

Agreement between

**The Faculty Student Association of the State University of
New York at Stony Brook, Inc.**

And

Liberty Coca-Cola Beverages LLC

And

**The Coca-Cola Company, acting by and through Coca-Cola
North America**

For

**Exclusive Beverage Pouring Rights at Stony Brook
University
("Agreement")**

Initial Contract Term: July 1, 2018 and ending on June 30, 2028

Article I – General Agreement Terms

This Agreement is between the Faculty Student Association of the State University of New York at Stony Brook, Inc. (herein after referred to as “FSA”), a 501(C)3 not-for-profit educational corporation that provides auxiliary services on the Stony Brook University (“SBU” or “University”) Campus existing under the laws of the State of New York and having its office at West Side Dining, 2nd Floor, Stony Brook University, Stony Brook, New York 11794-4460, Liberty Coca-Cola Beverages LLC, (herein after referred to as “Bottler”) with primary headquarters of business located at 725 East Erie Avenue, Philadelphia, PA 19134 and The Coca-Cola Company, acting by and through Coca-Cola North America, (herein after referred to as “Company”) with primary headquarters of business located at 1 Coca-Cola Plaza NW, Atlanta, GA 30313. Bottler and Company are collectively herein after referred to as (“Contractor”). All parties acknowledge that neither Stony Brook University (the “University” or “SBU”), the State University of New York (“SUNY”) nor the State of New York are parties to this Agreement.

An independent contractor relationship will be established with FSA under this Agreement. Employees and agents of the Contractor are employees of the Contractor only and are not employees of FSA or the University.

The Contractor may not subcontract or assign any portion of this Agreement without the prior written permission of FSA. Contractor shall remain fully responsible and liable for all rights, liabilities and obligations for performance of its subcontractors.

This Agreement shall be governed by the laws of the State of New York, with venue for any dispute within the Supreme Court, County of Suffolk.

The FSA Executive Director, or his/her designee, will have administrative responsibility for the Agreement and for enforcing FSA’s rights and responsibilities under the Agreement. Any written documents that must be sent or acknowledged by FSA under the terms of this Agreement will be done so with the consent and signature of the FSA Executive Director or his/her designee.

Article II – Agreement Documents

In the event of a conflict of interpretation between the parties, the order of the following documents shall prevail, each of which are incorporated herein and made part of this Agreement:

1. SUNY Required Contract Clauses – Auxiliary Service Corporations, attached hereto as Exhibit A and Exhibit A-1.

2. This Agreement
3. Exhibits, Attachments, and subsequent Amendments.

This Agreement, along with the above listed documents (Numbered 1 - 3), constitutes the entire agreement of the parties hereto, and all previous communications between the parties, whether expressed, implied, oral, or written, with reference to the subject matter of this Agreement are hereby superseded. Except as otherwise expressly set forth herein, any change in any of the terms and conditions of this Agreement must be in writing and signed by both parties.

It is agreed and understood by FSA and the Contractor that no representations, expressed, implied, oral or written, shall have any bearing on this Agreement, or be enforceable, unless written herein.

Article III – Definitions

Certain capitalized words or phrases are used throughout this document. Such words or phrases have the following meanings:

1. Agreement Year – Each twelve-month period during the Term commencing on July 1st and ending on June 30th.
2. Approved Cups – Those certain cups designated or approved by Contractor bearing Contractor trademarks or Contractor and University trademarks on 100% of the exterior cup surface.
3. Athletic Facilities – All of University's athletic facilities and surrounding grounds and all associated press boxes, players' benches and locker rooms but does not include areas and facilities where only intramural sports are conducted.
4. Athletic Marks – The Marks of University Athletics and the Athletic Facilities. Examples of Athletic Marks includes team names, uniforms, logos and emblems.
5. Beverages – All non-alcoholic beverages (i.e. anything consumed by drinking), whether or not such beverages (i) contain nutritive, food, or dairy ingredients, OR (ii) are in a frozen form. This definition applies without regard to the beverage's labeling, marketing or packaging. Powders, syrups, grounds (such as for coffee), herbs (such as for tea), concentrates, K-Cups® pods and all other beverage bases from which Beverages can be made and brands and products of water purification and beverage making systems (e.g. Brita®, Soda Stream®, Keurig®), are deemed to be included in this definition. For the avoidance of doubt “flavor enhancers”, “liquid water enhancers”, drinking water dispensing systems and non-alcoholic beverages sold as “shots” or “supplements” are considered Beverages.
6. Blockage – The alteration, dimming, or obscuring of advertising for whatever reason, including by electronic manipulation or the electronic insertion of virtual signage for Competitive Products.

“Blocked” has a corresponding meaning.

7. Broadcaster – Any person or entity that for any business purpose broadcasts, distributes, prints, syndicates, televises, or publishes by any means (including electronically via the internet or wireless devices) any photograph, film, videotape, or other recording or rendering of all or part of the Campus, any University Team game, or any other Campus event. “Broadcast” has a corresponding meaning.
8. Campus – All buildings and grounds owned, leased, controlled by or operated by FSA or the University during the Term, whether currently existing or built or acquired during the Term, including without limitation all academic buildings, branded or unbranded food service outlets, vending locations, Athletic Facilities, auditoriums, theatres, housing and medical facilities, convenience stores, retail outlets, and areas and facilities where intramural sports are conducted.
9. Competitive Products – All Beverages that are not Company Beverages, and any products or entities, whether or not Beverages, marketed under Beverage trademarks that are not Company Marks (e.g., “Gatorade Energy Bars,” “PepsiCo”).
10. Concessionaire(s) – FSA’s or University’s third party food and beverage concessionaires.
11. Contract Administrator – The Executive Director of FSA or his/her designee(s).
12. Contractor – Collectively Liberty Coca-Cola Beverages LLC and The Coca-Cola Company, selected and engaged by FSA to provide exclusive beverage pouring, marketing, campus wide beverage availability rights and sponsorship services.
13. Mark – means, with respect to any party, any trademark, trade name, service mark, design, logo, slogan, symbol, mascot, character, identification, or other proprietary design now or in the future owned, licensed, or otherwise controlled by that party.
14. NCAA – The National Collegiate Athletic Association.
15. Company Beverages – Means Beverages (i) manufactured, distributed, or marketed by Company; or (ii) sold under trademarks or brand names owned or controlled by or licensed for use by Company.
16. Sports Nutritional Beverages – (“SNBs”) means Beverages, in a ready-to-drink or powder form, that provides a blend of protein, vitamins and minerals used to affect metabolic function, muscular replenishments, as a protein supplement, and/or used for meal replacement, but is not used for or marketed as having hydration benefits and is not marketed as a “water,” “Sports Drink” or an “Energy Drink.” SNB’s shall not include Beverages that contain juice, juice concentrate, coffee, tea, or milk as an ingredient.
17. Subcontractor – A third party to whom, with FSA’s written permission, the Contractor assigns

responsibility for fulfilling some of its duties under this Agreement.

18. University Marks – means any and all Marks owned or controlled by University, including all marks of the University and the Campus. University Marks shall include all Athletic Marks. Examples of University Marks include the University's name, logo and emblems.
19. University Athletics – means the University Athletic department, all University intercollegiate athletic teams and events, University varsity athletic coaches, and the University Athletic Director.
20. Wolfie Wallet – The campus debit account that is open to all members of the University community and is accessed through the University ID card. It is accepted in all Campus Dining locations, West Campus Vending locations, as well as on-campus retail stores and services, as well as at a select group of off-campus merchants.

Article IV – Term of Agreement

The term of the Agreement will be for ten (10) years commencing July 1, 2018 and ending on June 30, 2028 (the “Initial Term”). The Agreement may be renewed for an additional period of five (5) years (the “Extended Term”) upon the mutual written agreement of the parties prior to the end of the Initial Term. The Initial Term and the Extended Term, if exercised, will collectively be referred to as the “Term.”

Article V – Termination

- A. FSA shall have the right to terminate the Agreement immediately upon written notice to the Contractor for any of the following reasons:
 - i. an act of willful misconduct or gross negligence as adjudicated by a court of competent jurisdiction that causes physical injury, material property damage or wrongful death on the University premises;
 - ii. a theft or a dishonest act that results in material monetary loss to FSA or the University; or
 - iii. a willful breach of confidentiality.
- B. **FSA’s Termination Rights.** In addition to other legal and equitable remedies, FSA may terminate this Agreement if any of the following events occurs:
 - i. **If Contractor Doesn't Pay.** FSA may terminate if Contractor fails to make any payment to FSA under this Agreement, and if this default continues for forty-five (45) days after both Company and Bottler receive written notice of the default. But FSA may not terminate if the payment failure is due to FSA’s failure to perform, any loss of Contractor’s rights or a bona fide dispute between the parties.

ii. **If Contractor Breaches.** FSA may terminate if Contractor breaches any other material term of this Agreement and Contractor fails to cure the breach within forty-five (45) days of receiving written notice of the breach.

iii. **If Contractor Becomes Insolvent or Bankrupt.** FSA may terminate immediately upon written notice if Company or Bottler does any of the following:

1. becomes unable to pay its liabilities when due;
2. makes an assignment for the benefit of creditors;
3. files a voluntary petition in bankruptcy or is adjudicated bankrupt or insolvent;
4. has a receiver appointed for any portion of its business or property; or
5. has a trustee in bankruptcy or trustee in insolvency appointed for it under federal or state law.

FSA does not have the right to terminate because of Bottler's insolvency or other financial instability as described above if Company agrees in writing to assume all of Bottler's obligations under this Agreement.

iv. The Contractor's intentional submission of false or misleading information within Exhibits L and V will result in immediate termination of this Agreement.

C. Contractor's Termination Rights. In addition to other legal and equitable remedies, Contractor may terminate this Agreement if any of the following events occurs:

i. **If FSA Breaches.** Contractor may terminate if FSA breaches any material term or condition of this Agreement and fails to cure the breach within forty-five (45) days of receiving written notice of the breach.

ii. **If FSA or University Becomes Insolvent or Bankrupt.** Contractor may terminate immediately upon written notice if FSA or University does any of the following:

1. becomes unable to pay its liabilities when due;
2. makes an assignment for the benefit of creditors;
3. files a voluntary petition in bankruptcy or is adjudicated bankrupt or insolvent;
4. has a receiver appointed for any portion of its business or property; or
5. has a trustee in bankruptcy or trustee in insolvency appointed for it under federal or state law.

- iii. **If FSA Loses Authority.** Contractor may terminate if FSA's authority to convey any of the rights in this Agreement expires or is revoked, in whole or in part.
- iv. **If Campus Closes.** Contractor may terminate if a portion of the Campus is closed, other than in connection with regularly scheduled breaks, for any reason, even if beyond the reasonable control of FSA or University, for a period of more than one hundred twenty (120) consecutive days.
- v. **If Athletics Activities Cease.** Contractor may terminate if a substantial portion of University's athletic programs and competitions are not conducted due to NCAA sanctions or any other reason. Prior to any termination the parties shall meet to renegotiate financial terms of the Agreement.
- vi. **Written Notice Required.** Contractor must give ninety (90) days written notice to FSA when exercising any of its termination rights under Sections (iii) or (iv) above.

- D. In the event that FSA's agreement with the University is terminated resulting in the termination of Contractor's rights under this Agreement with FSA the Contractor shall be protected in acting under this Agreement until it receives written notice of such termination and thereafter shall be given one hundred and eighty (180) days within which to terminate the service and remove its machines as hereinafter provided.
- E. If, subsequent to termination of this Agreement, FSA determines that any part of the facilities and/or equipment of FSA or the University are damaged due to Contractor's negligent acts or omissions, and that such condition was not readily evident at the time of the termination, FSA reserves the right to have the Contractor pay for repairs to said damaged facilities and/or equipment, subject to final sign-out and exit review of facilities and equipment. This clause shall survive the expiration of this Agreement.

Notwithstanding the foregoing, the Contractor shall be protected in acting under this Agreement until it receives written notice of such termination, and thereafter shall be given a reasonable time within which to terminate the services as hereinafter provided.

The parties specifically agree that if this Agreement is cancelled or terminated for any of the above enumerated reasons, neither party shall have a claim based on the fact of termination against the other party (but may have separate legal claims not arising out of the termination itself), the State of New York, the State University of New York, and/or the University, nor against their agents, officers or employees, and further agrees that Contractor, the FSA, the State of New York, the State University of New York, and/or the University, as well as their agents, officers and employees, shall be relieved from any and all liability in law or equity, except for specific provisions provided for herein, such as any reimbursement of unamortized spend by Contractor for which FSA may be responsible. Contractor and FSA are entering into this Agreement with this knowing waiver of future claims or rights. Notwithstanding, Contractor shall be compensated for all services provided up to the date of termination.

Article VI – Scope of Agreement

The Contractor will provide exclusive beverage services pouring rights for the entire Campus at all times during the Term. FSA and Contractor agree that the Contractor will be the exclusive Beverage sponsor of the University and FSA, with Campus-wide Beverage availability rights, and on and off-Campus marketing rights.

Contractor will provide and support the sale of, distribute, and merchandise beverages at the Stony Brook University and Stony Brook Southampton, Stony Brook Medicine, the Long Island State Veterans Home and the Research and Development Center and any other areas added by FSA.

A. Beverage Rights of Contractor

1. Exclusive Beverage Availability Rights. Except as set forth with respect to Permitted Exceptions, Contractor will have exclusive Beverage availability rights on the entire Campus at all times during the Term. University and FSA will make Company Beverages available for sale on Campus in all package forms, through fountain dispensing, coolers, kiosks, hawking, and vending, as well as through any other means agreed upon by Contractor, University, and FSA. University and FSA will use its reasonable, good faith efforts to maximize the sale and distribution of Company Beverages on Campus. At a minimum Company Beverages shall be widely available for purchase by consumers on the Campus, and will be sold and/or served as part of all meal plans provided to University students and/or others on the Campus. Contractor shall consult with FSA on specific brand sets for various Campus locations.

2. Permitted Exceptions:

The following items shall be considered “Permitted Exceptions” (as defined below) to Contractor’s exclusive Beverage availability rights:

a. Company Beverages will be the only Beverages sold, served, distributed, sampled or otherwise made available on Campus, provided however, FSA may, on a non-exclusive basis, serve, sell or dispense the following Competitive Products ("Permitted Exceptions") on Campus, provided that no Competitive Products are sold, vended, distributed, dispensed or otherwise served from Contractor’s Equipment:

- Bulk flavored and unflavored fresh milk;
- Fresh brewed coffee;
- Beer, alcoholic, low alcoholic beer, and Non-alcoholic beer;
- Hot tea freshly brewed on premise;
- Milkshakes and smoothies made on the premises from fresh ingredients;
- Juices freshly squeezed on Campus;
- Bulk dispensable drinking water;
- Unfiltered water provided directly from the public water supply for immediate consumption (such as from a public water fountain.)

- b. FSA and Concessionaires shall be permitted to serve Competitive Products at health facilities on Campus as part of medically required patient care if Contractor does not carry a comparable Company Beverage offering.
- c. The right of independent catering companies, student groups, employee groups, alumni groups, and other third parties not controlled or owned by the University to provide free Competitive Products to attendees of private (not open to the general public or general student population) parties or events at the Campus.
- d. The right of student groups, employee groups, alumni groups, exhibitors, performers, or other occasional permittees not controlled or owned by the University to use the facilities on Campus for public events, which University is required by law to allow, to display temporary signage, advertising, or trademark display for Competitive Product(s) and to provide free Competitive Products to attendees of such public events.
- e. The right of student, employee, alumni, and other Campus organizations not controlled or owned by the University to accept spot advertisements for Competitive Products; provided, however, that FSA will use its best efforts to ensure that such advertisements will not include any references to or associations with FSA, the University, the Campus, the Teams or the Marks.
- f. The right of University, faculty, and/or students to conduct academic research; provided that such research will not include the sale, distribution, advertising, or promotion of Competitive Products on the Campus.
- g. The right of students, faculty, staff and/or other visitors to the University to consume Competitive Products individually purchased outside and brought to the Campus.
- h. Permitted Exceptions, to the extent served or sold in cups, shall not be served or sold in Approved Cups.
- i. FSA and their Concessionaires shall be permitted to sell other Competitive Products in bottle and can packaging only in no more than ten percent (10%) of the total Beverage cold shelf space at each of the retail store locations on Campus. Notwithstanding the foregoing, in no event will any product of PepsiCo or its subsidiaries be made available on Campus. Monster® energy Beverages will not be made available on Campus until such time as they are distributed by Bottler.
- j. In the event Company Beverages are not available, FSA and Contractor shall meet to discuss any unavailability and attempt to address. If unavailability for such Company Beverage(s) continues for 7 consecutive days, FSA reserves the right to order and provide an alternative

Competitive Product while such Company Beverage(s) remains unavailable.

- k. FSA reserves the right for FSA's Board of Directors to make final decisions to add or delete facilities on the Campus.
- l. FSA and their Concessionaires may display generic names of unbranded Permitted Exceptions, and the trademarks of any branded Permitted Exceptions, on menus, menu boards, dispensing equipment, and coolers for the sole purpose to indicate availability, but no Permitted Exceptions will be marketed, advertised, promoted, or sampled on Campus, or otherwise in connection with the University, the Campus or the University Marks. No Permitted Exception trademark shall appear on any Beverage vessel, or on any licensed merchandise, sold or distributed on Campus.
- m. The private, personal consumption of Competitive Products by players, coaches, musicians, actors, comedians, or other entertainment personalities appearing and performing on the Campus is permitted.
- n. FSA may serve, sell or dispense Metrex Sports Nutritional Beverage Competitive Products (as defined herein) to student athletes, coaches and staff in non-public areas of University athletic facilities, provided however marks or logos for such Sports Nutritional Beverage Competitive Products will not be publicly displayed, nor will such Sports Nutritional Beverage Competitive Products be marketed, advertised, promoted, or sampled on Campus, or otherwise in connection with the University, the Campus or the University Marks.

3. **Beverage Purchase Requirement.** University, FSA and their Concessionaires will comply with all applicable provisions of this Agreement, including purchasing their entire requirements for Company Beverages, cups, lids, and CO₂ from Bottler and using Approved Cups (except for Permitted Exceptions), provided however that certain chilled juice brands and Odwalla Beverages may be delivered by Company or by a third-party distributor as shall be designated from time to time by Company.

4. Beverage Pricing

- a. To the extent University and/or FSA has self-operated beverage concessions, then University and/or FSA will purchase all Company Beverages at the prices listed in **Exhibit P**. If, during the Term, new Company Beverages are made available, then University and/or FSA and Contractor shall negotiate pricing for such Company Beverages at such time.
- b. To the extent University and/or FSA has a Concessionaire operating its facilities on Campus, and that Concessionaire has an agreement with Contractor that describes the terms for Beverage pricing, equipment and service provided by Contractor to that Concessionaire, then

such terms will apply and the Concessionaire will purchase all such Company Beverages as set forth in Contractor's existing agreement with the Concessionaire.

- c. If during the Term University and/or FSA engages a Concessionaire(s) to operate on Campus that does not have an agreement with Company that sets forth terms for pricing, equipment and/or service, then Contractor will separately negotiate terms for Beverage prices, equipment and/or service with such Concessionaire.
- d. If a Concessionaire operates on Campus at any point during the Term, University and FSA acknowledge that there will be no duplication of allowances, funding or benefits (including pricing) to University, FSA or Concessionaire if Concessionaire has an existing agreement with Contractor.

B. Operations

All Beverage Service pre-consumer and post-consumer trash and recyclable waste must be placed, by the Contractor, in areas designated by FSA. All articles and/or material designated as trash and recyclable by the University must be separated in designated containers. FSA and the University will arrange for the removal of this waste. The Contractor is required, at its sole expense, to support mutually agreed upon University recycling and waste reduction initiatives of FSA and the University, which are subject to change and development as new technologies and procedures become available.

The Contractor will assure that nutritional information is readily available to all customers both online and at the point at which each product is served.

The Contractor is required to support the University's Emergency Management Plan (see <http://www.stonybrook.edu/commcms/emergency/>) by maintaining a comprehensive, detailed written plan of action in place for any emergency, natural or otherwise, and be prepared to provide service to campus community members for the variety of situations that may arise. This plan should include detailed ways in which the Contractor will provide everyone on campus with appropriate beverage services during emergency situations, address minimum staffing requirements and incorporate anticipated operations at Campus facilities. This plan must be presented to the FSA by August 15 of each year for the duration of the Agreement and updated annually, if needed.

Contractor shall comply with established FSA, State University of New York and Stony Brook University regulations and policies and all laws, rules, orders, regulations, and requirements of federal, state and

municipal governments applicable hereto. SBU's policies and procedures are available at: <http://www.stonybrook.edu/policy/> and include the following:

1. General University Safety Requirements

The Contractor will:

- a. Comply with all federal, state and local safety, health and environmental regulations and requirements.
- b. Prepare and provide an emergency plan, as per OSHA 29 CFR 1910.38. Specifically, that plan must address:
 - (i) Immediately report fires, medical emergencies or other emergencies to University Police and FSA
 - (ii) Immediately notify FSA of any condition in its operations that FSA or the University has responsibility to correct, which is unsafe, unhealthy, or in any other way would cause an accident and Contractor will undertake appropriate temporary measures to assure safe operations until the condition is fully corrected

2. Personal Safety

The Contractor will notify FSA immediately of any lost-time accidents, OSHA-reportable incidents or safety hazard. The Contractor and its employees, agents, or sub-contractors agree to abide by and practice all FSA and local safety standards and regulations. The Contractor will take all necessary and proper precautions to protect the safety of employees and other persons and to protect all property from any damages from whatever cause.

The Contractor and any sub-contractors will give access to facilities assigned under this Agreement to the authorized representatives of the Secretary of Labor for the purpose of inspecting or carrying out any of the Secretary's duties under the Occupational Safety and Health Act of 1980, as amended. The Contractor will be responsible for any violation by Contractor of the Act or any regulation issued there under and shall immediately remedy any conditions giving rise to such a violation. The Contractor shall defend and hold FSA its officers, trustees and employees harmless from any fine, penalty, or liability in connection therewith.

The Contractor will promptly report all on site job-related injuries and corrective actions to FSA.

3. Equipment and Facility Safety

The Contractor will develop and implement plans and programs to inspect and clean equipment and the facility. Inspection reports shall be on file in each facility for periodic inspection by FSA

and University officials.

The Contractor will implement and manage a preventative maintenance plan that includes regularly scheduled inspections of all equipment by a qualified professional service to ensure that the equipment continues to be maintained and operated in a safe and proper manner. The reports generated from these inspections will be shared with all interested parties.

C. Management Reports

The Contractor shall, at a minimum, provide quarterly summary reports, detailed sales, and rebate reports to the FSA designee, reviewing usage, (discussing the increase or decrease over the previous years' totals) noting any price adjustments, summarizing activities (promotions, etc. conducted with FSA) and any other significant activities which have occurred.

D. Service Requirements

1. Prompt Delivery of product to key dining service areas.
2. All billing issues must be resolved in a timely fashion.
3. For beverages sold in retail spaces, the FSA will retain the right to use 10% of shelf space per retail location for alternative beverage products as provided in Article VI, Section A(2)(i).
4. The FSA/University may work with the Contractor in the development of new beverage concepts to be introduced to the campus during the contract period.
5. FSA currently distributes and/or promotes beverages at the University. The Contractor will support this commitment by providing mutually agreed upon products, equipment, service, technology and marketing support to each mutually agreed upon current, additional or proposed distribution channel on campus.
6. The FSA reserves the right to request that University logo / identification labels be placed on water bottles by Contractor for certain events. The University will give appropriate lead time and supply artwork. All artwork will be approved by Stony Brook University. (All artwork, negatives, mechanicals, disks etc., whether supplied by the University or produced by the vendor are the property of the University and must be returned to the University).
7. All equipment is to be Energy Star certified / compliant.

The Contractor Must:

Provide commercial refrigerators that earn the Energy Star and meet the Energy Star specifications for energy efficiency as outlined below. The vendor is encouraged to visit

www.energystar.gov for complete product specifications and an updated list of qualifying products.

I. Commercial Refrigerator, Freezer, and Refrigerator-Freezer

Refrigeration equipment that: (a) is not a consumer product (as defined in §431.2 of part 430); (b) is not designed and marketed exclusively for medical, scientific, or research purposes; (c) operates at a chilled, frozen, combination chilled and frozen, or variable temperature; (d) displays or stores merchandise and other perishable materials horizontally, semi-vertically, or vertically; (e) has transparent or solid doors, sliding or hinged doors, a combination of hinged, sliding, transparent, or solid doors, or no doors; (f) is designed for pull-down temperature applications or holding temperature applications; and (g) is connected to a self-contained condensing unit or to a remote condensing unit.

Commercial Hybrid Refrigerator, Freezer, and Refrigerator-Freezer

A unit of commercial refrigeration equipment that: (a) consists of two or more thermally separated refrigerated compartments that are in two or more different equipment families; and (b) is sold as a single unit.¹

Equipment Classes

- Horizontal Closed Solid Self Contained Low Temperature (HCS SC L),
- Horizontal Closed Solid Self Contained Medium Temperature (HCS SC M),
- Horizontal Closed Transparent Self Contained Low Temperature (HCT SC L),
- Horizontal Closed Transparent Self Contained Medium Temperature (HCT SC M),
- Vertical Closed Solid Self Contained Low Temperature (VCS SC L),
- Vertical Closed Solid Self Contained Medium Temperature (VCS SC M),
- Vertical Closed Transparent Self Contained Low Temperature (VCT SC L), and/or
- Vertical Closed Transparent Self Contained Medium Temperature (VCT SC M).

Energy Consumption

New Criteria—Effective March 2017

Commercial Refrigerators & Freezers Key Product Criteria

The ENERGY STAR criteria for refrigerators, refrigerator-freezers, and freezers was changed on March 27, 2017. The new maximum daily energy consumption (MDEC) requirements are as follows:

Product Volume (in cubic feet)	Refrigerator	Freezer
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Vertical Closed

<i>Solid Door Cabinets</i>	<i>VCS.SC.M*</i>	<i>VCS.SC.L</i>
0 < V < 15	0.022V+0.97	0.21V+0.9
15 ≤ V < 30	0.066V+0.31	0.12V+2.248
30 ≤ V < 50	0.04V+1.09	0.285V-2.703
50 ≤ V	0.024V+1.89	0.142V+4.445
<i>Transparent Door Cabinets</i>	<i>VCT.SC.M</i>	<i>VCT.SC.L</i>
0 < V < 15	0.095V+0.445	0.232V+2.36
15 ≤ V < 30	0.05V+1.12	0.232V+2.36
30 ≤ V < 50	0.076V+0.34	0.232V+2.36
50 ≤ V	0.105V-1.111	0.232V+2.36
Horizontal Closed		
<i>Solid or Transparent Door Cabinets</i>	<i>HCT.SC.M, HCS.SC.M</i>	<i>HCT.SC.L, HCS.SC.L</i>
All volumes	0.05V+0.28	0.057V+0.55

* DOE Equipment Class designations relevant to ENERGY STAR eligible product scope

- a. Equipment family code (HCS= horizontal closed solid, HCT=horizontal closed transparent, VCS= vertical closed solid, VCT=vertical closed transparent),

- b. Operating mode (SC=self-contained), and
 - c. Rating Temperature (M=medium temperature (38 °F), L=low temperature (0 °F)).
8. At the beginning of this Agreement, all new or like-new equipment is required, including but not limited to, all service equipment required to fulfill the terms and conditions of this contract. The Contractor shall provide a list of all SBU beverage machines and equipment including the manufacturer's name, model number, serial number, age, installation date, and location on campus. This list shall be updated by the Contractor on an annual basis to include beverage machines and all equipment which are added or replace existing beverage machines and equipment throughout the Agreement term.
 9. The Contractor shall use commercially reasonable efforts to repair and/or replace damaged/inoperable equipment within 48 hours of notification by FSA. In support of ensuring timely response and to minimize down time of fountain beverage unit service, the Bottler shall have on reserve three (3) fountain beverage dispensing units in the Smithtown Distribution Center as a contingency replacement for non-repairable units at SBU campus locations.
 10. The Contractor shall require their employees to wear identification tags when on campus property. All tags shall include the employees name and recent picture.
 11. The Contractor shall utilize company owned or leased vehicles. Vehicles must be clearly identified with the name of the vendor. Vehicles must abide by all University traffic regulations at all times and may only park, even for short periods of time, in designated areas.
 12. The Contractor will, without additional expense to FSA, be responsible for obtaining any necessary licenses and bonding to comply with FSA regulations, and municipal, county, FSA, and federal laws (including all sanitation laws), and will assume liability for all applicable taxes including, but not restricted to sales, property, and beverages in connection with the performance of services specified herein.
 13. The Contractor is responsible for payment of all taxes and fees related to the execution of this Agreement, including, but not limited to ad valorem taxes, personal property taxes, license fees, Workers' Compensation Insurance, and unemployment compensation.
 14. The Contractor will honor the sales tax exemptions granted by New York State for student meal plan and for purchases made by FSA and other SBU and SBU affiliated departments.
 15. The Contractor must comply with SBU alcohol policies. These policies are available for reference at the following URL: <http://www.stonybrook.edu/policy/policies.shtml?ID=122>
 16. The Contractor must notify FSA in writing immediately of any citations for violation of law in association with the execution of this contract and is fully responsible and must pay any fines due in association with those citations.

17. The Contractor will maintain all terms and conditions of this agreement in strict confidence and will not in any manner use the designated FSA service facilities for advertising, publicity, marketing, or public relations purposes without the prior written approval of FSA.
18. Contractor must comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899~aa and State Technology Law, Section 208). Contractor shall be liable for the costs associated with any breach of these provisions if caused by the negligent or willful acts or omissions of Contractor or its agents, officers, employees or subcontractors.
19. While performing under the Agreement, the Contractor and its agents and employees may receive, maintain, process or otherwise have access to confidential information on students and/or employees or customers of Stony Brook University ("Customer Information"). Pursuant to the Gramm-Leach-Bliley Act (P.L.106-102) and the Federal Trade Commission's Safeguards Rule (16 CFR Part 314), if the Contractor has access to such information, the Contractor must implement and maintain a written Information Security Program ("Program") in order to protect such Customer Information. Customer Information is defined as "any record containing nonpublic personal information as defined in 16 CFR §313(n) (the FTC's Privacy Rule) about a customer of a financial institution, whether in paper, electronic, or other form" (16 CFR §314.2). Examples of nonpublic personal customer information include, but are not limited to, name, address, phone number, social security number, bank and credit card account numbers and identification numbers.
 - a. The safeguards that must be implemented under the Program must comply with the elements set forth in 16 CFR §314.4, and must achieve the objectives enunciated in 16 CFR §314.3, namely to: 1) insure the security and confidentiality of student, employee and customer records and information; 2) protect against any anticipated threats or hazards to the security or integrity of such records; and 3) protect against unauthorized access to or use of such records or information which could result in substantial harm or inconvenience to any student, employee or customer.
 - b. All nonpublic personal information of sponsors shall be deemed confidential, and the Contractor shall not use, provide, trade, give away, barter, lend, sell or otherwise disclose any such information without FSA's prior written consent. If the Contractor sub-contracts with a third party for any of the services that it is required to undertake in accordance with the Agreement and the subcontractor has access to such information, the Contractor must ensure that such third parties implement practices which protect nonpublic personal information of students, employees or customers of Stony Brook University to which they receive, maintain, process or otherwise are permitted access in accordance with the terms of this Section.
20. All SBU or FSA logos, marks, domain names and any and all content of the website, social media channels, mobile apps and any and all current and future SBU related social media channels and

websites will remain property of SBU or FSA, as the case may be, during the agreement and at the termination of this Agreement. Any and all advertising within the scope of the service, that will take place throughout Stony Brook University whether in print or electronically, must first be approved for circulation by Stony Brook University and be within all of the Stony Brook University policies for communication and posting. Similarly, use of the name or marks of FSA or Stony Brook University by the Contractor are subject to the prior review and approval of FSA. FSA's Marketing and Communications Director will coordinate this review and approval which shall not be unreasonably withheld or delayed, and work in conjunction with the Stony Brook University's Office of Communications.

- a. The Contractor is granted permission by FSA to use and reproduce the FSA logos and marks, as it would relate to the on campus services to the SBU community. FSA must approve the use and format of the FSA logo and marks in all materials which contain such logos and marks, such approval will not be unreasonably withheld or delayed.
- b. Neither party may use the name, trademark or logo of the other without prior written permission. The mention of the FSA or University in promotional materials generated by Contractor, other than an address, shall be submitted to the FSA Marketing and Communications Director for review and approval prior to dissemination, which approval shall not be unreasonably withheld or delayed.
- c. **Retained Rights.** Notwithstanding anything to the contrary in this Agreement, this Agreement does not give any party any interest in or the right to use the trademarks or other intellectual property of another party except as specifically authorized in this Agreement. Even if use of a party's trademarks or other intellectual property is specifically authorized, the trademarks or intellectual property remain solely that party's property, and no joint ownership can arise because of the other party's use under this Agreement. This Agreement does not make any party the agent of another party, nor does it create any partnership or joint venture between University and/or FSA and Contractor.

E. Financial Returns / Sponsorship Fees / Rebates / Other Consideration to FSA

1. **Upfront Fees** – Contractor agrees to pay FSA an Upfront Fee in the amount of Three Million Dollars (\$3,000,000). The parties acknowledge that \$1,500,000 of the Upfront Fee was previously paid by Bottler and \$1,500,000 will be paid within forty-five (45) days from the Contractor's receipt of the fully executed Agreement.
2. **Sponsorship Fees** - Contractor agrees to pay FSA Sponsorship Fees in the amount of Five Hundred Thousand Dollars (\$500,000) per Agreement Year by July 1st of each Agreement Year. The first payment of Sponsorship Fees for Agreement Year One will be made forty-five (45) days from Contractor's receipt of the fully executed Agreement. FSA will provide Contractor an

invoice for the Sponsorship Fees at least thirty (30) days prior to the due date of each payment required hereunder.

3. **Coca-Cola Freestyle Acceleration Fund** – Contractor agrees to pay FSA a Coca-Cola Freestyle Acceleration Fund in the amount of Fifteen Thousand Dollars (\$15,000) in Agreement Year One and Ten Thousand Dollars (\$10,000) for each remaining Agreement Year by July 1st of each Agreement Year. The first payment of Coca-Cola Freestyle Acceleration Fund will be made forty-five (45) days from Contractor’s receipt of the fully executed Agreement.
4. **Rebates** – Bottler will pay FSA a rebate of One Dollar (\$1.00) for each standard physical case of (standard case is defined as 24 units) Company beverages purchased for sale at the Campus during the Term (the “Rebates”). The Rebates shall be paid annually in arrears, within sixty (60) days after the end of each applicable Agreement Year in which the Rebates were earned and will be based on Bottler’s case sales records.
5. **Marketing and Other Funds** –
 - a. **Marketing Activation Funds** – Contractor will budget and spend \$70,000 for Agreement Years 1 and 6 and \$30,000 annually for all other Agreement Years for mutually-agreed on-Campus and in-market marketing programs. The funds will be held in a fund managed by Contractor for use toward marketing programs designed to promote and increase Beverage sales on Campus. Unused funds shall be carried over.
 - b. **Athletics Activation Marketing Funds** – Contractor will budget and spend \$30,000 for Agreement Years 1 and 6 and \$10,000 annually for all other Agreement Years for mutually-agreed University Athletics marketing programs. The funds will be held in a fund managed by Contractor. All funds made available must be spent within the Agreement Year for which they are budgeted. Unused funds shall be forfeited.
 - c. **Product Donations** – Bottler will donate up to \$10,000 of Company Beverages (valued at wholesale price) (with exact product selection to be mutually agreed to by Bottler and FSA, but excluding Odwalla and all dispensed products) annually for student and faculty special events, but not for resale. Company Beverages will be provided upon FSA’s request. In the event FSA does not request all complimentary Company Beverages by the end of each Agreement Year, any remaining complimentary Company Beverages shall be retained by Bottler with no further obligation.
6. **Non-Cash Value** – Contractor will provide University and/or FSA with the following non-cash benefits over the Term of the Agreement. In the event that any of the items shown below cannot be delivered by Contractor to University or FSA, University’s and FSA’s sole remedy is a make-good offering. In the event of an early termination of this Agreement for any reason, Contractor’s obligation to provide the benefits listed below shall be limited to those items already provided prior to the effective date of termination.

- a. **Campus Ambassadors.** For so long as Contractor runs a national campus ambassadors program during the Term, University will be included as a Campus Ambassadors campus and Contractor will have one (1) Campus Ambassador on the University Campus;
- b. **Summer Internship.** During the summer of each Agreement Year, subject to there being qualified applicants, Contractor agrees to provide at least one (1) University student with a paid summer internship.

7. The monies and other consideration set forth in this section constitute the full and complete consideration for all rights granted to Contractor hereunder.

FSA reserves the right to examine the Bottler sales for accuracy at any time, during regular business hours, over the term of the Agreement.

F. Refunds and Adjustments

1. **Refunds.** If the Agreement is terminated prior to its scheduled Term expiration for any reason other than cause as defined in Article V, B, then FSA will refund to Sponsor a *pro rata* portion of all fees, commissions and other payments that have been paid but not earned as of the date of termination (or the date of breach, if earlier). All upfront fees and sponsorship payments paid at the beginning of the Agreement term shall be earned on a monthly basis over the Term. Annual Sponsorship Fee payments will be deemed earned evenly over the Agreement Year for which they are paid.
2. **Extension of Term.** If the Campus or any material component of the Campus is closed for more than thirty (30) consecutive calendar days, but less than ninety (90) consecutive calendar days, and such closure results in a material loss to Contractor of Beverage sales or marketing opportunities under this Agreement, Contractor will have the right, at its sole option, to extend the Term of this Agreement for a corresponding period for no additional fees, whether or not such closure is due to a cause beyond the reasonable control of University or FSA.
3. **Other Adjustments.** If:
 - a. any of the rights or benefits granted to Contractor are materially restricted or limited (such as by, but not limited to, breach of exclusivity or ambush marketing) during the Term;
 - b. the volume of Company Beverage sold to the University, FSA, and/or their Concessionaires decreases for any reason in any twelve-month period by 15% or more over the prior twelve-month period;
 - c. a University Team fails to play all of its scheduled home games on the Campus for a period of more than thirty (30) consecutive days during its scheduled season; OR

- d. any material component of the Campus is closed for a period of more than ninety (90) consecutive calendar days:

then in addition to any other remedies available to Contractor, Contractor may elect to adjust the Sponsorship Fees and other consideration to be paid to FSA to fairly reflect the diminution of the value of rights granted to Contractor (and FSA will pay Contractor a refund of any prepaid amounts in excess of the reduced Sponsorship Fees). If FSA disagrees with the amount of the adjustment proposed by Contractor, then FSA shall inform Contractor in writing of such disagreement and the parties will commence good faith negotiations to reach agreement on an adjustment. If FSA and Contractor have not agreed on an adjustment within thirty (30) days of such notice by FSA, then Contractor may immediately terminate this Agreement upon written notice to FSA.

G. University Trademark Licensing Program Requirements

Names and indicia for Stony Brook University, Stony Brook Medicine, Stony Brook Children's, and Stony Brook University Hospital cannot be used without prior written consent of the Office of Marketing and Communications or designee. All communications and messaging is required to follow consistent University branding guidelines and no additional logos can be created. Branding guidelines, including approved logos, are maintained by the Office of the Vice President for Marketing and Communications. Standards and guidelines for Stony Brook University and Stony Brook Medicine, the medical enterprise of the University, can be found at www.stonybrook.edu/brand and www.stonybrookmedicine.edu/communications/communications-tool-kit/home.

In addition, Stony Brook participates in a trademark licensing program that manages use of all logos and word marks on products and merchandise. Additional information on our licensing program can also be found on www.stonybrook.edu/brand and www.stonybrook.edu/brand/design-visual-identity/merchandising-licensing/.

The program is currently managed by the [Learfield Licensing Partners](#) (LLP), an outside agency. Contractor agrees to adhere to the requirements of the University's Trademark Licensing Program.

H. Marketing, Promotional and Advertising Rights of Contractor

1. **General Marketing Rights.** Contractor will have marketing, advertising, and promotional rights, exclusive with respect to the Beverage category, to market, advertise, and promote Company Beverages in association or connection with the University, the Campus (which for the avoidance of doubt includes the Athletic Facilities), and the University Marks (which for the avoidance of doubt includes the Athletic Marks), assuming University branding guidelines are followed. Contractor's rights shall apply to television, radio, print, signage, outdoor, electronic, internet, mobile, wireless, and all other media, whether now or hereafter known. Contractor's

exercise of these marketing, advertising and promotional rights shall be subject to University's approval rights as set forth in Section J.

2. **Use of University Marks.** Contractor will have a license to use the University Marks, on a royalty-free basis, for the purposes of marketing, advertising, or promoting Contractor and Company Beverages. Standard approval process must be followed even though license is royalty-free. Such license gives Contractor the right to use the University Marks in or on all of Contractor's advertising, promotional and packaging materials and activities, which include, for all purposes of this Agreement, in advertising, promotional and merchandising materials on:
 - point-of-sale materials (e.g., pole signs, price signs/banners, display wraps, shelf-signs, stand ups, cooler clings) and vender fronts;
 - cups, cup lids, vessels, cans, bottles, commemorative cans or bottles, can/bottle wraps and all other forms of primary and secondary packaging;
 - television, radio, print, signage, outdoor, electronic, internet, mobile, digital, wireless, and all other media, whether now or hereafter known;
 - beverage dispensing equipment including without limitation Coca-Cola interactive vending machines and Freestyle dispensers.

3. **Customer Marketing Rights.** Contractor will have the right to undertake promotions regarding Company Beverages at or in connection with University, including joint promotions with Contractor's retail customers in all channels of trade and to use the University Marks for such purposes, including use with customers' Marks and branded products, provided no customers' Marks are used in such a way as to imply a sponsorship relationship between the customer and the University (unless one exists).

Contractor's right to conduct Beverage promotions with retail customers takes priority over any exclusive marketing rights held by other University sponsors in the same retail channels (but only as to Beverage-related promotions). Neither University nor FSA has entered, and neither shall, during the Term enter, into any agreement that would interfere with University's ability to reasonably approve Contractor's customer marketing programs.

4. **Designations.** Contractor will have the right to refer to Contractor or Company Beverages in any marketing, advertising, or promotional activity or material as a "sponsor of" or the "official" or "exclusive" Beverage of University, the Campus, or the University Athletics.
5. **Sampling/Surveys.** Contractor will have the right to sample and survey persons on Campus regarding Company Beverages or for other Beverage-related purposes, including, without limitation, at University home athletic events, and to survey persons on Campus regarding Company Beverages.
6. **Trademarked Cups/Souvenir Cups.** All Company Beverages sold, distributed, or served on Campus in disposable vessels will be served in Approved Cups. If University or FSA desires to make available non-disposable souvenir cups, artwork requires Contractor approval but shall

follow guidelines such that all collectible non-disposable souvenir cups will bear only Contractor or only Contractor and University trademarks exclusively with equal share of the exterior cup surface. Under no circumstances will trademarks other than University or Contractor appear on any souvenir cup.

- 7. Point-of-sale Materials.** Company Marks will be prominently displayed on all menu boards and all dispensing equipment at all foodservice/concession locations, and on all Company Beverage vending machines on Campus. Point-of-sale materials depicting Company Beverages, including translites and pictorials on dispensing equipment, will be clearly visible to the purchasing public at all foodservice and concession locations on Campus.
- 8. Sports Drink Sidelines Rights.** FSA will use cups, coolers and equipment featuring POWERADE® brand trademarks -- or if requested by Contractor, trademarks for any other Company Beverage -- on sidelines and players' benches, and in locker rooms for all intercollegiate athletic events on Campus. Contractor may also make such Company Beverages available for consumption by players, coaches and staff on the sidelines, player's benches, and in locker rooms.
- 9. Hawking Rights.** FSA will sell Company Beverages using Company-trademarked materials, such as hawking trays, kiosks, themed mobile/push carts and themed umbrellas, if and to the extent provided by Contractor. Company Beverages in 20-ounce bottles (or in such other packaging as Contractor may reasonably determine from time to time) will be hawked in the stands during all University home football and basketball events, and during all other events at which items of any sort are hawked in the stands.
- 10. Licensed Merchandise.** Contractor may create merchandise and promotional premiums bearing Marks of Company Beverages together with any of the University Marks with appropriate prior approval of the University. Contractor will not pay any fees or royalties to FSA or University for this merchandise and promotional premiums, so long as it is distributed free of additional charge in connection with Company Beverages or sold at a subsidized price. All other merchandise and promotional premiums will be subject to royalty rates and other requirements of the University's Trademark Licensing Program. FSA, on behalf of University, agrees that the following items shall not be deemed to be licensed merchandise and royalties will not apply in any circumstances to any of the following that bear University Marks: cups; vessels; cans, bottles, commemorative cans, bottles or cups; multipack wraps and all other forms of packaging; beverage dispensing equipment; and point-of-sale, advertising, merchandising or promotional materials; and Contractor will have the right to produce or have its own third-party suppliers produce such items, however purchases and/or production of co-branded licensed merchandise items will need to be through licensed manufacturers with appropriate prior approval of the University.
- 11. Internet Advertising.** University and FSA will acknowledge Contractor's sponsorship and Company Beverage availability on their websites subject to final FSA approval. If FSA places hyperlinks on its website, Contractor may request placement of a hyperlink command from that

site to an appropriate page of <http://www.cocacola.com/> or other of Contractor's websites subject to final FSA approval.

- 12. Digital Content.** University and FSA may provide Contractor with digital content, which may include, without limitation, video highlights of University events, audio content of University theme songs, and screensavers for Contractor to replicate and use as promotional premiums, including for use as rewards on Contractor's "My Coke Rewards" loyalty program or other similar program. University will provide such digital content free-of-charge to the extent it is owned by the University, and University will assist Company in clearing any other third-party rights that may be required for such use, and will refresh the digital offerings periodically.
- 13. Signage and Other Advertising.** Throughout the Term, University or FSA will provide to Contractor, free and at no cost to Contractor, the signage and/or media/advertising rights as provided in **Exhibit C**. Further, the parties agree that:
- a.** The text, graphics, and artwork for Contractor's signage will be developed, created and produced by Contractor, at Contractor's sole cost. Contractor will pay all costs for the physical production, installation of such signage, and Contractor will pay the cost of installing any replacement panels used to modify Contractor's initial advertising message or graphics. University or FSA may pay the costs for the repair and maintenance of such signage resulting from any malfunction, damage or destruction to the panels or supporting structures within a commercially reasonable period.
 - b.** The text, graphics, and artwork for Contractor's print advertising will be developed, created and produced by Contractor, at Contractor's sole cost.
 - c. No Obstructions.** Contractor's signage on Campus must not be blocked by University, FSA, or any third party. This includes Blockage during the Broadcast of any Team game or other Campus event. University and FSA will cause third parties to comply with this provision in all new or renewed agreements involving rights to Broadcast Team games or other Campus events, or otherwise photograph the Campus. Recreations of the Campus (such as on maps or in video games) will recreate Contractor's signage in accordance with its actual appearance and placement.
 - d. Illuminated Signage.** University and/or FSA will supply the required electricity for all Contractor's lighted signs and advertising panels -- including lighted concession advertising -- that advertise or promote Company Beverages. All these signs and panels must be fully illuminated at all events during which any signs in the same facility are illuminated.
 - e. Access to Signage.** At all reasonable times, University and/or FSA will provide Contractor access to its signage to replace, remove, or modify it.
- 14. Tickets and Hospitality.** Throughout the Term, FSA will provide to Contractor, free and at no cost to Contractor, the tickets and hospitality rights to University functions, athletic events involving University Athletics, and other special events associated with University as provided in **Exhibit D**.

I. Exclusive Association; No Competitive Beverages

1. No Association with Competitive Products. Each of the rights and licenses granted to Contractor under this Agreement is exclusive with respect to Beverages and University and FSA agree that no Competitive Products will be associated, directly or indirectly, with University, FSA, the Campus, SBU Athletics, or the University Marks, on or off-Campus, whether through advertising, promotions or otherwise, including, without limitation, on any University-authorized internet or web site. Except as set forth with respect to Permitted Exceptions, FSA and University shall not permit Competitive Beverages to be sold, dispensed, served, distributed, sampled or otherwise made available anywhere on Campus or in any way advertised, displayed, represented or promoted on Campus by any method or through any medium whatsoever (including, without limitation, print, broadcast, direct mail, coupons, handbills, displays, signage, internet and electronic/wireless). Further, to protect Contractor's exclusivity, FSA, on behalf of itself and University, makes the covenants set forth in Sections 2-5 below and agrees that these covenants are essential to protecting Contractor's exclusive association with University, FSA, the Campus and the University Marks. University and FSA understand that they are required to take certain actions, and refrain from certain actions, to comply with these covenants. University and FSA agree that Contractor has the right to assert remedies for any breach of these covenants, regardless of whether the breach results from the actions of a third party not under University's or FSA's control.

2. Steps to Stop Ambush Marketing. University and FSA will take all steps necessary or appropriate to stop third parties from associating Competitive Products with University or FSA. If any third party, including University's media partners, conferences, bowls and others with whom University has ongoing relationships, tries without Contractor's consent to associate Competitive Products with University or FSA, the Campus or the University Marks, or tries to suggest, by statement or implication or otherwise, that Competitive Products are so associated, University and/or FSA will take reasonable steps to stop this "ambush marketing" and to protect Contractor's exclusive association. These steps must include the following, as circumstances warrant:

- a. complaining in writing to the violating party (e.g., via a cease and desist letter) and/or to the media; and
- b. instituting legal action, including suits for temporary and permanent injunctive relief.

Any party learning of ambush marketing will promptly notify the other parties of this activity.

3. Third Party Compliance. FSA will ensure that all third parties operating on the Campus of the University, including without limitation retailers, foodservice operators, vending companies and concessionaires with Beverage operations on Campus, will comply with all applicable provisions of the Agreement. This provision does not apply to Competitive Products purchased off-Campus by students, faculty or their guests for personal consumption and not for distribution on Campus.

4. **No Third-Party Beverage Promotions.** University and FSA will not grant any third party the right to conduct promotions involving Beverages or Beverage containers, cups, lids, or straws, including promotions that relate primarily to non-Beverage items but involve a Beverage, on a branded or unbranded basis, as a purchase requirement or promotional fulfillment. This provision applies even if the promotion involves a Company Beverage, unless Contractor participates in the promotion

5. **Broadcasters, Licensing Agents, etc.** University and FSA will not grant any rights to third parties (such as Broadcasters) that would permit such third parties to use those rights in association with Competitive Products. University will require all Broadcasters, licensing agents and other third parties who have the right to grant access to the University Marks to honor Contractor's Beverage category exclusive marketing and associational rights, as set forth herein.

6. **NCAA and Intercollegiate Athletic Conference Promotional Programs:** The University reserves the right to participate in promotional programs involving intercollegiate athletic conference corporate partners (which may include a Competitive Product) when the program includes all institutions in University's athletic conference, currently the America East and Colonial Athletic Association. In the event that the University participates in a NCAA championship event, the University reserves the right to participate in promotional programs coordinated by corporate partners of the NCAA in which all event participants are featured (and which may include a Competitive Product). In the event that the University participates in a College Football Playoff game or other post-season bowl game, tournament or other similar event, the University reserves the right to participate in a promotion with the corporate partners of said event if all event participants are involved (and which may include a Competitive Product).

J. University's Rights of Prior Approval

FSA and University will have the right to approve in advance (a) the concept for any promotional activity with respect to University that will utilize the University Marks, and (b) any materials created by Contractor that incorporate any of the University Marks. University will cooperate with Contractor's activities, on and off-Campus, designed to promote Contractor's sponsorship association with University, the Campus and the University Marks. University will not unreasonably withhold, condition or delay approval of such intended uses of the University's marks.

University will have ten (10) business days from receipt to respond to any written submission by Contractor. If University fails to respond within that time period, then Contractor's submission will be deemed automatically approved by University. If the University disapproves any concepts or materials submitted by Contractor, the University shall provide Contractor with written reasons as to why such concepts or materials were disapproved and how the concepts or materials can be altered to meet University's approval. Withholding approval is considered unreasonable unless it is based on:

- a. University's determination that University Marks have been used incorrectly in a technical sense

(such as improper color or trademark nonconformity); or

- b. University's reasonable determination that Contractor's proposed promotional activity or use of University Marks will reflect negatively on University.

For example, University agrees that it is unreasonable to withhold approval of a submission that includes the name or marks of one of Contractor's customers solely because that customer is not also a sponsor of University or because that customer operates in a trade channel where University already has an exclusive sponsor.

University requires submission and approval for all uses even if the concepts or materials utilizing University Marks are the same as or substantially similar to concepts or materials previously approved by University.

K. Dining Services at Stony Brook University

Fountain Beverages – Carbonated

Dispensing equipment must be supplied, installed and maintained by the Company at no cost to the University. No Freestyle, ICEE® equipment, ice makers or water filters will be provided. All equipment must be new, like new or modern and refurbished. Equipment shall be maintained in that condition by the Contractor throughout the life of the Agreement with annual review of equipment conditions by all parties. Any required replacements will be provided by the Contractor at no cost to FSA. Unless otherwise indicated, the Contractor shall retain title to such equipment. All equipment provided by Company will be subject to the terms and conditions of Company's lease agreement attached hereto as **Exhibit E**, but no lease payment will be charged.

Freestyle equipment will be the subject of a separate equipment agreement between the parties and fees may apply.

All dispensers must be equipped with locks and/or shut-off devices for security purposes, at no cost to the University.

Company (or Bottler) will provide at no charge regular mechanical repair reasonably needed for fountain Beverage dispensing equipment. Replacement parts associated with these service calls will also be provided without charge. Any removal, remodel, relocation or reinstallation of dispensing equipment, flavor changes, summarize/winterize, line changes, or service necessitated by damage or adjustments to the equipment resulting from misuse, abuse, failure to follow operating instructions, service by unauthorized personnel, unnecessary calls (equipment was not plugged in, CO2 or fountain syrup container was empty), or calls that are not the result of mechanical failure (collectively, "Special Service Calls") are not considered regular service and will not be provided free of charge. Charges for Special Service Calls will be charged at Company's (or Bottler's) then current rate and will be invoiced directly to the current food service operator or concessionaire. Charges will include labor, travel time, parts and

administrative costs.

Bottle/Can Equipment

Bottler will provide certain cold-drink equipment (such as coolers) free-of-charge for use on Campus, and maintenance/repair service for such equipment, under the following terms and conditions:

University and FSA represent and warrant that electrical service on Campus is proper and adequate for the installation of Contractor's equipment and FSA, on behalf of itself and University, agrees to indemnify and hold Contractor harmless from any damages arising out of defective electrical service.

With respect to equipment provided by Contractor hereunder, FSA (i) acknowledges that all equipment provided by Contractor under this Agreement will at all times remain the property of the Contractor; (ii) will, upon the owner's request, execute UCC financing statements or other documents evidencing proper ownership of the equipment; (iii) will refrain from removing equipment from its location on Campus without first securing the written consent of the equipment's owner; (iv) will refrain from encumbering the equipment or permitted any attachment to it without the authorization of the equipment's owner; (v) will take reasonable care to protect and secure all equipment provided by Contractor consistent with the measures FSA employs to protect its own equipment; (vi) will reimburse Contractor for any loss of or damage to Contractor's equipment, except for reasonable wear and tear.

L. Compliance with Law and Fair Labor Practices

The Contractor will comply with all federal, state, county, SBU, SUNY University Wide Policies and Procedures, and FSA regulations related to employment and compensation of personnel including those pertaining to federal and state employment taxes (including any and all social security, unemployment taxes, and Worker's Compensation payments) minimum wage, and overtime.

The Contractor agrees to comply with all applicable national, state and local laws and regulations ("Applicable Laws"), in the course of providing services under this Agreement, including, but not limited to, relevant employment laws, the Family Educational Rights and Privacy Act, and the Health Insurance Portability and Accountability Act, as well as FSA and the University's policies concerning such laws.

The Contractor will comply with all applicable federal, state, county, SBU, and FSA regulations pertaining to discrimination because of race, color, religion, sex, age, national origin, handicap (as defined in the Americans with Disabilities Act), in the recruitment, selection, training, utilization, promotion, termination, or other employment-related activities.

The Contractor agrees to comply with the 2016 enacted SUNY University Wide minimum wage scheduled increases to all hourly paid staff, student workers, and work study participants effective 1/28/16. The required schedule of minimum wage increases is included below for planning purposes.

New York City		Statewide (excluding NYC)	
Min. Wage	Effective Date	Min. Wage	Effective Date
\$12.00	12/31/2016	\$10.75	12/31/2016
\$13.50	12/31/2017	\$11.75	12/31/2017
\$15.00	12/31/2018	\$12.75	12/31/2018
		\$13.75	12/31/2019
		\$14.50	12/31/2020
		\$15.00	7/1/2021

Additional information on the SUNY Minimum Wage Announcement is available at <https://www.governor.ny.gov/news/governor-cuomo-announces-state-university-system-raise-minimum-wage-its-employees-15-hour>

The Contractor will maintain a harassment-free work environment and agrees to comply with all Title IX Compliance reporting procedures provided to FSA by SBU. The Contractor will immediately notify the University's Title IX Coordinator after becoming aware of a Title IX related incident that involves SBU students, regardless of where or when the incident occurred. The Contractor is also responsible for notifying the University's Title IX Coordinator about all Title IX related incidents that occur on the SBU campus regardless of the status of the individuals involved in the incident.

The Contractor will maintain a safe work environment and comply with the Occupational Safety and Health Act, as may be amended and including all regulations adopted pursuant thereto and in effect at the time of performance of service.

The Contractor will require that its employees follow all applicable rules and regulations that assure food safety and abide by instructions of FSA, Suffolk County Department of Health Services, and SBU Environmental Health and Safety.

The Contractor will perform security background and reference checks, according to protocols approved by SBU and FSA, on all Contractor employees, including both new employees and employees assumed from prior Contractor, before they are assigned to University premises. Official University Policy on Criminal Background Checks is available at: [P116: CRIMINAL BACKGROUND CHECK POLICY](#)

The Contractor will guarantee that all employees assigned to the SBU campus wear clean and neat-

appearing attire and footwear. Employees of the Contractor will be appropriately uniformed when performing their work assignments at the location or service.

Adequate training for employees and agents of the Contractor must be ensured by the Contractor, for all tasks to be performed. This shall include, but not be limited to:

For each job category employed by the Contractor on the SBU campus, Contractor will provide FSA with a current description of training provided to staff employed in that category and the frequency in which that training is required. This will include, but not be limited to, specialty training that is proposed in this Agreement, including the Contractor's bid, as well as that that may be mandated by FSA or SBU. Contractor agrees that all staff employed in those positions will have the specified training. FSA may audit compliance with reasonable notice to the Contractor.

Contractor will require all employees, subcontractors, and agents to utilize authorized and designated entrances and exits during working hours and to utilize only authorized parking spaces for personal and company vehicles.

Contractor will bear financial responsibility for any damage or loss due to dishonest acts on the part of its employees while on duty working for Contractor.

The Contractor will notify FSA in writing of impending labor, employee, and vendor problems or any other circumstances that could adversely affect the operation of the beverage service operations or the public relations of the University.

The Contractor will arrange to continue to provide services under the Agreement in the event of strikes and other labor disturbances.

The Contractor will be responsible for its own labor relations with any trade represented among its employees and will negotiate and be responsible for adjusting all disputes between itself and its employees or any union representing such employees. Those provisions shall be extended by the Contractor to all subcontracts.

The Contractor specifically agrees that it is an independent contractor and an employing unit subject as an employer to all applicable unemployment compensation, occupational safety and health, or similar statutes so as to relieve FSA of any responsibility or liability for treating the Contractor's employees as employees of FSA for the purpose of their safety or of keeping records, making reports, or paying any payroll taxes or contribution; and the Contractor agrees to indemnify and hold harmless FSA and reimburse it for any expense or liability incurred under said statutes in connection with employees of the Contractor.

M. Insurance and Indemnification

1. Indemnification

The Contractor shall indemnify, defend, and save harmless FSA, the University, the State University of New York, and the State of New York against any claim for liability, including, but not limited to, any physical damage to tangible property, bodily injury, sickness or death caused by the willful or negligent acts or omissions of the Contractor, its agents, employees or assigns arising out of this Agreement. This indemnification shall include reasonable attorneys' fees for the cost of investigation and defense of any claim.

In the event that FSA, the University, the State University of New York, or the State of New York is served with notice of legal action related to the Contractor's actions, such notice shall be promptly forwarded to the Contractor who shall immediately assume responsibility for the defense of such legal actions. Contractor or its attorney will keep FSA apprised of the progress of the suit. In the event that the Contractor does not assume immediate responsibility for the defense of such legal actions, FSA reserves the right to engage the services of legal counsel, which shall be fully reimbursed by the Contractor.

2. Insurance.

Bottler will procure and maintain, during the startup period and the entire term of the Agreement, the insurance, including comprehensive public liability, property damage, products liability insurance, described in the following sub-paragraphs.

- Insurance shall be with a company or companies qualified to do business in New York, should carry at least A minus class VII in the most recently Best's Insurance Report.
- Business Automobile Bodily Injury Liability and Property Damage Liability Insurance, with combined single limits Five Million Dollars (\$5,000,000) each accident;
- Commercial General Liability, Products Liability, and Property Damage Liability Insurance, with combined single limits of Five Million Dollars (\$5,000,000) each occurrence and Ten Million Dollars (\$10,000,000) general aggregate-each location.
- Workers Compensation and Disability Benefits Coverage for the life of this Agreement for the benefit of employees required to be covered by New York State Workers Compensation Law and the New York State Disability Benefits Law. Evidence of coverage must be provided on forms specified by the Commissioner of the Workers Compensation Board.
- Employer's Liability Insurance with minimum limit of One Million Dollars (\$1,000,000).
- Umbrella excess policies providing limits of not less than Ten Million Dollars (\$10,000,000) over

the primary coverage limits.

Bottler shall furnish FSA a Certificate of Workers' Compensation Insurance (IE. Form C-105.2 or U-26.3) and a Certificate of Disability Benefits Insurance (IE. Form DB-120.1) annually, as required, as per NYS Statutes WCL 57 and 220.

Bottler shall furnish FSA a Certificate of Insurance (IE. Acord 25) evidencing such coverage as respects Bottler's operation and assigned facilities and designate FSA, Stony Brook University, the State University of New York, and the State of New York as additional insureds, to include a severability of interest clause with respect to claims, demands, suits, judgments, costs, charges and expenses arising out of, or in connection with, any loss, damage, or injury resulting from activities of the Bottler, Bottler's agents, representatives, and employees.

All contractually required insurance policies must include a Waiver of Subrogation which prevents the Bottler's insurer from attempting to seek reimbursement from a third party who caused any kind of loss to the insured. The Bottler shall obtain and furnish FSA any special policy endorsements, required to evidence compliance with such waiver of subrogation on the required Certificates of Insurance (IE. Acord 25, Form C-105.2 or U-26.3, and Form DB-120.1).

The Bottler shall endeavor to provide thirty (30) days written notice of any cancellation, non-renewal, termination, or reduction in coverage. Insurance as outlined above shall be primary and non-contributory coverage. The above insurance limits may be achieved by a combination of primary and umbrella/excess policies.

In the event the State of New York requires the Bottler to procure additional insurance coverage, the Bottler agrees to obtain such additional coverage and furnish FSA with amended Certificates of Insurance. Certificates of Insurance will be sent to FSA annually and must show that there is no lapse in coverage.

Insurance shall not be canceled until at least thirty (30) calendar days prior notice is sent to FSA by the insurance company or agent and a certificate evidencing the renewal of each such policy will be furnished to FSA at least ten (10) calendar days prior to the expiration of the term of such policy.

The Contractor will provide worker's compensation insurance for its employees and all other insurance, if any, as may be required by law.

The Contractor will maintain appropriate insurance, as it deems appropriate, for replacement of its property and inventory on the University campus.

N. Force Majeure

In case performance of any terms or provisions of this Agreement (other than the payment of monies) is delayed or prevented because of compliance with any law, decree, or order of any governmental agency or authority, either local, State, or Federal, or because of riots, war, public disturbances, strikes, lockouts, fires, floods, acts of God, or any other reason whatsoever which is 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, the party so suffering may at its option suspend, without liability, the performance of its obligations hereunder (other than the payment of monies) during the period such cause continues, and extend the Term of this Agreement for the period of such suspension of the performance of duties.

O. Confidentiality

At the commencement of this Agreement, Contractor will notify FSA in writing of any documents provided in the bid process as well as any document that are to be transmitted as part of this Agreement, which it believes contains a trade secret or should otherwise be treated as confidential and wishes such information not to be disclosed if requested pursuant to the New York State Freedom of Information law (Article 6 of the Public Officer's Law), the Contractor will submit with a separate letter addressed to the RFP correspondence contact noted on the cover page of this RFP, specifically identifying the page number(s), line(s) or other appropriate designation(s) containing such information, explaining in detail why such information is a trade secret and formally requesting that such information be kept confidential. The request will be forwarded to the University's Freedom of Information Officer who will advise FSA if a waiver from FOIL requests for any or all of the materials specified can be granted.

P. Notices

Notices delivered related to the terms of this Agreement, will be deemed to have been sufficiently given under the following conditions:

1. If given by FSA to the Contractor, it will be sent by express delivery service, addressed to the Contractor at the following address:

(A) Notice to Company.

The Coca Cola Company,
acting by and through Coca-Cola North America
One Coca Cola Plaza
Atlanta, Georgia 30313
Attention: Vice President, Strategic Marketing Finance and Business Affairs

With a copy to:

General Counsel, Coca-Cola North America

legaldocuments@coca-cola.com

(B) Notice to Bottler.

Liberty Coca-Cola Beverages LLC

240 West 37th Street Suite 6E

New York NY 10018

Attention: VP of Sales

Ticket Addressee: Melinda Van Tassel

With a copy to:

General Counsel;

legaldocuments@libertycoke.com

2. If given by the Contractor to FSA, it will be sent by express delivery service addressed to the FSA's Executive Director:

Nadeem Siddiqui

Executive Director

Stony Brook Faculty Student Association

West Side Dining 2nd Floor

Stony Brook University

Stony Brook, NY 11794-4460

With a copy to:

Mark Pace

Chief Administrator of Human Resources & Contracts

Stony Brook Faculty Student Association

West Side Dining 2nd Floor

Stony Brook University

Stony Brook, NY 11794-4460

Or such other address as may be hereinafter designated by written notice. All notices become effectively only when received by the addressee; except if delivery is refused by the addressee, such notices shall be deemed effective when tendered.

Q. Severability.

If any portion of this Agreement is severed, that is, held indefinite, invalid, or otherwise unenforceable, the rest of this Agreement continues in full force. But if the severance of a provision affects a party's rights, the severance does not deprive that party of its available remedies, including the right to terminate this Agreement.

R. Waiver of Rights

No delay or failure to enforce any provision of this Agreement shall constitute a waiver or limitation of either party's rights under this Agreement.

S. SUNY Auxiliary Service Corporation Required Standard Contract Clauses And SUNY Affirmative Action Contract Clauses

1. The Required Contract Clauses of the State University of New York for Auxiliary Service Corporations and the State University of New York Affirmative Action Contract Clauses are attached hereto as Exhibit A and Exhibit A-1 of this Agreement and shall take precedence in the interpretation of this Agreement. These clauses are incorporated into this Agreement by reference.
2. These clauses may be modified by SUNY from time to time, and the amended versions will be supplied to Contractor by FSA and become part of this Agreement which shall be memorialized by the parties in a written amendment to this Agreement.

T. Assignment

Neither FSA nor the CONTRACTOR may assign this Agreement or any right or obligation thereunder without the prior written consent of the other Party

U. Miscellaneous

Original signatures to this Agreement transmitted electronically will have the same force and effect as originals.

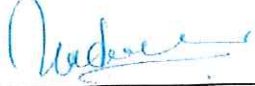
V. Representations, Warranties and Covenants

1. **By FSA.** FSA represents, warrants, and covenants to Contractor the following:
 - (A) **Authority.** It has full power and authority to enter into this Agreement and to grant Contractor the rights described in it.
 - (B) **Binding Obligation.** It has obtained all necessary approvals for its execution, delivery, and performance of the Agreement. It has duly executed and delivered this Agreement, which is now its binding legal obligation.
 - (C) **Non-Profit Status.** It is a non-profit corporation, contracting and self-operating food, beverage, and retail services on Campus. All Beverages purchased hereunder are solely for FSA's use and will not be resold or otherwise made available to any third party who sells or distributes Beverages. FSA will provide Sponsor with prompt written notice of any third party retained by it to manage or operate a beverage service on Campus.
 - (D) **No Conflicting Agreements.**
 - (i) It has not entered into, and during this Agreement's Term will not enter into, either of the following:
 - (a) any agreement that would prevent FSA from complying with this Agreement; or
 - (b) any agreement granting rights that are in conflict with the exclusive rights granted to Sponsor under this Agreement.
 - (ii) It will require third parties (possible examples include concessionaires, third-party food-service operators, vending companies and licensing agents) to comply with the relevant provisions of this Agreement.
2. **By Contractor.** Each of Company and Bottler, solely as to itself, represents, warrants, and covenants to FSA the following:
 - (A) **Authority.** It has the full power and authority to enter into this Agreement.
 - (B) **Binding Obligation.** It has obtained all necessary approvals for its execution, delivery, and performance of this Agreement. It has duly executed and delivered this Agreement, which is now its binding legal obligation.

No Conflicting Agreements. It has not entered into, and during the Term will not enter into, any other agreement that would prevent it from complying with this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by lawfully authorized designees for each.

By:
The Faculty Student Association of the State University of New York at Stony Brook, Inc.



Nadeem Siddiqui
Executive Director

November 6, 2018
Date

By:
The Coca-Cola Company, acting by and through Coca-Cola North America

Malcolm R. Bruni
Malcolm R. Bruni (Oct 29, 2018)

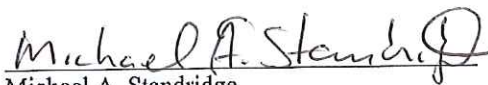
Oct 29, 2018
Date

By:
Liberty Coca-Cola Beverages LLC



Oct 30, 2018
Date

Approved as to Form:



Michael A. Standridge
Associate Director of Purchasing
Stony Brook University

11/8/2018
Date

Exhibit A

Required Contract Clauses of the State University of New York for Auxiliary Service Corporations

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a Contractor, licensor, licensee, lessor, lessee or any other party):

1. **EXECUTORY CLAUSE.** In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. **PROHIBITION AGAINST ASSIGNMENT** Except for the assignment of its right to receive payments subject to Article 5-A of the State Finance Law, the Contractor selected to perform the services herein are prohibited in accordance with Section 138 of the State Finance Law from assigning, transferring, conveying, subletting or otherwise disposing of its rights, title or interest in the contract without the prior written consent of SUNY and attempts to do so are null and void. Notwithstanding the foregoing, SUNY may, with the concurrence of the New York Office of State Comptroller, waive prior written consent of the assignment, transfer, conveyance, sublease or other disposition of a contract let pursuant to Article XI of the State Finance Law if the assignment, transfer, conveyance, sublease or other disposition is due to a reorganization, merger or consolidation of Contractor's its business entity or enterprise and Contractor so certifies to SUNY. SUNY retains the right, as provided in Section 138 of the State Finance Law, to accept or reject an assignment, transfer, conveyance, sublease or other disposition of the contract, and to require that any Contractor demonstrate its responsibility to do business with SUNY.

3. **COMPTROLLER'S APPROVAL.** (a) In accordance with Section 112 of the State Finance Law, Section 355 of New York State Education Law, and 8 NYCRR 316, Comptroller's approval is not required for the following contracts: (i) materials; (ii) equipment and supplies, including computer equipment; (iii) motor vehicles; (iv) construction; (v) construction-related services; (vi) printing; and (vii) goods for State University health care facilities, including contracts for goods made with joint or group purchasing arrangements.

(b) Comptroller's approval is required for the following contracts: (i) contracts for services not listed in Paragraph (3)(a) above made by a State University campus or health care facility certified by the Vice Chancellor and Chief Financial Officer, if the contract value exceeds \$250,000; (ii) contracts for services not listed in Paragraph (3)(a) above made by a State University campus not certified by the Vice Chancellor and Chief Financial Officer, if the contract value exceeds \$50,000; (iii) contracts for services not listed in Paragraph (3)(a) above made by health care facilities not certified by the Vice Chancellor and Chief Financial Officer, if the contract value exceeds \$75,000; (iv) contracts whereby the State University agrees to give something other than money, when the value or reasonably estimated value of such consideration exceeds \$10,000; (v) contracts for real property transactions if the contract value exceeds \$50,000; (vi) all other contracts not listed in Paragraph 3(a) above, if the contract value exceeds \$50,000, e.g. SUNY acquisition of a business and New York State Finance Article 11-B contracts and (vii) amendments for any amount to contracts not listed in Paragraph (3)(a) above, when as so amended, the contract exceeds the threshold amounts stated in Paragraph (b) herein. However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or

for a purchase order or other transaction issued under such centralized contract.

(c) Any contract that requires Comptroller approval shall not be valid, effective or binding upon the State University until it has been approved by the Comptroller and filed in the Comptroller's office.

4. **WORKERS' COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. **NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation

6. **WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work

contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by SUNY of any SUNY-approved sums due and owing for work done upon the project.

7. **NON-COLLUSIVE BIDDING CERTIFICATION.** In accordance with Section 139-d of the State Finance Law, if this contract was awarded based on the submission of competitive bids, Contractor affirms, under penalty of perjury, and each person signing on behalf of Contractor, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered it to SUNY a non-collusive bidding certification on Contractor's behalf.

8. **INTERNATIONAL BOYCOTT PROHIBITION.** In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 *et seq.*) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2 NYCRR 105.4).

9. **SET-OFF RIGHTS.** The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State, its representatives, or the State Comptroller.

10. **RECORDS.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six

(6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as SUNY and its representatives and entities involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. SUNY shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate SUNY official, in writing, that said Records should not be disclosed; and (ii) said Records shall be sufficiently identified; and (iii) designation of said Records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, SUNY's or the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

Identification Number(s). Every invoice or New York State Claim for Payment submitted to the State University of New York by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State University of New York is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the State University of New York contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

(a) In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition,

construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(1) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(2) at SUNY's request, Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(3) Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

(b) Contractor will include the provisions of "1", "2" and "3", above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a Contractor or sub-contractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. SUNY shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, SUNY shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

13. **CONFLICTING TERMS.** In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Exhibit A, the terms of this Exhibit A shall control.

14. **GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. **LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. **NO ARBITRATION.** Disputes involving this contract, including the breach or alleged breach

thereof, may not be submitted to binding arbitration (except where statutorily authorized) but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. **SERVICE OF PROCESS.** In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. **PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of State Finance Law §165 (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State. In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with the approval of the State, otherwise, the bid may not be considered responsive. Under bidder certification, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. **MacBRIDE FAIR EMPLOYMENT PRINCIPLES.** In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that Contractor and any individual or legal entity in which the Contractor holds a ten percent or greater ownership interest and any individual or legal entity that holds a ten percent or greater ownership interest in the Contractor either (a) have no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165(5) of the State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. **OMNIBUS PROCUREMENT ACT OF 1992.** It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
30 South Pearl St., 7th Floor
Albany, NY 12245
Tel: 518-292-5100
Fax: 518-292-5884
email: opa@esd.ny.gov

A directory of certified minority and women-

owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business
Development
633 Third Avenue
New York, NY 10017
212-803-2414

email: mwb certification@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to SUNY;

(b) The Contractor has complied with the Federal Equal Employment Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Search Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that SUNY may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with SUNY in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act of 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. Contact the NYS Department of Economic Development, Division for Small Business, 30 South Pearl Street, Albany, New York 12245, for a current list of jurisdictions subject to this

provision.

22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental health and mental health services, accounting, auditing, paralegal, legal or similar services, then in accordance with Section 163(4-g) of the State Finance Law, the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to SUNY, the Department of Civil Service and the State Comptroller.

24. PURCHASES OF APPAREL AND SPORTS EQUIPMENT. In accordance with State Finance Law Section 165(7), SUNY may determine that a bidder on a contract for the purchase of apparel or sports equipment is not a responsible bidder as defined in State Finance Law Section 163 based on (a) the labor standards applicable to the manufacture of the apparel or sports equipment, including employee compensation, working conditions, employee rights to form unions and the use of child labor; or (b) bidder's failure to provide information sufficient for SUNY to determine the labor conditions applicable to the manufacture of the apparel or sports equipment.

25. PROCUREMENT LOBBYING. To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

26. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS. To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the Contractor fails to make the certification required by Tax Law

Section 5-a or if during the term of the contract, the Department of Taxation and Finance or SUNY discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if SUNY determines that such action is in the best interests of the State.

27. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at:
<http://www.oqs.ny.gov/about/reqs/docs/ListofEntities.pdf>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

THE FOLLOWING PROVISIONS SHALL APPLY ONLY TO THOSE CONTRACTS TO WHICH A HOSPITAL OR OTHER HEALTH SERVICE FACILITY IS A PARTY

28. Notwithstanding any other provision in this contract, the hospital or other health service facility remains responsible for insuring that any service provided pursuant to this contract complies with all pertinent provisions of Federal, state and local statutes, rules and regulations. In the foregoing sentence, the word "service" shall be construed to refer to the health care service rendered by the hospital or other health service facility.

29. (a) In accordance with the 1980 Omnibus Reconciliation Act (Public Law 96-499), Contractor hereby agrees that until the expiration of four years after the furnishing of services under this agreement, Contractor shall make available upon written request to the Secretary of Health and Human Services, or upon request, to the Comptroller General of the United States or any of their duly authorized representatives, copies of this contract, books, documents and records of the Contractor that are necessary to certify the nature and extent of the costs hereunder.

(b) If Contractor carries out any of the duties of the contract hereunder, through a subcontract having a value or cost of \$10,000 or more over a twelve-month period, such subcontract shall contain a clause to the effect that, until the expiration of four years after the furnishing of such services pursuant to such subcontract, the subcontractor shall make available upon written request to the Secretary of Health and Human Services or upon request to the Comptroller General of the United States, or any of their duly authorized representatives, copies of the subcontract and books, documents and records of the subcontractor that are necessary to verify the nature and extent of the costs of such subcontract.

(c) The provisions of this section shall apply only to such contracts as are within the definition established by the Health Care Financing Administration, as may be amended or modified from time to time.

Exhibit A-1
State University of New York Affirmative Action Contract Clauses

1. **DEFINITIONS.** The following terms shall be defined in accordance with Section 310 of the Executive Law:

STATE CONTRACT herein referred to as "State Contract", shall mean: (a) a written agreement or purchase order instrument, providing for a total expenditure in excess of twenty-five thousand dollars (\$25,000.00), whereby the State University of New York ("University") is committed to expend or does expend funds in return for labor, services including but not limited to legal, financial and other professional services, supplies, equipment, materials or a combination of the foregoing, to be performed for, or rendered or furnished to the University; (b) a written agreement in excess of one hundred thousand dollars (\$100,000.00) whereby the University is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; and (c) a written agreement in excess of one hundred thousand dollars (\$100,000.00) whereby the University as an owner of a state assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project.

SUBCONTRACT herein referred to as "Subcontract", shall mean any agreement for a total expenditure in excess of \$25,000 providing for services, including non-staffing expenditures, supplies or materials of any kind between a State agency and a prime contractor, in which a portion of the prime contractor's obligation under the State contract is

undertaken or assumed by a business enterprise not controlled by the prime contractor.

WOMEN-OWNED BUSINESS ENTERPRISE herein referred to as "WBE", shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is: (a) at least fifty-one percent (51%) owned by one or more United States citizens or permanent resident aliens who are women; (b) an enterprise in which the ownership interest of such women is real, substantial and continuing; (c) an enterprise in which such women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; (d) an enterprise authorized to do business in this state and independently owned and operated; (e) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed three million five hundred thousand dollars (\$3,500,000), as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and (f) an enterprise that is a small business pursuant to subdivision twenty of this section.

A firm owned by a minority group member who is also a woman may be certified as a minority-owned business enterprise, a women-owned business enterprise, or both, and may be counted towards either a minority-owned business enterprise goal or a women-owned business enterprise goal, in regard to any Contract or any goal, set by an agency or authority, but such participation may not be counted towards both such goals. Such an enterprise's participation in a Contract

may not be divided between the minority-owned business enterprise goal and the women-owned business enterprise goal.

MINORITY-OWNED BUSINESS ENTERPRISE herein referred to as "MBE", shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is: (a) at least fifty-one percent (51%) owned by one or more minority group members; (b) an enterprise in which such minority ownership is real, substantial and continuing; (c) an enterprise in which such minority ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; (d) an enterprise authorized to do business in this state and independently owned and operated; (e) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed three million five hundred thousand dollars (\$3,500,000.00), as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and (f) an enterprise that is a small business pursuant to subdivision twenty of this section.

MINORITY GROUP MEMBER shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups: (a) Black persons having origins in any of the Black African racial groups; (b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race; (c) Native American or Alaskan native persons having origins in any of the original peoples

shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(g) The Contractor shall include the provisions of this section in every Subcontract in such a manner that the requirements of the provisions will be binding upon each Subcontractor as to work in connection with the State Contract, including the requirement that Subcontractors shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and, when requested, provide to the Contractor information on the ethnic background, gender, and Federal occupational categories of the employees to be utilized on the State Contract.

(h) To ensure compliance with the requirements of this paragraph, the University shall inquire of a Contractor whether the work force to be utilized in the performance of the State Contract can be separated out from the Contractor's and/or Subcontractors' total work force and where the work of the State Contract is to be performed. For Contractors who are unable to separate the portion of their work force which will be utilized for the performance of this State Contract, Contractor shall provide reports describing its entire work force by the specified ethnic background, gender, and Federal Occupational Categories, or other appropriate categories which the agency may specify.

(i) The University may require the Contractor and any Subcontractor to submit compliance reports, pursuant to the regulations relating to their operations and implementation of their affirmative action or equal employment opportunity program in effect as of the date the State Contract is executed.

(j) If a Contractor or Subcontractor does not have an existing affirmative action program, the University may provide to the Contractor or Subcontractor a model plan of an affirmative action program. Upon request, the Director of DMWBD shall provide a contracting agency with a model plan of an affirmative action program.

(k) Upon request, DMWBD shall provide the University with information on specific recruitment sources for minority group members and woman, and contracting agencies shall make such information available to Contractors

3. Contractor must provide the names, addresses and federal identification numbers of certified minority- and women-owned business enterprises which the Contractor intends to use to perform the State Contract and a description of the Contract scope of work which the Contractor intends to structure to increase the participation by Certified minority- and/or women-owned business enterprises on the State Contract, and the estimated or, if known, actual dollar amounts to be paid to and performance dates of each component of a State Contract which the Contractor intends to be performed by a certified minority- or woman-owned business enterprise. In the event the Contractor responding to University solicitation is joint venture, teaming agreement, or other similar arrangement that includes a minority-and women owned business enterprise, the Contractor must submit for review and approval: i. the name, address, telephone number and federal identification of each partner or party to the agreement; ii. the federal identification number of the joint venture or entity established to respond to the solicitation, if applicable; iii. A copy of the joint venture, teaming or other similar arrangement which describes the percentage of interest owned by each party to the agreement and the value

added by each party; iv. A copy of the mentor-protégé agreement between the parties, if applicable, and if not described in the joint venture, teaming agreement, or other similar arrangement.

4. PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN.

The University shall determine whether Contractor has made conscientious and active efforts to employ and utilize minority group members and women to perform this State Contract based upon an analysis of the following factors:

(a) Whether Contractor established and maintained a current list of recruitment sources for minority group members and women, and whether Contractor provided written notification to such recruitment sources that contractor had employment opportunities at the time such opportunities became available.

(b) Whether Contractor sent letters to recruiting sources, labor unions, or authorized representatives of workers with which contractor has a collective bargaining or other agreement or understanding requesting assistance in locating minority group members and women for employment.

(c) Whether Contractor disseminated its EEO policy by including it in any advertising in the news media, and in particular, in minority and women news media.

(d) Whether Contractor has attempted to provide information concerning its EEO policy to Subcontractors with which it does business or had anticipated doing business.

(e) Whether internal procedures exist for, at a minimum, annual dissemination of the EEO policy to employees, specifically to employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions. Such dissemination may occur through

Office has determined can be reasonably structured by the Contractor to increase the likelihood of participation in the Contract by MWBEs; and

iv. other information which the MWBE Program Office determines to be relevant to the MWBE Utilization Plan.

(e) The Contractor shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to the University a written remedy in response to the notice of deficiency.

i. If the written remedy that is submitted is not timely or is found to be inadequate, the University-wide MWBE Program Office shall notify the Contractor and direct the Contractor to submit, within five (5) business days, a request for partial or total waiver of MWBE participation goals on forms provided by the University-wide MWBE Program Office.

ii. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

(f) The University may disqualify a Contractor as being non-responsive under the following circumstances:

i. If a Contractor fails to submit a MWBE Utilization Plan;

ii. If a Contractor fails to submit a written remedy to a notice of deficiency in a MWBE Utilization Plan;

iii. If a Contractor fails to submit a request for waiver; or

iv. If the MWBE Program Office determines that the Contractor has failed to document Good Faith Efforts.

(g) Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section III-A of this Appendix.

(h) Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, SUNY shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

7. Waivers.

(a) For Waiver Requests Contractor should use (Form 7557-114) – Waiver Request.

(b) If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver form documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete the University shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.

(c) If University, upon review of the MWBE Utilization Plan and updated Quarterly MWBE Contractor Compliance Reports determines that Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, the University may issue a notice of deficiency to the Contractor. The contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

8. Quarterly MWBE Contractor Compliance Report.

Contractor is required to submit a Quarterly MWBE Contractor Compliance Report (Form 7557-114) to the University by the 5th day following each end of quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.

9. GOALS. (a) GOALS FOR MINORITY AND WOMEN WORK FORCE PARTICIPATION.

(i) The University shall include relevant work force availability data, which is provided by the DMWBD, in all documents which solicit bids for State Contracts and shall make efforts to assist Contractors in utilizing such data to determine expected levels of participation for minority group members and women on State Contracts.

(ii) Contractor shall exert good faith efforts to achieve such goals for minority and women's participation. To successfully achieve such goals, the employment of minority group members and women by Contractor must be substantially uniform during the entire term of this State Contract. In addition, Contractor should not participate in the transfer of employees from one employer or project to another for the sole purpose of achieving goals for minority and women's participation.

(b) GOALS FOR MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES PARTICIPATION.

For all State Contracts in excess of \$25,000.00 whereby the University is committed to expend or does expend funds in return for labor, services including but not limited to legal, financial and other professional services, supplies, equipment, materials or a combination of the foregoing or all State Contracts in excess of \$100,000.00 whereby the University

Exhibit P – Product Pricing*
Prices to University and/or FSA
(These prices do not apply to Contracted Food Service Operators hired by FSA.)

Fountain Products:

University and/or FSA may purchase fountain syrups from Company at Company’s then-current national chain account prices, which are subject to change from time to time.

Bottle/Can Products:

Product	# of Units	2018 - 2019	2019 - 2020	2020 - 2021	2021 - 2022	2022 - 2023	2023 - 2024	2024 - 2025	2025 - 2026	2026 - 2027	2027 - 2028
12 OZ CAN - KO CSD & NCB	24	\$9.50	\$9.69	\$9.88	\$10.08	\$10.28	\$10.49	\$10.70	\$10.91	\$11.13	\$11.35
20 OZ PET - DASANI WATER	24	\$15.84	\$16.16	\$16.48	\$16.81	\$17.15	\$17.49	\$17.84	\$18.20	\$18.56	\$18.93
20 OZ PET - SPARKLING	24	\$22.96	\$23.42	\$23.89	\$24.37	\$24.86	\$25.36	\$25.87	\$26.39	\$26.92	\$27.46
7.5 OZ CAN - SPARKLING	24	\$7.50	\$7.65	\$7.80	\$7.96	\$8.12	\$8.28	\$8.45	\$8.62	\$8.79	\$8.97
16 OZ CAN - NOS	24	\$48.00	\$48.96	\$49.96	\$50.96	\$51.98	\$53.02	\$54.08	\$55.16	\$56.26	\$57.39
16 OZ CAN - MONSTER BRANDS	24	\$48.00	\$48.96	\$49.96	\$50.96	\$51.98	\$53.02	\$54.08	\$55.16	\$56.26	\$57.39
20 OZ PET - FUZE REFRESH	24	\$22.96	\$23.42	\$23.89	\$24.37	\$24.86	\$25.36	\$25.87	\$26.39	\$26.92	\$27.46
20 OZ PET - POWERADE	24	\$20.27	\$20.68	\$21.09	\$21.51	\$21.94	\$22.38	\$22.83	\$23.29	\$23.75	\$24.23
18.5 OZ PET - GOLD PEAK	24	\$30.24	\$30.84	\$31.46	\$32.08	\$32.72	\$33.38	\$34.04	\$34.72	\$35.42	\$36.12
16.9 OZ PET - HONEST TEA	24	\$34.08	\$34.76	\$35.46	\$36.16	\$36.88	\$37.62	\$38.38	\$39.14	\$39.92	\$40.72
20 OZ PET - MM REFRESHMENT	24	\$22.96	\$23.42	\$23.89	\$24.37	\$24.86	\$25.36	\$25.87	\$26.39	\$26.92	\$27.46
12 OZ PET - MMJTG	24	\$29.76	\$30.36	\$30.97	\$31.59	\$32.22	\$32.86	\$33.52	\$34.19	\$34.87	\$35.57
12 OZ PET - DASANI	24	\$11.76	\$12.00	\$12.24	\$12.48	\$12.73	\$12.98	\$13.24	\$13.50	\$13.77	\$14.05
20z PET Smartwater	24	\$26.64	\$27.17	\$27.71	\$28.26	\$28.83	\$29.41	\$30.00	\$30.60	\$31.21	\$31.83
1 Liter PET Smartwater	24	\$36.46	\$37.18	\$37.92	\$38.68	\$39.46	\$40.24	\$41.04	\$41.86	\$42.70	\$43.56
20 OZ PET Vitaminwater	24	\$25.68	\$26.19	\$26.71	\$27.24	\$27.78	\$28.34	\$28.91	\$29.49	\$30.08	\$30.68

*All prices are per standard physical case and exclusive of taxes, deposits, handling fees, and recycling fees. Bottler may increase prices if there is a significant (i) increase in a component of the cost of goods, manufacture or delivery of the Bottler Bottle/Can Beverages; (ii) increase in taxes, deposits and other government related fees; or (iii) marketplace changes introduced by new government regulation or changes in the law that negatively impact Bottler's costs.

EXHIBIT C

SIGNAGE AND ADVERTISING

Signage at Athletic Venues

Contractor will receive prominent year-round signage positions at all Stony Brook Athletic venues. Positions will include the following:

- Kenneth P. LaValle Stadium (football, soccer, lacrosse)
- Island Federal Credit Union Arena (basketball)
- Pritchard Gymnasium (volleyball)
- Joe Nathan Field (baseball)
- University Field (softball)
- University Pool (swimming & diving)

Product Placement

Mutually agreed upon Company Beverages will be strategically placed in the following locations with the goal of receiving the maximum earned media impressions from the partnership:

- Press conferences (bottled water; soft drink)

Print Advertising

- One (1) full-page advertisement in the souvenir game programs produced and distributed at all Stony Brook football games
- One (1) full-page advertisement in the souvenir game programs produced and distributed at all Stony Brook basketball games
- Logo recognition on all schedule cards and posters for all varsity sports programs

Radio Broadcast Exposure

Contractor will receive the following exposure on Stony Brook Athletics terrestrial radio broadcasts:

- Two (2) :30 commercials in all broadcasts of Stony Brook football, basketball and lacrosse
- Opening and closing billboards in all broadcasts

On-Site Activations

- Sponsor of "Seawolves Town" pre-game tailgate area outside of LaValle Stadium for all home football games. Temporary signage will be strategically placed in the footprint. Pouring rights partner will be recognized as the title sponsor in all marketing and promotion done by Stony Brook Athletics. Partner will also have the opportunity to activate in the space during any home football game.
- Contractor will receive a minimum of one (1) PA announcement with logo recognition on the video board (where applicable) at all home Stony Brook athletics regular season sporting events.
- Opportunity to sponsor one (1) in-game promotion at all home football and basketball games

Digital & Social Media

- Rotating banner advertisements on the Stony Brook Athletics web site (www.stonybrookathletics.com)
- Sponsor of weekly social media content on official Athletics pages Company's brand will appear on the graphics of each post and social handle will appear in the text.
- Retweets, likes and shares of any content posted by pouring rights partner related to its partnership of Stony Brook Athletics
- Opportunity to utilize any digital and/or social media channel to promote in-market retail promotions related to SBU Athletics.

EXHIBIT D

TICKETS AND HOSPITALITY

- Four (4) football season tickets for all regular season home football games in premium chair back seating section at LaValle Stadium
- Invitation to the suite level at LaValle Stadium during mutually agreed upon regular season home football games
- Four (4) men's basketball season tickets at Island FCU Arena for all regular season home games
- Four (4) hospitality passes to the Wolves Den for refreshments at Island FCU Arena for all regular season men's basketball home games
- Invitation to the suite level at Island FCU Arena during mutually agreed upon regular season men's home basketball games

EXHIBIT E

COCA-COLA NORTH AMERICA FOUNTAIN EQUIPMENT LEASE AGREEMENT

1. **LEASE AGREEMENT AND TERM.** The Coca-Cola Company, through its Coca-Cola North America division, ("Company") hereby leases to the account identified on the attached Sponsorship Agreement ("Lessee") all fountain beverage dispensing equipment provided to Lessee (the "Equipment"), subject to the terms and conditions set forth in this Lease Agreement. Each piece of Equipment is leased commencing on its installation date (the "Commencement Date"). If this Lease is terminated with respect to any piece of Equipment for any reason prior to 100 months from the Commencement Date for that piece of Equipment unless Lessee has terminated the Sponsorship Agreement for an uncured breach by Company or unless a concessionaire has assumed the Lease Agreement, Lessee will pay Company the actual cost of removal of that Equipment, as well as the unamortized portion of the costs of (i) installation, (ii) non-serialized parts (e.g., pumps, racks and regulators) and other ancillary equipment, (iii) remanufacturing, and (iv) standard shipping and handling charges. The terms of this Lease will continue in effect with respect to each piece of Equipment until the Equipment has been removed from Lessee's premises and will survive the expiration or termination of the Sponsorship Agreement. Company agrees that it will not charge Lessee for any removals or reinstallations of equipment removed and relocated due to remodeling on campus if Lessee agrees to store Company's equipment on campus until the equipment can be reinstalled in new locations.
2. **TITLE TO THE EQUIPMENT.** Title to the Equipment is, and will at all times remain, vested in Company. Lessee will have no right, title, or interest in or to the Equipment, except the right to quiet use of the Equipment in the ordinary course of its business as provided in this Lease. **THE PARTIES AGREE, AND LESSEE WARRANTS, THAT THE EQUIPMENT IS, AND WILL AT ALL TIMES REMAIN, PERSONAL PROPERTY OF COMPANY NOTWITHSTANDING THAT THE EQUIPMENT OR ANY PART THEREOF MAY NOW BE, OR HEREAFTER BECOME, IN ANY MANNER AFFIXED OR ATTACHED TO, OR EMBEDDED IN, OR PERMANENTLY RESTING UPON, REAL PROPERTY OR IMPROVEMENTS ON REAL PROPERTY**
3. **USE OF EQUIPMENT.** Lessee agrees that the Equipment will be used to dispense only Company Products.
4. **WARRANTY DISCLAIMER:** LESSEE ACKNOWLEDGES THAT COMPANY IS NOT A MANUFACTURER OF THE EQUIPMENT AND THAT COMPANY HAS MADE NO REPRESENTATIONS OF ANY NATURE WHATSOEVER PERTAINING TO THE EQUIPMENT OR ITS PERFORMANCE, WHETHER EXPRESS OR IMPLIED, INCLUDING (WITHOUT LIMITATION) ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER WARRANTIES RELATING TO THE DESIGN, CONDITION, QUALITY, CAPACITY, MATERIAL OR WORKMANSHIP OF THE EQUIPMENT OR ITS PERFORMANCE, OR ANY WARRANTY AGAINST INTERFERENCE OR INFRINGEMENT, OR ANY WARRANTY WITH RESPECT TO PATENT RIGHTS, IF ANY, PERTAINING TO THE EQUIPMENT. COMPANY SHALL NOT BE RESPONSIBLE FOR ANY LOSS OF PROFITS, INCIDENTAL OR CONSEQUENTIAL LOSSES RESULTING FROM THE DELIVERY, INSTALLATION, MAINTENANCE, OPERATIONS, SERVICE OR USE OF ANY EQUIPMENT OR OTHERWISE.
5. **MAINTENANCE AND REPAIRS.** Lessee's sole recourse against Company with respect to service provided by Company or its agents to the Equipment is that Company will correct any defective workmanship at no additional charge to Lessee, provided that Company is given prompt notification of any defective workmanship. Company shall not be otherwise liable for negligent acts or omissions committed in regard to maintenance or repair of the Equipment and Company assumes no responsibility for incidental, consequential or special damages occasioned by such negligent acts or omissions.
6. **RISK OF LOSS.** All risk of loss, including damage, theft or destruction, to each item of Equipment will be borne by Lessee. No such loss, damage, theft or destruction of Equipment, in whole or in part, will impair the obligations of Lessee under this Lease, all of which will continue in full force and effect.
7. **DEFAULT AND REMEDIES.** The failure of Lessee to comply with any provision of this Lease, and the failure of Lessee to remedy, cure, or remove such failure within ten (10) days after receipt of written notice thereof from Company shall constitute a "Default." Upon the occurrence of any Default or at any time thereafter, Company may terminate this Lease as to any or all items of Equipment, may enter Lessee's premises and retake possession of the Equipment at Lessee's expense, and will have all other remedies at law or in equity for breach of this Lease.
8. **LIQUIDATED DAMAGES.** If Lessee is unable or unwilling to return the Equipment to Company in good working order, normal usage wear and tear excepted, at the expiration or termination of the Lease, Lessee shall pay as liquidated damages the total of: (i) the value of Company's residual interest in the Equipment, plus (ii) all tax indemnities associated with the Equipment to which Company would have been entitled if Lessee had fully performed this Lease, plus (iii) costs, interest, and attorneys' fees incurred by Company due to Lessee's violation of Section 2 or its failure to return the Equipment to Company, minus (iv) any proceeds or offset from the release or sale of the Equipment by Company.
9. **OTHER TERMS.** Customer acknowledges and agrees to comply with all equipment manufacturers' specifications and product dispensing and preparation instructions and specifications. No failure by Company to exercise and no delay in exercising any of Company's rights hereunder will operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or of any other rights. **THIS LEASE WILL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.**

**EXHIBIT L
PROCUREMENT LOBBYING LAW**

FORM A

SUMMARY

**Policy and Procedure of the State University of New York
Relating to State Finance Law §§139-j and 139-k**

State Finance Law §§139-j and 139-k, enacted by Ch. 1 L. 2005, as amended by Ch. 596 L. 2005, effective January 1, 2006, regulate lobbying on government procurement, including procurements by State University to obtain commodities and services and to undertake real estate transactions.

Generally, the law restricts communications between a potential vendor or a person acting on behalf of the vendor, including its lobbyist, to communications with the officers and employees of the procuring agency designated in each solicitation to receive such communications. Further, the law prohibits a communication (a "Contact") which a reasonable person would infer as an attempt to unduly influence the award, denial or amendment of a contract. These restrictions apply to each contract in excess of \$15,000 during the "restricted period" (the time commencing with the earliest written notice of the proposed procurement and ending with the later of approval of the final contract by the agency, or, if applicable, the State Comptroller). The agency must record all Contacts, and, generally, must deny an award of contract to a vendor involved in a knowing and willful Contact. Each agency must develop guidelines and procedures regarding Contacts and procedures for the reporting and investigation of Contacts. The agency's procurement record must demonstrate compliance with these new requirements.

Accordingly, neither a potential vendor nor a person acting on behalf of the vendor should contact any individual at State University other than the person designated in this solicitation as State University's Designated Contact, nor attempt to unduly influence award of the contract. State University will make a record of all Contacts, and such records of Contact will become part of the procurement record for this solicitation. A determination that a vendor or a person acting on behalf of the vendor has made intentionally a Contact or provided inaccurate or incomplete information as to its past compliance with State Finance Law §§139-j and 139-k is likely to result in denial of the award of contract under this solicitation. Additional sanctions may apply.

A complete copy of the State University of New York Procurement Lobbying Policy and Procedure is available for review at http://www.suny.edu/sunypp/documents.cfm?doc_id=430.

EXHIBIT L

EXHIBIT L

FORM B

Affirmation with respect to State Finance Law §§139-j and 139-k

A complete copy of the State University of New York Procurement Lobbying Policy and Procedure is available for review at http://www.suny.edu/sunypp/documents.cfm?doc_id=430.

Procurement Description/ID No. STONY BROOK - FSA EXCLUSIVE BEVERAGE POURING RIGHT RFP

Offerer **AFFIRMS** that it has reviewed and understands the Policy and Procedure of the State University of New York, relating to State Finance Law §§139-j and 139-k, and agrees to comply with State University's procedure relating to Contacts with respect to this procurement.

Name of Offerer: LIBERTY COLA BEVERAGES LLC

Address: 725 EAST ERIE AVE.
PHILADELPHIA, PA 19134

Person Submitting Form:

Name: SCOTT BRENNAN

Title: ACCOUNT EXECUTIVE

EXHIBIT L

FORM C

Disclosure and Certification with respect to State Finance Law §§139-j and 139-k

Procurement Description/ID No. STONY BROOK - FSA EXCLUSIVE BEVERAGE POURING RIGHT RFP

1. Has a Governmental Entity, as defined in State Finance Law §139-j(1)(a), made a determination of non-responsibility with respect to the Offerer within the previous four years where such finding was due to a violation of State Finance Law §139-j or the intentional provision of false or incomplete information with respect to previous determinations of non-responsibility?

No
Yes

If yes, provide the following details:
Governmental Entity which made the finding: Date of finding:
Basis of finding:

2. Has a Governmental Entity terminated or withheld a procurement contract with the Offer because of violations of State Finance Law §139-j or the intentional provision of false or incomplete information with respect to previous determinations of non-responsibility?

No
Yes

If yes, identify the following:
Governmental Entity which terminated the contract: Date of contract termination or withholding:
Identify the related procurement contract:

Offerer CERTIFIES that all information provided by Offerer with respect to its compliance with State Finance Law §§139-j and 139-k is complete, true and accurate.

Name of Offerer: LIBERTY COCA-COLA BEVERAGES LLC

Address: 725 EAST ERIE AVE
PHILADELPHIA, PA 19134


Signature of Person Submitting Form: 
Name: SCOTT BRENNAN
Title: ACCOUNT EXECUTIVE
Date: 3/11/18

EXHIBIT L

Form D

State University of New York
Procurement Lobbying Law
Record of Contact

Procurement Information

AGENCY: FACULTY STUDENT ASSOC. (SUNY at STONY BROOK)
TO: DONNA KLINGEL (CONTRACT OFFICER)
FROM: LIBERTY COCA-COLA BEVERAGES (Vendor)
SUBJECT: Record of Contract under State Finance Law §139-k(4)
Procurement Description: STONY BROOK-FSA EXCLUSIVE BEVERAGE POURING RIGHTS RFP
RFP/IFB Contract # (if applicable): _____

Contact Information

Date(s) of Contact:

SUNY Contact Name: DONNA KLINGEL

Designated Contact: Non-designated Contact:

Name of Offerer Firm or Organization: LIBERTY COCA-COLA BEVERAGES LLC

Address: 725 EAST ERIE AVE.
PHILADELPHIA, PA 19134

Name of Person Contacting State University on behalf of Offerer:

SCOTT BRENNAN

Telephone Number: 347-564-3319

Place of Principal Employment: LIBERTY COCA-COLA BEVERAGES, 977 EAST 149TH ST.
BRONX, NY 10455

Occupation: ACCOUNT EXECUTIVE (SALES)

Person/Organization Making the Contact was:

The Offerer:

OR

Retained/Employed/Designated by or on behalf of the Offerer: _____

General description/content of the contact (multiple contacts), including form (e-mail, letter, conversation): E MAIL

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

You have selected the For-Profit Non-Construction questionnaire which may be printed and completed in this format or, for your convenience, may be completed online using the New York State VendRep System.

COMPLETION & CERTIFICATION

The person(s) completing the questionnaire must be knowledgeable about the vendor's business and operations. An owner or officer must certify the questionnaire and the signature must be notarized.

NEW YORK STATE VENDOR IDENTIFICATION NUMBER (VENDOR ID)

The Vendor ID is a ten-digit identifier issued by New York State when the vendor is registered on the Statewide Vendor File. This number must now be included on the questionnaire. If the business entity has not obtained a Vendor ID, contact the IT Service Desk at ITServiceDesk@osc.state.ny.us or call 866-370-4672.

DEFINITIONS

All underlined terms are defined in the "New York State Vendor Responsibility Definitions List," found at www.osc.state.ny.us/vendrep/documents/questionnaire/definitions.pdf. These terms may not have their ordinary, common or traditional meanings. Each vendor is strongly encouraged to read the respective definitions for any and all underlined terms. By submitting this questionnaire, the vendor agrees to be bound by the terms as defined in the "New York State Vendor Responsibility Definitions List" existing at the time of certification.

RESPONSES

Every question must be answered. Each response must provide all relevant information which can be obtained within the limits of the law. However, information regarding a determination or finding made in error which was subsequently corrected is not required. Individuals and Sole Proprietors may use a Social Security Number but are encouraged to obtain and use a federal Employer Identification Number (EIN).

REPORTING ENTITY

Each vendor must indicate if the questionnaire is filed on behalf of the entire Legal Business Entity or an Organizational Unit within or operating under the authority of the Legal Business Entity and having the same EIN. Generally, the Organizational Unit option may be appropriate for a vendor that meets the definition of "Reporting Entity" but due to the size and complexity of the Legal Business Entity, is best able to provide the required information for the Organizational Unit, while providing more limited information for other parts of the Legal Business Entity and Associated Entities.

ASSOCIATED ENTITY

An Associated Entity is one that owns or controls the Reporting Entity or any entity owned or controlled by the Reporting Entity. However, the term Associated Entity does **not** include "sibling organizations" (i.e., entities owned or controlled by a parent company that owns or controls the Reporting Entity), unless such sibling entity has a direct relationship with or impact on the Reporting Entity.

STRUCTURE OF THE QUESTIONNAIRE

The questionnaire is organized into eleven sections. Section I is to be completed for the Legal Business Entity. Section II requires the vendor to specify the Reporting Entity for the questionnaire. Section III refers to the individuals of the Reporting Entity, while Sections IV-VIII require information about the Reporting Entity. Section IX pertains to any Associated Entities, with one question about their Officials/Owners. Section X relates to disclosure under the Freedom of Information Law (FOIL). Section XI requires an authorized contact for the questionnaire information.

NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY

I. LEGAL BUSINESS ENTITY INFORMATION			
Legal Business Entity Name*		EIN	
<u>LIBERTY COCA-COLA BEVERAGES LLC</u>		[REDACTED]	
Address of the Principal Place of Business (street, city, state, zip code)		New York State Vendor Identification Number	
<u>725 EAST ERIE AVE.</u>			
<u>PHILADELPHIA, PA 19134</u>		Telephone	Fax
		<u>347-564-3319</u>	
Email	Website		
<u>SCBRENNAN@LIBERTYCOKE.COM</u>	_____		
Additional Legal Business Entity Identities: If applicable, list any other <u>DBA</u> , <u>Trade Name</u> , <u>Former Name</u> , <u>Other Identity</u> , or <u>EIN</u> used in the last five (5) years and the status (active or inactive).			
Type	Name	EIN	Status
1.0 <u>Legal Business Entity</u> Type – Check appropriate box and provide additional information:			
<input type="checkbox"/> Corporation (including PC)	Date of Incorporation		
<input checked="" type="checkbox"/> Limited Liability Company (LLC or PLLC)	Date of Organization <u>5/3/17</u>		
<input type="checkbox"/> Partnership (including LLP, LP or General)	Date of Registration or Establishment		
<input type="checkbox"/> Sole Proprietor	How many years in business?		
<input type="checkbox"/> Other	Date Established		
If Other, explain:			
1.1 Was the <u>Legal Business Entity</u> formed or incorporated in New York State?			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "No," indicate jurisdiction where <u>Legal Business Entity</u> was formed or incorporated and attach a <u>Certificate of Good Standing</u> from the applicable jurisdiction or provide an explanation if a <u>Certificate of Good Standing</u> is not available.			
<input checked="" type="checkbox"/> United States	State	<u>DELAWARE</u>	
<input type="checkbox"/> Other	Country	_____	
Explain, if not available:			
1.2 Is the <u>Legal Business Entity</u> publicly traded?			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes," provide <u>CIK Code</u> or Ticker Symbol			
1.3 Does the <u>Legal Business Entity</u> have a <u>DUNS</u> Number?			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," Enter <u>DUNS</u> Number <u>08-071-2448</u>			

*All underlined terms are defined in the "New York State Vendor Responsibility Definitions List," which can be found at www.osc.state.ny.us/vendrep/documents/questionnaire/definitions.pdf.

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

I. LEGAL BUSINESS ENTITY INFORMATION		
1.4 If the <u>Legal Business Entity's Principal Place of Business</u> is not in New York State, does the <u>Legal Business Entity</u> maintain an office in New York State? (Select "N/A," if <u>Principal Place of Business</u> is in New York State.)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
If "Yes," provide the address and telephone number for one office located in New York State.		
<i>977 EAST 149TH ST. BRONX, NY 10453 347-564-3319</i>		
1.5 Is the <u>Legal Business Entity</u> a New York State certified <u>Minority-Owned Business Enterprise (MBE)</u> , <u>Women-Owned Business Enterprise (WBE)</u> , <u>New York State Small Business (SB)</u> or a federally certified <u>Disadvantaged Business Enterprise (DBE)</u> ? If "Yes," check all that apply: <input type="checkbox"/> New York State certified <u>Minority-Owned Business Enterprise (MBE)</u> <input type="checkbox"/> New York State certified <u>Women-Owned Business Enterprise (WBE)</u> <input type="checkbox"/> New York State <u>Small Business (SB)</u> <input type="checkbox"/> Federally certified <u>Disadvantaged Business Enterprise (DBE)</u>	<input type="checkbox"/> Yes - <input checked="" type="checkbox"/> No	
1.6 Identify <u>Officials and Principal Owners</u> , if applicable. For each person, include name, title and percentage of ownership. Attach additional pages if necessary. If applicable, reference to relevant SEC filing(s) containing the required information is optional.		
Name	Title	Percentage Ownership (Enter 0% if not applicable)
<i>FRANCIS MCGARRY</i>	<i>CEO + CO-OWNER</i>	<i>50%</i>
<i>PAUL MULLIGAN</i>	<i>CEO + CO-OWNER</i>	<i>50%</i>

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

II. REPORTING ENTITY INFORMATION	
2.0 The <u>Reporting Entity</u> for this questionnaire is:	
Note: Select only one.	
<input checked="" type="checkbox"/> <u>Legal Business Entity</u>	
<i>Note: If selecting this option, "Reporting Entity" refers to the entire <u>Legal Business Entity</u> for the remainder of the questionnaire. (SKIP THE REMAINDER OF SECTION II AND PROCEED WITH SECTION III.)</i>	
<input type="checkbox"/> Organizational Unit within and operating under the authority of the Legal Business Entity	
SEE DEFINITIONS OF " <u>REPORTING ENTITY</u> " AND " <u>ORGANIZATIONAL UNIT</u> " FOR ADDITIONAL INFORMATION ON CRITERIA TO QUALIFY FOR THIS SELECTION.	
<i>Note: If selecting this option, "Reporting Entity" refers to the <u>Organizational Unit</u> within the <u>Legal Business Entity</u> for the remainder of the questionnaire. (COMPLETE THE REMAINDER OF SECTION II AND ALL REMAINING SECTIONS OF THIS QUESTIONNAIRE.)</i>	
IDENTIFYING INFORMATION	
a) <u>Reporting Entity</u> Name	
Address of the <u>Primary Place of Business</u> (street, city, state, zip code)	Telephone ext.
b) Describe the relationship of the <u>Reporting Entity</u> to the <u>Legal Business Entity</u>	
c) Attach an <u>organizational chart</u>	
d) Does the Reporting Entity have a <u>DUNS</u> Number?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," enter <u>DUNS</u> Number	
e) Identify the designated manager(s) responsible for the business of the <u>Reporting Entity</u> . <i>For each person, include name and title. Attach additional pages if necessary.</i>	
Name	Title

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

INSTRUCTIONS FOR SECTIONS III THROUGH VII

For each "Yes," provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s). For each "Other," provide an explanation which provides the basis for not definitively responding "Yes" or "No." Provide the explanation at the end of the section or attach additional sheets with numbered responses, including the Reporting Entity name at the top of any attached pages.

III. LEADERSHIP INTEGRITY	
<i>Within the past five (5) years, has any current or former reporting entity official or any individual currently or formerly having the authority to sign, execute or approve bids, proposals, contracts or supporting documentation on behalf of the reporting entity with any government entity been:</i>	
3.0 <u>Sanctioned</u> relative to any business or professional permit and/or license?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other
3.1 <u>Suspended, debarred, or disqualified</u> from any government contracting process?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other
3.2 The subject of an <u>investigation</u> , whether open or closed, by any <u>government entity</u> for a civil or criminal violation for any business-related conduct?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other
3.3 Charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a <u>judgment</u> for: a) Any business-related activity; or b) Any crime, whether or not business-related, the underlying conduct of which was related to truthfulness?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other
For each "Yes" or "Other" explain:	

IV. INTEGRITY – CONTRACT BIDDING	
<i>Within the past five (5) years, has the reporting entity:</i>	
4.0 Been <u>suspended</u> or <u>debarred</u> from any <u>government contracting process</u> or been <u>disqualified</u> on any government procurement, permit, license, concession, franchise or lease, including, but not limited to, <u>debarment</u> for a violation of New York State Workers' Compensation or Prevailing Wage laws or New York State Procurement Lobbying Law?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
4.1 Been subject to a denial or revocation of a government prequalification?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
4.2 Been denied a contract award or had a bid rejected based upon a <u>non-responsibility finding</u> by a <u>government entity</u> ?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
4.3 Had a low bid rejected on a <u>government contract</u> for failure to <u>make good faith efforts</u> on any <u>Minority-Owned Business Enterprise</u> , <u>Women-Owned Business Enterprise</u> or <u>Disadvantaged Business Enterprise</u> goal or <u>statutory affirmative action requirements</u> on a previously held contract?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
4.4 Agreed to a voluntary exclusion from bidding/contracting with a <u>government entity</u> ?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
4.5 Initiated a request to withdraw a bid submitted to a <u>government entity</u> in lieu of responding to an information request or subsequent to a formal request to appear before the <u>government entity</u> ?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
For each "Yes," explain:	

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

V. INTEGRITY – CONTRACT AWARD	
<i>Within the past five (5) years, has the reporting entity:</i>	
5.0 Been <u>suspended</u> , cancelled or <u>terminated for cause</u> on any <u>government contract</u> including, but not limited to, a <u>non-responsibility finding</u> ?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
5.1 Been subject to an <u>administrative proceeding</u> or civil action seeking specific performance or restitution in connection with any <u>government contract</u> ?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
5.2 Entered into a formal monitoring agreement as a condition of a contract award from a <u>government entity</u> ?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
For each "Yes," explain:	

VI. CERTIFICATIONS/LICENSES	
<i>Within the past five (5) years, has the reporting entity:</i>	
6.0 Had a revocation, <u>suspension</u> or <u>disbarment</u> of any business or professional permit and/or license?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
6.1 Had a denial, decertification, revocation or forfeiture of New York State certification of <u>Minority-Owned Business Enterprise</u> , <u>Women-Owned Business Enterprise</u> or federal certification of <u>Disadvantaged Business Enterprise</u> status for other than a change of ownership?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
For each "Yes," explain:	

VII. LEGAL PROCEEDINGS	
<i>Within the past five (5) years, has the reporting entity:</i>	
7.0 Been the subject of an <u>investigation</u> , whether open or closed, by any <u>government entity</u> for a civil or criminal violation?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
7.1 Been the subject of an indictment, grant of immunity, <u>judgment</u> or conviction (including entering into a plea bargain) for conduct constituting a crime?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
7.2 Received any OSHA citation and Notification of Penalty containing a violation classified as <u>serious</u> or <u>willful</u> ?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
7.3 Had a <u>government entity</u> find a willful prevailing wage or supplemental payment violation or any other willful violation of New York State Labor Law?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
7.4 Entered into a consent order with the New York State Department of Environmental Conservation, or received an enforcement determination by any <u>government entity</u> involving a violation of federal, state or local environmental laws?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
7.5 Other than previously disclosed: a) Been subject to fines or penalties imposed by <u>government entities</u> which in the aggregate total \$25,000 or more; or b) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any <u>government entity</u> ?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
For each "Yes," explain:	

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

VIII. FINANCIAL AND ORGANIZATIONAL CAPACITY	
8.0 Within the past five (5) years, has the <u>Reporting Entity</u> received any <u>formal unsatisfactory performance assessment(s)</u> from any <u>government entity</u> on any contract?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.1 Within the past five (5) years, has the <u>Reporting Entity</u> had any <u>liquidated damages</u> assessed over \$25,000?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), relevant dates, contracting party involved, the amount assessed and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.2 Within the past five (5) years, have any <u>liens</u> or <u>judgments</u> (not including UCC filings) over \$25,000 been filed against the <u>Reporting Entity</u> which remain undischarged?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), relevant dates, the Lien holder or Claimant's name(s), the amount of the <u>lien(s)</u> and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.3 In the last seven (7) years, has the <u>Reporting Entity</u> initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes," provide the bankruptcy chapter number, the court name and the docket number. Indicate the current status of the proceedings as "Initiated," "Pending" or "Closed." Provide answer below or attach additional sheets with numbered responses.	
8.4 During the past three (3) years, has the <u>Reporting Entity</u> failed to file or pay any tax returns required by <u>federal</u> , state or local tax laws?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes," provide the taxing jurisdiction, the type of tax, the liability year(s), the tax liability amount the <u>Reporting Entity</u> failed to file/pay and the current status of the tax liability. Provide answer below or attach additional sheets with numbered responses.	
8.5 During the past three (3) years, has the <u>Reporting Entity</u> failed to file or pay any New York State unemployment insurance returns?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes," provide the years the <u>Reporting Entity</u> failed to file/pay the insurance, explain the situation and any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.6 During the past three (3) years, has the <u>Reporting Entity</u> had any <u>government audit(s) completed</u> ?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
a) If "Yes," did any audit of the <u>Reporting Entity</u> identify any reported significant deficiencies in internal control, fraud, illegal acts, significant violations of provisions of contract or grant agreements, significant abuse or any <u>material disallowance</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes" to 8.6 a), provide an explanation of the issue(s), relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

IX. ASSOCIATED ENTITIES <i>This section pertains to any entity(ies) that either controls or is controlled by the <u>reporting entity</u>. (See definition of "<u>associated entity</u>" for additional information to complete this section.)</i>	
9.0 Does the <u>Reporting Entity</u> have any <u>Associated Entities</u> ? Note: All questions in this section must be answered if the <u>Reporting Entity</u> is either: - An <u>Organizational Unit</u> ; or - The entire <u>Legal Business Entity</u> which controls, or is controlled by, any other entity(ies). If "No," SKIP THE REMAINDER OF SECTION IX AND PROCEED WITH SECTION X.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
9.1 Within the past five (5) years, has any <u>Associated Entity Official</u> or <u>Principal Owner</u> been charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a <u>judgment</u> for: a) Any business-related activity; or b) Any crime, whether or not business-related, the underlying conduct of which was related to truthfulness?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), the individual involved, his/her title and role in the <u>Associated Entity</u> , his/her relationship to the <u>Reporting Entity</u> , relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s).	
9.2 Does any <u>Associated Entity</u> have any currently undischarged <u>federal</u> , New York State, New York City or New York local government <u>liens</u> or <u>judgments</u> (not including UCC filings) over \$50,000?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide an explanation of the issue(s), identify the <u>Associated Entity's</u> name(s), <u>EIN(s)</u> , primary business activity, relationship to the <u>Reporting Entity</u> , relevant dates, the <u>Lien holder</u> or <u>Claimant's</u> name(s), the amount of the <u>lien(s)</u> and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
9.3 Within the past five (5) years, has any <u>Associated Entity</u> :	
a) Been <u>disqualified</u> , <u>suspended</u> or <u>debarred</u> from any <u>federal</u> , New York State, New York City or other New York local <u>government contracting process</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
b) Been denied a contract award or had a bid rejected based upon a <u>non-responsibility finding</u> by any <u>federal</u> , New York State, New York City, or New York local <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
c) Been <u>suspended</u> , <u>cancelled</u> or <u>terminated for cause</u> (including for <u>non-responsibility</u>) on any <u>federal</u> , New York State, New York City or New York local <u>government contract</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
d) Been the subject of an <u>investigation</u> , whether open or closed, by any <u>federal</u> , New York State, New York City, or New York local <u>government entity</u> for a civil or criminal violation with a penalty in excess of \$500,000?	<input type="checkbox"/> Yes <input type="checkbox"/> No
e) Been the subject of an indictment, grant of immunity, <u>judgment</u> , or conviction (including entering into a plea bargain) for conduct constituting a crime?	<input type="checkbox"/> Yes <input type="checkbox"/> No
f) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any <u>federal</u> , New York State, New York City, or New York local <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
g) Initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?	<input type="checkbox"/> Yes <input type="checkbox"/> No
For each "Yes," provide an explanation of the issue(s), identify the <u>Associated Entity's</u> name(s), <u>EIN(s)</u> , primary business activity, relationship to the <u>Reporting Entity</u> , relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

X. FREEDOM OF INFORMATION LAW (FOIL)	
10. Indicate whether any information supplied herein is believed to be exempt from disclosure under the Freedom of Information Law (FOIL). Note: A determination of whether such information is exempt from FOIL will be made at the time of any request for disclosure under FOIL.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes," indicate the question number(s) and explain the basis for the claim.	

XI. AUTHORIZED CONTACT FOR THIS QUESTIONNAIRE		
Name	Telephone	Fax
<i>SCOTT BRENNAN</i>	<i>347-564-3319</i> ext.	
Title	Email	
<i>ACCOUNT EXECUTIVE</i>	<i>SCBRENNAN@LIBERTYCOKE.COM</i>	


NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY

Certification

The undersigned: (1) recognizes that this questionnaire is submitted for the express purpose of assisting New York State government entities (including the Office of the State Comptroller (OSC)) in making responsibility determinations regarding award or approval of a contract or subcontract and that such government entities will rely on information disclosed in the questionnaire in making responsibility determinations; (2) acknowledges that the New York State government entities and OSC may, in their discretion, by means which they may choose, verify the truth and accuracy of all statements made herein; and (3) acknowledges that intentional submission of false or misleading information may result in criminal penalties under State and/or Federal Law, as well as a finding of non-responsibility, contract suspension or contract termination.

The undersigned certifies that he/she:

- is knowledgeable about the submitting Business Entity's business and operations;
- has read and understands all of the questions contained in the questionnaire;
- has not altered the content of the questionnaire in any manner;
- has reviewed and/or supplied full and complete responses to each question;
- to the best of his/her knowledge, information and belief, confirms that the Business Entity's responses are true, accurate and complete, including all attachments, if applicable;
- understands that New York State government entities will rely on the information disclosed in the questionnaire when entering into a contract with the Business Entity; and
- is under an obligation to update the information provided herein to include any material changes to the Business Entity's responses at the time of bid/proposal submission through the contract award notification, and may be required to update the information at the request of the New York State government entities or OSC prior to the award and/or approval of a contract, or during the term of the contract.

Signature of Owner/Official 

Printed Name of Signatory SCOTT BRENNAN

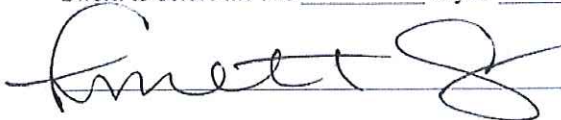
Title ACCOUNT EXECUTIVE

Name of Business LIBERTY COCA-COLA BEVERAGES LLC

Address 725 EAST ERIE AVE.

City, State, Zip PHILADELPHIA, PA 19134

Sworn to before me this 13 day of March, 2018;

 Notary Public

LISETTE APOLO
NOTARY PUBLIC-STATE OF NEW YORK
No. 01AP9619820
Qualified in Queens County
My Commission Expires 02-23-2019

Attachment 10 - Bidder Cover and Information Form

This Attachment must be submitted with the sealed bid proposal

BIDDER COMPANY NAME: Liberty Coca-Cola Beverages LLC

FEDERAL ID# [REDACTED]

The undersigned Bidder declares that the enclosed bid proposal for Exclusive Beverage – Pouring Rights at Stony Brook University is in all respects fair and in good faith without collusion or fraud.

The Bidder declares that it has examined the RFP, related materials about the Exclusive Beverage – Pouring Rights program, and the physical locations, and is fully informed of all conditions related to the services to be provided.

The Bidder declares that it agrees to all provisions of the RFP and that all such provisions will be part of the Exclusive Beverage – Pouring Rights Agreement, if the enclosed bid proposal is accepted, unless Bidder has specifically and prominently described specific exceptions in this bid proposal.

The Bidder agrees, if this bid proposal is accepted, to contract with FSA to furnish all necessary services, materials, labor and incidentals necessary to perform the services under the conditions defined in the RFP, the Bidder's proposal, and other Contract Documents.

Full names and residences of partners of the chief executive officer and the chief financial officer of the firm submitting this bid proposal:

Fran McGorry: CEO & Co-Owner, 725 East Erie Ave., Philadelphia, PA 19134

Paul Mulligan: CEO & Co-Owner, 725 East Erie Ave., Philadelphia, PA 19134

Sheri Preston: CFO, 725 East Erie Ave., Philadelphia, PA 19134

Signed by the authorized representative of bidder:

Print Name: Scott Brennan

Title: Account Executive

Signature: 

Date: 3/12/18

Attachment 11 - Proposed Staff Background Check Procedures

FSA and Stony Brook University are both committed to maintaining a safe and professionally managed services at all times. Our facilities welcome tens of thousands of people from the campus and general community every day and a great deal of time and effort has been invested in developing these resources and maintaining a welcoming and attractive community on campus.

The Exclusive Beverage, Pouring, Marketing, Vending Service Rights and Sponsorship contractor plays an important role in helping the University to continue to meet this important goal.

Please describe your process for conducting staff background checks that allow you to assure the University that your organization will be able to meet this goal. In particular, please explain how your process helps to identify issues that address staff concerns related to: cash handling, working with minors, workplace conduct, property loss and personal safety:

All employees are requested to partake in a background check (facilitated by our vendor First Advantage) that will include the following prior to starting work at Liberty Coca Cola Beverages LLC:

- 1) Drug test
- 2) Criminal background Check
- 3) Employment verification
- 4) Education background verification

Depending upon the role- certain employees will be asked to take a physical to meet the needs of the role. Every employee goes through safety training as well as trained by a supervisor to make sure they can safely and effectively meet the needs of the business in the role they have been chosen for with our company. Liberty is also currently working with a specialized Safety consulting group, the Graham Group to analyze our organization and determine where there may be additional opportunities to ensure we can be a top tier organization in this area.

Proposed Training for Safety Designated Equipment and Processes

FSA and Stony Brook University are both committed to maintaining a safe and professionally managed beverage service at all times. Our facilities welcome tens of thousands of people from the campus and general community every day and a great deal of time and effort has been invested in developing these resources and maintaining a safe, welcoming and attractive community on campus.

The Exclusive Beverage, Pouring, Marketing, Vending Service Rights and Sponsorship contractor plays an important role in helping the University to continue to meet this important goal.

- 1. Please describe your general protocols on staff training on the proper use and operation of beverage equipment. The response should demonstrate best practices and standards related to the sanitary health code, OSHA and ADA. (You may attach examples of any internal documents and tools used in implementing your procedures.)**

Please see attached file

Coca-Cola freestyle Daily Cleaning Procedure

Equipment Required (per dispenser to be cleaned)

- Clean 5 gallon bucket (at least one)
- Kay S Sanitizer - 1 gal. solution
- Detergent cleanser
- 2 sanitary cleaning cloths
- Parts brush #39442 for cleaning dispenser parts
- Thick bristle nozzle brush #32807 for cleaning inner nozzle
- 1 wire-handled nozzle brush #36380 for cleaning inner nozzle
- 1 1/4" drain brush #28075 for cleaning drain



Step 1 Remove Parts to Be Cleaned Separately

- Nozzle tip
- Cup rest
- Drain spider
- Take all removed parts to the cleaning area



Step 2 Clean and Sanitize Removed Parts

- Wash hands in designated hand wash sink.
- Prepare area to wash, rinse, sanitize, and air dry.
- One sink for washing parts with warm water and detergent cleanser
- One sink with warm water for rinsing
- One sink or medium 25 gallon size bucket with approved chlorine sanitizer mix prepared according to label instructions (Kay S Sanitizer is recommended for Coca-Cola Freestyle)
- Wash, then rinse removed parts.
- After rinse, place each part in the detergent sink, and clean each part with parts brush.
- After scrubbing, rinse off detergent with warm water.
- Place each part in the sanitizer mix for two minutes, ensuring each is fully submerged.
- Remove the parts from the sanitizer and place on a sanitary surface to air dry for several minutes (keep the remainder of the sanitizer solution for cleaning brushes).



Step 3 Clean, then Sanitize the Dispenser Elipose Area and Ice Lever

- Use one gallon of fresh Kay S solution, prepared according to label instructions.
- Use the two nozzle brushes, dipped in the solution, to thoroughly clean the inside of the nozzle capillary ring and inner body until visibly clean.
- Use a sanitary cleaning cloth, dipped in the solution, to thoroughly wash the Elipose area around and behind the nozzle, the ice chute exit area, and the ice lever until visibly clean.
- Use drain brush and cleaning cloth to thoroughly clean the drip tray area and drain until visibly clean.
- Once cleaning is completed, pour the remaining solution slowly down the drain.
- Take all brushes and dip them in the remainder of the solution used in Step 2, and discard remainder.



Step 4 Now that parts are clean, sanitize them by repeating Step 2 with fresh solution.

Step 5 Re-install sanitized nozzle tip and cup rest. Use gloves or sanitary cloth to install nozzle tip.

For Questions Call 1-800-241-COKE (2655)