit in these design imperatives is the recognition that Arizona State University will make a positive impact on the educational, economic, cultural and societal development of our region.

The substance of a university cannot be measured by bricks or mortar or even its financial health but by the quality of people who teach, study, conduct research and provide services in support of the institutional mission, and the contribution they make to our community.

University seeks to act responsibly in the treatment of its faculty and staff. That includes making reasonable efforts to provide a safe and secure working environment, providing opportunities for growth and development, and compensation and benefit that are competitive with other academic institutions and our local market.

Some of the service and support functions that are essential to the daily functioning of the University are provided by outside contractors who perform jobs that are often unrecognized and under appreciated by the people they serve. University may not set wage rates for suppliers providing goods or services to the University, nor may University engage in any activity in support of a collective bargaining unit or interfere with a contractor's internal affairs, such as labor and management controversies. University may, however, establish a set of principles in support of economic and social opportunity for the employees of service providers that have an ongoing presence on our campuses to guide the procurement of goods and services. We can encourage equal opportunity at all levels of employment and encourage training opportunities for the purpose of improving the quality of life for individual workers, their families, and their neighborhood communities. Therefore, within the laws that govern our business practices, University will seek business relationships with companies who work in support of the following principles:

- Promote equal opportunity for all employees in the company
- Respect employees' voluntary freedom of association
- Provide a compensation system that is sensitive to a competitive marketplace while enabling employees to meet basic needs, which include food, housing, health care, transportation and educational opportunity.
- Provide employees opportunities to improve skills in order to raise social and economic well-being.
- Provide a safe working environment.

### APPLICATION

It is our intent that all contractors providing services to the University make reasonable efforts to implement and adhere to the principles articulated above. The University will formally incorporate these principles in procurement solicitations and the evaluation process for any service contract where:

- The University estimates that the contractor will employ at least ten (10) service workers whose principal place of work will be at an University campus, and
- The term of the agreement is one year or more.

## **MANDATORY PROVISIONS**

MidFirst shall be required to adhere to the following Mandatory Provisions as a matter of contract:

### **Nondiscrimination and Affirmative Action**

MidFirst shall employ individuals on the basis of their ability to do the work required. MidFirst shall not subject any person to discrimination in employment, including hiring, salary, benefits, advancement, discipline, termination, or retirement, on the basis of any class protected by law. MidFirst shall be an equal employment opportunity employer and during the performance of any contract or agreement with the University shall comply, if applicable, with Federal Executive Order 11246, as amended and the Rehabilitation Act of 1973, as amended. Equal employment opportunity includes but is not limited to: recruitment, hiring, promotion, termination, compensation, benefits and transfers.

### **Freedom of Association and Collective Bargaining:**

MidFirst shall recognize and respect the rights of employees protected by the National Labor Relations Act, as amended; or such other labor relations law as may be applicable.

### **Immigration Law:**

MidFirst shall comply with all applicable state and federal immigration laws.

### **Labor Standards: Wages, Hours, Leaves, and Child Labor:**

MidFirst shall recognize and respect the legal rights of employees concerning minimum and prevailing wages, wage payments, and maximum hours and overtime; legally mandated family, childbirth, and medical leaves and return to work thereafter; and limitations on child labor; including, if applicable, the rights set forth in the Federal Fair Labor Standards Act, the Federal Davis-Bacon Act, the Federal Family and Medical Leave Act, and any state laws defining such labor standards.

### **Health and Safety:**

MidFirst shall provide a safe and healthful working environment to prevent accidents and injury to health arising out of, linked with, or occurring in the course of work or resulting from the operation of the University's facilities. During the performance of any Agreement, all products, services, use of equipment, working conditions, employee training or licensing requirements, and activities performed by MidFirst or MidFirst's subcontractors shall be in full compliance, if applicable, with the Federal Occupational Safety and Health Act, and all other applicable federal, state, and local laws, regulations, and ordinances, including but not limited to the environmental safety and health requirements set forth in 29 Code of Federal Regulations, 40 CFR, and 49 CFR.

### **Forced Labor:**

MidFirst shall not use, or purchase supplies or materials that are produced by using any illegal form of forced labor.

### **Harassment or Abuse:**

No employee shall be subject to any physical, sexual, psychological, or verbal harassment or abuse. MidFirst shall not use or tolerate any form of corporal punishment.

**Controlled Substances:**

MidFirst must prohibit the use, possession, distribution, and/or sale of illegal drugs while on University owned or leased property.

**Weapons Policy:**

The University prohibits the use, possession, display or storage of any weapon, explosive device or fireworks on all land and buildings owned, leased, or under control of the University or its affiliated or related entities, in all University residential facilities (whether managed by the University or another entity), in all University vehicles, and at all University or University affiliate sponsored events and activities. Notification by MidFirst to all persons or entities who are employees, officers, subcontractors, consultants, agents, guests, invitees or licensees of MidFirst (MidFirst Parties) of this policy is a condition and requirement of the Contract. MidFirst further agrees to enforce this contractual requirement against all MidFirst Parties.

**PREFERRED PROVISIONS**

The University may establish reasonable performance objectives for suppliers that are consistent with its values, and may incorporate these objectives when establishing evaluation criteria.

**Wages and Benefits:**

MidFirst is encouraged to pay each on-campus employee a wage that is the highest of (a) the legal minimum wage, (b) the prevailing wage for that industry in the state or region, (c) the wage that is comparable to the wage paid by the University for similar types of work or (d) a wage that enables employees to meet basic needs, including food, housing, health care, transportation and educational opportunity. In the interest of Arizona taxpayers, MidFirst should aspire to provide compensation in the form of wages and benefits that do not force employees to depend upon publicly funded social services.

**Environmental Responsibility:**

Safeguarding the environment for the benefit of all peoples now and in the future is a matter of increasing concern in the academic community as well as in society generally. MidFirst shall make every effort to demonstrate environmentally responsible practices and production methods, and meet well-established certification standards. This would include minimization of waste products, use of post-consumer recycled materials, energy efficiency, and the durability, biodegradability and reparability of the products purchases from the vendor by the University.

**Employee Education and Training:**

MidFirst shall provide a working environment that encourages workers to take advantage of educational enhancement opportunities at the University or elsewhere. MidFirst is encouraged to allow flexibility in work schedules to accommodate those workers who wish to pursue programs of study that may interfere with regular work hours. MidFirst is encouraged to maintain company sponsored scholarship, paid leave, or tuition support programs and reduce financial barriers to attaining education. Training programs should promote competency in current employee jobs and should seek to provide training in skill sets required for promotion to a higher level position, including English language training programs.

**Nondiscrimination:**



MidFirst shall not subject any person to discrimination in employment, including, hiring, salary, benefits, advancement, discipline, termination, or retirement on the basis of the individual's reproductive or familial circumstances. MidFirst shall accommodate the language requirements of their employees to the greatest extent practicable.

**Grievance Process:**

Every employee shall be treated with dignity and respect. Conflicts between employees and employers should be reconciled as amicably and transparently as possible, without the use of coercion or intimidation. Employees should have the right to express opinions or report complaints as they see fit without retaliation or the threat of reprisal. MidFirst is encouraged to have a process in place whereby employees may register specific complaints about the employment practices of that vendor and, if practicable, to do so in the employee's primary language. If possible, the complainant's identity should be confidential.

EXHIBIT B

ARIZONA STATE UNIVERSITY  
CONFIDENTIAL FINANCIAL INFORMATION ADDENDUM

University and MidFirst mutually agree to comply with the requirements of the Gramm Leach Bliley Act ("GLB") dealing with the confidentiality of customer information and the Safeguarding Rule. If any conflict exists between the terms of the original Agreement and this Addendum, the terms of this Addendum shall govern.

1. Definitions:

- a. Covered Data and Information includes Confidential Financial Information (defined below) required to be protected under the Gramm Leach Bliley Act (GLB). Covered Data and Information includes both paper and electronic records.
- b. Confidential Financial Information is the nonpublic personal information that the University has obtained from a customer in the process of offering a financial product or service includes offering student loans to students as defined in 12 C.F.R 225.28.

2. Acknowledgment of Access to Covered Data and Information: MidFirst acknowledges that the Agreement allows MidFirst access to Covered Data and Information. Specifically, access to the following categories of Covered Data and Information is anticipated under the Agreement:

- Loan Amounts, Loan Types, Fees, Collection Charges, Past Due Amounts
- Social Security Numbers

3. Prohibition on Unauthorized Use or Disclosure of Covered Data and Information: MidFirst agrees to hold Covered Data and Information received from or created on behalf of University in strict confidence. MidFirst shall not use or disclose Covered Data and Information received from or created on behalf of University except as permitted or required by the Agreement of this Addendum, as required by law, or as otherwise authorized in writing by the University.

4. Safeguard Standard: MidFirst agrees that it will protect the Covered Data and Information received from or created on behalf of University according to commercially acceptable standards and no less rigorously than it protects its own confidential information. MidFirst shall develop, implement, maintain, and use appropriate administrative, technical, and physical security measures to preserve the confidentiality, integrity, and availability of all such Covered Data and Information.

5. Return of Destruction of Covered Data and Information: Upon termination, cancellation, expiration, or other conclusion of the Agreement, MidFirst shall return the University Covered Data and Information to University unless University requests that such data be destroyed. This provision shall also apply to all Covered Data MidFirst shall complete such return or destruction not less than thirty (30) days after the conclusion of this Agreement. Within such thirty (30) day period, MidFirst shall certify in writing to University that such return or destruction has been completed. To the extent return or destruction is not feasible this Addendum shall remain in full force and effect.

6. Terms and Termination

- a. This Addendum shall take effect upon execution. The respective rights and obligations of MidFirst under this Addendum shall survive their termination of this Agreement.
- b. In addition to the termination rights established by the underlying Agreement, breach of this Addendum shall give University, in its sole discretion, the right to do any or all of the following:

- (i) exercise any of its rights to reports, access and inspection under this Addendum; and/or
- (ii) requires MidFirst to submit to a plan of monitoring and reporting, as University may determine necessary to maintain compliance with this Addendum; and/or
- (iii) provide MidFirst with a fifteen (15) day period to cure the breach; and/or
- (iv) terminate the Agreement immediately if MidFirst has breached a material term of this Addendum and cure is not possible

c. Before exercising any of these options, University shall provide written notice to MidFirst describing the violation and the action it intends to take.

- 7. Subcontractors and Agents: If MidFirst provides any Covered Data and Information which was received from or created on behalf of University to a subcontractor or agent, then MidFirst shall require such subcontractor or agent to agree to the same restrictions and conditions as are imposed on MidFirst by this Addendum.
- 8. Reporting of Unauthorized Disclosures or Misuse of Covered Data and Information: MidFirst shall report to University any use or disclosure of Covered Data and Information not authorized by this Addendum or in writing by University, including any reasonable belief that an unauthorized individual has accessed a database containing Covered Data and Information. MidFirst shall make the report to University not less than two (2) business days after MidFirst learns of such use or disclosure. MidFirst's report shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the University Covered Data and Information used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what MidFirst has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action MidFirst has taken or shall take to prevent future similar unauthorized use or disclosure. MidFirst shall provide such other information, including a written report, as reasonably requested by University.
- 9. Indemnity: MidFirst shall defend and hold University harmless from all claims, liabilities, damages, or judgments involving a third party, including University's costs and attorney fees, which arise as a result of MidFirst's failure to meet any of its obligations under this Addendum.

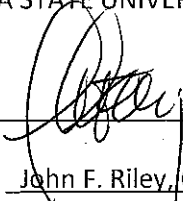
IN WITNESS WHEREOF, each of the undersigned has caused this Addendum to be duly executed in its name and on its behalf.

UNIVERSITY

CONTRACTOR

THE ARIZONA BOARD OF REGENTS  
acting for and on behalf of  
ARIZONA STATE UNIVERSITY

MIDFIRST BANK

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

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

Printed: John F. Riley, C.P.M.

Printed: Garland Wilkinson

Title: Executive Director

Title: Sr Executive Vice President / COO

**ADDENDUM #1 TO THE STRATEGIC BANKING RELATIONSHIP MASTER AGREEMENT  
SUN DEVIL SPORTS MARKETING**

This ADDENDUM #1 – SUN DEVIL SPORTS MARKETING (“Addendum #1”) is entered into as of February 12, 2012 between the ARIZONA BOARD OF REGENTS for and on behalf of ARIZONA STATE UNIVERSITY (“University”), a constitutional state university having its principal place of business located at 300 E. University Drive, Tempe, AZ 85281 and MIDFIRST BANK (“MidFirst”), a federally chartered savings association, with its principal place of business located at 501 NW Grand Boulevard, Oklahoma City, OK 73118.

This Addendum #1 is intended to supplement and is incorporated by reference into the Strategic Banking Relationship Master Agreement (“Agreement”) as acknowledged by the Parties in the Agreement. If any conflict exists between the terms of the Agreement and this Addendum #1, this Addendum #1 shall control.

**1. DEFINITIONS**

Unless otherwise defined herein, all capitalized terms shall have the meanings set forth in the Agreement.

**2. SUN DEVIL ANNUAL SPORTS MARKETING SPONSORSHIP ELEMENTS**

Pursuant to Section 3.7 of the Agreement, MidFirst will sponsor and the University will provide the following University Sun Devil athletic sponsorship elements:

- a. Sun Devil Radio
  - i. Sun Devil Football Radio Local (all of these are per game)
    - 1. One (1) :30 Spot in Pre-Game Show
    - 2. Two (2) :30 Spots in Live Play-by-Play Broadcast
    - 3. One (1) :30 Spot in Post-Game Show
    - 4. Naming rights for the Sun Devil Football Broadcast
  - ii. Sun Devil Men’s Basketball Radio Local (all of these are per game)
    - 1. One (1) :30 Spot in Pre-Game Show
    - 2. Six (6) :30 Spots in Live Play-by-Play Broadcast
    - 3. One (1) :30 Spot in Post-Game Show
    - 4. Feature entitlement in each Live Play-by-Play Broadcast
    - 5. One (1) :30 Spot in Coaches Show
    - 6. Naming rights for the Sun Devil Men’s Basketball Broadcast
  - iii. Sun Devil Women’s Basketball Radio Local (all of these are per game)
    - 1. One (1) :30 Spot in Pre-Game Show
    - 2. Two (2) :30 Spots in Live Play-by-Play Broadcast
    - 3. One (1) :30 Spot in Post-Game Show
- b. Sun Devil Football Signage
  - i. LED Sideline Signage – three (3) “real time” minutes of exposure

- ii. East/West Backlit Signage – two (2) 4'H x 28'W backlit signs, one located on the East side and one located on the West side of Sun Devil Stadium
- iii. North Tunnel Entrance Banners – one (1) 30'H x 30'W banner located on the North Tunnel Entrance of Sun Devil Stadium
- iv. Main Scoreboard Signage – one (1) 9'H x 14'W backlit sign located on the Main Scoreboard at Sun Devil Stadium
- v. North-End Exterior Signage – one (1) 16'H x 28'W sign located on the exterior of the North end of Sun Devil Stadium
- vi. Video Board Feature with LED – one (1) unique feature promotion per game
- c. TheSunDevils.com – Online Partner Level
  - i. Premium identification as an "Official Online Partner" with branding on every page
  - ii. Banner rotation throughout site providing fans with a link to MidFirst's website ([www.midfirst.com](http://www.midfirst.com))
  - iii. One (1) 6 to 8 week interactive promotion
  - iv. Two and a half (2.5) million impressions annually
- d. Football Game Day Magazine
  - i. Full-Page Advertisement – one (1) full-page, four-color program ad for each game
- e. Additional Elements
  - i. Fall Coupon Book – one (1) 3" x 6" coupon included in distribution to 50,000 season ticket holders, students and fans
  - ii. Winter Coupon Book – one (1) 3" x 6" coupon included in distribution to 25,000 attendees at games and other distribution points around campus
  - iii. Sun Devil Men's Basketball Yearbook – one (1) full page ad in yearbook
  - iv. Sun Devil Men's Basketball Poster – sponsor placement on poster
  - v. Sun Devil Men's Basketball Magnets – sponsor placement on magnets
  - vi. Sun Devil Men's Basketball Schedule Cards – sponsor placement on cards
  - vii. Five (5) Sparky appearances at MidFirst events
  - viii. One (1) meet-and-greet with Sun Devil Men's and Women's head basketball coaches at MidFirst event(s)
- f. Tickets
  - i. Sixteen (16) football season tickets
  - ii. Four (4) football parking passes
  - iii. Sixteen (16) basketball season tickets
  - iv. Four (4) basketball parking passes
- g. Sun Devil Baseball and Softball Inventory
  - i. Series entitlements for three (3) series (of three games each) at both Sun Devil baseball and softball:
    - 1. LED board placement
    - 2. PA indicating sponsorship of the series
    - 3. Promotional give away item at a game during each series

### 3. CONSIDERATION

In consideration of the rights granted above and under Section 3.7 of the Agreement, MidFirst will make the annual payments contemplated by Section 5.3 of the Agreement.

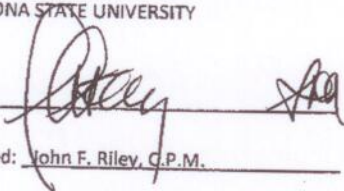
The individual signing below on behalf of each Party hereby represents and warrants that he has full right, power and is duly authorized to execute and deliver this Addendum #1 on behalf of such Party and that this Agreement is binding upon such Party in accordance with its terms.

UNIVERSITY

CONTRACTOR

THE ARIZONA BOARD OF REGENTS  
acting for and on behalf of  
ARIZONA STATE UNIVERSITY

MIDFIRST BANK

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

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

Printed: John F. Riley, C.P.M.

Printed: Garland Wilkinson

Title: Executive Director

Title: Sr Executive Vice President / COO

ACKNOWLEDGED AND AGREED:

SUN DEVIL SPORTS GROUP

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

Printed: Stephen Patterson

Title: Managing Director/COO



**ADDENDUM #2 TO THE STRATEGIC BANKING  
RELATIONSHIP MASTER AGREEMENT  
SUN DEVIL ATHLETICS INVENTORY**

This ADDENDUM #2 TO THE STRATEGIC BANKING RELATIONSHIP MASTER AGREEMENT (SUN DEVIL ATHLETICS INVENTORY) (“**Addendum #2**”) is entered into as of August 9, 2012 between the ARIZONA BOARD OF REGENTS, a body corporate, for and on behalf of ARIZONA STATE UNIVERSITY (“**University**”), having its principal place of business located at 300 E. University Drive, Tempe, AZ 85281 and MIDFIRST BANK (“**MidFirst**”), a federally chartered savings association, with its principal place of business located at 501 NW Grand Boulevard, Oklahoma City, OK 73118.

This Addendum #2 is intended to supplement and is incorporated by reference into the Strategic Banking Relationship Master Agreement dated January 13, 2012 (the “**Original Agreement**”), as amended (collectively, the “**Agreement**”). If any conflict exists between the terms of the Agreement and this Addendum #2, this Addendum #2 shall control.

**1. DEFINITIONS**

Unless otherwise defined herein, all capitalized terms shall have the meanings set forth in the Original Agreement. The following definitions are added to Section 2 of the Original Agreement.

“Initial Signage Production Costs” shall have the meaning set forth in Section 3 of Addendum #2 to this Agreement.

“University Upgrades” shall have the meaning set forth in Section 4 of Addendum #2 to this Agreement.

**2. SUN DEVIL ANNUAL ATHLETIC INVENTORY - NAMING RIGHTS, SIGNAGE, USAGE AND TICKET ALLOTMENT INVENTORY**

Section 3.8.1 of the Original Agreement provided that the athletic naming rights, signage, usage and ticket allotment inventory granted by University to MidFirst would be outlined in an addendum to the Agreement. Pursuant to such Section 3.8.1, University grants to MidFirst, and MidFirst agrees to sponsor, the following athletic naming rights, signage, usage and ticket allotment inventory with respect to the Sun Devil Annual Athletics Inventory at Sun Devil Stadium:

Element
<p><b>Signage Unique to Press Box</b>                      Illuminated Signage on back to Press Box facing NW                      Illuminated Primary sign front of Press Box facing into bowl                      Signage within Press Box                      Verbal mentions on Pac-12 Network                      Illuminated Signage covering sides of Press Box</p>
<p><b>Signage/Inventory Unique to Suite Level Club</b>                      Entitlement of 150 capacity club – MidFirst Club                      2 emails and 2 direct mails per year by ASU on behalf of sponsor                      Illuminated Signage on outside of Suites facing into Bowl                      Signage within suites                      Signage within suite concourse                      Eight (8) season tickets to MidFirst Club and two (2) parking passes</p>

Element	
<p><b>Signage Unique to Loge Level</b>            Signage at entrances to all Loge Level concourses            Six interior signs that promote bank            Signage on exterior fascia within stadium on north side            Signs on the overhead beams on east and west concourses</p> <p><b>Additional Marketing</b>            Video board in-game feature (football)            Video board pre-game feature (football)            Promotional space – van outside of stadium            On-field promotion at two games            Credit to be used for upgrade of existing assets or new assets            Branding on Loge Level tickets            Branding on Suite Level Club tickets</p> <p><b>Football Hospitality</b>            A Suite for the season (separate from the MidFirst Club) – Suite 219 for 2012 Season            Loge Level season tickets (Sections 105-107)            Loge Level season tickets (Sections 101-104 or 108-111)</p> <p><b>Non-Football Inventory</b>            Presenting sponsorship of Golf Classic (signage, collateral)            One foursome in Golf Classic tournament</p> <p><b>Suggested Additions</b>            Giveaway at 2 home games (rally towel or something similar provided by MidFirst)            Promotional space in concourse            Exclusive on stadium and arena ATMs</p>	
<p><b>Agreed Annual Spend for Year One, payable in 2012 as set forth in Section 5.4 of the Original Agreement (see Section 5.4 of the Original Agreement for Years Two through Ten Payments)</b></p>	<p><b>\$550,000</b></p>

**3. SIGNAGE PRODUCTION COSTS**

The Original Agreement does not indicate which Party will pay for the initial signage production costs for the signage provided pursuant to Section 3.8.1 of the Original Agreement (the "**Initial Signage Production Costs**"). The Parties will share the Initial Signage Production Costs as follows: University will be responsible for paying the first (1st) one hundred thousand dollars (\$100,000.00) of the Initial Signage Production Costs. MidFirst will be responsible for paying the balance of the Initial Signage Production Costs. University will also be responsible for a five thousand dollar (\$5,000.00) annual signage refresh. Notwithstanding the foregoing, MidFirst will not be responsible for any project management or other administrative fees associated with the signage provided pursuant to Section 3.8.1 of the Original Agreement.

**4. SUN DEVIL STADIUM UPGRADES**

- a. Both Parties acknowledge that the University and its athletic department plan to renovate and upgrade Sun Devil Stadium ("**University Upgrades**"). University will take commercially reasonable steps to ensure the visibility of MidFirst's signage is not diminished by the University Upgrades in a manner that causes harm to MidFirst.



- b. If University proposes to move or change, or does move or change, a signage component previously granted to MidFirst (a "**Signage Component Change**"), and MidFirst believes the visibility of its existing signage has been or will be diminished in a manner that will cause harm to MidFirst, MidFirst shall give University written notice specifying the manner in which the Signage Component Change will result in harm to MidFirst. University and MidFirst will meet and attempt to resolve MidFirst's concerns regarding the Signage Component Change. If the Parties are unable to reach an agreement regarding the Signage Component Change, the Parties will submit the matter for resolution to a sponsorship valuation firm mutually approved by the Parties, in each Party's reasonable discretion (the "**Arbitrator**"). If the Parties are unable to agree on a sponsorship valuation firm to serve as the Arbitrator within twenty (20) business days after either Party requests that an Arbitrator be appointed, then each Party shall select a sponsorship valuation firm, and the two firms selected by the Parties shall select a third sponsorship valuation firm to serve as the Arbitrator. In that event, each Party shall pay the costs of the respective firm they selected to choose the Arbitrator.
- c. Each Party will have the opportunity to present written evidence to the Arbitrator. If the Arbitrator determines that the visibility of MidFirst's signage has been or will be diminished by the Signage Component Change in a manner that will cause harm to MidFirst, Arbitrator shall render a decision that indicates the amount of damage that MidFirst will suffer, which shall take into consideration the duration of the impairment. University will then have the right, at its option, either to restore the visibility of the MidFirst signage to its pre-existing condition or to compensate MidFirst for the damages awarded by the Arbitrator.
- d. The Parties agree that the non-prevailing Party, as determined by the Arbitrator, shall pay the reasonable fees and costs of the Arbitrator. The decision of the Arbitrator shall be binding on the Parties.

## 5. EFFECT OF ADDENDUM

Except as modified herein, all terms, provisions and conditions of the Agreement shall remain in full force and effect.

## 6. COUNTERPARTS

This Addendum may be executed in any number of counterparts, each of which shall be an original and all of which shall be one (1) document binding on all the Parties even though each of the Parties may have signed different counterparts. Electronic/facsimile signatures on this Addendum shall be deemed to be originals for all purposes; however, Parties will endeavor to provide original ink signatures upon request.

## 7. AUTHORITY

The individual signing below on behalf of each Party hereby represents and warrants that the signing individual has full right, power and is duly authorized to execute and deliver this Addendum #2 on behalf of such Party and that the Agreement, as amended herein, is binding on such Party in accordance with its terms.

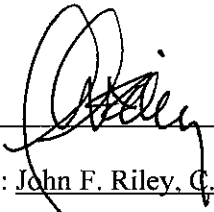
The undersigned have executed this ADDENDUM #2 TO THE STRATEGIC BANKING RELATIONSHIP MASTER AGREEMENT (SUN DEVIL ATHLETICS INVENTORY) as of the date indicated on Page 1 hereof.


UNIVERSITY

CONTRACTOR

THE ARIZONA BOARD OF REGENTS, a body corporate, acting for and on behalf of ARIZONA STATE UNIVERSITY

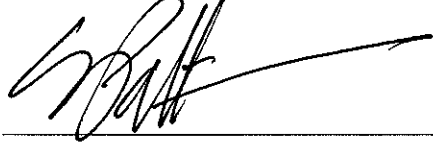
MIDFIRST BANK

By:   
Printed: John F. Riley, C.P.M.  
Title: Executive Director

By:   
Printed: Garland Wilkinson  
Title: Sr. Executive Vice President / COO

**ACKNOWLEDGED AND AGREED:**

SUN DEVIL SPORTS GROUP

By:   
Printed: Stephen Patterson  
Title: Managing Director/COO

**ADDENDUM #3 TO STRATEGIC BANKING RELATIONSHIP MASTER  
AGREEMENT  
(ON-CAMPUS AUTOMATED TELLER MACHINES)**

This ADDENDUM #3 TO THE STRATEGIC BANKING RELATIONSHIP MASTER AGREEMENT (ON-CAMPUS AUTOMATED TELLER MACHINES) (“**Addendum #3**”) is entered into as of August 24, 2012 between the ARIZONA BOARD OF REGENTS, a body corporate, for and on behalf of ARIZONA STATE UNIVERSITY (“**University**”), having its principal place of business located at 300 E. University Drive, Tempe, AZ 85281, and MIDFIRST BANK, a federally chartered savings association (“**MidFirst**”), with its principal place of business located at 501 NW Grand Boulevard, Oklahoma City, OK 73118.

This Addendum #3 is intended to supplement and is incorporated by reference into the Strategic Banking Relationship Master Agreement entered into between University and MidFirst, dated January 13, 2012 (the “**Original Agreement**”), as amended (collectively, the “**Agreement**”). If any conflict exists between the terms of the Agreement and this Addendum #3, this Addendum #3 shall control.

**1. DEFINITIONS**

Unless otherwise defined herein, all capitalized terms shall have the meanings set forth in the Agreement.

**2. ON-CAMPUS ATM NETWORK**

The Parties intend by this Addendum #3 to clarify and supplement their respective rights and obligations as set forth in the Agreement relative to ATMs to be provided under the Agreement.

**2.1.** Pursuant to Sections 3.3 and 4.3 of the Original Agreement, and subject to both Section 3.3.1 of the Original Agreement and the Exceptions defined in Section 2.41 of the Original Agreement, University has granted MidFirst the exclusive right to offer and provide ATM services on the Premises. In conjunction with this right, MidFirst shall be solely responsible for the installation, maintenance, replenishment, ownership, and/or removal of its ATMs placed on the Premises; provided however that if University requests that MidFirst remove or relocate an ATM that MidFirst previously installed on the Premises pursuant to the Agreement, then University shall be responsible for the removal costs, and if such ATM is relocated on the Premises, the installation costs for such relocated ATM. In the event of a request by University to remove or relocate an ATM, MidFirst and University shall work together to find a satisfactory relocation area where possible, and University may not request removals that would otherwise cause the entire inventory of MidFirst ATMs on the Premises to drop below a total number of 40 ATM machines (unless MidFirst agrees to allow its total number of ATM machines to drop below 40).

**2.2.** MidFirst and University shall work together to establish locations and protocol for ATM installation and construction. MidFirst shall have the right to utilize licensed contractors and vendors selected by MidFirst for the procurement, installation and maintenance of the ATMs MidFirst places on the Premises, so long as MidFirst notifies those contractors and vendors that

they are required to follow the University contractor guidelines, and notifies them of, and requires them to comply with, Sections 17.10, 17.12 and 17.15 of the Original Agreement.

**2.3.** With respect to any renovations/improvements constructed or installed by MidFirst, or by University on behalf of MidFirst, with respect to any ATMS, MidFirst shall be responsible for the prompt payment of invoices (to the extent such invoices were pre-approved by MidFirst prior to the work being performed) that are generated for services related to the permitting, asbestos testing, and project management fees. Project management fees shall only be owed by MidFirst for projects where construction costs are equal to or greater than \$5,000, and in such case project management fees shall be capped at 2.5% of total construction costs. The Parties acknowledge and agree that if any asbestos is discovered as a result of the asbestos testing, MidFirst shall have the option, in its sole discretion, to either (a) choose another location within the Premises for the affected ATM, or (b) proceed with the construction and installation of such ATM, in which event, MidFirst shall be responsible for prompt payment of all costs incurred in connection with the required asbestos removal and/or abatement.

**2.4.** MidFirst shall provide University students, faculty and staff with a link on MidFirst's website that lists the locations of MidFirst ATMs located on or near the Premises.

**2.5.** Although MidFirst is responsible under Section 9.7 of the Original Agreement for securing and paying for any necessary building permits, to the extent such building permits can only be obtained by University, University will take commercially reasonable steps to assist MidFirst in securing such building permits at no cost to University.

**2.6.** University shall provide MidFirst with access to its ATMs at all reasonable times for maintenance purposes and subject to the provisions of Sections 12 (Key Control) and 13 (Security) of the Original Agreement. In addition, MidFirst will take commercially reasonable steps to (a) comply with the University's Access Control Policy and (b) ensure that its Vendor Parties comply with the University's Access Control Policy; provided that University shall allow MidFirst's armored car vendor, whose employees are usually armed, to make cash deliveries on the Premises in order to replenish the MidFirst ATMs and deliver cash to MidFirst banking facilities (all is set forth in section 17.12 of the Original Agreement).

**2.7.** On the removal of any ATM, MidFirst shall take commercially reasonable steps to restore University's property at such location to the condition that existed prior to the installation of such ATM.

**2.8.** In conjunction with Section 6.5 of the Original Agreement, but subject to University's rights set forth in Section 2.1 above to cause the removal or relocation of ATMs, the Parties will work together to determine the location of each MidFirst ATM on the Premises. Either Party can submit requests to the other Party for proposing new MidFirst ATM locations, moving existing MidFirst ATM locations or removing MidFirst ATM locations. Each request will be reviewed and agreed upon by both Parties, provided that each Party shall submit each request to the other Party with at least sixty (60) days notice. MidFirst shall have the option to remove any of their ATMs that generates fewer than five hundred (500) transactions per calendar year during the term of the Agreement; provided, however, that MidFirst shall not reduce the total number of ATMs located on any of the University campuses below a minimum number for

each campus approved by both parties on an annual basis. MidFirst, with University approval, may have the option to relocate the MidFirst ATM to another location.

**2.9.** University shall have the right to temporarily relocate an ATM in the event of damage or destruction to the Premises at which the ATM is located or to accommodate University's improvements of the Premises at which the ATM is located. University shall give MidFirst at least ten (10) business days' prior written notice of any proposed relocation to accommodate University's improvements. University shall give MidFirst written notice of any relocation resulting from damage or destruction within two (2) business days following the relocation of the ATM. If the damage or destruction is caused by MidFirst or its agents, employees, or contractors, MidFirst shall pay for the removal costs and re-installation costs for such ATM. If the damage or destruction is caused by University or its agents, employees, or contractors, University shall pay for the removal costs and re-installation costs for such ATM. University shall pay for the removal costs and re-installation costs for ATMs temporarily relocated to accommodate University's improvements, or to accommodate University's relocation resulting from damage or destruction that was not caused by MidFirst, its agents, employees or contractors.

### **3. PUBLIC AND PRIVATE PARTNERSHIPS**

The Parties recognize that University has entered into and will enter into public and private partnerships with non-banking institutions (a "**public/private partner**") that provide for the public/private partner to control or manage certain portions of the Premises. MidFirst agrees that notwithstanding anything to the contrary contained in the Original Agreement, MidFirst shall have the opportunity to locate ATMs in facilities operated by any public/private partner only if the terms of the public or private partnership permit University or its designee to place ATMs within facilities operated by the public/private partner. For all public/private partner agreements entered into after the date of this Addendum with public/private partners with whom University does not have existing contracts, University will use reasonable efforts to cause any agreement entered into with such public/private partners to include provisions allowing MidFirst access to the portion of the Premises subject to such agreements for placement of ATMs.

### **4. MIDFIRST ATM REMOVAL AT TERMINATION**

Upon termination of the Agreement, MidFirst shall remove all of its ATMs and related equipment within ninety (90) days of the termination date. If not removed within that time, University has the right, but not the obligation, to remove the ATMs, in which event University may dispose of the ATMs in any manner deemed appropriate by University. If University elects to remove the ATMs, MidFirst shall pay to University all costs incurred by University in connection with such removal and disposal of the ATMs within thirty (30) days after University submits a statement therefor to MidFirst. If MidFirst fails to timely pay such statement, the unpaid amounts shall bear interest at the rate of ten percent (10%) per annum until fully paid to University. Prior to termination of the Agreement, the Parties will work together to develop a mutually agreeable transition plan for removing the ATMs within the allotted time frame.

**5. ATM CONTACTS FOR DAY-TO-DAY OPERATIONS**

With respect to the day-to-day operations of the ATMs, University and its departments may contact MidFirst regarding any issues or questions about the ATM machines or related services by sending an email to [atmservices@midfirst.com](mailto:atmservices@midfirst.com). MidFirst may contact University regarding any questions relating to ATM access or other questions by sending an email to [ubiz@asu.edu](mailto:ubiz@asu.edu). Nothing in this Section 5 shall affect or modify the notice provisions of Section 18 of the Original Agreement.

**6. EFFECT OF ADDENDUM**

Except as modified herein, all terms, provisions and conditions of the Agreement shall remain in full force and effect.

**7. COUNTERPARTS**

This Addendum may be executed in any number of counterparts, each of which shall be an original and all of which shall be one (1) document binding on all the Parties even though each of the Parties may have signed different counterparts. Electronic/facsimile signatures on this Addendum shall be deemed to be originals for all purposes; however, Parties will endeavor to provide original ink signatures upon request.

**8. AUTHORITY**

The individual signing below on behalf of each Party hereby represents and warrants that the signing individual has full right, power and is duly authorized to execute and deliver this Addendum #3 on behalf of such Party and that this Agreement, as amended herein, is binding on such Party in accordance with its terms.

**[SEE NEXT PAGE FOR SIGNATURES]**


The parties have executed this ADDENDUM #3 TO THE STRATEGIC BANKING RELATIONSHIP MASTER AGREEMENT (ON-CAMPUS AUTOMATED TELLER MACHINES) as of the date set forth on the first page hereof.


**UNIVERSITY**

**CONTRACTOR**

THE ARIZONA BOARD OF REGENTS, a body corporate, acting for and on behalf of ARIZONA STATE UNIVERSITY


MIDFIRST BANK

By:   
Printed: John F. Riley C.P.M.  
Title: Executive Director

By:   
Printed: Garland Wilkinson  
Title: Sr. Executive Vice President / COO

**ACKNOWLEDGED AND AGREED:**

**UNIVERSITY BUSINESS SERVICES**

By:   
Printed: Laura Ploughe  
Title: Director of Business Applications and Fiscal Control

ADDENDUM #4

[Intentionally Omitted]



**ADDENDUM #5 TO THE STRATEGIC BANKING  
RELATIONSHIP MASTER AGREEMENT**

**CHECKING ACCOUNTS AND DEBIT CARDS**

This ADDENDUM #5 TO THE STRATEGIC BANKING RELATIONSHIP MASTER AGREEMENT (CHECKING ACCOUNTS AND DEBIT CARDS) (“**Addendum #5**”) is entered into as of August 23, 2013, between the ARIZONA BOARD OF REGENTS, a body corporate, for and on behalf of ARIZONA STATE UNIVERSITY (“**University**”), having its principal place of business located at 300 E. University Drive, Tempe, AZ 85281, and MIDFIRST BANK, a federally chartered savings association (“**MidFirst**”), with its principal place of business located at 501 NW Grand Boulevard, Oklahoma City, OK 73118.

This Addendum #5 is intended to supplement and is incorporated by reference into the Strategic Banking Relationship Master Agreement dated January 13, 2012 (the “**Original Agreement**”), as amended (collectively, the “**Agreement**”). If any conflict exists between the terms of the Agreement and this Addendum #5, this Addendum #5 shall control.

**1. DEFINITIONS**

Unless otherwise defined herein, all capitalized terms shall have the meanings set forth in the Agreement. For convenience of reference, certain definitions contained in the Agreement shall be repeated in this Section 1, as noted herein.

1.1. “Affinity BIN Transactions” shall mean collectively the Affinity Debit Card and Bankable Faculty/Staff ID Card Approved POS Transactions.

1.2. “Affinity Checking Account”, as defined in Section 2.12 of the Original Agreement, shall mean a demand deposit or checking account opened with an Affinity Debit Card or Bankable Faculty/Staff ID Card on or after the Effective Date that features the University's Marks.

1.3. “Affinity Checking Account Royalties”, as defined in Section 2.13 of the Original Agreement, shall mean those royalties described in Section 5.2.3.1.1 of the Original Agreement.

1.4. “Affinity Debit Card”, as defined in Section 2.17 of the Original Agreement, shall mean the co-branded check card offered by MidFirst that features the University's Marks and is tied to an Affinity Checking Account.

1.5. “Affinity Debit Card Transactions Royalties”, as defined in Section 2.18 of the Original Agreement, shall mean those royalties described in Section 5.2.3.1.2 of the Original Agreement.

1.6. “Affinity Debit Card Transaction Royalty Rate” shall mean the per transaction royalty rate which University will earn under Section 5.2.3.1.2 of the Original Agreement.

1.7. "Affinity Interchange Revenue Bonus" shall mean the portion of the Interchange Revenue Bonus described in Section 5.7 of the Original Agreement that is attributable to the Affinity Debit Card and Bankable Faculty/Staff ID Card.

1.8. "Approved Point of Sale Transactions" or "Approved POS Transactions", as defined in Section 2.26 of the Original Agreement, shall mean the debit card purchase or payment transactions that receive an approval code from the applicable card association network and MidFirst.

1.9. "Bankable Student ID Card", as defined in Section 2.30 of the Original Agreement, shall mean a student's school identification card that also has debit or check card capabilities tied to the Student Checking Account.

1.10. "Bankable Faculty/Staff ID Card", as defined in Section 2.29 of the Original Agreement, shall mean a faculty or staff member's school identification card that also has debit or check card capabilities tied to an Affinity Checking Account.

1.11. "BIN" shall mean Bank Identification Number.

1.12. "Bankable Student ID Card Transaction Royalties" shall mean those royalties described in Section 5.2.2.2 of the Original Agreement and Section 3 below.

1.13. "Bankable Student ID Card Transaction Royalty Rate" shall mean the per approved point-of-sale transaction royalty rate which University will earn under Section 5.2.2.2 of the Original Agreement and Section 3 below.

1.14. "Converted Account", as defined in Section 2.37 of the Original Agreement, shall mean any Student Checking Account that converts or transitions to an Affinity Checking Account.

1.15. "Debit Interchange Rate" shall mean the reimbursement fee(s) set by the applicable card network associations and paid to MidFirst with respect to debit card(s) purchase transactions.

1.16. "FTP" shall mean File Transfer Protocol.

1.17. "IDWorks" shall mean the Datacard IDWorks software used by University to access and maintain their student, faculty and staff identification card records, or any successor software program used by the University for such purpose.

1.18. "RFID" shall mean radio-frequency identification.

1.19. "Student BIN Transactions" shall mean collectively the Bankable Student ID Card and Temporary Student Debit Card Approved POS Transactions.

1.20. "Student Checking Account", as defined in Section 2.71 of the Original Agreement, and as amended herein, shall mean a demand deposit or checking account opened

with a Bankable Student ID Card or Temporary Student Debit Card on or after the Effective Date that features the University's Marks.

1.21. "Student Interchange Revenue Bonus" shall mean the portion of the Interchange Revenue Bonus described in Section 5.7 of the Original Agreement that is attributable to the Bankable Student ID Card and the Temporary Student Debit Card.

1.22. "Temporary Student Debit Card" shall mean a debit or check card tied to the Student Checking Account and issued for use by the student until the Bankable Student ID Card becomes available.

1.23. "University 21st Day" shall mean the day during each Fall semester and Spring semester during the term of the Agreement on which the University enrollment process is finalized. The "University 21st Day" dates are found in the University's Academic Calendar published at <https://students.asu.edu/academic-calendar>.

## 2. AFFINITY DEBIT CARD AND CHECKING ACCOUNTS

2.1. Pursuant to Sections 3.1.2, 3.4 and 4.1 of the Original Agreement, University grants MidFirst the exclusive right to market, promote, advertise, produce, offer and administer the Affinity Debit Card, Bankable Faculty/Staff ID Card and Affinity Checking Account.

2.2. MidFirst shall provide quarterly reporting to the University within sixty (60) days after the close of each quarter that will provide sufficient information for the University to reconcile the Affinity Checking Account Royalties and Affinity Debit Card Transaction Royalties and to calculate any adjustments to the minimum royalty payment as required by Section 5.2.1 of the Original Agreement (as it relates to Affinity Checking Account Royalties and Affinity Debit Card Transaction Royalties discussed in Section 5.2.3.1 of the Original Agreement).

## 3. PITCHFORK ID CARD PROGRAM

3.1. Pursuant to Sections 3.1.1 and 4.1 of the Original Agreement, University grants MidFirst Bank the exclusive right to market, promote, advertise, produce, offer and administer the Bankable Student ID Card and Student Checking Accounts (collectively referred to as the "**Pitchfork ID Card Program**"). Notwithstanding the foregoing, the University may enter into traditional print advertising contracts with other banking or financial institutions provided there is no express endorsement by the University of any debit card or checking account that may be advertised and there is no usage of the University's Marks.

3.2. With respect to the Bankable Student ID Card Transaction Royalties described in Section 5.2.2.2 of the Original Agreement, University will also earn incentive-based transaction royalties at a rate of four cents (\$0.04) for each Temporary Student Debit Card or Bankable Student ID Card Approved POS Transaction.

3.3. To properly report and calculate Royalties, the University will confirm to MidFirst on an ongoing basis (no less than semi-annually), through the delivery of University ID numbers and names, the active status of anyone that has a Bankable Student ID Card; provided

that such delivery shall not include any other information that would personally identify an individual. With respect to Pitchfork ID Card Program Incentive-Based Royalties described in Section 5.2.2 of the Original Agreement and the Interchange Revenue Bonus described in Section 5.7 of the Original Agreement and Section 4 below, if the account holder opens a Student Checking Account and MidFirst is unable to confirm the student status of any customer with a Sun Devil Checking Account or ASU branded debit card, then MidFirst will recognize that customer as a Converted Account after a period of six years from the time the student checking account was opened.

**3.4.** MidFirst shall provide quarterly reporting to the University within sixty (60) days after the close of each quarter that will provide sufficient information for the University to reconcile the Student Checking Account and Bankable Student ID Card Transaction Royalties and to calculate any adjustments to the minimum royalty payment as required by Section 5.2.1 of the Original Agreement (as it relates to Student Checking Account Royalties and Bankable Student ID Card Transaction Royalties discussed in Section 5.2.2 of the Original Agreement).

**3.5.** University agrees to grant MidFirst limited access to University systems used by the University in connection with the Pitchfork ID Card Program such that MidFirst may administer the Pitchfork ID Card Program using ID Works software or any other software used by University for card production purposes. Should University intend to utilize other card production software other than IDWORKS, University will inform MidFirst and work with MidFirst to implement the new software to minimize the impact on MidFirst. University shall provide MidFirst with sufficient information and access necessary to encode the University functionality of the Bankable Student ID Card or Bankable Faculty/Staff ID Card, as the case may be, using IDWorks and to save the RFID chip information to the cardholder's record. University acknowledges and authorizes MidFirst to send fully-encoded Bankable Student ID Cards or Bankable Faculty/Staff ID Cards, as applicable, to a cardholder via regular mail, as needed. University hereby releases MidFirst of any liability associated with the personalization and distribution of the Bankable Student ID Cards or the Bankable Faculty/Staff ID Cards so long as MidFirst complies with all applicable industry standards for such personalization and distribution, including, but not limited to, requiring card holder activation, and excluding from such release any liability arising out of the negligence, bad faith, recklessness, intentional misconduct or breach of the Agreement, as amended herein, of or by MidFirst or its subcontractors or agents.

**3.6.** MidFirst collaborated with University on the initial Pitchfork ID Card plastic designs. MidFirst will collaborate with University prior to making any appearance changes to the approved Pitchfork ID card Program product. University and MidFirst agree that the Pitchfork ID card specifications are as follows:

CR-80, 30 mil.

Substrate: Standard PL6 Composite PVC

Litho (Front/Back): 6/1

Dual - Track III HiCo Mag. Stripe & Gold Track II HiCo Mag. Stripe

MC Hologram & MC Sig. Panel

Technology: HID iClass 16k eeprom chip

The foregoing specifications are similar but different from the current University card plastics in that the composition of the plastics is a composite plastic, but will be of a different composition from what University gets from HID.

**3.7.** MidFirst will purchase all cards to be utilized for the Bankable Student ID and Bankable Faculty/Staff ID programs. University shall reimburse MidFirst for the costs incurred for purchasing all Bankable Student ID Cards and Bankable Faculty/Staff ID Cards in excess of 50 cents per card for each card issued, which MidFirst shall be responsible for paying. Notwithstanding the foregoing, the cost of "reissued" cards shall be shared by MidFirst and University as set forth in Section 3.10 below.

**3.8.** In the event that University modifies its policies in any manner that makes the unused card inventory that was already purchased obsolete, then University shall reimburse MidFirst for all costs incurred for purchasing of all such obsolete cards that were not issued. In the event that MidFirst modifies its policies in any manner that makes the unused card inventory that was already purchased obsolete, then University shall not be responsible for reimbursing any card costs for obsolete cards that were not issued.

**3.9.** When the Bankable Student ID Cards or Bankable Faculty/Staff ID Cards are issued, MidFirst shall cause information to be provided to the Students and Faculty/Staff notifying them of their obligation to notify MidFirst should their card be lost or stolen and the procedure for reporting such lost or stolen card. If either the University or MidFirst receives notice from any Student or Faculty/Staff that a card has been lost or stolen, such Party shall use reasonable efforts to notify the other Party of such lost or stolen card, but shall have no liability for failure to provide such notice. If a stolen or lost card is turned into University, University shall store the Bankable Student ID Card or Bankable Faculty/Staff ID Card, as applicable, in a secure location, until the card can be returned to MidFirst.

**3.10.** If a Bankable Student ID Card or Bankable Faculty/Staff ID Card is turned in with normal wear and tear damage (not from misuse or negligence of the cardholder), MidFirst will replace the card at no charge to the student/faculty/staff, with MidFirst and University sharing equally in the cost of reissuing a new card. By way of illustration, if the cost of the reissued card is \$6.50, MidFirst and ASU each shall pay \$3.25 of such cost. MidFirst shall keep reasonably detailed records regarding reissued cards, and from time to time shall provide such information to University as University shall reasonably request to verify the number of reissued cards and the cost sharing between MidFirst and University for such reissued cards.

**3.11.** If MidFirst expires a card of an active cardholder on the six (6) year expiration period, MidFirst will replace such card for free and deduct the cost of such card from the amount University agrees to pay MidFirst for the card costs.

#### **4. INTERCHANGE REVENUE BONUS**

The Interchange Revenue Bonus described in Section 5.7 of the Original Agreement will be calculated by adding the Student Interchange Revenue Bonus and the Affinity Interchange Revenue Bonus together.

4.1. The Student Interchange Revenue Bonus equals the sum of the Debit Interchange Rate minus Bankable Student ID Card Transaction Royalty Rate multiplied by 21.5%, the product of which is then multiplied by the total number of Student BIN Transactions for the applicable quarter.

4.2. The Affinity Interchange Revenue Bonus equals the sum of the Debit Interchange Rate minus Affinity Debit Card Transaction Royalty Rate multiplied by 21.5%, the product of which is then multiplied by the total number of Affinity BIN Transactions for the applicable quarter.

4.3. MidFirst shall provide quarterly reporting to the University within sixty (60) days after the close of each quarter that will provide sufficient information for the University to reconcile and calculate the Interchange Revenue Bonus.

## 5. STUDENT LIST AND FACULTY/STAFF LIST

5.1. Pursuant to Section 7.11 of the Original Agreement, University shall provide to MidFirst, via FTP, the Student List and the Faculty/Staff List at least two (2) times per year for each year of the term of the Agreement. The two (2) times per year will be once each year during the term of the Agreement on (a) the University 21st Day after the University Fall enrollment processing is finalized, and (b) the University 21st Day after the University Spring enrollment processing is finalized. Each list will include, at a minimum: last name, first name, University ID number and status (i.e., student, faculty or staff) of each eligible individual.

5.2. MidFirst agrees that the Student Lists and Faculty/Staff Lists shall only be used by MidFirst as permitted by the Agreement, as amended herein, to provide the services required under the Agreement relative to the Affinity Debit Card, Bankable Faculty/Staff ID Card and Affinity Checking Account, and Pitchfork ID Card Program and for no other use or purpose. Such Student Lists and Faculty/Staff Lists are and shall remain the exclusive property of the University and deemed confidential information of the University and shall not be divulged or otherwise provided to any third party (meaning any party other than MidFirst, its subcontractors and agents) by MidFirst, without the prior written consent of the University, which may be withheld in its sole discretion. Following termination of the Agreement, MidFirst may not use the Student List(s) or Faculty/Student List(s) and, on request of the University, all such list(s) shall be destroyed, and MidFirst shall provide certification that such destruction has occurred in a form reasonably acceptable to the University.

5.3. No telemarketing shall be permitted directly from use of the Student List and Faculty/Staff List, provided that MidFirst reserves its right to market (including, but not limited to telemarketing) its products and services to those persons on such Lists after they become MidFirst customers or customers of MidFirst's then current debit card and checking account provider under the Agreement.

5.4. MidFirst will not market to any individuals without cross referencing each individual against the National Do No Call Registry to ensure that students and faculty/staff are not solicited in violation of their do not solicit, do not call request. University agrees to perform a review of each Student List and Faculty/Staff List to be provided by University to MidFirst

against the University's do not call lists to ensure that students and/or faculty/staff are not solicited in violation of their do not solicit or do not call request on file with University. Upon the discovery of the inclusion of a name of any student or faculty/staff who has requested not to be solicited or called, the discovering Party will promptly remove that name from the applicable Student List or Faculty/Staff List.

**5.5.** On termination of the Agreement, MidFirst will provide, at its cost, notice regarding the termination of the relationship with the University, to the holders of the following: Affinity Checking Accounts, Affinity Debit Cards, Bankable Student ID Cards, Bankable Faculty/Staff ID Cards, Student Checking Accounts, and any Temporary Student Debit Cards. Such notice shall be jointly developed by the University and MidFirst and shall be communicated once before the effective date of termination and once in the actual month of termination. At least one (1) of the two (2) notices sent shall be a stand alone communication. Commencing on the date of termination of the Agreement, and thereafter, MidFirst shall not open, issue or renew any new Affinity Checking Accounts, Affinity Debit Cards, Bankable Student ID Cards, Bankable Faculty/Staff ID Cards, Student Checking Accounts, or any Temporary Student Debit Cards.

**6. EFFECT OF ADDENDUM**

Except as modified herein, all terms, provisions and conditions of the Agreement shall remain in full force and effect.

**7. COUNTERPARTS**

This Addendum may be executed in any number of counterparts, each of which shall be an original and all of which shall be one (1) document binding on all the Parties even though each of the Parties may have signed different counterparts. Electronic/facsimile signatures on this Addendum shall be deemed to be originals for all purposes; however, Parties will endeavor to provide original ink signatures upon request.

**8. AUTHORITY**

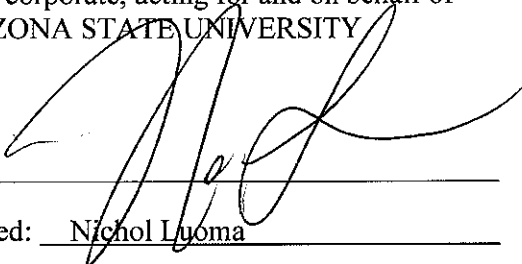
The individual signing below on behalf of each Party hereby represents and warrants that the signing individual has full right, power and is duly authorized to execute and deliver this Addendum #5 on behalf of such Party, and that the Agreement, as amended herein, is binding on such Party in accordance with its terms.

**[SEE SIGNATURES ON NEXT PAGE]**

The parties have executed this ADDENDUM #5 TO THE STRATEGIC BANKING RELATIONSHIP MASTER AGREEMENT (CHECKING ACCOUNTS AND DEBIT CARDS) as of the date set forth on the first page hereof.

**UNIVERSITY:**

THE ARIZONA BOARD OF REGENTS, a body corporate, acting for and on behalf of ARIZONA STATE UNIVERSITY

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

Printed: Nichol Luoma

Title: Director of Purchasing

**MIDFIRST:**

MIDFIRST BANK, a federally chartered savings association

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

Printed: Garland Wilkinson

Title: Sr. Executive Vice President / COO

**ACKNOWLEDGED AND AGREED:**

**UNIVERSITY BUSINESS SERVICES**

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

Printed: Laura Ploughe

Title: Director of Business Applications and Fiscal Control



**ADDENDUM #6 TO THE STRATEGIC BANKING RELATIONSHIP MASTER AGREEMENT  
NETWORK SERVICES**

This ADDENDUM #6 – NETWORK SERVICES (“Addendum #6”) is entered into as of March 5, 2012 between the ARIZONA BOARD OF REGENTS, a body corporate, for and on behalf of ARIZONA STATE UNIVERSITY (“University”), having its principal place of business located at 300 E. University Drive, Tempe, AZ 85281 and MIDFIRST BANK (“MidFirst”), a federally chartered savings association, with its principal place of business located at 501 NW Grand Boulevard, Oklahoma City, OK 73118.

This Addendum #6 is intended to supplement and is incorporated by reference into the Strategic Banking Relationship Master Agreement dated January 13, 2012 (“Agreement”) as acknowledged by the Parties in the Agreement. If any conflict exists between the terms of the Agreement and this Addendum #6, this Addendum #6 shall control.

**RECITALS**

A. MidFirst has requested University to grant it a limited right of access to connect to and use University's fiber cable and copper facilities located on the Tempe Campus between the Old Main Building and Memorial Union Building (the "University Facilities") to permit MidFirst to extend its Cox Communication and CenturyLink demarcation points from the ASU Old Main Building into the portion of the Premises leased by MidFirst at the Memorial Union Building at the Tempe Campus to permit MidFirst to connect and communicate with MidFirst's corporate office (the "Tie-In Connection").

B. University is willing to grant MidFirst a limited right of access to connect to and use University's Facilities to facilitate MidFirst's Tie-In Connection, subject to the terms and conditions set forth in this Addendum.

**1. DEFINITIONS**

Unless otherwise defined herein, all capitalized terms shall have the meanings set forth in the Agreement.

1.1. “Claim” shall have the meaning set forth in Section 4 below.

1.2. “Tie-In Connection” shall have the meaning set forth in Recital A above.

**2. RECITALS**

The foregoing Recitals are true and correct and are incorporated in this Addendum as set forth herein.

### **3. GRANT OF NON-EXCLUSIVE RIGHT TO USE TIE-IN CONNECTION**

University hereby grants MidFirst a non-exclusive and limited right of access to connect to and use the University's Facilities to create and maintain the Tie-In Connection during the term set forth in Paragraph 5 herein. MidFirst will be responsible, at its sole cost and expense, for all work necessary to complete the Tie-In Connection. MidFirst shall keep all improvements and real property owned by University at which MidFirst installs all or any part of the Tie-In Connection free of liens resulting from the installation of the Tie-In Connection.

### **4. RELEASE OF UNIVERSITY**

University will have no responsibility for the services provided over or the proper functioning of the Tie-In Connection. MidFirst hereby releases University from any and all claims, actions, liabilities, damages, losses, or expenses (including any lost revenue, loss of income, or lost profits, and including any court costs, reasonable attorneys' fees, costs of claim processing, investigation and litigation), arising out of or resulting from MidFirst's use of the Tie-In Connection (a "Claim"), except to the extent the University, its officers, directors, or employees wrongfully interferes with such Tie-In Connection in a manner that gives rise to any such Claim.

### **5. TERM; NON-USE**

MidFirst shall have the right to access, connect to, and use the University's Facilities to create and maintain the Tie-In Connection until the earlier to occur of (i) such time as MidFirst abandons or no longer uses the Tie-In Connection, (ii) the expiration date of the term of the Agreement, and (iii) such earlier date as the Agreement may be terminated in accordance with the provisions thereof. At any time that any of the events described in the foregoing clauses (i) through (iii) occurs, University shall have the right to reclaim University's Facilities and to terminate any access of MidFirst to University's Facilities.

### **6. INDEMNIFICATION**

In addition to the indemnification provided by MidFirst pursuant to Section 17.16.1 of the Agreement, MidFirst agrees that in consideration for the limited rights granted herein, MidFirst will indemnify, defend and save and hold harmless University, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees, from and against any and all Claims, arising out of or resulting from MidFirst's access, connection to, or use of the University's Facilities, which is a direct result, in whole or in part, of a service outage caused by MidFirst's access, connection to, or use of the University's Facilities, except to the extent of University's contributory negligence in the service outage.

### **7. SERVICE OUTAGES**

Subject to MidFirst's indemnification obligations set forth in the Agreement, as amended herein, if any event of service outage occurs with respect to any services provided by University to itself or third parties through University's Facilities or with respect to the services MidFirst



obtains through its Tie-In Connection, University and MidFirst shall work together to quickly restore the services to minimize service outage and to mitigate any damages. The parties shall cooperate with one another to develop and implement disaster recovery plans to minimize damages that may be caused by service outages. University shall not be responsible for any losses, claims, damages or liabilities that may arise as a result of such service outage.

**8. EFFECT OF ADDENDUM**

Except as modified herein, all terms, provisions and conditions of the Agreement shall remain in full force and effect.

**9. COUNTERPARTS**

This Addendum may be executed in any number of counterparts, each of which shall be an original and all of which shall be one (1) document binding on all the Parties even though each of the Parties may have signed different counterparts. Electronic/facsimile signatures on this Addendum shall be deemed to be originals for all purposes; however, Parties will endeavor to provide original ink signatures upon request.

The individual signing below on behalf of each Party hereby represents and warrants that he has full right, power and is duly authorized to execute and deliver this Addendum #6 on behalf of such Party and that the Agreement, as modified herein, is binding upon such Party in accordance with its terms.

UNIVERSITY

CONTRACTOR

THE ARIZONA BOARD OF REGENTS, a body  
corporate, acting for and on behalf of  
ARIZONA STATE UNIVERSITY

MIDFIRST BANK

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

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

Printed: John F. Riley, C.P.M.

Printed: Garland Wilkinson


Title: Executive Director

Title: Sr Executive Vice President / COO

**SIGNATURES CONTINUED ON NEXT PAGE**

ACKNOWLEDGED AND AGREED:

**UNIVERSITY TECHNOLOGY OFFICE**

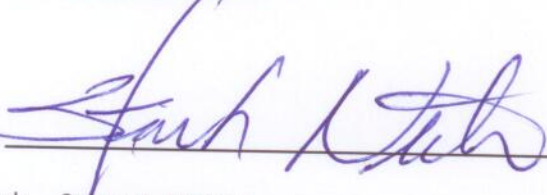
By: 

Printed: Dave McKee

Title: Senior Director, Network Communications

ACKNOWLEDGED AND AGREED:

**REAL ESTATE DEVELOPMENT**

By: 

Printed: Steven L. Nielsen

Title: Asst. VP, University Real Estate Development

**ADDENDUM #7 TO THE STRATEGIC BANKING  
RELATIONSHIP MASTER AGREEMENT**

**MIDFIRST BANK CUSTOMER INFORMATION**

This ADDENDUM #7 TO THE STRATEGIC BANKING RELATIONSHIP MASTER AGREEMENT (MIDFIRST BANK CUSTOMER INFORMATION) (“**Addendum #7**”) is entered into as of July 16, 2012 between the ARIZONA BOARD OF REGENTS, a body corporate, for and on behalf of ARIZONA STATE UNIVERSITY (“**University**”), having its principal place of business located at 300 E. University Drive, Tempe, AZ 85281, and MIDFIRST BANK (“**MidFirst**”), a federally chartered savings association, with its principal place of business located at 501 NW Grand Boulevard, Oklahoma City, OK 73118.

This Addendum #7 is intended to supplement and is incorporated by reference into the Strategic Banking Relationship Master Agreement dated January 13, 2012 (the “**Original Agreement**”), as amended (collectively, the “**Agreement**”). If any conflict exists between the terms of the Agreement and this Addendum #7, this Addendum #7 shall control.

The Parties hereby agree to the following terms and conditions:

1. **Bank Customer Information.** Section 10.4 of the Original Agreement is deleted and replaced with the following:

10.4. University will not have access to any Bank Customer Information except the following limited information provided by MidFirst to University regarding Bank Customers who have opened an account subject to the Royalty payments set forth in Section 5.2: the combination of the following pieces of information with respect to each individual Bank Customer provided by MidFirst to University: (i) student or faculty/staff name, (ii) University ID number, and (iii) the type of card selected (i.e., Pitchfork Card, Sun Card or Bankable Faculty/Staff ID Card) (the “**Limited Customer Information**”). The Parties agree that it is their intent to protect disclosure of the combination of the three components of such Limited Customer Information, not the individual components of such information. For example, and not by way of limitation, University shall not be prohibited from disclosing (1) student or faculty/staff names or their University ID numbers if allowed or required by law or University policies, (2) general information regarding the Pitchfork Cards, Sun Cards or Bankable Faculty/Staff ID Cards, or (3) any similar information, so long as such information does not list on a per-Bank Customer basis the combination of components (i) through (iii) above or otherwise act to disclose that any individual is a Bank Customer, provided, however, ASU shall be allowed to notify appropriate ASU personnel or MidFirst that the holder of the Pitchfork Card, Sun Card or Bankable Faculty/Staff ID Card has a valid ASU identification card. The Limited Customer Information is being shared with University for the sole purpose of administering and distributing the Bankable Student ID Card and Bankable Faculty/Staff ID Cards. University

acknowledges that its access to the Limited Customer Information described in this paragraph is regulated by federal banking laws, and agrees to comply with the following terms and conditions with respect to the Limited Customer Information:

- (a) University will not use or disclose the Limited Customer Information to any persons for any purpose other than to carry out the purpose for which MidFirst disclosed the information or as permitted under this Agreement. The University specifically acknowledges and agrees that the Limited Customer Information will not be used for any marketing or promotional purposes.
- (b) University will maintain reasonable security procedures to protect against the unauthorized use, publication, destruction, or disclosure of the Limited Customer Information. Such procedures shall include, but shall not be limited to the following: the use of appropriate security control technologies (including but not limited to, encryption of data, firewalls, passwords, authentication, data access and transmission controls and procedures, virus and anti-spy protection software), and physical security measures (including, but not limited to, limited security access to facilities, and proper disposal procedures). University agrees to reasonably cooperate with MidFirst in efforts to assess the security measures for the protection of the Limited Customer Information through the use of questionnaires or reasonable audits, not to exceed two (2) audits in an calendar year during the term of this Agreement.
- (c) University will notify MidFirst of any actual or suspected breach of the Limited Customer Information, and shall reasonably cooperate with MidFirst to halt the unauthorized disclosure and mitigate any damages. University shall be responsible for the acts and omissions of itself and its Related Parties and, to the extent permitted by applicable law, shall hold MidFirst harmless with regard to such acts or omissions.

- 2. **Confidentiality.** Any other provision of the Agreement, as amended herein, to the contrary notwithstanding, the parties acknowledge that University is a public institution, and as such is subject to Title 39, Chapter 1, Article 2 of the Arizona Revised Statutes (Sections 39-121 through 39-127). Any provision regarding confidentiality is limited to the extent necessary to comply with the provisions of state law.
- 3. **Effect.** This Addendum #7 shall modify the Agreement as to this subject matter only, and shall survive the termination of the Agreement. If any conflict exists between the terms of the Agreement and this Addendum #7, this Addendum #7 shall control.
- 4. **Counterparts.** This Addendum may be executed in any number of counterparts, each of which shall be an original and all of which shall be one (1) document binding on all the Parties even though each of the Parties may have signed different counterparts. Electronic/facsimile signatures on this Addendum shall be deemed to be originals for all purposes; however, Parties will endeavor to provide original ink signatures upon request.

5. **Authority.** The individual signing below on behalf of each Party hereby represents and warrants that the signing individual has full right, power and is duly authorized to execute and deliver this Addendum #7 on behalf of such Party and that the Agreement, as amended herein, is binding on such Party in accordance with its terms.

The undersigned have executed this ADDENDUM #7 TO THE STRATEGIC BANKING RELATIONSHIP MASTER AGREEMENT (MIDFIRST BANK CUSTOMER INFORMATION) as of the date indicated on Page 1 hereof.


**UNIVERSITY:**

THE ARIZONA BOARD OF REGENTS, a  
body corporate acting for and on behalf of

ARIZONA STATE UNIVERSITY


**CONTRACTOR:**

MIDFIRST BANK

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

Printed: John F. Riley, C.P.M

Title: Executive Director

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

Printed: Garland Wilkinson

Title: Sr. Executive Vice President / COO

**ACKNOWLEDGED AND AGREED:**

BUSINESS APPLICATIONS AND FISCAL CONTROL

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

Printed: Laura Ploughe

Title: Director