

HARDIN COUNTY BOARD OF EDUCATION
65 W A Jenkins Rd
Elizabethtown, KY 42701

INVITATION TO BID
BEVERAGE AGREEMENT

The Hardin County Board of Education will receive sealed proposals for the services listed herein. You are invited to submit a sealed proposal, subject to the terms and conditions of this request.

Please read the instructions and specifications carefully. Failure to comply with these instructions may disqualify your bid.

Each bid must be in a sealed envelope marked "BEVERAGE AGREEMENT", in the lower left-hand corner of the envelope. The name and address of the Vendor shall appear in the upper left-hand corner. Bids shall be mailed to the address above and sent to attention: Director of Finance.

All bids must be received by 10 am Eastern Standard Time (EST), Wednesday, July 31, 2024, and none will be considered thereafter. The Board of Education cannot assume the responsibility for any delay as a result of failure of the mail to deliver the bids on time.

A representative may be present at opening of proposals on 07/31/2024 at 10:15 am, although this is not required.

The Board will formally award the winner of the Beverage Proposal at the regular meeting on August 15, 2024, at 6:00 p.m. or as soon thereafter as the business of the Board of Directors permits.

CLARIFICATIONS

For clarification or additional information relative to this agreement, please contact Jessica Annis at (270) 769-8816 or jessica.annis@hardin.kyschools.us

Please do not contact Board Members. Any unauthorized contact with any official or employee in connection with this Beverage Agreement is prohibited and may be cause for disqualification of the bidder/vendor.

SECTION 1 – TERMS AND CONDITIONS

TERM (Term) AND RENEWAL OPTIONS

The term of this Beverage Agreement (*Agreement*) between the Hardin County School District (*District*) and the *Vendor* shall be for a period of (5) five-years. Upon expiration of the Term, the Vendor and the District has the option to renew the Agreement upon terms and conditions set forth herein for (1) one additional two-year period upon mutual written consent. Written consent to renew the Agreement shall be provided within (30) thirty-days of receipt of a request. Failure to respond within (30) thirty-days upon receipt of request to renew shall be deemed a rejection, unless a mutual agreement is reached otherwise. When fully executed, the Agreement will constitute a binding obligation of both, the Vendor and the District, until expiration or termination.

All terms and conditions stated in the original Agreement will remain the same unless otherwise agreed upon by the Hardin County Board of Education (*Board*).

SECTION 2 – SCOPE OF SERVICES

This Agreement is for Full Service vending at all school locations and Self-Service for all school functions including booster concessions and middle and high school cafeterias.

Beverages shall be defined as any and all non-alcoholic drinks. This excludes milk, hot beverages, teas brewed on the premises, juice that is a menu item as part of the school breakfast and lunch programs, and any other beverage that is sold by the school district's food service program. This includes bottled, canned and fountain beverages.

Brands shall mean any and all beverages sold and distributed by the Vendor and any and all beverages that the Vendor may sell or distribute in the future, including but not limited to, carbonated soft drinks, non-carbonated soft drinks, juices, juice containing beverages, bottled teas, sports or isotonic drinks, bottled waters, and bottled coffees.

Premises to be serviced encompass all locations owned, operated, controlled leased, or utilized by the District, including each and every vending location, special events, concession vending areas, and all other locations that become operational during the Term of this Agreement, with any exceptions noted in the Agreement.

SECTION 3 - SPECIFICATIONS

As part of the Agreement, the district shall designate the Vendor through its brands, as the sole, exclusive, and official beverage supplier, distributor, and advertiser of the district and its premises.

Vendor shall be responsible for supplying and installing all vending equipment necessary for prompt and quality service of its products. Such equipment shall be maintained by and remain the property of Vendor. All vending equipment will be new or refurbished like new and state-of-the-art and remain in that condition throughout the Term of the Agreement.

All vending machines must be energy efficient, without lights and must be equipped with casters to facilitate maintenance requirements as well as internal timers to meet federal and state requirements. The number of machines, container sizes and variety of drinks/beverages shall be determined by the school location administrator.

Vendor will fill all vending machines, maintain and collect all monies from machines at District locations as needed.

All offerings must comply with Kentucky Statute 702 KAR 6:090 and any/all State of Kentucky School Food Service Requirements.

Vendor will provide a Full Service 13 Period Calendar to customer upon awarded bid.

Delivery Days for all Full Service and non-Full Service to be set after bid is awarded.

All rebates on all non-Full-Service cases to be paid annually.

Product deliveries are typically made 48 to 72 hours after order is placed.

Vendor's machines shall be set on timers according to ABA and State beverage requirements.

Vendor is required to provide the District with volume reports upon request.

Vendor's FSV Driver will provide refunds as needed with notice on delivery days.

Vendor shall not supply snack Vendors, or supply snacks or fill snack machines.

Vendor is prohibited from vending milk products for other Vendors.

Vendor shall follow all state and ABA Beverage requirements.

All Full-Service Commissions are to be paid minus state sales tax. State sales tax will be deducted from all commissions paid.

The Board/District cannot be held responsible for individual acts that lead to the consumption of beverages on its premises that are not related to the products of the Vendor. For example, an

employee may bring from home and drink for lunch a beverage that is distributed by the Vendor's competitor.

All payments made and value given to the District shall be deemed to have earned equally over the entire Term, regardless of the date of actual payment, except in the case of a deliberate act by the Vendor that causes it to be in the District's best interests to terminate the Agreement. In the event the Agreement is terminated prior to the end of the term, the District shall allow the Vendor access to the premises for not less than (60) sixty days to take possession of each and every piece of the Vendor's equipment without claim of trespass. The district also agrees to return to the Vendor on a prorated basis all monetary amounts paid to but not earned by the district. Contemporaneously, the district and Vendor shall agree to make every commercially reasonable effort to reconcile any differences that may arise.

The Vendor shall also be afforded space in a prominent position for exclusive Brand Identification at various locations on the premises, including but not limited to, menu and message boards, as mutually agreed upon by representatives of the District and Vendor, prior to commencement of this Agreement. The Vendor is responsible for purchasing and installing such signage, subject to the approval of the Board. The Board also agrees that it will be responsible for policing those locations in the immediate vicinity of the premises under its control to ensure that areas assigned for Brand Identification are maintained. Furthermore, it will be the responsibility of the Board to prohibit the placement of any and all advertising or promotional materials of any beverages that compete with or are the same as or similar to the Vendor's brands at all areas on the premises.

Vendor acknowledges that the District must participate in and abide by the rules of all government programs, including but not limited to, those applicable to school lunch and breakfast programs. As a result, such rules may subsequently override the Terms of the Agreement between the District and the Vendor, in which case both parties agree to make the necessary adjustments to keep the District in compliance with said rules.

Vendor, shall adhere to all mandates of the State Board of Education, now and in the future.

The Vendor shall provide the District at least an annual report showing the volume of beverages purchased by each machine and the volume of beverages delivered to the various locations as part of the Full-Service vending program.

The Board shall retain the right to purchase Vendor's brands from retail or wholesale sources other than the Vendor.

Vendor must certify that a criminal history background check has been performed on all employees that may encounter Hardin County Public School District students. Employees with the following offenses will not be permitted to have any contact with the District's students:

SECTION 5 - EXCLUSIVE BEVERAGE AVAILABILITY RIGHTS

The District grants the Vendor the following exclusive beverage availability rights:

1. Vendor shall have the exclusive right to make the beverages available for sale and distribution at the facilities, including the right to provide all beverages sold at special events. Subject to the Terms and Conditions set forth in this Agreement, the District agrees that products shall be the exclusive beverages sold, dispensed, served or made available at the facilities.
2. The District shall purchase, and shall require that all concessionaires, food Service operators, booster clubs, or other third parties selling beverages at the facilities purchase all products, cups, lids and carbon dioxide directly from the Vendor.
3. The District agrees to comply with Vendor's School Policy, as specified in Exhibit C. The district agrees that it shall at all times during the Term comply with the School Policy and shall cease any designated Food Service Operator to comply with the School Policy, including applicable beverage type, size and timing requirements/restrictions. Failure to comply with the School Policy, on the part of the District's food service operator, shall be a material breach of this Agreement.
4. The district shall permit the Vendor, its employees, agents and representatives, during normal school hours, to enter the facilities for purposes of servicing and stocking the equipment, and verifying the customer's compliance with the School Policy.

SECTION 6 - PRICING

Products sold through vending machines. The price for products sold from vending machines shall be determined upon renewal of Agreement.

1. Pricing for products purchased by the District's Schools, its designated food service operator or any other party from the Vendor for sale at the facilities shall be acknowledged and agreed upon in writing. Such pricing will be available for the Term of this Agreement.

SECTION 7 - COMMISSIONS:

Vendor shall provide the District with commissions, as a percentage of the actual cash ("cash in bag or CIB") collected by the Vendor from the vending machines placed at the facilities, less any applicable government-imposed taxes/fees and deposits as applicable. Such Commissions shall be at the rate(s) set forth below (the "Commission Rate") and shall be calculated as follows:

8 - CIB APPLICABLE TAXES/FEES/DEPOSITS * COMMISSION RATE=COMMISSION DUE

Products (or Comparable)	Minimum Vend Price* Example	Bid Price (Completed by Vendor)	Commission Rate** Example	Bid Commission rate (Completed by Vendor)
20 oz. CSD, Lipton & Brisk	\$ 1.25		25%	
20 oz. Aquafina Incl Splash	\$ 1.25		25%	
20 oz. Gatorade & G2	\$ 1.50		25%	
20 oz. Gatorade Propel	\$ 1.50		25%	
12 oz G2	\$ 1.25		25%	
12 oz Cans	\$.75		10%	
18 5 oz Pure Leaf	\$ 1.75		25%	
20 oz Sobe Life Water	\$ 1.75		25%	
20 oz Life WTR	\$ 1.75		25%	

*Vendor shall have the right to increase vend prices by \$0.25 in Year two (2). Such increase requires written acknowledgement and mutual agreement.

**** Commission Rates and Vend Prices for new Product will be mutually agreed upon by the Vendor and the District.**

SECTION 9 - COMMISSION PAYMENT

Vendor shall pay Commission to the District within (30) thirty days of the end of each 4-week accounting period established by the Vendor. Vendor shall make all pertinent revenue and sales records respecting the vending machines available to the District. Sequentially, the district agrees that it is responsible for reviewing such records and that any claim or dispute relating to the Commissions must be brought by the District in writing within (1) one year of the date such Commissions payment is due.

The District further acknowledges and agrees that it shall not receive any Commissions payment from the Vendor if Commissions fail to reach a certain threshold amount per period or quarter. The current threshold amounts are \$50 per four-week period or \$75 per quarter. The threshold may be revised by Vendor from time to time.

SECTION 10 - CHANGE TO COMMISSION RATE/FORMULA

The District agrees that the Vendor shall have the right to change the Commission Rate and/or its formula/method for calculating Commissions as may be required by applicable laws or as reasonably necessary to respond to legislative acts in order that the Commission Rate remains cost neutral.

SECTION 11 - REBATES

Each Year throughout the Term, the Vendor agrees to calculate the total applicable Cases of Packaged Products and applicable Gallons of Post mix (ready-made) Products purchased from Vendor by the District and its food service operator pursuant to this Agreement, and shall provide the District with rebates calculated based on applicable amounts set forth below (“Rebates”). The Rebates, if applicable, shall be paid by Vendor within (60) sixty days of the end of each applicable Year during the Term.

11A – REBATES PROVIDED BY VENDOR

Rebate Amount (vendor to complete)	Applicable Products (vendor to complete)

SECTION 12 - PRODUCT FREE OF CHARGE PROVIDED BY VENDOR

Vendor to Complete

SECTION 13 - TAXES

The District shall be responsible for payment of taxes, fees or other tax liability incurred as a result of this Agreement. In addition, Vendor shall be responsible only for the payment of taxes on the sales of products through vending machines. Vendor shall not be assessed common area maintenance fees, taxes or other charges based on its occupation of the space allocated to its equipment.

SECTION 14 - INDEMNIFICATION

Vendor will indemnify and hold the District harmless from any and all suits, actions, claims, demands, losses, costs, damages, liabilities, fines, expenses and penalties (excluding reasonable attorneys' fees) arising out of: (a) its breach of any term or condition of this Agreement; (b) product liability suits resulting from the use or consumption of products purchased directly from Vendor; and/or (c) the negligence or willful misconduct of Vendor (excluding claims arising out of the district's negligence or willful misconduct)

To the extent permitted by applicable law, the District will indemnify and hold Vendor, its subsidiaries, affiliates or assigns harmless from and against any and all suits, actions, claims, demands, losses, costs, damages, liabilities, fines, expenses and penalties (excluding reasonable attorneys' fees) arising out of: (a) its breach of any Term or Condition of this Agreement, including failure to comply with the School Policy; (b) the negligence and willful misconduct of the district (excluding claims arising from Vendor's negligence or willful misconduct).

SECTION 15 - FORCE MAJEURE

Vendor shall not be held responsible for any delay or lack of delivery resulting directly or indirectly from any foreign or domestic embargo, product detention, seizure, act of God, insurrection, war and or continuance or war, the passage of enactment of any law ordinance, regulation, ruling, or order interfering directly or indirectly with or rendering more burdensome the purchase, production, delivery or payment hereunder, including the lack of the usual means of transportation due to fire, flood, explosion, riot, strike or any other acts of nature or man that are beyond the control of Vendor or that of the suppliers to Vendor unless such contingency is specifically excluded in another part of this Agreement. This Agreement will be suspended as to both product and delivery during any of the above force majeure contingencies. Any and all suspended deliveries will resume after such contingencies cease to exist, if possible, and this Agreement will resume in accordance with its terms, unless otherwise mutually agreed.

SECTION 16 - RELATIONSHIP OF PARTIES

The parties are independent contractors with respect to each other. Nothing contained in this Agreement will be deemed or construed as creating a joint venture or partnership between the parties.

SECTION 17 - RETENTION OF RIGHTS

By virtue of this Agreement, the District shall not obtain any right, title or interest in the trademarks of the Vendor. Nor shall this Agreement give the District the right to use, refer to, or incorporate in marketing or other materials the name, logos, trademarks or copyrights of the Vendor.

SECTION 18 - NON-DISCLOSURE

Except as may otherwise be required by law or legal process, neither party shall disclose to unrelated third parties the terms and conditions of this Agreement without the consent of the other.

SECTION 19 - BREACH OF CONTRACT and TERMINATION

If the Agreement is terminated by the Vendor pursuant to Section 8(A) or (B) herein, Vendor shall, without prejudice to any other right or remedy available to them, obtain a reimbursement from the District or any unearned funding paid by Vendor to the District which remains unearned as of the time of termination. With regard to the initial support funds, the amount of such reimbursement shall be determined by multiplying the initial support funds by a fraction, the numerator of which is the number of months remaining in the Term at the time such termination occurs and the denominator of which is the total number of months within the Term. For example, a (5) five-year term is (60) sixty months. With respect to the Annual Sponsorship Fee, the amount of such reimbursement shall be determined by multiplying the Annual Sponsorship Fee paid in the year during which such termination occurs by a fraction, the numerator of which is the number of months remaining in such year at the time of such termination or limitation and the denominator of which is (12) twelve.

SECTION 20 – RIGHT TO REJECT

The District, reserves the right to reject any and all bids where the best interests of the Board may be served, including the right to award a contract without any further discussion or negotiation with anyone proposing these services. The District also reserves the right to reject any bid where evidence or information submitted by the Vendor does not satisfy the Board that the Vendor is qualified to carry out the details of the contract. The District may reject any bid

that is incomplete or in which there are significant inconsistencies or inaccuracies. The District reserves the right to reject any bid where an investigation and evaluation of the offerors and their qualifications would give reasonable doubt that the offeror could perform prompt and efficient completion of the work per the contract. The District reserves the right to request additional information as may reasonably be required for clarification, and to reject any bids for failure to provide additional information on a timely basis.

20A – GROUNDS FOR REJECTION

Grounds for the rejection of bids include, but shall not be limited to:

1. Failure of a bid to conform to the essential requirements of the RFP.
2. Submitting a bid, which does not conform, to the specifications contained or referenced in the RFP.
3. Submitting a bid imposing conditions, which would modify the terms and conditions of the RFP, or limit the offeror's liability to the Board on the contract awarded based on such RFP.
4. Submitting a bid determined by the Board in writing to be unreasonable as to price.
5. Bids received from Vendors determined not to be responsible offerors.
6. Bids received from Vendors determined not to be qualified based on current or on past performance on the District's projects.

SECTION 21– PENALTY FOR DEFAULT

In case of default by the Vendor, the District will follow procedures outlined in the Board's Model Procurement Regulations regarding termination for default, after which time the Board shall procure a substitute Vendor which shall operate under the remainder of the existing contract breached by the Vendor and they shall be liable for any and all excess costs incurred in the procurement of the substitute Vendor.

21A – SERVICES EVALUATION

If it is later established that said services fail to comply with these specifications and conditions, the contract will be canceled. This will be done only after the offeror has been furnished (in writing) concerns regarding questionable deficiencies, and the problems have not been resolved.

21B – MODEL PROCUREMENT STATUTES

Model Procurement Statutes adopted by the Board shall be deemed incorporated by reference in these specifications. Hardin County School District functions under the Model Procurement Code, Kentucky Revised Statutes 45A, which allows the school system to function by approved regulations. Copies of these regulations are available online at <http://www.lrc.ky.gov/statutes/chapter.aspx?id=37250> . It is the responsibility of the offeror to be familiar with these statutory requirements.

SECTION 22 - PROHIBITION AGAINST CONFLICT OF INTEREST, GRATUITIES AND KICKBACKS

Any employee or any official of the Hardin County Public School District Board of Education, Kentucky, elective or appointive, who shall take, receive, or offer to take or receive, either directly or indirectly, any rebate, percentage of contract, money, or other things of value, as an inducement or intended inducement, in the procurement of business, or the giving of business, for or to, or from, any person, partnership, firm or corporation, offering, bidding for, or in open market seeking to make sales to the Board of Education of Hardin County, Kentucky shall be deemed guilty of a felony and upon conviction such person or persons shall be punished by a fine not to exceed five thousand dollars (\$5000.00) or by imprisonment in the penitentiary for not less than one (1) year nor more than ten (10) years, or both, so fined and imprisoned at the discretion of the jury.

Every person, firm, or corporation offering to make, or pay, or give, any rebate, percentage of contract, money or any other thing of value, as an inducement, or intended inducement, in the procurement of business, or the giving of business, to any employee or to any official of the Hardin County Public School Board of Education, Kentucky, elective or appointive, in his efforts to bid for, or offer for sale, or to seek in the open market, shall be deemed guilty of a felony and shall be punished by a fine not to exceed five thousand dollars (\$5000.00) or by imprisonment in the penitentiary for not less than one (1) year nor more than ten (10) years, or both so fined and imprisoned at the discretion of the jury.

NOTE: It is a misdemeanor not to have this prohibition on every solicitation or contract document. The penalty is a \$5000.00 fine or one-year imprisonment or both on conviction

PROPOSAL FORM **CONFLICT OF INTEREST**

It shall be a breach of ethical standards for any employee with procurement authority to participate directly in any proceeding or application; request for ruling or other determination; claim or controversy; or other particular matter pertaining to any contract or subcontract, and any solicitation or bid therefore, in which to his knowledge:

- (a) He, or any member of his immediate family, has a financial interest herein: or
- (b) a business or organization which he or any member of his immediate family has a financial interest as an officer, director, trustee, partner or employee, is a party; or
- (c) any other person, business, or organization with whom he or any member of his immediate family is negotiating or had an arrangement concerning prospective employment is a party. Direct or indirect participation shall include, but not limited to, involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of a specification or purchase standard, rendering of advice, investigation, auditing or in any other advisory capacity.

It is a violation of Kentucky Law for any board member or employee, or a member either of their immediate family, to have a pecuniary interest directly or indirectly in an amount exceeding \$25.00 per year in any purchase of goods or services by the Board of Education or any school thereof. Violation of this provision subjects the board member or employee to forfeiture of their position and/or employment with the school system.

I, hereby, certify that no member of my immediate family is an employee or board member of the Hardin County Board of Education.

References: KRS 156.480, KRS 156.275, OAG 93-016, KRS 424.260

NAME OF VENDOR: _____

AUTHORIZED SIGNATURE: _____

PRINTED NAME: _____

DATE: _____

REQUIRED AFFIDAVIT FOR BIDDERS, OFFERORS AND CONTRACTORS
CLAIMING RESIDENT BIDDER STATUS

FOR BIDS AND CONTRACTS IN GENERAL:

The bidder or offeror hereby swears and affirms under penalty of perjury that, in accordance with KRS 45A.494(2), the entity bidding is an individual, partnership, association, corporation, or other business entity that, on the date the contract is first advertised or announced as available for bidding:

1. Is authorized to transact business in the Commonwealth;
2. Has for one year prior to and through the date of advertisement
 - a. Filed Kentucky corporate income taxes;
 - b. Made payments to the Kentucky unemployment insurance fund established in KRS 341.49; and
 - c. Maintained a Kentucky workers' compensation policy in effect.

The BIDDING AGENCY reserves the right to request documentation supporting a bidder's claim of resident bidder status. Failure to provide such documentation upon request shall result in disqualification of the bidder or contract termination.

(Signature) (Printed Name)

(Title) (Date)

Company Name: _____

Address: _____

Subscribed and sworn to before me by: _____

(Affiant) (Title)

of _____ this day of _____, 20____
(Company Name)

Notary Public
[seal of notary] My commission expires:

VENDOR _____

ADDRESS _____

CITY STATE ZIP _____

TELEPHONE _____

CELL PHONE _____

CONTACT PERSON _____

EMAIL ADDRESS _____

All information below must be included in the bid packet:

- Section 3C and 3D: Response to Bid (signed and completed)
- Section 3 E-G: Scoreboard Maintenance/Upgrade Options - Equipment – Extras (signed and completed)
- Proposal Form Conflict of Interest
- Required Affidavit for Bidders, VENDORS and Contractors Claiming Resident Bidder Status
- Beverage Bid Signature Sheet (this page)

(VENDOR)

(Date)

(Printed Name)

(Authorized Signature)

DEFINITIONS

Definitions

“Beverage” or “Beverages” means all carbonated and non-carbonated drinks, however dispensed, including but not limited to (1) colas and other flavored carbonated drinks; (2) fruit juice, fruit juice containing and fruit flavored drinks; (3) chilled coffee drinks; (4) chilled tea products; (5) hypertonic, isotonic and hypotonic drinks (sports drinks and fluid replacements); (6) energy drinks, (7) packaged carbonated or still water (including spring, mineral or purified, (8) liquid concentrate teas (“LCT”), (9) frozen carbonated and non-carbonated beverages (“FB”), and (10) any future categories of nonalcoholic beverage products that may be distributed by Vendor. Beverages do not include non-shelf-stable, non-flavored fluid milk as currently defined by the USDA (i.e., milk beverages containing at least 6.5% non-fat milk solids).

“Cases” means the number of cases of Packaged Products (as defined herein) purchased by the Customer from Vendor during the Term, initially delivered in quantities of 24 plastic bottles, aluminum cans, glass bottles (or equalized 24 pack cases, e.g., two 12-pack cases), eight 2-liter plastic bottles, or such other size, quantity and type of containers as Vendor may make available from time to time during the Term.

“Competitive Products” means any and all Beverages that are not Products (as defined herein).

“Equipment” means equipment loaned by Vendor to Customer to dispense, store or cool Products (as defined below), including: (1) full service vending machines (“Vending Machines”); (2) retail single-serve food service equipment and (3) fountain equipment, as more fully described in Section 7 herein.

“Facilities” means the entire premises of every school and facility owned or operated by the Customer, now or in the future, including with respect to each school, all academic buildings, athletic facilities, convenience stores, book stores, student operated stores, teachers’ lounges, and concession stands, parking lots, dining facilities, unbranded and branded food service outlets and vending areas. A list of current schools owned and operated by Hardin County Schools is set forth in Exhibit A attached hereto.

“Food Service Area” means all locations within the Facilities where meals, snacks and beverages are served or consumed or areas managed or operated by the Customer’s designated Food Service Operator.

“Food Service Operator” means the Customer or any third party that provides food, Beverage or vending services at the Facilities.

“Gallons” means the number of gallons of Postmix Products purchased by the Customer from Vendor.

“Packaged Products” means Beverages that are sold and/or distributed by Vendor in pre-packaged form (e.g., Bottles & Cans). A current list of Vendor’s Packaged Products is found in attached Exhibit B which may be amended from time to time by Vendor to include Beverages permitted pursuant to the then-current School Policy.

“Postmix Products” means beverage products sold and/or distributed by Vendor and used to create and dispense fountain Beverages. A current list of Vendor’s Post mix Products is found in attached Exhibit B which may be amended from time to time by Vendor to include Beverages permitted pursuant to the then-current School Policy.

“Products” means Postmix Products and Packaged Products manufactured, bottled, sold and/or distributed, now and in the future, by Vendor. A current list is attached hereto in Exhibit B.

“Special Events” means any athletic contests, booster club activities, and all other special events conducted at the Facilities where parents and other adults are a significant part of the audience.

“Year” means each 12-month period during the Term commencing on the first day of the Term or an anniversary thereof.