

Submit Bid to:

FLORIDA A&M UNIVERSITY

Office of Procurement Service

<https://famu.bonfirehub.com/portal/?tab=openOpportunities>

Tallahassee, Florida 32307-3200

Telephone Number: (850) 599-8013



# INVITATION TO NEGOTIATE

## Bidder Acknowledgement

Page 1 of Pages

**BIDS WILL BE OPENED:**

March 16, 2026 @ 2:00 p.m.

And may not be withdrawn within 90 days after such date and time.

RE: ITN NO. 0003-2025

Posting Date:  
01/13/2025

**NEGOTIATIONS TITLE:**

FLORIDA A&M UNIVERSITY POURING RIGHTS AND CAMPUS VENDING

FEDERAL EMPLOYER IDENTIFICATION NUMBER OR S.S. NUMBER:

VENDOR NAME

REASON FOR NO BID

VENDOR MAILING ADDRESS

**POSTING OF BID TABULATIONS**

Bid tabulations with recommended awards will be posted for review by interested parties on the Bonfire Website at <https://famu.bonfirehub.com/portal/?tab=openOpportunities> and will remain posted for 72 hours (excluding weekends and holidays). Failure to file a protest within the time prescribed in Section 120.57(3), Florida Statutes, and University Regulation 6.005 (9) (k) shall constitute a waiver of proceedings under Chapter 120, Florida Statutes.

CITY-STATE-ZIP

AREA CODE:

TELEPHONE NUMBER:

TOLL-FREE NUMBER:

*I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid for the same commodities/ services and is fair and without collusion or fraud. I agree to abide by all conditions of this proposal and certify that I am authorized to sign this bid for the bidder and that the bidder follows all requirements of the Invitation to Bid, including but not limited to certification requirements. In submitting a bid, the bidder offers and agrees that if the bid is accepted, the bidder will convey, sell, assign, or transfer to the FLORIDA A&M UNIVERSITY Board of Trustees all rights, title and interest in and to all causes of action it may now or hereafter acquire under the Anti-trust laws of the United States and the State of Florida for price fixing relating to the particular commodities or services purchased or acquired by FLORIDA A&M UNIVERSITY. At the University's discretion, such assignment shall be made and become effective when the University tenders the final payment to the proposer.*

\_\_\_\_\_  
AUTHORIZED SIGNATURE (MANUAL)

\_\_\_\_\_  
AUTHORIZED SIGNATURE (TYPED) & TITLE

### GENERAL CONDITIONS

**SEALED BIDS:** All bid sheets and this form must be executed and submitted via the Bonfire Website. Bids not submitted on the attached bid form shall be rejected. All bids are subject to the conditions specified herein. Those who do not comply with these conditions are subject to rejection.

4. EXECUTION OF BID: All Bids must contain this Acknowledgement Form with an original manual signature of the authorized representative in the space provided above. Bids must be typed or printed in ink. The use of erasable ink is not permitted. All corrections to prices made by the proposer must be initialed. The company name and F.E.I.D. or social security number shall appear on each pricing page of the proposal as required.

5. NO BID SUBMITTED: If not submitting a bid, respond by returning only this bidder acknowledgment form, marking it "NO BID," and explain the reason in the space provided above. Failure to respond to a procurement solicitation without justifiable reasons for such failure, non-conformance to contract conditions, or other pertinent factors deemed reasonable and valid shall be cause for removing the proposer's name from the proposal mailing list. NOTE: To qualify as a respondent, the proposer must submit a "NO BID", which must be received no later than the stated proposal opening date and hour.

6. BID OPENING: The date, location, and time specified on the acknowledgment form shall be public. The bidder is responsible for ensuring that its proposal is delivered at the proper time and place of the opening. Bids are not so delivered for any reason and will not be considered. Offers by telegram, telephone, or facsimile are not acceptable. Only the bid receipt and other generic administrative information may be announced and recorded on the bid opening date. The contents of the bids will be kept confidential for 30 calendar days or the date of award, whichever is sooner. NOTE: Bid tabulations will be posted on the University's website or furnished upon written request with an enclosed, self-addressed, stamped envelope. Bid tabulations will not be provided by telephone.

7. PRICES, TERMS, AND PAYMENT: Firm prices shall be bid and include all packing, handling, shipping charges, and delivery to any point within the University and the State of Florida.

a) SAFETY STANDARDS: Unless otherwise stipulated in the bid, all manufactured items and fabricated assemblies shall comply with applicable Occupational Safety and Health Act requirements and any standards.

8. TAXES: FLORIDA A&M UNIVERSITY, a public body corporate of the State of Florida, does not pay Federal Excise and Sales taxes on direct purchases of services. See the tax exemption number on the face of the purchase order or agreement form. This exemption does not apply to purchases of services in the performance of contracts to improve state-owned real property as defined in Chapter 192, Florida Statutes.

9. DISCOUNTS: Cash discount for prompt payment shall not be considered in determining the lowest net cost for proposal evaluation purposes.

1. MISTAKES: Bidders must examine the conditions, scope of work, proposal prices, extensions, and all instructions about the services involved. Failure to do so will be at the bidder's risk.

2. ANY AND ALL SPECIAL CONDITIONS AND SPECIFICATIONS ATTACHED HERETO THAT VARY FROM THE GENERAL CONDITIONS SHALL HAVE PRECEDENCE.

3. PAYMENTS: In the event the University owes payment to the Vendor, the University shall mail the Vendor's payment within forty (40) days after receipt of an acceptable invoice and receipt, and after inspection and acceptance of the goods, services or both, as provided by the terms and conditions of the applicable purchase order/agreement. Failure to make payments within 40 days shall result in the University paying interest under Section 55.03(1) Florida Statutes on the unpaid balance from the expiration of such 40-day period until the warrant is issued to the Vendor. The University has established a "Vendor Ombudsman". The duties of this individual include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment. The University's ombudsman may be contacted at (850) 599-2978.

a) Partial payment in the full amount of the value of the service received and accepted may be requested by submitting a properly executed invoice with supporting documents if required. Only one partial payment will be made per month.  
b) The Vendor agrees that bills and invoices for fees or other compensation for services or expenses shall cite the Purchase Order/Agreement Number and shall be submitted to the Controller in detail sufficient for a proper pre-audit and post-audit. Each bill or invoice must identify the services, portion of services, and expenses for which compensation is sought. Payment will be tendered only for services, or the portion of services completed before the bill or invoice, for costs incurred before such submission, or both.

c) The performance of the University of any of its obligations under this Agreement shall be subject to and contingent upon the availability of funds appropriated by the Legislature of the State of Florida, the obligation of funds by the prime funding agency, or otherwise lawfully expendable for this agreement for the current and future periods. The University shall notify the Vendor of the non-availability of such funds when the University knows such fact. Upon receipt of such notice by the Vendor, the Vendor shall be entitled to payment only for those services performed and expenses incurred before the date notice is received.

d) Invoices that must be returned to a Vendor because of Vendor preparation errors will delay the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the University.

10. CONFLICT OF INTEREST: The award hereunder is subject to the provisions of Chapter 112, F.S. All bidders must disclose with their bid the name of any officer, director, or agent who is also an employee of Florida A&M University or the State of Florida, or any of its agencies. Further, all bidders must disclose the name of any University or State employee who owns, directly or indirectly, an interest of five percent (5%) or more in the bidder's firm or any of its branches. No person or firm receiving a contract to perform a feasibility study of the potential implementation of a subsequent agreement, participating in the drafting of a solicitation or specifications, or developing a program for future implementation shall be eligible to contract with the agency for any contracts dealing with that specific subject matter. Bidders must disclose any such conflict of interest in their proposal.

11. AWARDS: As the best interest of the University may require, the right is reserved to reject any bids or waive any minor irregularity or technicality in bids received. Bidders are cautioned to make no assumptions unless their bid has been evaluated as responsive. All awards made as a result of this bid shall conform to applicable Florida Statutes.

12. INTERPRETATIONS/DISPUTES: Any questions concerning conditions and specifications shall be directed in writing to this office for receipt no later than ten (10) days before the proposal opening. Inquiries must reference the date of proposal opening and proposal number. No interpretation shall be considered binding unless provided in writing by FLORIDA A&M UNIVERSITY in response to requests in full compliance with this provision. Any person adversely affected by the University's decision or intended decision concerning a procurement solicitation or contract award and who wants to protest such decision or intended decision shall file a protest in compliance with University Regulation 6.005(9). Failure to file a protest within the time prescribed in Section 120.57(3), Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes.

13. GOVERNMENTAL RESTRICTIONS: In the event any governmental restrictions may be imposed which would necessitate alteration of the material quality of the services offered on this proposal before their completion, it shall be the responsibility of the successful proposer to notify the purchaser at once, indicating in his letter the specific regulation which required an alteration. The University reserves the right to accept any such alteration, including any price adjustments occasioned, or to cancel the contract at no further expense to the University.

14. DEFAULT: Failure to perform according to this bid and/or resulting contract shall cause your firm to be found in default, in which event any procurement costs may be charged against your firm. Any violations of these stipulations may also result in:  
a) The contractor's name is removed from the purchasing vendor mailing list.  
b) All state public entities are advised not to do business with the contractor without the University's written approval until the vendor reimburses the University for all procurement and cover costs.

15. LEGAL REQUIREMENTS: Applicable provision of all Federal, State, county, and local laws and all ordinances, rules, and regulations shall govern the development, submittal, and evaluation of all bids received in response hereto and shall govern any claims and disputes which may arise between the person(s) submitting a proposal response hereto and FLORIDA A&M UNIVERSITY and the FLORIDA A&M UNIVERSITY Board of Trustees, by and through its officers, employees and authorized representatives, or any other person, natural or otherwise; and lack of knowledge by any proposer shall not constitute a cognizable defense against the legal effect thereof.

16. ADVERTISING: In submitting a proposal, the proposer agrees not to use the results in commercial advertising.

17. ASSIGNMENT: Any Contract or Purchase Order issued under this Invitation to Bid and the monies which may become due hereunder are not assignable except with the prior written approval of the purchaser.

18. LIABILITY: On any contract resulting from this bid, the bidder shall hold and save the FLORIDA A&M UNIVERSITY Board of Trustees, FLORIDA A&M UNIVERSITY, and the State of Florida, its officers, agents, and employees harmless against claims by third parties resulting from the contractor's breach of this contract or the contractor's negligence. This requirement does not apply to contracts between governmental agencies.

19. FACILITIES: The University reserves the right to inspect the bidder's facilities at any time with prior notice.

20. DELIVERY: Unless the actual date is specified (or if specified, delivery cannot be met), show the number of days required to deliver after receipt of the purchase order in the space provided. Delivery time may become a basis for making an award (see Special Conditions). Delivery shall be Monday through Friday, 8:00 a.m. to 11:30 a.m. and 1:00p.m. to 4 p.m., excluding the State of Florida and the University's holidays, unless otherwise specified.

21. PUBLIC RECORDS: Any material submitted in response to this Invitation to Bid will become a public document under Section 119.07, F.S. This includes material the responding proposer might consider confidential or a trade secret. Any claim of confidentiality is waived upon submission, effective after opening, under Section 119.07, F.S.

22. INSPECTION, ACCEPTANCE, AND TITLE: Inspection and acceptance will be at the destination unless otherwise provided. Title and risk of loss or damage to all items

shall be the responsibility of the contract supplier until accepted by the University, unless loss or damage results from negligence by the University. The contract supplier shall fill, process, and collect all damage claims. However, to assist him in the expeditious handling of damage claims, the University will:

- a) Record any evidence of visible damage on all copies of the delivering carriers' Bill of Lading.
- b) Report damage (Visible and concealed) to the carrier and contract supplier, confirming such reports in writing within 15 days of delivery and requesting that the carrier inspect the damaged merchandise.
- c) Retain the item and its shipping container, including inner packing material, until The carrier performs inspection, and the contract supplier gives the disposition.
- d) Provide the contract supplier with a copy of the carrier's Bill of Lading and damage inspection report.

23. AS SPECIFIED: A purchase order may be issued to the successful bidder with the understanding that all materials and services rendered must meet the specifications herein. Any orders or contracts will be subject to immediate cancellation if the materials or services do not comply with the specifications stated herein or fail to meet the University's standards. Materials not in compliance will be returned for compliant material as specified at no additional cost to the University. Services rendered not as specified shall be completed as determined at no additional cost to the University.

24. BID PREPARATION: All costs associated with responding to this ITB are the Vendor's sole responsibility.

25. FORCE MAJEURE: No default, delay or failure to perform on the part of the contractor or the University shall be considered a default, delay or failure to perform otherwise chargeable, hereunder, if such default, delay or failure to perform is due to causes beyond either party's reasonable control including, but not limited to strikes, lockouts, or inactions of government authorities; epidemics; wars; embargoes; fire; earthquake; acts of God; default of common carrier. In the event of such default, delay, or failure to perform, any date or time by which either party is otherwise scheduled to perform shall be extended automatically for a time equal in duration to the time lost because of the excused default, delay, or failure to perform.

26. POLICIES AND RULES: All Vendor employees and their agents will govern their conduct in a professional business manner. Sexual harassment, discrimination, and/or any other behavior considered unprofessional, disruptive, or not conducive to the University environment or violating University policies will not be tolerated. Any vendor employee participating in unacceptable activities will not be allowed to continue performing. Chronic behavioral or conduct problems with vendor employees may result in the cancellation/termination of any agreement/purchase orders issued.

The Vendor, their employees, and agents shall be responsible for exercising extreme care and caution in the conduct of operations to ensure the safety and well-being of University personnel. Unsafe practices or the reckless endangerment of personnel may result in the cancellation/termination of any agreement/purchase orders issued. Any agreement/purchase orders issued to the Vendor do not protect nor relieve the Vendor of responsibility from any fines or other actions that may result from a violation.

27. PUBLIC ENTITY CRIME LAW: By FLORIDA A&M UNIVERSITY's Regulation 6.005(6), The University shall not accept a competitive solicitation from or purchase commodities or contractual services from a person or affiliate who has been convicted of a public entity crime and has been placed on the State of Florida's convicted vendor list for 36 months from the date of being added to the convicted vendor list.

28. NOTICE OF BID PROTEST BONDING REQUIREMENT: Any person who files an action protesting a decision or intended decision about contracts administered by a public entity under Section 120.57(3), F.S., shall file within 10 calendar days a formal written protest and post with the University at the time of filing a bond payable to FLORIDA A&M UNIVERSITY in an amount equal to 10 percent of the University's estimate of the total volume of the contract or \$10,000 whichever is less, which bond shall be conditioned upon the payment of all costs which may be adjudged against the Bidder in the administrative hearing in which the action is brought and in any subsequent appellate court proceeding. For protest of decisions or intended decisions of the University about requests for approval of extraordinary purchases, the bond shall be equal to 10 percent of the University's estimate of the contract amount for the exceptional purchase requested or \$10,000, whichever is less. Instead of a bond, FLORIDA A&M UNIVERSITY may, in either case, accept a cashier's check or money order in the bond amount. **FAILURE TO FILE THE PROPER BOND AT THE TIME OF FILING THE FORMAL PROTEST WILL RESULT IN A DENIAL OF THE PROTEST.**

# INVITATION TO NEGOTIATE

ITN No.: 0003-2025

## Florida A&M University Pouring Rights and Campus Beverage Vending

Refer ALL Inquiries to:

Office of Procurement Services  
Florida A&M University  
2380 Althea Gibson Way, Suite 214  
Tallahassee, FL 32307  
(850) 599-3203 (Office)  
(850) 561-2160 (Fax)

E-mail:

[procurement.officer@famuedu](mailto:procurement.officer@famuedu)

Bonfire Website:

<https://famuedu.bonfirehub.com/portal/?tab=openOpportunities>

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## **1.0 INTRODUCTION AND GENERAL INFORMATION**

### **1.1 INTRODUCTION AND GENERAL INFORMATION**

The Florida Agricultural and Mechanical University (FAMU) Board of Trustees, a public body corporate of the State of Florida, is soliciting written Replies from qualified Respondents to establish a term contract for exclusive pouring rights and beverage vending across FAMU campuses. FAMU intends to contract with the Respondent that provides the best overall value to the University based on the selection criteria, or as established by the negotiation team herein; however, FAMU reserves the right to make no award at its sole discretion.

FAMU seeks a Respondent to advance the University's goals and objectives outlined in the Scope of Work (Exhibit A).

FAMU, a historically Black public research university, was founded in 1887 and is recognized as the #1 public Historically Black College or University (HBCU) in the United States. Ranked #92 among public universities nationwide, FAMU has been the top public HBCU for seven consecutive years.

FAMU operates satellite and instructional sites to expand accessibility statewide, including:

- FAMU-FSU College of Engineering, a joint campus with Florida State University, is recognized nationally for its engineering programs.
- FAMU College of Law in Orlando, advancing legal education, equity, and justice in Central Florida.
- Brooksville Agricultural and Environmental Research Station (BAERS), focused on agricultural sustainability and research innovation.
- Jacksonville, Miami-Davie, Crestview, and Tampa satellite locations, supporting pharmacy, pharmaceutical sciences, and public health programs.

### **1.2 GOAL AND QUESTIONS TO BE EXPLORED**

The goal of this Contract is to establish a relationship with a beverage vendor for exclusive pouring and distribution rights at FAMU's campuses that maximizes FAMU's revenue sharing, enhances customer experience, and supports FAMU's strategic sustainability goals.

The questions to be explored as part of this ITN are as follows:

- What are the Respondent's operational, managerial, maintenance, and financial approaches to promote FAMU's goal?
- What are the beverage offerings and means of distribution for the Respondent?

### **1.3 TERM**

It is anticipated that the initial term of the Contract will commence on or about May 1, 2026, and will remain effective for a period of five (5) years thereafter. The Contract may be renewed for up to five (5) additional years in such increments as determined by FAMU. Renewals are contingent upon

satisfactory performance evaluations by FAMU. Renewal costs may not be charged. Any renewal or extension must be in writing and is subject to the same terms and conditions set forth in the Contract, and any written amendment signed by the parties thereto.

## **1.4 DEFINITIONS**

In addition to the definitions in Exhibit A, Scope of Work, the following definitions also apply to this ITN:

Best and Final Offer (“BAFO”)- A Respondent’s best and final offer made in the Negotiation Phase.

Respondent- an entity that submits a written Reply to this ITN.

Evaluation Team- at least three (3) persons who will independently evaluate Replies to the ITN and who collectively have experience and knowledge in the program areas and service requirements for the commodities and services sought.

Negotiation Team- at least three (3) persons selected by FAMU to conduct negotiations who have experience and knowledge in negotiating contracts, contract procurement, and the program areas and service requirements for the commodities and services sought.

Responsive Reply- means a Reply submitted by a responsive and responsible Respondent which conforms in all material respects to the ITN.

Responsive Respondent- means a Respondent that has submitted a Reply that conforms in all material respects to the ITN.

Responsible Respondent- means a Respondent who has the capability in all respects to fully perform the Contract requirements and the integrity and reliability that will assure good faith performance.

Customer- means anyone who utilizes the requested services and commodities, including but not limited to faculty, staff, students, and visitors.

Fiscal year- means the 12 months beginning July 1 and ending the following June 30.

University Procurement Officer- is the University’s single point of contact for Respondents responsible for overseeing the day-to-day operations of the ITN on behalf of the University.

University/FAMU- Florida A&M University, its employees, officers, and agents.

## **1.5 TIMELINE**

The anticipated timeline of events (“Timeline”) for this ITN is provided below. The dates and times within the Timeline are subject to change. Notices of changes (“Addenda”) will be posted on <https://famubonfirehub.com/portal/?tab=openOpportunities> (web link) under this ITN number. It is a Respondent’s responsibility to monitor this site for any changing information prior to submitting a Reply, as well as throughout the procurement process.

Date/Time	Action
1/13/2026	ITN Issued and Advertised
1/27/2026	Pre-reply Conference and Site Visit
2/10/2026	Deadline for Respondents to submit questions about the ITN  <b>Replies delivered after 4:00 p.m. EST or to any location other than the above address are subject to rejection without evaluation.</b>
3/3/2026	Replies due Bonfire Website: <a href="https://famubonfirehub.com/portal/?tab=openOpportunities">https://famubonfirehub.com/portal/?tab=openOpportunities</a>  <a href="mailto:procurement.officer@famuedu">procurement.officer@famuedu</a>
3/16/2026	<b>Public Opening of Replies at: Responses due by 2:00 p.m.</b>  Zoom: <a href="https://famuzoom.us/j/92692766357">https://famuzoom.us/j/92692766357</a>
3/23/2026	Negotiations (not open to the public)
4/6/2026	Posting of the Intended Award Decision

**1.6 SPECIAL ACCOMMODATIONS**

Any person requiring special accommodation due to a disability should contact the Procurement Office. Requests for accommodations must be submitted at least five (5) business days prior to the meeting for which assistance is required. A person who is hearing or speech impaired may contact the Procurement Officer by using the Florida Relay Services at: 1(800)955-8771 (TDD).

**2.0 SPECIAL CONDITIONS**

**2.1 W-9 REQUIREMENT**

All vendors who do business with FAMU must submit an electronic Substitute Form W-9. Vendors must submit their W-9 forms electronically at [purchasing@famuedu](mailto:purchasing@famuedu) to receive payments from FAMU.

**2.2 ADDENDA TO THE ITN**

FAMU reserves the right to make changes to this ITN by issuing Addenda. Any Addenda issued will be posted on website at <https://famubonfirehub.com/portal/?tab=openOpportunities> under this ITN number. It is a Respondent’s responsibility to monitor this site for any changing information prior to submitting its Reply, as well as throughout the procurement process. The only recognized changes to this ITN are those changes made through written Addenda issued by FAMU.

**2.3 MINORITY BUSINESS ENTERPRISE (MBE) UTILIZATION**

FAMU, in accordance with *Title VI of the Civil Rights Act of 1964, 42 USC 2000d- 2000d-4*, hereby

notifies all Respondents that FAMU will affirmatively ensure that in any Contract entered into pursuant to this ITN, minority and disadvantaged business enterprises will be afforded the full opportunity to submit Replies in response to this ITN and will not be discriminated against on the basis of race, color, national origin, or sex in consideration for an award.

FAMU encourages small, minority, women, and service-disabled veteran businesses to compete for FAMU contracts, both as a Respondent and as subcontractors. FAMU, its vendors, suppliers, and consultants should take all necessary and reasonable steps to ensure that small, minority, women, and service-disabled veteran businesses have the opportunity to compete for and perform contract work for FAMU in a nondiscriminatory environment. The Respondent shall indicate its intent regarding MBE participation in its Reply. The Respondent will be asked to submit payment certification for MBE subcontractors used.

To request certification or to locate certified MBEs, contact the Office of Supplier Diversity, Department of Management Services at (850) 487-0915, or access their MBE directory on the Internet at [https://www.dms.myflorida.com/agency\\_administration/office\\_of\\_supplier\\_diversity\\_osd](https://www.dms.myflorida.com/agency_administration/office_of_supplier_diversity_osd).

## **2.4 CONVICTED VENDOR LIST**

Pursuant to Section 287.133(2)(a), Florida Statutes, a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for Category Two (currently \$35,000), for a period of thirty-six (36) months following the date of being placed on the convicted vendor list.

## **2.5 PROHIBITION AGAINST CONSIDERING SOCIAL, POLITICAL, OR IDEOLOGICAL INTERESTS IN GOVERNMENT CONTRACTING**

Pursuant to Section 287.05701, Florida Statutes, an awarding body may not request documentation of or consider a vendor's social, political, or ideological interests when determining if the vendor is a responsible vendor, and an awarding body may not give preference to a vendor based on the vendor's social, political, or ideological interest.

## **2.6 USE OF COERCION FOR LABOR AND SERVICES**

Pursuant to Section 787.06(14), Florida Statutes, when a contract is executed, renewed, or extended between a nongovernmental entity and a governmental entity, the nongovernmental entity must provide the governmental entity with an affidavit signed by an officer or a representative of the nongovernmental entity under penalty of perjury attesting that the nongovernmental entity does not use coercion for labor or services.

## **2.7 AUTHORIZED TO TRANSACT BUSINESS IN THE STATE OF FLORIDA**

The Respondent must be authorized by the Florida Department of State to transact business in the State of Florida. Such authorization should be obtained by the Reply due date and time, but in any case, must be obtained prior to the execution of the Contract. For authorization, contact:

Florida Department of State  
Tallahassee, Florida 32399  
(850) 245-6051

## **2.8 LICENSED TO CONDUCT SERVICES IN THE STATE OF FLORIDA**

If a Reply includes services that require an individual be licensed by the Department of Business and Professional Regulation, such licenses should be obtained by the Reply due date and time, but in any case, must be obtained prior to posting of the intended award of the Contract. For licensing, contact:

Florida Department of Business and Professional Regulation  
2601 N. Blirstone Road  
Tallahassee, Florida 32399-0797  
(850) 487-1395

## **2.9 UNAUTHORIZED ALIENS**

The employment of unauthorized aliens by any person or entity is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If the Operator knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of the Contract.

## **2.10 SCRUTINIZED COMPANIES**

Prior to Contract execution, the successful Respondent shall submit an affidavit under penalty of perjury attesting that the Respondent is not engaged in business with a scrutinized company as that term is defined in section 287.135 and 215.473, Florida Statutes.

The University may terminate the Contract if the Respondent is found to have submitted a false certification under Section 287.135(5), Florida Statutes; been placed on the Scrutinized Companies with Activities in Sudan List; been engaged in business operations in Cuba or Syria; been placed on a list created pursuant to Section 215.473, Florida Statutes, relating to scrutinized active business operations in Iran; or if Respondent or other entity has been placed on the Scrutinized Companies or Other Entities that Boycott Israel List or is engaged in a boycott of Israel.

## **2.11 LIABILITY INSURANCE**

The Contractor shall carry and keep in force throughout the duration of the Contract all insurance policies and coverages described in the Standard Written Agreement and Scope of Work provided in this ITN ("the Contract"). Prior to execution of the Contract, the Contractor must submit to the Procurement Officer certificates evidencing, to FAMU's satisfaction, the required coverages to be in effect. The certificates must be submitted by the Contractor to the Procurement Officer within ten (10) calendar days of written request by the Procurement Officer.

## **2.12 ORDER OF PRECEDENCE OF THIS ITN**

All Replies are subject to the terms and conditions of this ITN, which, in case of conflict, shall have the following order of precedence (highest to lowest):

Addenda to ITN, in reverse order of issuance  
ITN  
Exhibit "A," Scope of Work  
Attachment A - Standard Written Agreement  
Respondent's Technical Reply  
All other Attachments in the order listed in Section 6.0

## **2.13 RESERVATIONS**

In addition to any other rights reserved or afforded to FAMU under this ITN and under applicable law, FAMU reserves the right to:

- a) Cancel this ITN at any time prior to FAMU's execution of the Contract, without incurring any cost, obligations, or liabilities;
- b) Accept or reject any Reply at any time;
- c) Terminate evaluation of any Reply at any time;
- d) Modify any dates set or projected in this ITN; and
- e) Waive minor informalities or irregularities in Replies.

## **2.14 CONTRACT DOCUMENT**

FAMU's "Standard Written Agreement" is attached hereto as Attachment "A" and is made a part hereof. The terms and conditions contained therein will become an integral part of the Contract resulting from this ITN. In submitting a Reply, a Respondent agrees to be legally bound by these terms and conditions.

## **2.15 SCOPE OF WORK**

Details of the desired commodity/services, information, and items to be furnished by the contractor are described in Exhibit "A," Scope of Work, attached hereto and made a part hereof.

## **2.16 PROTEST OF ITN SPECIFICATIONS**

Any person who is adversely affected by the contents of this ITN must file the following with the Office of the General Counsel, Florida A&M University, 1700 S. Adams St., 304 Foote-Hilyer Administration Center, Tallahassee, Florida 32307-3100:

1. A written notice of protest within seventy-two (72) hours after the posting of the ITN, (the notice of protest may be faxed to 850-561-2862 or hand delivered to the address above), and
2. A formal written protest in compliance with Section 120.57(3), Florida Statutes, within ten (10) days of the date on which the written notice of protest is filed to the address above.

Failure to file a protest within the time prescribed in Section 120.57(3), Florida Statutes, or failure to post the bond or other security required by FAMU Regulations 6.005 (13) (c) within the time allowed for filing a bond shall constitute a waiver of proceedings under Chapter 120, Florida Statutes.

## **3.0 ITN PROCESS**

### **3.1 OVERVIEW OF ITN PROCESS**

The ITN is a method of competitively selecting a commodity or contractual services. The ITN process will involve three (3) phases: solicitation, evaluation, and negotiation.

### **3.2 SOLICITATION PHASE**

### 3.2.1 Pre-Reply Conference and Site Visit

A pre-reply conference will be held at the date, time, and location in the Timeline in Section 1.5. Information provided by FAMU and answers to any questions presented by attendees will be non-binding and will not be considered an official position of FAMU. The only recognized changes to the ITN are those changes made through written Addenda issued by FAMU. **Attendance at this pre-reply conference is not mandatory.**

A site visit will be held immediately following the pre-reply conference (see Section 1.5 Timeline). **Attendance at this site visit is not mandatory.**

### 3.2.2 Question and Answer Period

In accordance with Section 287.057(25), Florida Statutes, Respondents to this ITN or persons acting on their behalf may not contact, between the release of the ITN and the end of the seventy-two (72) hour period following FAMU's posting of the notice of intended award, excluding Saturdays, Sundays, and State holidays, any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the Procurement Officer or as provided in the ITN documents. Violation of this provision may be grounds for FAMU to deem a Reply as non-responsive.

Any questions arising from this ITN must be forwarded, in writing, to the Procurement Officer identified below. Questions must be received no later than the time and date reflected in the Timeline in Section 1.5. FAMU's written response to written inquiries submitted timely will be posted on <https://famubonfirehub.com/portal/?tab=openOpportunities> under this ITN number. It is the responsibility of all potential Respondents to monitor this site for any changing information prior to submitting their Reply, as well as throughout the procurement process.

**WRITTEN QUESTIONS** should be submitted to:

**Jenifer Frye, Procurement Officer, Email:** [procurement.officer@famuedu](mailto:procurement.officer@famuedu)

ALL EMAILS TO THE PROCUREMENT OFFICER MUST CONTAIN THE ITN NUMBER (0003-2025) IN THE SUBJECT LINE.

### 3.2.3 Submission of Replies

Once FAMU posts the answers to the questions as indicated in Section 3.2.2, prospective Respondents may submit a Reply as indicated in Section 4, Reply Instructions; however, Respondents are encouraged to submit their Reply no earlier than five (5) days prior to the submission deadline. Respondents must submit their Replies by the deadline listed in Section 1.5 Timeline.

### 3.2.4 Public Opening of Replies

FAMU will open the Replies in a public meeting at the date, time, and location noted in Section 1.5 Timeline.

#### **Agenda for Public Opening of Replies**

Starting Time: see Timeline in Section 1.5

- Opening remarks of approximately two (2) minutes by FAMU's Procurement Office personnel.
- Public comment period to allow a maximum of fifteen (15) minutes total for public comments related to the ITN.
- At the conclusion of the public comment period or fifteen (15) minutes, whichever occurs first, the Replies timely received will be opened, with the Respondents' name read aloud. No other information will be read aloud at the meeting.
- Adjourn meeting.

### **3.3 EVALUATION PHASE**

#### **3.3.1 Administrative Responsiveness Review**

Replies will not be considered if received by FAMU **after** the Reply due date and time specified in Section 1.5 Timeline (as may be modified by subsequent Addenda). Only Replies received by FAMU **on or before** the Reply due date and time will be considered. All Replies must be typed or printed in ink. Replies found to be non-responsive shall not be considered. Replies may be rejected if found to be irregular or not in conformance with the requirements and instructions of this ITN. A Reply may be found to be irregular and non-responsive for reasons that include, but are not limited to, a Respondent's failure to utilize or fully complete required Forms as part of the Reply, the Reply contains required Forms that are altered by a Respondent, the Reply submitted is a conditional Reply, the Reply is incomplete, indefinite, or ambiguous, or the Reply lacks proper and/or dated signatures. The Procurement Officer will make an initial administrative responsiveness determination prior to distribution of the Replies to the Evaluation Team members; however, the University reserves the right to make a responsiveness determination at any time.

#### **3.3.2 Other Grounds for Non-Responsive Determination**

Other conditions which may cause rejection of a Reply include, but are not limited to, evidence of collusion among Respondents, obvious lack of experience or expertise to perform the required work, failure to perform or meet financial obligations on previous contracts, or in the event an individual, firm, partnership, or corporation is on the General Services Administration Excluded Parties List. A Respondent whose Reply, past performance, or experience do not reflect the capability, integrity, or reliability to fully and in good faith perform the requirements of the Contract may be deemed non-responsive. FAMU reserves the right to determine which Replies meet the requirements of this ITN, and which Respondents are Responsive and Responsible.

#### **3.3.3 Evaluation by the Evaluation Team**

FAMU will establish an Evaluation Team to evaluate and score all Replies that meet the initial administrative responsiveness requirements. Replies will be evaluated by the Evaluation Team according to the evaluation criteria set forth below and as set forth in this ITN. Each Evaluation Team member will independently evaluate Part I and Part II of each Respondent's Reply according to the evaluation criteria set forth below and as set forth in this ITN. The maximum number of points available for each criterion is described below:

<b>Part I -Technical Reply</b>	<b>Description</b>	<b>Available Points</b>
1	Company History and Experience	<b>15</b>
2	Service	<b>15</b>
3	Technology	<b>15</b>
4	Sustainability	<b>5</b>
5	Innovations/Contributions/Added Value	<b>10</b>
<b>Part II</b>	<b>Description</b>	<b>Available Points</b>
	Financial Proposal	<b>40</b>
<b>TOTAL AVAILABLE POINTS</b>		<b>100</b>

The Procurement Officer will add the scores from each Evaluation Team member for Part I and Part II of a Respondent’s Reply and divide the total by the number of Evaluation Team members to determine the Respondent’s overall Reply Score (“Reply Score”). The maximum Reply Score achievable by a Respondent to this ITN is one hundred (100) points.

A Respondent’s Reply Score will be used to establish the competitive range of Replies reasonably susceptible of award (the “Competitive Range”). FAMU, at its discretion, may select one or more Respondents within the Competitive Range to invite to the negotiation phase (described in Section 3.4).

### **3.4 NEGOTIATION PHASE**

After the evaluation and scoring of Replies as set forth in Section 3.3.3, and FAMU has established a Competitive Range of Replies reasonably susceptible of award, FAMU will select one or more Respondents within the Competitive Range to commence negotiations.

FAMU will establish a Negotiation Team to conduct the negotiations on behalf of the University. The Negotiation Team will make a recommendation of an award to the Respondent that will provide the best value to the University based on the selection criteria in the ITN. The Negotiation Team will not be bound by any Evaluation Team member’s evaluation or scoring, but material from the evaluation phase may be used by the Negotiation Team as a resource.

During the negotiation phase, pricing submitted with a Reply may be reduced but should not be raised unless the increase is directly related to changes in offered services in the BAFO and as negotiated in accordance with this ITN.

The format and content of any pricing submissions including, but not limited to, BAFOs may be amended during negotiations at the discretion of the Negotiation Team.

The Negotiation Team reserves the right to negotiate different terms, additional terms, and related price adjustments, if the Negotiation Team determines that such changes would provide the best value to the University. Additional operational requirements may be defined and clarified.

The Negotiation Team may require additional technical detail, diagrams, demonstrations, and documentation. The Negotiation Team may request proposed alternative terms or deliverables during negotiations, but it is under no obligation to accept proposed alternative terms or deliverables.

The Negotiation Team reserves the right to negotiate concurrently or sequentially with competing Respondent(s). Negotiations will not be open to the public but will be recorded. Recordings of negotiation meetings and Negotiation Team strategy meetings will be subject to the provisions of Section 286.0113, F.S.

Negotiation meetings will be conducted in Tallahassee, Florida at FAMU's campus, **2380 Althea Gibson Way, Suite 214 Tallahassee, FL 32307**, if conducted in-person, or using technology-based solutions, if conducted remotely. The Negotiation Team reserves the right to schedule in-person negotiations at a different location in the State. The Procurement Officer may distribute an agenda in advance of any negotiation meeting.

Negotiations will continue as determined by the Negotiation Team, until acceptable terms and conditions are agreed upon through a BAFO, if applicable, or the Negotiation Team determines, at its sole discretion, that an acceptable agreement cannot be reached. The Negotiation Team reserves the right to conclude negotiations at any time with any or all Respondents and proceed to Contract award.

Representatives for each Respondent should plan to be available, at least by telephone, without interruptions, for the entirety of the Respondent's scheduled negotiation meeting(s). FAMU reserves the right to limit the number of representatives permitted to attend the negotiation meetings.

During the negotiation phase, the Negotiation Team may request clarification and revisions to Replies (including BAFO(s)) and identify information to be submitted to the Negotiation Team until it is satisfied that it has achieved the best value for the University. Failure to provide information requested by the Negotiation Team during the negotiation phase may result in termination of negotiations with the Respondent.

It is anticipated that FAMU may modify language in the Request for BAFO(s) expressing mandatory contractual requirements, which previously was permissive language within the procurement documents. For example, the word 'should' may be replaced by the word 'must' in the final Scope of Work attached to the Request for BAFO(s).

### **3.4.1 Other FAMU Rights During Negotiation**

FAMU has sole discretion in deciding whether and when to take any of the following actions and to decide the scope and manner of such actions. FAMU reserves the right at any time during the negotiation process to:

- a) Schedule additional negotiation meetings with any or all Responsive Respondents.
- b) Require any or all Responsive Respondents to provide additional, revised, or final written Replies addressing specific topics, including, but not limited to, modifications to the ITN specifications, terms or conditions, or business references.
- c) Require any or all Responsive Respondents to provide revised Replies and written BAFO(s).
- d) Require any or all Responsive Respondents to address services, prices, or conditions offered by any other Respondent.
- e) Pursue a Contract with a Respondent for the services encompassed by this ITN, including any Addenda thereto and any request for additional, revised, or final written Replies or request for BAFOs.
- f) Finalize Contract terms and conditions with any Respondent at any time.

- g) End negotiations with any or all Respondents at any time, regardless of the status of or schedule of negotiations, and continue negotiations with other Respondents, or not continue negotiations with any Respondents.
- h) Conclude negotiations at any time and proceed to Contract award.
- i) Reopen the negotiations with any Responsive Respondent.
- j) Take any additional, administrative steps deemed necessary in determining the final award, including conducting demonstrations, additional fact-finding, evaluation, or negotiation where necessary and consistent with the terms of this solicitation.
- k) Request the assistance of and use of subject matter experts.
- l) Review and reply on relevant information contained in the Replies.
- m) Request pricing options different from the initial pricing provided by the Respondent.
- n) Request business references and materials related to a reference check. If requested, the following guidelines will apply:
  - References should be relevant to the services in the solicitation.
    - If a reference provided by the Respondent relates to a Respondent's parent or affiliated entity or a subcontractor, the Respondent shall indicate such at the time the references are provided to FAMU.
  - References will not be accepted from:
    - Current employees of FAMU;
    - Former employees of FAMU within the past three (3) years;
    - Persons currently or formerly employed by the Respondent, its parent, an affiliated entity, or subcontractor;
    - Board members of the Respondent;
    - Relatives of Respondent's employees or board members;
    - Members of the Respondent's organization who have written, completed, and submitted the form on behalf of the reference; and
    - Any person involved in the drafting of this ITN or the procurement process on behalf of FAMU.
- o) Contact Respondent's customers or other entities with information relevant to the Respondent's responsibility, experience, and/or ability.

### **3.5 NEGOTIATION AND STRATEGY MEETINGS**

In accordance with Section 286.0113, F.S., negotiations between FAMU and a Respondent are exempt from Chapter 286, F.S., and s. 24(b), Art. I of the State Constitution. Also, any portion of a Negotiation Team meeting at which negotiation strategies are discussed is exempt from Section 286.011, F.S.

FAMU will record all strategy meetings of the Negotiation Team and all negotiation meetings between FAMU and a Respondent, as required by law, and such recordings will eventually become subject to disclosure pursuant to Chapter 286, F.S. During negotiations, Respondents must inform FAMU prior to discussing any information it believes is confidential information as part of a negotiation meeting so that FAMU can make appropriate arrangements for the segregation of the recording. If the Respondent fails to inform FAMU that any portion of the negotiation meetings should be considered confidential information, prior to the discussion of confidential information, FAMU is authorized to produce the entire audio recording in response to a public records request or other demand for disclosure without further inquiry and without liability to the Respondent.

### **3.6 SELECTION CRITERIA**

Each Respondent will be assessed against the selection criteria to decide which Respondent presents the best value to the University. The selection criteria will include, but is not limited to:

1. The Respondent's articulation, innovation, and demonstrated ability to meet the FAMU's goal and objectives.
2. The experience and skills of the Respondent's proposed staff relative to its proposed solution; and
3. The reasonableness of the Respondent's price and overall best value to the University.

### **3.7 FAMU'S NEGOTIATION TEAM RECOMMENDATION**

The Negotiation Team will make a recommendation for Contract award to the Respondent that will provide the best value to the University based on the selection criteria in Section 3.6. The recommendation will be by consensus vote of the Negotiation Team. The Negotiation Team will forward its recommendation to FAMU's President or designee for review. FAMU's President or designee will make the final decision to approve or reject the recommendation of the Negotiation Team.

### **3.8 EVALUATION TEAM AND NEGOTIATION TEAM ASSISTANCE**

Due to the complexity of this procurement, the Evaluation Team, the Negotiation Team, and individual members of both are authorized to confer with consultants, subject matter experts, and others during the course of the procurement for the purpose of gathering information.

### **3.9 ASSESSMENT OF RESPONDENT'S QUALIFICATIONS**

After the Reply due date and prior to Contract execution, FAMU reserves the right to verify data and representations submitted by the Respondent that may be used to determine whether the Respondent has adequate experience to provide overall management of the Contract. The review may also serve to verify whether the Respondent has financial capability adequate to meet the Contract requirements.

Should FAMU determine that a Reply, or any document submitted to the Negotiation Team, has material misrepresentations or that the size or nature of the Respondent's products or the number of experienced staff (including technical staff) are not adequate to ensure satisfactory Contract performance, FAMU has the right to reject the Reply or cease negotiations with that Respondent.

## **4.0 REPLY INSTRUCTIONS**

### **4.1 GENERAL INSTRUCTIONS**

This section contains instructions that describe the required format for the Reply. The instructions for this solicitation have been designed to help ensure that all Replies are reviewed and evaluated in a consistent manner, as well as to minimize costs and response time. A Reply that contains any conditions or exceptions to any aspect of this ITN, or in variance with these instructions, may be deemed non-responsive and not reviewed or evaluated. The only recognized changes to this ITN prior to the opening of Replies will be written Addenda issued by FAMU.

FAMU has established certain requirements with respect to responses submitted to competitive solicitations. The use of "shall," "must," or "will" (except to indicate futurity) in this ITN, indicates a requirement or condition from which a material deviation may not be waived by FAMU. A deviation is material if, in FAMU's sole discretion, the deficient Reply is not in substantial accord with the ITN's requirements, provides a significant advantage to one Respondent over another, or has a potentially significant effect on the quality of the Reply or on the cost to FAMU. Material deviations cannot be waived. The words "should" or "may" in this ITN indicate desirable attributes or conditions but are

permissive in nature. Deviation from, or omission of, such desirable features will not in and of itself cause rejection of a Reply.

The Respondent shall within its Technical Reply, Part I, identify any items for which the Respondent intends to remain vested or owned by the Respondent at the expiration or termination of the Contract.

## **4.2 CONTENTS OF A REPLY**

A Reply must be organized in three (3) separate parts: The Technical Reply (Part I), the Financial Proposal (Part II), and Forms (Part III). The mandatory minimum requirements of this ITN are a Reply which must contain all three Parts and required documents as follows:

- Part I - Technical Reply
- Part II - Financial Proposal
- Part III - Forms

### **4.2.1 Technical Reply (“Part I”)**

The Technical Reply shall be organized in the following sections and contain the information described below. Failure of the Respondent to follow this outline and the instructions contained in this ITN may result in the rejection of the Reply.

The Technical Reply page size is not to exceed 8½” x 11” in size. Foldout pages with a size not exceeding 11” x 17” may be used, where appropriate, but shall not exceed five (5) pages of the Technical Reply. All pages must be sequentially numbered. A page with information on both sides shall be counted as two (2) pages. Font size should be at least 10-point for readability. The Technical Reply may include a cover or title page, table of contents, and tab dividers for organizational purposes. Cover or title page, table of contents, and tab dividers will not count towards the Technical Reply maximum page limit (no additional exclusions will be permitted). The information provided in the Technical Reply should be clearly and concisely stated. The Technical Reply should not contain any hyperlinks to external content or web pages as this content will not be accessed or evaluated.

The Technical Reply shall be divided into five (5) sections: Company Experience and Qualifications, Service, Technology, Sustainability, and Innovations/Contributions/Added Value.

#### **1. RESPONDENT'S COMPANY EXPERIENCE AND QUALIFICATIONS**

The Respondent shall provide an overview of the Respondent’s business. The Respondent should provide detail on how the Respondent’s business aligns with FAMU’s goal and objectives for the Contract. The Respondent shall describe its prior experience, and the prior experience of any subcontractor, affiliate, subsidiary, parent, or predecessor entity of the Respondent (if the Respondent is relying on such prior experience), in providing the types of commodities and services described in the Scope of Work. The information provided should include:

- a. As applicable, details describing the Respondent’s prior experience in providing the types of commodities and services described in the Scope of Work.
- b. As applicable, the primary personnel who will be responsible for managing the Contract, including their titles, roles, and years of experience managing similar contracts.
- c. As applicable, a summary of the Respondent’s prior experience of similar operations including dates of service, services provided, facility location, and additional relevant details.

If the Respondent is relying on the prior experience of a subcontractor or an affiliate, subsidiary, parent, or predecessor entity of the Respondent, the Respondent should provide:

- a. The name of the subcontractor, affiliate, subsidiary, parent, or predecessor entity, and details describing its relationship to the Respondent.
- b. Details describing the prior experience of the subcontractor, affiliate, subsidiary, parent, or predecessor entity in providing the types of services described in the Scope of Work on similar projects to this ITN.
- c. The anticipated percentage of all contracted work to be provided by each subcontractor, affiliate, subsidiary, parent or predecessor entity.

## 2. SERVICE

The Respondent shall provide a description of its approach to account management, logistics, operational support, maintenance, and client responsiveness. The Respondent should provide detail on its management approach to all aspects of the Scope of Work while bringing the right specialized expertise and experience to provide value to FAMU. The Respondent should also describe how it will adapt its operations with variable staff levels and increases in utilization on FAMU's campuses.

The Respondent shall provide its approach to meeting FAMU's goal and objectives for the Contract. The Respondent should describe its understanding of FAMU's campuses and the needs of customers. The Respondent should summarize how its management approach fosters collaboration with FAMU and aligns with the stated goal and objectives.

## 3. TECHNOLOGY

The Respondent shall provide a description of its technology to enhance operational efficiency, improve consumer experience, and provide actionable business intelligence. The Respondent shall detail its technological capabilities and implementation strategy, as well as a comprehensive plan for the installation, maintenance, and technical support for all equipment and software for complete execution of the Contract.

## 4. SUSTAINABILITY

The Respondent shall outline its strategy for minimizing environmental impact, with a particular focus on reducing single-use plastic consumption on FAMU's campuses. The Respondent should address how it can enhance FAMU's existing waste management and recycling infrastructure.

## 5. RESPONDENT'S INNOVATIONS / CONTRIBUTIONS / ADDED VALUE CONTENT

FAMU recognizes customers' needs may change throughout the term of the Contract, and FAMU wishes to engage a Contractor that will continuously improve its processes and technology to provide quality beverage offerings and optimize its opportunities to increase revenue. The Respondent should:

- Describe innovative processes and technologies that it has implemented at other facilities and any which the Respondent will implement (at its own cost) to gain operational

efficiencies to perform the Scope of Work.

- Describe its approach to identifying potential challenges, evaluating utilization, and generating innovations to be applied throughout the duration of the Contract.

Replies shall include the following minimum subsections as part of its Technical Reply; however, additional subsections may be added by the Respondent to demonstrate a comprehensive approach and methodology.

a. Value Added Services/Offerings

The Respondent shall describe the unique value-add components it can provide that set its offerings apart from others. Consider aspects such as innovative marketing strategies, enhanced customer engagement initiatives, logistics efficiencies, or exclusive product offerings. Detail how these elements would not only enhance the distribution process but also contribute to brand visibility and market penetration. Additionally, highlight any partnerships or technology integrations that can streamline operations or improve service delivery, ultimately driving mutual growth and profitability.

#### **4.2.2 Financial Proposal (“Part II”)**

The Respondent’s *Financial Proposal* shall include two (2) separate but inter-related components (1. the **Financial Plan**, and 2. the **Price Sheet**) to facilitate a comprehensive review and complete understanding of the anticipated strategy to accomplish the goal and objectives of the Contract. The Financial Approach shall incorporate all projected revenues and expenses related to the Contractor’s performance of the Contract.

##### **Financial Plan**

The Respondent shall provide a detailed *Financial Plan* detailing a comprehensive strategy for optimizing pricing and maximizing revenue within the beverage distribution rights framework. Proposals should detail innovative pricing models that can adapt to market fluctuations and consumer demand, including tiered pricing, promotional discounts, or bundled offerings. Respondents should also outline their approach to market analysis and competitive pricing strategies that will ensure profitability while maintaining market share.

Additionally, please include any insights into revenue-sharing models or incentives that can be implemented to drive sales performance among distribution partners. Highlight any tools or technologies that will be utilized for data analytics, enabling real-time pricing adjustments and sales forecasting. Emphasis should be placed on how these strategies will not only enhance revenue generation but also create sustainable growth opportunities in alignment with the goal and objectives of FAMU.

The Financial Plan shall be limited to a maximum of ten (10) pages, with each page not to exceed 8½” x 11” in size. Foldout pages with a size not exceeding 11” x 17” may be used, where appropriate, but shall not exceed two (2) pages comprising the Financial Plan. Each 11” x 17” page shall be counted as a single page and will be counted towards the Financial Plan maximum page limit. All pages must be sequentially numbered. A page with information on both sides shall be counted as two (2) pages. Font size should be at least 10-point for readability. The Financial Plan may include a cover or title page, table of contents, and tab dividers for organizational purposes. Cover or title page, table of contents, and tab dividers will not count towards the Financial Plan maximum page limit (no additional exclusions will be permitted).

## **Price Sheet**

The Respondent shall provide a Price Sheet as part of its Reply. The price sheet should clearly outline all proposed pricing structures, including wholesale prices, retail markups, volume discounts, and any other relevant pricing tiers. It should also specify any additional fees that may apply, such as shipping or handling costs.

Please ensure that the price sheet is formatted for clarity and ease of comparison, allowing for straightforward evaluation against other submissions. Include any terms and conditions related to pricing, such as minimum order quantities or duration of price validity.

The Economic Model shall be submitted electronically in a Microsoft Excel file and not be locked for use (or provide a password for unlocking the file). The Economic Model should be transparent and user-friendly to enable FAMU to conduct sensitivity testing to properly evaluate the viability of the Respondent's Financial Plan. The Price Sheet should also be formatted for ease of printing.

### **4.2.3 Forms ("Part III")**

Respondents must complete and submit the Forms as described in Section 6.3. Forms shall not be included within the Technical Reply or Financial Proposal. No information provided by the Respondent in Part III will be shared with the Evaluation Team.

## **4.3 SUBMISSION OF REPLIES**

The Respondent shall submit its Reply via the web portal: <https://famubonfirehub.com/portal/?tab=openOpportunities>

- One (1) original version of Part I, Part II, and Part III of the Reply in .pdf format.
- If applicable, one (1) electronic (.pdf) copy of the Respondent's Redacted Copy and Redacted Copy Index (as described in Section 4.5).

Replies must be received by FAMU on or before the Reply due date and time in Section 1.5 Timeline (as may be modified by subsequent Addenda). Replies received after the Reply due date and time will not be considered.

## **4.4 COPYRIGHTED MATERIAL**

All materials provided as part of a Reply shall be a matter of public record regardless of copyright status. By submitting a Reply in response to this ITN, the Respondent authorizes FAMU to publish, copy, and reproduce, for FAMU's internal use and for purposes of fulfilling its obligations under Chapter 119, Florida Statutes, any and all materials provided as part of a Reply for which the Respondent holds or purports to hold a copyright.

#### **4.5 CONFIDENTIAL INFORMATION**

If a Respondent considers any portion of its Reply to contain confidential material exempt from public inspection or disclosure under Chapter 119, Florida Statutes, or other applicable state or federal law (collectively, the “Public Records Law”), then the Respondent must, simultaneously with the unredacted Reply, provide the University with a separate Redacted Reply (“Redacted Copy”).

If submitting a Redacted Copy, a Respondent must clearly include the ITN number, the name of the Respondent, and “Redacted Copy” in the title of the Redacted Copy. In addition, a Respondent must submit an index (the “Redacted Copy Index”) listing the confidential portions of its Reply, along with a description identifying the basis under which the Respondent claims such exemption(s) from the Public Records Law (including the specific statutory citation(s) for each exemption claimed). Any claim of confidentiality on materials a Respondent asserts to be exempt from public inspection or disclosure placed elsewhere in a Reply and not redacted or included in the Redacted Copy Index will be considered waived by the Respondent upon submission of its Reply.

Only those portions of the Reply that a Respondent claims are confidential or exempt from Public Records Law should be redacted in the Redacted Copy. A Reply should not be redacted in its entirety. A page or paragraph should not be redacted in its entirety unless the entire page or paragraph consists wholly of information that is confidential or exempt from public inspection or disclosure under the Public Records Law. A Redacted Copy will be used to fulfill public records and other disclosure requests or requirements.

If FAMU receives a public records request for materials a Respondent has identified as confidential, FAMU will provide the Respondent’s Redacted Copy to the requestor. If a requestor asserts a right to the portions of material identified by the Respondent as confidential, FAMU will notify the Respondent that such an assertion has been made. It is the Respondent’s responsibility to take appropriate legal action to protect the records in question from disclosure under the Public Records Law or other legal authority. If FAMU becomes subject to a demand for discovery or disclosure of materials a Respondent claims are confidential in a legal proceeding, FAMU will notify the Respondent of the demand, and it will be the Respondent’s responsibility to take appropriate legal action to defend its claims of confidentiality. If the Respondent fails to take appropriate and timely action to defend its claims of confidentiality, FAMU may release the materials that are responsive to the demand, without redaction, to the requestor.

FAMU is not obligated to agree with a Respondent’s claim(s) of confidentiality, and by submitting a Reply, a Respondent agrees to indemnify, protect, defend, and hold harmless FAMU from any and all claims, liabilities, damages, losses and costs, including, but not limited to, reasonable attorneys’ fees, arising from or relating to the Respondent’s determination that the redacted portions of its Reply are confidential or otherwise protected from public inspection or disclosure. If a Respondent fails to submit a Redacted Copy of its Reply and the Redacted Copy Index as required herein, then FAMU is authorized to release the entire unredacted Reply submitted to FAMU in response to a public records request or other demand for disclosure without further inquiry of the Respondent.

#### **4.6 COSTS INCURRED IN RESPONDING**

This ITN does not commit FAMU to award the Contract or to proceed with the procurement described herein. FAMU assumes no obligations, responsibilities, or liabilities, fiscal or otherwise, to reimburse any costs incurred or alleged to have been incurred by a Respondent responding to this ITN or by any other party considering the submission of a Reply to this ITN.

#### **4.7 MODIFICATION AND WITHDRAWAL OF REPLY**

A Respondent may modify or withdraw its Reply at any time prior to the Reply due date and time specified in Section 1.5 Timeline by submitting a written request to the Procurement Officer.

#### **4.8 MULTIPLE REPLIES**

Replies may be rejected if more than one Reply is received from a Respondent. Subcontractors may appear in more than one Reply.

#### **4.9 REPRESENTATIONS**

By submitting a Reply to this ITN, a Respondent warrants, represents, and covenants that:

- a. The Respondent is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization and is duly qualified to conduct business in the State of Florida.
- b. The Respondent has full power and authority to enter into the Contract and to comply with the provisions of the Contract.
- c. Respondent has authority to enter into the Contract with FAMU without receiving consent from, or providing notice to, any person (including any governmental authority) in connection with the execution, delivery and performance by the Respondent of the Contract. The foregoing does not apply to the necessary licenses, permits, and other approvals to be applied for by the Respondent in connection with the Contract.
- d. The Respondent currently is not the subject of bankruptcy, insolvency, or reorganization proceedings and is not in material default of, or otherwise subject to, any agreement or any law, administrative regulation, judgment, decree, note, resolution, charter or ordinance which would currently restrain or enjoin it from entering into, or complying with, the Contract, in any material respect.
- e. There is no material action, suit, proceeding, inquiry, or investigation, at law or in equity, before any court or public body, pending or to the best of the Respondent 's knowledge threatened, which seeks to restrain or enjoin the Respondent from entering into or complying with the Contract.
- f. That the execution, delivery, and performance of the Contract shall not conflict with, be inconsistent with, or result in any breach or default of any of the terms, covenants, conditions, or provisions of any indenture, bank loan, credit agreement, or other agreement or contract of any kind or nature to which the Respondent is a party or by which the Respondent may be bound.

#### **5.0 AWARD**

The intended decision will be made to the Responsive and Responsible Respondent which is determined to provide the best value to the University, based on the selection criteria. FAMU's intended decision will be posted at <https://famu.bonfirehub.com/portal/?tab=openOpportunities>, on the date in Section 1.5 Timeline, or as modified by any Addenda, and will remain posted for a period of seventy-two (72) hours. Any Respondent who is adversely affected by FAMU's recommended award or intended decision must file the following with the Office of the General Counsel, Florida A&M University, 1700 S. Adams St., 304 Foote-Hilyer Administration Center, Tallahassee, Florida 32307-3100:

1. A written notice of protest within seventy-two (72) hours after posting of the intended decision, (the notice of protest may be faxed to (850) 561-2862 or hand-delivered to the address above), and

2. A formal written protest and protest bond in compliance with FAMU Regulations 6.005 (13) (c), within ten (10) days of the date on which the written notice of protest is filed to the address above. At the time of filing the formal written protest, a bond (a cashier's check or money order may be accepted) payable to FAMU shall also be submitted consistent with FAMU Regulations 6.005 (13) (c).

**Failure to file a protest within the time prescribed in Section 120.57(3), Florida Statutes, or failure to post the required bond or other security within the time allowed for filing a bond shall constitute a waiver of proceedings under Chapter 120, Florida Statutes.**

## **6.0 ATTACHED EXHIBITS, FORMS, AND ATTACHMENTS**

### **6.1 EXHIBITS**

Exhibit "A" – Scope of Work

### **6.2 ATTACHMENTS**

Attachment A – Standard Written Agreement

### **6.3 FORMS**

Form 1 – Respondent Acknowledgement Form

Form 2 – Reference List

Form 3 – Non-Collusion Affidavit

Form 4 – Statement of No Involvement

Form 5 – Notice of Conflict of Interest

Form 6 – Certificate of Status from the Florida Department of State

## EXHIBIT A

### SCOPE OF WORK FLORIDA A&M UNIVERSITY BEVERAGE VENDING AND POURING RIGHTS

This Scope of Work ("SOW") defines the terms, conditions, and performance expectations for the exclusive supply, distribution, pouring, and sale of beverages by [Vendor Name] ("Vendor") across all properties and facilities owned, operated, or leased by the Florida Agriculture and Mechanical University Board of Trustees ("FAMU" or "University").

#### 1. Definitions.

All defined terms used in this Agreement and not otherwise defined will have the meanings:

"**Affiliate**" means, as to any entity, any other entity which is controlled by, controls, or is under common control with such entity. The term "control" (including the terms "controlled," "controlled by" and "under common control with") will mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity.

"**Agreement Year**" means each twelve-month period during the Term beginning with the Effective Date and subsequent anniversaries thereof.

"**Ambush Marketing**" means an attempt by a third party, including any Broadcaster, without Sponsor's consent, to associate Competitive Products with the Campus, the University, the University Marks, or any Team, or to suggest that Competitive Products are endorsed by or associated with the University, the Campus, the University Marks, and/or any Team by referring directly or indirectly to University, the Campus, or the University Marks, and/or the Teams.

"**Ancillary Products**" means carbon dioxide and other products necessary for dispensing beverages.

"**Approved Cups**" means disposable cups the design of which is approved by the University from time to time as its standard trademark cups and/or vessels and/or other (disposable and non-disposable) containers approved by \_\_\_\_\_ and/or other Products (as herein defined) on all of the cup surface.

"**Beverage**" or "**Beverages**" means all non-alcoholic beverages of any kind except unbranded hot coffees and hot teas freshly brewed, tap water or unbranded juice squeezed fresh on the premises.

"**Bona Fide Offer**" means a proposed agreement concerning rights and obligations with respect to Beverage availability, merchandising, promotional, and/or advertising, which agreement, if executed by University and the third party, would be legally binding.

"**Broadcaster**" means any entity which for any business purpose publishes, prints, syndicates, televises or broadcasts any photograph, film, videotape or other recording or rendering of the Campus (or any portion thereof) and/or of any event held on the Campus including any Team games.

"**Campus**" means all facilities now or hereafter operated by or in connection with the University during the Term, including the main campus located in Leon County, Tallahassee, Florida, the Law School campus located in Orlando, Florida and any current or future satellite or successor campus locations. References to Campus include all buildings and grounds associated with the University including dining facilities, branded or unbranded food service outlets, vending and concession locations, and all athletic facilities (including press boxes, players' benches and locker rooms).

"**Competitive Products**" means any and all Beverages other than Products (as defined herein).

"**Products**" means shall mean Beverage products purchased directly from the University or sold through vending machines owned and stocked exclusively by the University.

"Team" or "Team(s)" means all intercollegiate athletic teams associated with the University.

"University Marks" means the University's name, each Team's name, colors and uniforms, and emblems, and all tradenames, trademarks, service marks, designs, logos, mascots, characters, identifications, symbols and other proprietary designs that are in existence on the Effective Date or which will be created during the Term and which are owned, licensed or otherwise controlled by the University.

## 2. Goal.

The primary goal of this Agreement is to establish a comprehensive, high-quality, and financially beneficial beverage program that serves the entire University community, including students, faculty, staff, and visitors, while supporting the University's strategic goals in sustainability, health, and campus life.

## 3. Beverage Availability Rights.

3.1 Subject to the permitted exceptions set forth in Section 5 below, University agrees that all Beverages sold, distributed, or sampled (that is, distributed at no cost), advertised or promoted anywhere, anytime on the Campus and in connection with the University and/or the Teams will be Vendor's Products. Sponsor and University agree that, at a minimum, the following Products will be available at each location on the Campus where refreshments are sold, distributed or sampled: [REDACTED]. Subject to the permitted exceptions set forth in Section 5, no Competitive Products will be sold, distributed, sampled, advertised, or promoted anywhere, any time on Campus.

3.2 University shall, and shall cause its concessionaires to, purchase from Vendor, and Vendor will sell to University and/or its concessionaires, all of University's and its concessionaires' requirements for Beverages, Approved Cups, lids and carbon dioxide at Vendor's current trade letter pricing. Such prices shall remain in effect for the first Agreement Year, and thereafter be subject to an annual increase of no more than [REDACTED] percent ([REDACTED]%) over the previous Agreement Year's price. If, during the Term, University elects to contract with a third party concessionaire or food service operator that has entered into a separate agreement with Vendor, the parties acknowledge that there will be no duplication of allowances, funding or benefits to University and/or such third party. Therefore, Vendor is not obligated to pay any further consideration to University or such third party pursuant to any terms of the pre-existing agreement for Products purchased and/or sold under this Agreement.

3.3 University will use its reasonable efforts to maximize the sale and distribution of Products on Campus. University will promote the sale of Products by causing Products to be sold in stands in Approved Cups and plastic bottles (currently twenty-ounce) at all sporting events and during all events when any food items of any make or description are sold on the Campus.

## 4. Marketing Rights.

4.1 University grants to Vendor the following promotional rights, which are exclusive as to Beverages, to:

4.1.1 Market and promote Beverages in connection with the University, the Campus, and the Teams, including the right to recognition of its sponsorship on panels as follows:

**4.1.1.1 Bragg Stadium - Home of FAMU Football. Vendor will receive one (1) scoreboard sign that is visible at Bragg Stadium year-round (This Includes the FAMU DRS [Middle School, Junior Varsity, and Varsity Football] non-FAMU athletic events hosted at the facility. Vendor will be the only presenting partner on the main scoreboard permanent ad panel. Vendor will receive Concourse level signage that is visible in and around the concession stands, entry gates, and greater concourse area.**

**4.1.1.2 FAMU Lawson Center - Home of FAMU Basketball and Volleyball. Vendor will receive two (2) static backlit signs on the center-hung FAMU Arena scoreboard. Vendor will be the only named presenting partner, and one (1) of three (3) partners featured on the main scoreboard permanent ad panels. Vendor will receive two (2) backlit static courtside press table signs (one sign facing each sideline). Additionally, Vendor will be granted exclusive**

presenting sponsor rights for one (1) men's and one (1) women's basketball game per season, which includes: (a) four (4) public address recognitions throughout the game, (2) two (2) ten second live reads during the radio play-by-play broadcasts, two (2) on-air mentions during the weekly coach's show broadcast, one (1) on-air interview with Vendor's representative during the play-by-play broadcast, logo inclusion on game day roster card, sponsorship inclusion in all promotional materials for exclusive presenting sponsorship game, pre-game and halftime ceremony (with option to conduct customized on-court ceremony), ability to give away promotional items to all fans in attendance (cost of promotional items to be borne by Vendor), event marketing display in and around the arena, twenty (20) game tickets to exclusive presenting sponsorship game, and five (5) VIP hospitality passes.

**4.1.1.3 Moore Kittles Field - Home of FAMU Baseball.** Vendor will receive two (2) scoreboard signs that are visible at Moore Kittles Field year-round (This includes non-FAMU athletic events hosted at the facility). Sponsor will receive one (1) outfield wall sign that is visible at Moore Kittles Field year-round (This includes non-FAMU athletic events hosted at the facility). Additionally, Vendor will be granted exclusive presenting sponsor rights for one (1) three (3) game baseball series per season, which will include four (4) public address recognitions throughout each individual game of the three (3) game series, recognition on FAMUathletics.com the week prior to the series, logo inclusion on game day roster card, sponsorship inclusion in all promotional items for all game attendees (cost of promotional items to be borne by Vendor), option to conduct customized on-field ceremony both pre-game and between innings.

**4.1.1.4 FAMU Softball Complex - Home of FAMU Softball.** Vendor will receive scoreboard signage that is visible at the FAMU Softball Complex year-round (This includes non-FAMU athletic events hosted at the facility). Vendor will receive One (1) outfield wall sign that is visible at the FAMU Softball Complex year-round (This includes non-FAMU athletic events hosted at the facility).

4.1.1.5 Media Benefits – Vendor will receive recognition as a primary presenting sponsor of Rattler Vision and Radio during the beginning of each broadcast. Vendor will receive position “A” location among presenting sponsors. Vendor will also be recognized heading into (at least) 10 commercial breaks (*i.e.*, “. . . We'll be right back after this break on the FAMU Sports Network presented by [Vendor's name].”), given one (1) thirty-second pre-game and one (1) thirty-second post-game commercial spot commercial spot for each men's and women's basketball radio broadcast; three (3) thirty-second in-game commercial spots for each men's and women's basketball radio broadcast; one (1) in-game commercial spot will receive position “A” placement within the commercial break for each men's and women's basketball radio broadcast, two (2) season long segment sponsorships; one (1) ten to fifteen second live read per broadcast, and inclusion in opening, in-game, and closing billboards.

4.1.1.6 FAMU Coach's Show – Vendor will receive recognition as a primary presenting sponsor of the FAMU's Coach's Show. Each broadcast will begin with broadcast partners recognized. Vendor will receive position “A” location as a presenting partner. Vendor will also be recognized heading into at least two (2) commercial breaks (*i.e.*, “. . . We'll be right back after a message from [Vendor's name].”), two (2) thirty-second commercial spots during each “FAMU Coach's Show” radio broadcast, one (1) spot during each broadcast will receive position “A” placement within the commercial break. Commercial lead-in will be provided prior to the position “A” commercial, and inclusion in opening and closing billboards.

4.1.1.7 FAMUathletics.com – Vendor's logo/banner will be placed on the University's athletics website, [www.famuathletics.com](http://www.famuathletics.com). Additionally, Vendor will receive a featured spot on Home Page Section Sponsorship.

4.1.1.8 Print Media – For football and men's and women's basketball, Vendor will receive one (1) full-page, back cover, four-color advertisement in the game day program game day program, logo inclusion on the back of schedule cards, logo inclusion on schedule posters, and logo inclusion on the front cover of all ticket brochures. For baseball and softball, Vendor will also receive one (1) full-page, back cover, four-color advertisement in the game day program game day program, logo inclusion on the back of schedule cards, and logo inclusion on schedule posters. For FAMU Relays, Vendor will also receive one (1) full-page, back cover, four-color advertisement in the game day program game day program, logo inclusion on events banners, logo inclusion visible to fans around the track during the event, and exclusive product distribution inside of the event to include concessions and catering.

[Scoreboard Upgrades]

4.1.2 Use, subject to Section 4.4, the University Marks on a royalty-free basis. University acknowledges and agrees that

such promotional activities may be conducted in conjunction with Vendor's customers; and Vendor will have the right to

incorporate its customers' marks, logos and/or branded products with the University Marks on any advertising, point-of-sale, packaging, or premium items or materials to the extent such customer marks do not conflict with any existing University sponsor or contract. University hereby grants Vendor a license to use the University Marks on a royalty-free basis for the purposes of promoting Products as provided herein. University agrees to work with Vendor on a case-by-case basis to assist in promotions conducted by Vendor with its customers.

4.1.3 Refer to the University in any of Vendor's marketing materials as a "sponsor" of the Campus beverages, the University, and/or the Teams, and refer to any brand of Products in any of Sponsor's marketing materials as the "official" or "exclusive" soft drink, sports drink, water, tea, juice, or juice drink, etc. of the Campus, University or the Teams.

4.1.4 Undertake Beverage promotions at or in connection with the Campus and/or the Teams, including offering Products in promotional packaging bearing the University Marks on a royalty-free basis.

4.1.5 Create and market for retail sale merchandise incorporating the University Marks and trademarks of Products. Sponsor will pay a royalty on each item of merchandise consistent with industry standards for sales of such merchandise.

4.1.6 Sample Products and survey individuals on the Campus with University's prior approval as to location and time.

4.1.7 Display approved renditions of Vendor's logos and trademarks on the reverse side of all event and game admission tickets (including promotional tie-ins with other customers of Vendor's) and on pocket schedule cards, media guides, game day programs and athletic internet sites. This subparagraph 4.1.7 shall not apply to the use or distribution of any such tickets printed prior to the actual date of execution of this Agreement, nor shall it require the reprinting of any such tickets.

4.2 University grants to Vendor the following exclusive merchandising rights:

4.2.1 University agrees that all Beverages served, sold, or dispensed on the Campus in disposable vessels (including Beverages sold, served, or made available in locker rooms and players' benches) will be served in Approved Cups, except as set forth in sub paragraph 5.1 hereof.

4.2.2 Materials promoting the Products at the point-of-sale on the Campus, which will include pictorials on dispensing equipment depicting Approved Cups and Products, will be clearly visible to the purchasing public and will be displayed in a manner and location reasonably acceptable to Sponsor.

4.2.3 Product trademarks will be prominently displayed on each menu board and Beverage vending machine on the Campus.

4.3 University will provide Vendor with annual tickets and hospitality as set forth as follows:

4.3.1 FAMU Men's and Women's Basketball. Vendor will receive eight (8) season tickets and eight (8) hospitality passes to Men's and Women's Basketball games, as well as two (2) premium parking passes for each home basketball game.

4.3.2 FAMU Football. Vendor will receive ten (10) season tickets, ten (10) North Endzone Club tickets, and two (2) parking passes for each home football game.

4.3.3 Florida Classic Football Game in Orlando, Florida. Vendor will receive six (6) tickets to the Florida Classic Football Game.

4.3.4 Unsold seats at events on Campus. Vendor, upon request, will be provided with tickets for unsold seats at events on Campus. Such tickets will be used by Vendor primarily for charitable and promotional purposes.

4.3.5 Hall of Fame Banquet. Vendor shall receive four (4) invitations to the annual Hall of Fame Banquet.

4.3.6 FAMU Golf Scholarship Tournament. Vendor shall receive an invitation for one (1) foursome in the annual FAMU Golf Scholarship Tournament.

4.3.7 Annual Athletics Private Dinner. Vendor shall receive four (4) invitations to the annual private dinner for the Athletic Department Senior Staff, University Administrators, and FAMU Coaches.

4.4 University will have the right to pre-approve: (i) the concept for any promotional activity undertaken hereunder; and (ii) any artwork or other items created by Vendor for use in promotional activities or otherwise in accordance with the terms of this Agreement and that incorporate any of the University Marks. If University fails to respond to any submission within a period of fifteen (15) working days subsequent to the actual receipt by the University of such submission, then such submission will be deemed as not approved by the University.

4.5 University agrees that it will not, directly or indirectly (nor will University permit anyone to whom University has granted promotional, advertising or other rights), maintain any agreement or relationship pursuant to which any Competitive Products are associated in any manner with University, the Campus, or the Teams in any fashion that creates or tends to create the impression of a relationship or connection between the University, the Campus or the Teams and any Competitive Product. For further specificity, and not by way of limitation, University agrees that no permanent or temporary advertising, signage, or trademark visibility for Competitive Products will be displayed or permitted anywhere on the Campus, subject to the permitted exceptions described in Section 5, below. Nothing contained herein will prevent on-Campus consumption by students, faculty, staff or their guests of Competitive Products purchased outside the Campus.

## **5. Permitted Exceptions.**

Notwithstanding anything in this Agreement to the contrary, the parties agree and acknowledge that the exclusivity requirements in this Agreement shall not apply to the area controlled by Gallimore Lanes in the Student Union and the University Bookstore. Therefore, it shall not constitute a breach of this Agreement if University makes Competitive Products available for sale at such locations; provided, however, that: (i) such Competitive Products will not occupy more than [REDACTED] percent (\_\_\_%) of the total Beverage display space in such locations and the remaining [REDACTED] percent (\_\_\_%) of Beverage display space will be dedicated exclusively to Products; (ii) such Competitive Products shall not be placed in any equipment owned by Sponsor; and (iii) in no event shall Beverage products manufactured, marketed or distributed by [REDACTED] or any of its affiliates and/or distributors or bottlers be sold, dispensed, marketed, advertised or promoted at such locations. University agrees that this provision shall not be read to allow advertising or promotional rights with respect to such Competitive Products except that trademarks for such Competitive Products may be displayed on menu boards and on dispensing equipment to indicate availability.

5.1 University shall have the rights to serve Beverages in unbranded glass containers or china cups bearing only the University Marks at catered events held on Campus. This provision shall not be deemed to permit the University to engage in or permit advertising or promotions with respect to Competitive Products.

5.2 Vendor agrees that it will not be a violation of this Agreement for University's faculty and/or students to engage in legitimate academic research projects involving a Competitive Product: provided however, that the primary purpose of any such project is in fact academic research as opposed to the sale, distribution, sampling, advertising, or promotion of Competitive Products on the Campus.

## **6. Consideration.**

6.1 Sponsorship Fees. For the rights described herein, Vendor agrees to pay University an aggregate total of [REDACTED] dollars (\$ [REDACTED] ) for the entire Term (the "Sponsorship Fees"). The Sponsorship Fees will be in equal annual installments of [REDACTED] dollars (\$ [REDACTED] ) each and can be allocated as the University deems appropriate. The first installment will be paid within thirty (30) days of the date that this Agreement is fully executed and subsequent installments will be due on or about the anniversary of the Effective Date. The University will provide Vendor an invoice for the Sponsorship Fees at least thirty (30) days prior to the due date of each payment required hereunder. The Sponsorship Fees shall be deemed earned evenly on a monthly basis over the Agreement Year for which they are paid. The Sponsorship Fees will be paid as described below:

6.1.1 \$ [REDACTED] for sponsor's Sponsorship.

6.1.2 \$ [REDACTED] to support marketing initiatives.

6.1.3 \$\_\_\_\_\_ to support the University’s “President’s Fund”

6.2 Athletic Department Support. For the rights described herein, Vendor also agrees to provide University the following:

6.2.1 Vendor shall pay the University \_\_\_\_\_ dollars (\$\_\_\_\_\_) each Agreement Year to support University’s athletic program (the “Athletic Program Fees”). The first installment will be paid within thirty (30) days of the date that this Agreement is fully executed and subsequent installments will be due on or about the anniversary of the Effective Date. The Athletic Program Fees shall be deemed earned evenly on a monthly basis over the Agreement Year for which they are paid.

6.2.2 Vendor shall provide the University with \_\_\_\_\_ athletic supplies each Agreement Year, subject to availability, with an estimated annual retail value of up to \_\_\_\_\_ dollars (\$\_\_\_\_\_), as determined in good faith by Sponsor.

6.2.3 Vendor shall pay the University \_\_\_\_\_ dollars (\$\_\_\_\_\_) for scoreboard enhancements in year one only.

6.3 Campus Marketing Support. Each Agreement Year, Vendor shall create a Campus activation fund in the amount of \_\_\_\_\_ dollars (\$\_\_\_\_\_) for the University (the “Campus Activation Fund”). The Campus Activation Fund shall be held and administered by Vendor and will be used to develop and implement mutually agreed upon marketing programs and initiatives to enhance the student experience and promote the sales of Products at the Campus. Any amounts in the Campus Activation Fund remaining unused at the end of each Agreement Year shall be retained by Vendor. The Campus Activation Fund may be used, subject to availability, to support the following:

- (i) Promotions tied to Campus vending, retail, dining and athletics (e.g., Enter to Win, Vend & Win);
- (ii) Guest speakers to address students twice each Agreement Year;
- (iii) Development of a customized vend front featuring University’s “The Marching 100” Band;
- (iv) Customized marketing windows (on vending machines) that promote University’s athletics, Campus initiatives and special events.

6.4 Commissions. During the period in which the Vendor operates a full-service Beverage vending program (Vending Program) on Campus, Vendor will pay University a commission on bottle/can Products and Vendor’s packaged water and ginger ale sold through the vending program to consumers via beverage vending machines located on the Campus, based on the commission rates specified in the table below.

<u>Package</u>	<u>Commission</u>	<u>Initial Vend Price</u>
20 oz. bottles – carbonated and non-carbonated	____%	\$____
12 oz. cans – carbonated	%	\$
10 oz. bottles	%	\$
15.2 oz. bottles Juices	%	\$
16 oz. cans – energy drinks	%	\$
14 oz. bottles -	%	\$

Commissions are paid based upon cash collected, after deducting taxes, recycling fees, other government-mandated fees, and debit card fees, if any. Commissions shall not be payable on any sales from vending machines not filled or serviced exclusively by Beverage Provider. The vend price for all 20 oz. Products will automatically increase to \$\_\_\_\_\_ at the beginning of Agreement Year four. However, Beverage Provider may adjust vend prices on an annual basis as necessary to reflect changes in its costs, including cost of goods as mutually agreed to in writing by the University. These commissions will be paid on or about the 20th of each month following the month in which they are earned, with an accounting of all sales and monies. The University reserves the right to impose a late payment fee at an agreed upon rate between Vendor and the University. Vendor shall maintain separate accounting records for its vending operation on the Campus. Vendor shall provide the University with a gross sales statement along with the monthly commission payment. Such accounting will provide detailed explanation of case sales by machine and item category, by location. Abnormal sales deviations shall be noted by Vendor as part of these statements. The statements shall also reflect aggregate commissions by Product type.

All monthly sales statements and payments shall be sent to: Director of Business and Auxiliary Services, 601 Robert and Trudie Perkins Way, Tallahassee, Florida, 32307.

Upon reasonable request of the University, Vendor shall meet with University and review each monthly statement, explain deviations, discuss problems and mutually agree on courses of action to improve the results of the required services included in this Agreement. Monthly statement adjustments required as a result of review and/or audit shall be identified and reflected on the next monthly statement.

At the end of the Vendor’s fiscal year, Vendor will furnish the University with a financial statement, audited by a Certified Public Accountant, licensed and certified by the State of Florida. Such financial statements shall include an opinion as to the computation and payment of the University’s monthly payment with the annual gross sales and clearly expressing whether or not according to this Contract, Vendor is liable for additional payments to the University.

Upon expiration or termination of the Agreement, the University will continue to earn commissions on each vending machine serviced and stocked exclusively by Vendor until such machine has been removed from the Campus by Vendor. The monthly statements shall indicate each unit of equipment which was removed during the month to which the statement pertains. Monthly statements and payments shall be submitted by Vendor until all vending equipment has been removed from the Campus.

6.5 Complimentary Product. Each Agreement Year, Vendor shall provide University with up to [redacted] (\_\_\_) standard physical cases of complimentary Product (either 12 oz. canned Product of Vendor’s choosing or 10-12 oz. [redacted] water or a combination of both) to support University events. Such complimentary Products will be provided to the University upon reasonable advance request. Vendor and the University will mutually develop a process to receive, prioritize and monitor requests for complimentary Products. University shall designate one representative that will be authorized to request the complimentary Products from Vendor. If University does not request all available complimentary Products by the end of each Agreement Year, then any complimentary Products remaining at the end of each Agreement Year shall be retained by Vendor. Allocation of complimentary Products will be as follows:

<u>University Organizations</u>	<u>Number of Cases</u>
President’s Office	[redacted]*
Student Activities/Student Government	[redacted]
Business and Auxiliary Services	[redacted]

\* If the President’s Office annual consumption exceeds \_\_\_ cases, any excess Product cases requested will be invoiced at cost to University’s Business & Auxiliary Services. Recognizing that the University is entering into this Agreement for the convenience and benefit of the students, faculty and staff of the University, Vendor agrees to give due consideration to the comments, complaints, and request of such constituencies in performing its obligations under this Agreement. Vendor shall meet regularly with the Director of Business & Auxiliary Services or his or her designee to discuss adjustments in operations that may be necessary or desirable to maintain maximum efficiency and good public relations with students, faculty and staff.

6.6 Accounting. Vendor shall provide the University with a monthly accounting of all sales and monies in a form satisfactory to the University, which shall become immediate property of the University.

6.7 Student Internships. For each academic session during the term of this Agreement, Vendor shall provide at least one paid internship for one full-time student at the University (the “Student Intern”). Vendor shall have sole discretion in selecting the Student Intern and determining the responsibilities of the Student Intern. The Student Intern shall be an employee of Vendor.

**7. Equipment and Service.**

7.1 The University agrees that Vendor shall have the right to place and maintain in place a minimum of [redacted] (\_\_\_) full-service Beverage vending machines in mutually agreed upon high traffic locations on the Campus. In addition, University will allow a reasonable number of Beverage cooler placements for the display of 20 oz. carbonated and noncarbonated Products at all locations serviced by University’s concessionaire(s).

7.2 University agrees: (i) it will execute documents evidencing Vendor's ownership of its Equipment; (ii) upon reasonable and timely request of Vendor, the University will execute Vendor equipment placement agreements, however, if any of the terms of the equipment placement agreements are in conflict with the terms of this Agreement, this Agreement will control; (iii) the Equipment may not be removed from the University without Vendor's written consent; (iv) the University will not encumber the Equipment in any manner or permit any attachment thereto except as authorized by Vendor for its Equipment; and (v) Vendor will insure the Equipment.

7.3 Vendor shall be responsible for the maintenance and upkeep of its Equipment. All Equipment service will be provided during normal business hours. Vendor will not be obligated to provide service hereunder during periods in which it is prevented from doing so due to strikes, civil disturbances, unavailability of parts or other causes beyond the control of Vendor. Vendor will not be liable for damages of any kind arising out of delays in rendering service for the foregoing reasons.

## **8. Remedies for Loss of Rights.**

8.1 In addition to any other legal or equitable remedy, the University will have the right to terminate this Agreement upon forty-five (45) days' written notice to Vendor at any time if:

8.1.1 Vendor fails to make any payment due under this Agreement, and if such default continues uncured for the forty-five day period referenced in this Section 8.1;

8.1.2 Vendor breaches any material term or condition of this Agreement, and if such breach continues uncured for the forty five day period referenced in this Section 8.1; or

8.1.3 The University determines that it is within its best interest.

Termination pursuant to this section 8.1 does not absolve Vendor of any liabilities or payment responsibilities due prior to or as a result of such termination.

8.2 In addition to any other legal or equitable remedy, Vendor will have the right to terminate this Agreement upon forty-five (45) days' written notice to the University at any time if:

8.2.1 The University breaches any material term or condition of this Agreement, and if such breach continues uncured for the forty-five day (45) period referenced in this Section 8.2; or

8.2.2 University's right to convey any of the promotional and Beverage availability rights contained in this Agreement expire or are revoked.

Vendor shall have the right to a prorate abatement of the fees required to be paid hereunder if any material component of the Campus is closed for a period of at least one hundred twenty (120) days, whether or not such closure is due to a cause beyond the reasonable control of the University.

8.3 Upon early termination of this Agreement for any reason, the University will refund the unearned portion of the Scoreboard Fee paid during the Term and the unearned portion of all Sponsorship Fees and Athletic Program Fees in which termination occurs. The Scoreboard Fee will be deemed "earned" pro rata on a daily basis over the entire Term, and the Sponsorship Fees and Athletic Program Fees for each Agreement Year will be deemed "earned" pro rata on a monthly basis during such Agreement Year, in each case up to the date of termination or, if earlier, the date of any breach hereunder by the University.

8.4 If any material component of the Campus is closed for more than thirty (30) consecutive days, but less than one hundred twenty (120) consecutive days, Vendor may extend the Term for a corresponding period, whether or not such closure is due to a cause beyond the reasonable control of the University.

8.5 If (i) any of the rights granted to Vendor herein are materially restricted or limited during the Term (including as a result of Ambush Marketing), or (ii) if there is a closing of any material component of the Campus, or (iii) a Team fails to play all of its scheduled home games on the Campus for a period of more than thirty (30) consecutive calendar days during

its scheduled season (whether or not due to a cause beyond the reasonable control of the University, including a strike or other work stoppage), then in addition to any other remedies available to Vendor, Vendor may elect, at its option, to adjust the Sponsorship Fees and/or other payments to be paid to University for the then remaining portion of the Term to reflect the diminution of the value of rights granted hereunder to Vendor. In the event Vendor elects to exercise its right to such adjustment and refund, the University may, at its option, within ten (10) days following receipt of notice of any adjustment, notify Vendor of its disagreement with the amount of the adjustment. The Parties will then attempt in good faith to resolve the disagreement over such adjustment. If the Parties cannot, after good faith negotiations, resolve the matter, Vendor may terminate this Agreement.

8.6 University recognizes that Vendor has paid valuable consideration to ensure an exclusive associational relationship with the University, the Teams, the University Marks, and the Campus with respect to Beverages and that any dilution or diminution of such exclusivity seriously impairs Vendor's valuable rights. Accordingly, the University will promptly oppose Ambush Marketing and take all reasonable steps to stop Ambush Marketing and to protect the exclusive associational rights granted to Vendor by the University in this Agreement. In the event any such Ambush Marketing occurs during the Term, each party will notify the other party of such activity immediately upon learning thereof.

8.7 Vendor shall have the right to withhold and not pay any portion of the Sponsorship Fees or any other amounts which may become payable to University pursuant to this Agreement if: (i) the University has failed to perform its obligations hereunder; (ii) Vendor's rights hereunder have been lost, limited or restricted; or (iii) there exists a bona fide dispute between the Parties.

## **9. Representations, Warranties and Covenants.**

9.1 University represents, warrants and covenants to Vendor as follows:

9.1.1 University has full power and authority to enter into this Agreement and to grant and convey to Vendor the rights set forth herein.

9.1.2 All necessary approvals for the execution, delivery and performance of this Agreement by University have been obtained, and this Agreement has been duly executed and delivered by University and constitutes the legal and binding obligation of University enforceable in accordance with its terms.

9.1.3 University has the exclusive right to license the University Marks.

9.1.4 Except as may be set forth in an agreement with the University's food services provider or its bookstore, the University has not entered into, and during the Term of this Agreement, will not enter into: (a) any other agreements (including agreements with any Broadcaster or any other sponsors of the Campus and/or any Team) which would prevent it from fully complying with the provisions of this Agreement; or (b) any agreement granting Beverage availability or merchandising or promotional or advertising rights that are inconsistent with the rights granted to Vendor pursuant to this Agreement, including any agreements with concessionaires or third party food service operators, vending companies, and/or other entities which sell or distribute Beverages (including agreements with Broadcasters or other sponsors of the Campus and/or any Team).

9.1.5 The University will require, throughout the Term, compliance with the relevant provisions of this Agreement by any third party which sells or distributes Beverages on Campus, including food or beverage service operators, vending companies, and concessionaires.

9.2 Vendor hereby represents, warrants and covenants as follows:

9.2.1 Vendor has full power and authority to enter into and perform this Agreement.

9.2.2 All necessary approvals for the execution, delivery and performance of this Agreement by Vendor have been obtained, and this Agreement has been duly executed and delivered by Vendor and constitutes the legal and binding obligation of such party enforceable in accordance with its terms.

9.2.3 Vendor has not entered into, and during the Term of this Agreement will not enter into, any other agreements which would prevent it from fully complying with the provisions of this Agreement.

## 10. Indemnification and Insurance.

**10.1 Vendor Indemnification Obligations.** Vendor shall defend, indemnify, and hold the University harmless from and against all claims, suits, liabilities, costs, and expenses, including reasonable attorney's costs and fees related to: (i) Vendor's material breach of this Agreement; and (ii) for injury to, including death of, persons (whether they be third persons or employees of any of the parties hereto) or any loss of or damage to property in any manner arising from the negligence or misconduct of Vendor, its employees, and agents in the course of their duties to Vendor with the understanding that the obligations set forth above shall not apply to any loss or damage to the extent caused by the acts, omissions, or negligence of the party seeking to be indemnified.

10.2 Insurance. Vendor shall be required to carry a public liability policy of insurance protecting the public against bodily injury and property damage, worker's compensation coverage and commercial blanket bond in accordance with the following schedule and conditions:

<i>Coverage</i>	<i>Minimum Limits of Liability</i>
A. Bodily Injury Liability	\$1,000,000 each accident
B. Property Damage Liability (other than automobile)	\$2,000,000 aggregate operations \$2,000,000 aggregate protective \$2,000,000 aggregate contractual
C. Worker's Compensation	Limit of Liability as provided by Worker's Compensation Law of State of Florida

Vendor shall secure and maintain during the Term Worker's Compensation insurance for all its employees connected with the work of this Agreement and if any portion of the work is subcontracted, Vendor shall require the subcontractor similarly to provide Worker's Compensation insurance for all the latter's employees unless such insurance shall comply fully with the Florida Worker's Compensation Law. If there is an instance where Vendor is subcontracting any portion of its duties to a subcontractor who is not required by Florida Statute to cover its employees by Worker's Compensation, Vendor must obtain University's prior written approval of such subcontractor.

D. Commercial Auto Liability	\$1,000,000 combined single limit
E. Commercial Blanket Bond	\$500,000
F. Fidelity Bond	\$500,000 per claim

Vendor shall supply a Commercial Blanket Bond, which covers loss occasioned by theft and the hazards customarily covered by such bonds and a Fidelity Bond for faithful service. Such policy is to cover the losses by identifiable employees. The University may request higher limits if the exposure to loss increases.

The University shall be exempt from, and in no way liable for, any sums of money that may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of Vendor and/or subcontractor, if applicable.

The public liability policy shall be properly endorsed with the "Hold Harmless Agreement" to save the University and its Board of Trustees, the Florida Board of Governors, State officials and employees harmless and to indemnify the University for any claim or liability to benefits under the Worker's Compensation Law of Florida (Chapter 440, Florida Statutes) occasioned by an accidental injury to temporary help by University.

All insurance policies shall be with insurers qualified and doing business in the State of Florida, and with an A.M. Best rating of no less than A-VII. University shall be furnished proof of coverage of insurance by certificates of insurance

accompanying the Agreement and shall name University and its Board of Trustees as additional insureds. Vendor's insurer shall endeavor to give University's Purchasing Department thirty (30) days written notice in advance of any material alteration or cancellation of the policy.

## **11. Miscellaneous.**

11.1 This Agreement or any part hereof will not be assigned or otherwise transferred by any party without the prior written consent of the other parties.

11.2 The Parties are acting herein as independent contractors and independent employers. Nothing herein contained will create or be construed as creating a partnership, joint venture or agency relationship between the parties and no party will have the authority to bind the other in any respect.

11.3 No party will obtain, by this Agreement, any right, title, or interest in the trademarks of the other parties, nor, except as provided herein, will this Agreement give any party the right to use, refer to, or incorporate in marketing or other materials the name, logos, trademarks or copyrights of the other parties.

11.4 Neither Vendor nor the University shall be liable for failure to perform its respective obligations under this Agreement when such failure is caused by fire, explosion, water, act of God, civil disorder or disturbance, strikes, vandalism, war, riot, sabotage, weather and energy related closings, governmental rules or regulations, failure of third parties to perform their obligations or like causes beyond the reasonable control of such party, or for real or personal property destroyed or damaged due to such causes.

## ATTACHMENT A

**Florida Agricultural and Mechanical University  
Standard Written Agreement  
Contract Number \_\_\_\_\_**

This Contract is between the Florida Agricultural and Mechanical University Board of Trustees (FAMU or University), a public corporation incorporated under the law of the State of Florida, and \_\_\_\_\_ (Contractor), collectively referred to herein as the “Parties.”

Accordingly, the Parties agree as follows:

**1. Initial Contract Term.**

The Initial Contract Term shall be for five (5) years. The Initial Contract Term shall begin on \_\_\_\_\_, or on the last date it is signed by all Parties, whichever is later. The Contract shall expire on \_\_\_\_\_, unless terminated earlier in accordance with the Special Contract Conditions.

**2. Renewal Term.**

Upon mutual written agreement, the Parties may renew this Contract, in whole or in part, for a Renewal Term not to exceed the Initial Contract Term, pursuant to the incorporated Special Contract Conditions.

**3. Suspension of Work and Termination.**

3.1 Suspension of Work.

FAMU may, at its sole discretion, suspend any or all activities under the Contract, at any time, when it is in the best interest of the University to do so. FAMU will provide the Contractor written notice outlining the particulars of the suspension. After receiving a suspension notice, the Contractor must comply with the notice and will cease the performance of the Contract. Suspension of work will not entitle the Contractor to any additional compensation. The Contractor will not resume performance of the Contract or purchase order until so authorized by FAMU.

3.2 Termination for Convenience.

The Contract may be terminated by FAMU in whole or in part at any time, in the best interest of the University. If the Contract is terminated before performance is completed, the Contractor will be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the Contract price as the amount of work satisfactorily performed. All work in progress will become the property of the Customer and will be turned over promptly by the Contractor.

3.3 Termination for Cause.

If the performance of the Contractor is not in compliance with the Contract requirements or the Contractor has defaulted, FAMU may:

- (a) immediately terminate the Contract;
- (b) notify the Contractor of the noncompliance or default, require correction, and specify the date by which the correction must be completed before the Contract is terminated; or
- (c) take other action deemed appropriate by FAMU.

**4. Contract.**

As used in this document, “Contract” (whether or not capitalized) shall, unless the context requires otherwise, include this document and all incorporated Attachments, which set forth the entire understanding of the Parties and supersedes all prior agreements. All modifications to this Contract must be in writing and signed by all Parties.

All Attachments listed below are incorporated in their entirety into, and form part of, this Contract. The Contract Attachments shall have priority in the order listed:

- (a) Exhibit A, Scope of Work
- (b) Exhibit B, Contractor’s Submitted Price Sheet [Note: attachments will vary based on the contract, but the beverage rights contract should have this.]

**5. Contract Management.**

**FAMU’s Contract Manager:**

Brittany Randall  
Florida A&M University  
Office of Business and Auxiliary Services  
601 Robert and Trudie Perkins Way  
Tallahassee, Florida 32307  
Email address

If FAMU changes the Contract Manager, FAMU will notify the Contractor. Such a change does not require an amendment to the Contract.

**Contractor’s Contract Manager:**

**[insert information]**

If the Contractor changes its Contract Manager, the Contractor will notify FAMU. Such a change does not require an amendment to the Contract.

## **6. PAYMENT AND FEES.**

### 6.1 Pricing.

The Contractor will not exceed the pricing set forth in the Contract documents.

### 6.2 Price Decreases.

The following price decrease terms will apply to the Contract:

6.2.1 Quantity Discounts. Contractor may offer additional discounts for one-time delivery of large single orders;

6.2.2 Preferred Pricing. The Contractor guarantees that the pricing indicated in this Contract is a maximum price. Additionally, Contractor's pricing will not exceed the pricing offered under comparable contracts. Comparable contracts are those that are similar in size, scope, and terms. In compliance with section 216.0113, F.S., Contractor must annually submit an affidavit from the Contractor's authorized representative attesting that the Contract complies with this clause.

6.2.3 Sales Promotions. In addition to decreasing prices for the balance of the Contract term due to a change in market conditions, the Contractor may conduct sales promotions involving price reductions for a specified lesser period. The Contractor must submit documentation identifying the proposed: (1) starting and ending dates of the promotion, (2) commodities or contractual services involved, and (3) promotional prices compared to then-authorized prices.

### 6.3 Payment Invoicing.

The Contractor will be paid upon submission of invoices to FAMU after delivery and acceptance of commodities or contractual services is confirmed by FAMU. Invoices must contain sufficient detail for an audit and contain the Contract Number and the Contractor's Federal Employer Identification Number.

### 6.4 Travel.

Travel expenses are not reimbursable unless specifically authorized by FAMU in writing and may be reimbursed only in accordance with section 112.061, F.S.

### 6.5 Taxes.

Taxes, customs, and tariffs on commodities or contractual services purchased under the Contract will not be assessed against FAMU unless authorized by Florida law.

### 6.6 Return of Funds.

Contractor will return any overpayments due to unearned funds or funds disallowed pursuant to the terms of the Contract that were disbursed to the Contractor. The Contractor must return any overpayment within forty (40) calendar days after either discovery by the Contractor, its independent auditor, or notification by FAMU.

## **7. CONTRACT MANAGEMENT.**

### 7.1 Composition and Priority.

The Contractor agrees to provide commodities or contractual services to the Customer as specified in the Contract. Additionally, the terms of the Contract supersede the terms of all prior agreements between the Parties on this subject matter.

### 7.2 Notices.

All notices required under the Contract must be delivered to the designated Contract Manager in a manner identified by FAMU.

## **8. COMPLIANCE WITH LAWS.**

### 8.1 Conduct of Business.

The Contractor must comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and authority. For example, the Contractor must comply with section 274A of the Immigration and Nationality Act, the Americans with Disabilities Act, Health Insurance Portability and Accountability Act, if applicable, and all prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status, or veteran's status. The provisions of subparagraphs 287.058(1)(a)-(c), and (g), F.S., are hereby incorporated by reference.

### 8.2 Dispute Resolution, Governing Law, and Venue.

Any dispute concerning performance of the Contract shall be decided by FAMU's designated Contract Manager, who will reduce the decision to writing and serve a copy on the Contractor. The decision of the Contract Manager shall be final and conclusive. Exhaustion of this administrative remedy is an absolute condition precedent to the Contractor's ability to pursue legal action related to the Contract or any other form of dispute resolution. The laws of the State of Florida govern the Contract. The Parties submit to the jurisdiction of the courts of the State of Florida exclusively for any legal action related to the Contract. Further, the Contractor hereby waives all privileges and rights relating to venue it may have under Chapter 47, F.S., and all such venue privileges and rights it may have under any other statute, rule, or case law, including, but not limited to, those based on convenience. The Contractor hereby submits to venue in Leon County, Florida.

### 8.3 Department of State Registration.

Consistent with Title XXXVI, F.S., the Contractor and any subcontractors that assert status, other than a sole proprietor, must provide FAMU with conclusive evidence of a certificate of status, not subject to qualification, if a Florida business entity, or of a certificate of authorization if a foreign business entity.

### 8.4 Suspended, Convicted, and Discriminatory Vendor Lists.

In accordance with sections 287.042, 287.133, and 287.134, F.S., an entity or affiliate who is on the Suspended Vendor List, Convicted Vendor List, or Discriminatory Vendor List may not perform work as a contractor, supplier, subcontractor, or consultant under the Contract. The Contractor must notify FAMU if it or any of its suppliers, subcontractors, or consultants have been placed on the Suspended Vendor List, Convicted Vendor List, or Discriminatory Vendor List during the term of the Contract.

#### 8.5 Scrutinized Companies - Termination by FAMU.

FAMU may, at its option, terminate the Contract if the Contractor is found to have submitted a false certification as provided under section 287.135(5), F.S., or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or been engaged in business operations in Cuba or Syria, or to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

#### 8.6 Cooperation with Inspector General and Records Retention.

Pursuant to section 20.055(5), F.S., the Contractor understands and will comply with its duty to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing. Upon request of the Inspector General or any other authorized State official, the Contractor must provide any information the Inspector General deems relevant to the Contractor's integrity or responsibility. Such information may include, but will not be limited to, the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Contractor will retain such records for the longer of five years after the expiration of the Contract, or the period required by the General Records Schedules maintained by the Florida Department of State, at the Department of State's Records Management website. The Contractor agrees to reimburse the State of Florida for the reasonable costs of investigation incurred by the Inspector General or other authorized State of Florida official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State of Florida which results in the suspension or debarment of the Contractor. Such costs will include but will not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor agrees to impose the same obligations to cooperate with the Inspector General and retain records on any subcontractors used to provide goods or services under the Contract.

### 9. **MISCELLANEOUS.**

#### 9.1 Subcontractors.

The Contractor will not subcontract any work under the Contract without prior written consent of FAMU. The Contractor is fully responsible for satisfactory completion of all its subcontracted work. FAMU supports diversity in its procurements and contracts, and requests that the Contractor offer subcontracting opportunities to certified woman-, veteran-, and minority-owned small businesses. The Contractor may contact the OSD at [osdhelp@dms.myflorida.com](mailto:osdhelp@dms.myflorida.com) for information on certified small business enterprises available for subcontracting opportunities.

#### 9.2 Assignment.

The Contractor will not sell, assign, or transfer any of its rights, duties, or obligations under the Contract without the prior written consent of FAMU. However, the Contractor may waive its right to receive payment and assign same upon notice to FAMU. In the event of any assignment, the Contractor remains responsible for performance of the Contract, unless such responsibility is expressly waived by FAMU. FAMU may assign the Contract with prior written notice to the Contractor.

### 9.3 Independent Contractor.

The Contractor and its employees, agents, representatives, and subcontractors are independent contractors and not employees or agents of the State of Florida and are not entitled to State of Florida benefits. FAMU will not be bound by any acts or conduct of the Contractor or its employees, agents, representatives, or subcontractors. The Contractor agrees to include this provision in all its subcontracts under the Contract.

### 9.4 Inspection and Acceptance of Commodities.

#### 9.4.1 Risk of Loss.

Matters of inspection and acceptance are addressed in section 215.422, F.S. Until acceptance, risk of loss or damage will remain with the Contractor. The Contractor will be responsible for filing, processing, and collecting all damage claims. To assist the Contractor with damage claims, the Customer will: record any evidence of visible damage on all copies of the delivering carrier's bill of lading; report damages to the carrier and the Contractor; and provide the Contractor with a copy of the carrier's bill of lading and damage inspection report.

#### 9.4.2 Rejected Commodities.

When FAMU rejects a commodity, Contractor will remove the commodity from the premises within ten (10) calendar days after notification of rejection, and the risk of loss will remain with the Contractor. Commodities not removed by the Contractor within ten (10) calendar days will be deemed abandoned by the Contractor, and FAMU will have the right to dispose of such commodities. Contractor will reimburse FAMU for costs and expenses incurred in storing or effecting removal or disposition of rejected commodities.

### 9.5 Safety Standards.

Performance of the Contract for all commodities or contractual services must comply with requirements of the Occupational Safety and Health Act and other applicable State of Florida and federal requirements.

### 9.6 Time is of the Essence.

Time is of the essence regarding every obligation of the Contractor under the Contract. Each obligation is deemed material, and a breach of any such obligation (including a breach resulting from untimely performance) is a material breach.

### 9.7 Waiver.

The delay or failure by FAMU to exercise or enforce any rights under the Contract will not constitute waiver of such rights.

#### 9.8 Modification and Severability.

The Contract may only be modified by written agreement between FAMU and the Contractor. Should a court determine any provision of the Contract is invalid, the remaining provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Contract did not contain the provision held invalid.

### **10. LIABILITY AND INSURANCE.**

#### 10.1 Workers' Compensation Insurance.

The Contractor shall maintain workers' compensation insurance as required under the Florida Workers' Compensation Law or the workers' compensation law of another jurisdiction where applicable. The Contractor must require all subcontractors to similarly provide workers' compensation insurance for all of the latter's employees. In the event work is being performed by the Contractor under the Contract and any class of employees performing the work is not protected under Workers' Compensation statutes, the Contractor must provide, and cause each subcontractor to provide, adequate insurance satisfactory to FAMU, for the protection of employees not otherwise protected.

#### 10.2 General Liability Insurance.

The Contractor must secure and maintain Commercial General Liability Insurance, including bodily injury, property damage, products, personal and advertising injury, and completed operations. This insurance must provide coverage for all claims that may arise from performance of the Contract or completed operations, whether by the Contractor or anyone directly or indirectly employed by the Contractor. Such insurance must include FAMU as an additional insured for the entire length of the resulting contract. The Contractor is responsible for determining the minimum limits of liability necessary to provide reasonable financial protections to the Contractor and FAMU Florida under the resulting contract.

#### 10.3 Florida Authorized Insurers.

All insurance shall be with insurers authorized and eligible to transact the applicable line of insurance business in the State of Florida. The Contractor shall provide Certification(s) of Insurance evidencing that all appropriate coverage is in place and showing FAMU to be an additional insured.

#### 10.4 Performance Bond.

Unless otherwise prohibited by law, the Department may require the Contractor to furnish, without additional cost to FAMU, a performance bond or irrevocable letter of credit or other form of security for the satisfactory performance of work hereunder. FAMU shall determine the type and amount of security.

#### 10.5 Indemnification.

To the extent permitted by Florida law, the Contractor agrees to indemnify, defend, and hold FAMU, its officers, employees, and agents harmless from all fines, claims, assessments, suits, judgments, or damages, including consequential, special, indirect, and punitive damages, including court costs and attorney's fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret, or intellectual property right or out of any acts, actions, breaches, neglect, or omissions of the Contractor, its employees, agents, subcontractors, assignees, or delegates related to the Contract, as well as for any determination arising out of or related to the Contract that the Contractor or Contractor's employees, agents, subcontractors, assignees, or delegates are not independent contractors in relation to FAMU. The Contract does not constitute a waiver of sovereign immunity or consent by FAMU to suit by third parties. Without limiting this indemnification, FAMU may provide the Contractor (1) written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at Contractor's sole expense, and (3) assistance in defending the action at Contractor's sole expense.

#### 10.6 Limitation of Liability.

Unless otherwise specifically enumerated in the Contract or in the purchase order, FAMU shall not be liable for special, indirect, punitive, or consequential damages, including lost data or records (unless the Contract or purchase order requires the Contractor to back-up data or records), even if FAMU has been advised that such damages are possible. FAMU shall not be liable for lost profits, lost revenue, or lost institutional operating savings. FAMU may, in addition to other remedies available to them at law or equity and upon notice to the Contractor, retain such monies from amounts due Contractor as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them. FAMU may set off any liability or other obligation of the Contractor or its affiliates against any payments due the Contractor under any contract with FAMU.

### **11. PUBLIC RECORDS, TRADE SECRETS, DOCUMENT MANAGEMENT, AND INTELLECTUAL PROPERTY.**

#### 11.1 Public Records.

##### 11.1.1 Termination of Contract for Refusal to Comply with Chapter 119, F.S.

FAMU may terminate the Contract for refusal by the Contractor to comply with this section by not allowing access to all public records, as defined in Chapter 119, F. S., made or received by the Contractor in conjunction with the Contract.

### 11.1.2 Statutory Notice.

Pursuant to section 119.0701(2)(a), F.S., for contracts for services with a contractor acting on behalf of a public agency, as defined in section 119.011(2), F.S., the following applies:

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE TELEPHONE NUMBER, EMAIL ADDRESS, AND MAILING ADDRESS PROVIDED IN THE RESULTING CONTRACT OR PURCHASE ORDER.**

Pursuant to section 119.0701(2)(b), F.S., for contracts for services with a contractor acting on behalf of a public agency as defined in section 119.011(2), F.S., the Contractor shall:

- (a) Keep and maintain public records required by the public agency to perform the service.
- (b) Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law for the duration of the Contract term and following the completion of the Contract if the Contractor does not transfer the records to the public agency.
- (d) Upon completion of the Contract, transfer, at no cost, to the public agency all public records in possession of the Contractor or keep and maintain public records required by the public agency to perform the service. If the Contractor transfers all public records to the public agency upon completion of the Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

### 11.2 Protection of Trade Secrets or Otherwise Confidential Information.

#### 11.2.1 Contractor Designation of Trade Secrets or Otherwise Confidential Information.

If the Contractor considers any portion of materials to be trade secret under section 688.002 or 812.081, F.S., or otherwise confidential under Florida or federal law, the Contractor must clearly designate that portion of the materials as trade secret or otherwise confidential when submitted to FAMU. The Contractor will be responsible for responding to and resolving all claims for access to Contract-related materials it has designated trade secret or otherwise confidential.

### 11.2.2 Public Records Requests.

If FAMU receives a public records request for materials designated by the Contractor as trade secret or otherwise confidential under Florida or federal law, the Contractor will be responsible for taking the appropriate legal action in response to the request. If the Contractor fails to take appropriate and timely action to protect the materials designated as trade secret or otherwise confidential, FAMU will provide the materials to the requester.

### 11.2.3 Indemnification Related to Confidentiality of Materials.

The Contractor will protect, defend, indemnify, and hold harmless FAMU for claims, costs, fines, and attorney's fees arising from or relating to its designation of materials as trade secret or otherwise confidential.

## 11.3 Document Management.

The Contractor must retain sufficient documentation to substantiate claims for payment under the Contract and all other records, electronic files, papers, and documents that were made in relation to this Contract. The Contractor must retain all documents related to the Contract for five (5) years after expiration of the Contract or, if longer, the period required by the General Records Schedules maintained by the Florida Department of State available at the Department of State's Records Management website.

## 11.4 Intellectual Property.

### 11.4.1 Ownership.

Unless specifically addressed otherwise in the Contract, FAMU shall be the owner of all intellectual property rights to all property created or developed in connection with the Contract.

### 11.4.2 Patentable Inventions or Discoveries.

Any inventions or discoveries developed in the course, or as a result, of services in connection with the Contract that are patentable pursuant to 35 U.S.C. § 101 are the sole property of FAMU. Contractor must inform FAMU of any inventions or discoveries developed or made through performance of the Contract. FAMU will be the sole owner of all patents resulting from any invention or discovery made through performance of the Contract.

### 11.4.3 Copyrightable Works.

Contractor must notify FAMU of any publications, artwork, or other copyrightable works developed in connection with the Contract. All copyrights created or developed through performance of the Contract are owned solely by FAMU.

## **12. DATA SECURITY.**

The Contractor will maintain the security of FAMU data including, but not limited to, maintaining a secure area around any displayed visible data and ensuring data is stored and secured when not in use. The Contractor and subcontractors will not perform any of the services from outside of the United States, and the Contractor will not allow any State of Florida data to be sent by any medium, transmitted, or accessed outside the United States due to Contractor's action or inaction. In the event of a security breach involving FAMU data, the Contractor shall give notice to FAMU within one business day. "Security breach" for purposes of this section will refer to a confirmed event that compromises the confidentiality, integrity, or availability of data. Once a data breach has been contained, the Contractor must provide FAMU with a post-incident report documenting all containment, eradication, and recovery measures taken. FAMU reserves the right in its sole discretion to enlist a third party to audit Contractor's findings and produce an independent report, and the Contractor will fully cooperate with the third party. The Contractor will also comply with all HIPAA requirements and any other state and federal rules and regulations regarding security of information.

## **13. GRATUITIES, LOBBYING, AND COMMUNICATIONS.**

### 13.1 Gratuities.

The Contractor will not, in connection with this Contract, directly or indirectly (1) offer, give, or agree to give anything of value to anyone as consideration for any State of Florida officer's or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone anything of value for the benefit of, or at the direction or request of, any State of Florida officer or employee.

### 13.2 Lobbying.

In accordance with sections 11.062 and 216.347, F.S., Contract funds are not to be used for the purpose of lobbying the Legislature, the judicial branch, or FAMU.

Pursuant to section 287.058(6), F.S., the Contract does not prohibit the Contractor from lobbying the executive or legislative branch concerning the scope of services, performance, term, or compensation regarding the Contract after the Contract is executed and during the Contract term.

### 13.3 Communications.

#### 13.3.1 Contractor Communication or Disclosure.

The Contractor shall not make any public statements, press releases, publicity releases, or other similar communications concerning the Contract or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with the Contract, without first notifying FAMU's Contract Manager and securing FAMU's prior written consent.

### 13.3.2 Use of FAMU Statements.

The Contractor shall not use any statement attributable to FAMU for the Contractor's promotions, press releases, publicity releases, marketing, corporate communications, or other similar communications, without first notifying FAMU's Contract Manager and securing FAMU's prior written consent.

## **14. CONTRACT MONITORING.**

### 14.1 Performance Standards.

The Contractor agrees to perform all tasks and provide deliverables as set forth in the Contract. FAMU will be entitled at all times, upon request, to be advised as to the status of work being done by the Contractor and of the details thereof.

### 14.2 Performance Deficiencies and Financial Consequences of Non-Performance.

#### 14.2.1 Proposal of Corrective Action Plan.

In addition to the processes set forth in the Contract (e.g., service level agreements), if FAMU determines that there is a performance deficiency that requires correction by the Contractor, then FAMU will notify the Contractor. The correction must be made within a time-frame specified by FAMU. The Contractor must provide FAMU with a corrective action plan describing how the Contractor will address all performance deficiencies identified by FAMU.

#### 14.2.2 Retainage for Unacceptable Corrective Action Plan or Plan Failure.

If the corrective action plan is unacceptable to FAMU, or implementation of the plan fails to remedy the performance deficiencies, FAMU will retain ten percent (10%) of the total invoice amount. The retainage will be withheld until the Contractor resolves the performance deficiencies. If the performance deficiencies are resolved, the Contractor may invoice FAMU for the retained amount. If the Contractor fails to resolve the performance deficiencies, the retained amount will be forfeited to compensate FAMU for the performance deficiencies.

### 14.3 Performance Delay.

#### 14.3.1 Notification.

The Contractor will promptly notify FAMU upon becoming aware of any circumstances that may reasonably be expected to jeopardize the timely and successful completion (or delivery) of any commodity or contractual service. The Contractor will use commercially reasonable efforts to avoid or minimize any delays in performance and will inform FAMU of the steps the Contractor is taking or will take to do so, and the projected actual completion (or delivery) time. If the Contractor believes a delay in performance by FAMU has caused or will cause the Contractor to be unable to perform its obligations on time, the Contractor will promptly so notify FAMU and use commercially reasonable efforts to perform its obligations on time notwithstanding FAMU's delay.

### 14.3.2 Liquidated Damages.

The Contractor acknowledges that delayed performance will damage FAMU, but by their nature such damages are difficult to ascertain. Accordingly, the liquidated damages provisions stated in the Contract documents will apply. Liquidated damages are not intended to be a penalty and are solely intended to compensate for damages.

### 14.4 Force Majeure, Notice of Delay, and No Damages for Delay.

The Contractor will not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees or agents contributed to the delay, and the delay is due directly to fire, explosion, earthquake, windstorm, flood, radioactive or toxic chemical hazard, war, military hostilities, terrorism, civil emergency, embargo, riot, strike, violent civil unrest, or other similar cause wholly beyond the Contractor's reasonable control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to the Contractor. The foregoing does not excuse delay which could have been avoided if the Contractor implemented any risk mitigation required by the Contract. In case of any delay the Contractor believes is excusable, the Contractor will notify FAMU in writing of the delay or potential delay and describe the cause of the delay either (1) within ten (10) calendar days after the cause that created or will create the delay first arose, if the Contractor could reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within five (5) calendar days after the date the Contractor first had reason to believe that a delay could result. The foregoing will constitute the Contractor's sole remedy or excuse with respect to delay. Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages will be asserted by the Contractor. The Contractor will not be entitled to an increase in the Contract price or payment of any kind from FAMU for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist the Contractor will perform at no increased cost, unless FAMU determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the University, in which case FAMU may (1) accept allocated performance or deliveries from the Contractor, provided that the Contractor grants preferential treatment to FAMU with respect to commodities or contractual services subjected to allocation, or (2) purchase from other sources (without recourse to and by the Contractor for the related costs and expenses) to replace all or part of the commodity or contractual services that are the subject of the delay, which purchases may be deducted from the Contract quantity, or (3) terminate the Contract in whole or in part.

## 15. **CONTRACT AUDITS.**

### 15.1 Performance or Compliance Audits.

FAMU may conduct or have conducted performance and/or compliance audits of the Contractor and subcontractors as determined by FAMU. FAMU may conduct an audit and review all the Contractor's and subcontractors' data and records that directly relate to the Contract. To the extent necessary to verify the Contractor's fees and claims for payment under the Contract, the Contractor's agreements or contracts with subcontractors, partners, or agents of the Contractor, pertaining to the Contract, may be inspected by FAMU upon fifteen (15) calendar days' notice, during normal working hours and in accordance with the Contractor's facility access procedures where facility access is required. Release statements from its

subcontractors, partners, or agents are not required for FAMU or its designee to conduct compliance and performance audits on any of the Contractor's contracts relating to this Contract. The Inspector General, in accordance with section 8.6, the State of Florida's Chief Financial Officer, the Office of the Auditor General also have authority to perform audits and inspections.

## 15.2 Payment Audit.

Records of costs incurred under terms of the Contract will be maintained in accordance with section 8.6 of this Standard Written Agreement. Records of costs incurred will include the Contractor's general accounting records, together with supporting documents and records of the Contractor and all subcontractors performing work, and all other records of the Contractor and subcontractors considered necessary by FAMU, the State of Florida's Chief Financial Officer, or the Office of the Auditor General.

## 16. **BACKGROUND SCREENING AND SECURITY.**

### 16.1 Background Check.

FAMU may require the Contractor to conduct background checks of its employees, agents, representatives, and subcontractors as directed by FAMU. The cost of the background checks will be borne by the Contractor. FAMU may require the Contractor to exclude the Contractor's employees, agents, representatives, or subcontractors based on the background check results. In addition, the Contractor must ensure that all persons have a responsibility to self-report to the Contractor within three (3) calendar days any arrest for any disqualifying offense. The Contractor must notify FAMU's Contract Manager within twenty-four (24) hours of all details concerning any reported arrest. Upon the request of FAMU, the Contractor will re-screen any of its employees, agents, representatives, and subcontractors during the term of the Contract.

### 16.2 E-Verify.

The Contractor must use the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired during the term of the Contract for the services specified in the Contract. The Contractor must also include a requirement in subcontracts that the subcontractor must utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the Contract term. In order to implement this provision, the Contractor must provide a copy of its DHS Memorandum of Understanding (MOU) to FAMU's Contract Manager within five (5) calendar days of Contract execution. If the Contractor is not enrolled in DHS E-Verify System, it will do so within five (5) calendar days of notice of Contract award and provide the Contract Manager a copy of its MOU within five (5) calendar days of Contract execution. The link to E-Verify is <https://www.uscis.gov/e-verify>. Upon each Contractor or subcontractor new hire, the Contractor must provide a statement within five (5) calendar days to FAMU's Contract Manager identifying the new hire with its E-Verify case number.

### 16.3 Disqualifying Offenses.

If at any time it is determined that a person has been found guilty of a misdemeanor or felony offense as a result of a trial or has entered a plea of guilty or nolo contendere, regardless of whether adjudication was withheld, within the last six (6) years from the date of the court's determination for the

crimes listed below, or their equivalent in any jurisdiction, the Contractor is required to immediately remove that person from any position with access to FAMU data or directly performing services under the Contract. The disqualifying offenses are as follows: computer related crimes; information technology crimes; fraudulent practices; false pretenses; frauds; credit card crimes; forgery; counterfeiting; violations involving checks or drafts; misuse of medical or personnel records; and felony theft.

#### 16.4 Confidentiality.

The Contractor must maintain confidentiality of all confidential data, files, and records related to the commodities or contractual services provided pursuant to the Contract and must comply with all state and federal laws, including, but not limited to sections 381.004, 384.29, 392.65, and 456.057, F.S. The Contractor's confidentiality procedures must be consistent with the most recent version of FAMU's security policies, protocols, and procedures. The Contractor must also comply with any applicable professional standards with respect to confidentiality of information.

### **17. WARRANTY OF CONTRACTOR'S ABILITY TO PERFORM.**

The Contractor warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish the Contractor's ability to satisfy its Contract obligations. The Contractor warrants that neither it nor any affiliate is currently on the Suspended Vendor List, Convicted Vendor List, or the Discriminatory Vendor List, or on any similar list maintained by any other state or the federal government. The Contractor shall immediately notify FAMU in writing if its ability to perform is compromised in any manner during the term of the Contract.

### **18. NON-DISPARAGEMENT.**

Contractor acknowledges that the University relies heavily on its reputation to attract students, faculty, and donors. Accordingly, Contractor agrees that during the Term of this Contract, and at all times thereafter, Contractor, and its employees and agents, shall not, directly or indirectly, make, publish, or communicate disparaging, negative, or derogatory statements, whether verbal, written, or electronic (including, but not limited to, social media and online platforms) regarding the University, its academic or athletic programs, or its Board of Trustees, officers, administrators, faculty, staff, students, alumni, or donors. Nothing in this provision shall prevent Contractor from: (1) testifying under oath in any legal or administrative proceeding where such testimony is compelled by law; (2) reporting possible violations of federal, state, or local law or regulation to a governmental entity; or (3) making disclosures that are protected under the applicable whistleblower statute.

**IN WITNESS THEREOF**, the Parties hereto have caused this Contract, which includes the incorporated Attachments, to be executed by their undersigned officials as duly authorized. This Contract is not valid and binding until signed and dated by the Parties.

**[Contractor's Name]**

**FLORIDA A&M UNIVERSITY BOARD  
OF TRUSTEES**

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

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

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

# Form 1

Submit Reply to:

**FLORIDA A&M UNIVERSITY**  
 Office of Procurement Service  
<https://famu.bonfirehub.com/portal/?tab=openOpportunities>  
 Tallahassee, Florida 32307-3200  
 Telephone Number: (850) 599-8013



## INVITATION TO NEGOTIATE Respondent Acknowledgement Form 1

<b>Page 1 of Pages</b>	<b>REPLIES WILL BE OPENED: @ 2:00 p.m.</b>	<b>ITN NO. 0003-2025</b>	
<b>Posting Date:</b>	<b>ITN TITLE: FLORIDA A&amp;M UNIVERSITY POURING RIGHTS AND CAMPUS VENDING</b>		
FEDERAL EMPLOYER IDENTIFICATION NUMBER OR S.S. NUMBER:			
VENDOR NAME	THE INVITATION TO NEGOTIATE DOCUMENT IS SUBJECT TO CHANGE. All notices of change ("Addenda") will be posted on <a href="https://famu.bonfirehub.com/portal/?tab=openOpportunities">https://famu.bonfirehub.com/portal/?tab=openOpportunities</a> and will remain posted for 72 hours (excluding weekends and holidays). Any party adversely affected by a decision of the University has the right to protest. Failure to file a protest within the time prescribed in Section 120.57(3), Florida Statutes, and University Regulation 6.005 (9) (k) shall constitute a waiver of proceedings under Chapter 120, Florida Statutes. It is the responsibility of all potential Respondents to monitor the portal for any changing information prior to submitting a Reply and throughout the ITN process.		
VENDOR MAILING ADDRESS			
CITY-STATE-ZIP			
AREA CODE:			TELEPHONE NUMBER:
			TOLL-FREE NUMBER:
<i>I certify that this Reply is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid for the same commodities/ services and is fair and without collusion or fraud. I agree to abide by all conditions of this ITN and certify that I am authorized to sign this Reply for the Respondent and that the Respondent follows all requirements of the ITN, including but not limited to certification requirements.</i>		_____ AUTHORIZED SIGNATURE (MANUAL)  _____ NAME & TITLE (TYPED)	

Form 2

REFERENCES

Provide a minimum of five (5) current references, preferably from other educational clients comparable to FAMU.

<b>Complete Name:</b>
<b>Address:</b>
<b>Telephone Number:</b>
<b>Email address:</b>
<b>Contact Person:</b>
<b>Complete Name:</b>
<b>Address:</b>
<b>Telephone Number:</b>
<b>Email address:</b>
<b>Contact Person:</b>
<b>Complete Name:</b>
<b>Address:</b>
<b>Telephone Number:</b>
<b>Email address:</b>
<b>Contact Person:</b>
<b>Complete Name:</b>
<b>Address:</b>
<b>Telephone Number:</b>
<b>Email address:</b>
<b>Contact Person:</b>
<b>Complete Name:</b>
<b>Address:</b>
<b>Telephone Number:</b>
<b>Email address:</b>
<b>Contact Person:</b>
<b>Complete Name:</b>
<b>Address:</b>
<b>Telephone Number:</b>
<b>Email address:</b>
<b>Contact Person:</b>

Form 3



Notary Public, State of \_\_\_\_\_

Printed Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

Personally known \_\_\_\_\_ OR Produced identification \_\_\_\_\_

The type of identification produced \_\_\_\_\_

**Form 4**

**STATEMENT OF NO INVOLVEMENT**

I, \_\_\_\_\_, as an authorized representative of the company as mentioned earlier, certify that no member of this firm or any person having any interest in this firm has been involved with the Florida A&M University to assist it in:

- 1) Developing this Invitation to Bid; or,
- 2) Performing a feasibility study concerning the scope of work in this Invitation to Bid.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Date

Form 5

**NOTICE OF CONFLICT OF INTEREST**

Company or Entity Name \_\_\_\_\_

To participate in the Invitation to Bid process and comply with the provisions of Chapter 112, *Florida Statutes*, and University Regulation 6.002, the undersigned corporate officer states as follows:

The persons listed below are corporate officers, directors, or agents and are currently employees of the Florida A & M University or Users:

_____	_____
_____	_____
_____	_____

The persons listed below are current University employees who own an interest of five percent (5%) or more in the company/entity named above:

_____	_____
_____	_____
_____	_____

The above information is true and correct to the best of my knowledge. Signed on this\_\_\_\_, day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name and Title

**Form 6**

**Florida Department of State**

**Certificate of Status**

Attached to this form is the current Certificate of Status from the Florida Department of State, Division of Corporations, for \_\_\_\_\_.

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

[ATTACH CERTIFICATE OF STATUS WITH THIS FORM]