

SKRIP'S CLASSIC VENDING SERVICE VENDING SERVICE AGREEMENT

This Service Agreement is between Skrips' Classic Vending Service, 1235 Mercedes Bend ,Toms River, NJ 08755 and the Board of Education of The Township of Brick, 101 Hendrickson Avenue, Brick, NJ 08724

1. The term of this agreement shall be from August 1, 2017 to July 31, 2018.
2. The District and Vendor have mutually determined the number of 28 vending machines to be installed by Vendor under this agreement, as well as the location of those machines on District property (list attached). The District reserves the sole right to increase or decrease the number and type of machines at each location. No equipment shall be added or removed by Vendor without prior written approval from District.
3. Vendor shall pay commissions on Beverages of 20% and Snacks of 15%. Commissions on vending machine sales shall be paid based on cash collected by Vendor. Vendor shall pay commissions on or about the 30th of each month following the month in which they are earned.
4. The equipment being provided for dispensing will be provided FREE OF CHARGE to the Brick Township Board of Education.
5. All ingredients of items to be dispensed must be declared on the product label, as required by the Food and Drug Administration. All products provided are required to carry legible, open code dating on each can, bottle or case, and must indicate pack code or expiration date.
6. All products sold must be in compliance with N.J.S.A 18A:33-16 and District Policy 3542.1.
7. All agreement terms, conditions, offers, and disclosures, as well as information or disclosures, as well as information or disclosures arising out of this agreement, shall be deemed public information. As such they may be subject to release as public records. District shall not in any way be liable to Vendor for the disclosure of any such records, and District assumes no obligation or responsibility for asserting legal arguments on Vendor's behalf.
8. Vendor shall certify in writing that all its employees and all subcontracted employees, present or new hires, servicing this agreement have not been convicted of a crime or are awaiting adjudication of same. This certification shall be provided by Vendor to District prior to any of Vendor's employees, or Vendor's subcontractor's employees, coming in contact with any District pupils.
9. During the performance of this contract, the Vendor shall knowingly not allow any employee registered pursuant to N.J.S.A. 2C:7-1, et seq. "Meghan 's Law", as a Tier 3 offender (sex offenders determined to pose a relatively high risk of offense") or a Tier 2 offenders (sex offenders determined to pose a moderate risk of re-offense), upon the District's property.
10. Vendor shall provide a Certification of Non-Involvement in Prohibited Activities in Iran pursuant to the requirements of N.J.S.A. 18A:18A:49.4.8a.
11. Vendor shall provide a current Certificate of Business Registration.

12. District reserves the right to reject any products in its sole discretion, supplies and equipment that are unsafe for their intended use or that fail to meet established FDA and OSHA health and safety requirements and standards.

13. The servicing of vending machines for restocking, maintenance and repair must occur during weekdays, or a Saturday if necessary to keep machines supplied with product for maximum sales. Servicing will only occur if school personnel are available.

14. Vendor may affix such logos/advertising imagery to its vending machine panels as may be pre-approved by the District in its sole discretion. Pre-approval will be given only to advertising related to permitted Snack and Beverage Products as defined under N.J.S.A. 18A:33-16 and District Policy 3542.1.

15. By signing this Agreement, Vendor voluntarily submits to the advertising restrictions set forth herein and knowingly and intentionally waives any rights it might otherwise be entitled to under the First Amendment of the U.S. Constitution and the free speech provisions of the state constitution.

16. All vending machines shall meet the requirements of the Americans with Disabilities.

17. Vendor shall provide the District and the designated contact person with an accurate and truth report detailing the total sales per month generated from all vending machines from each location. This report shall be sent with a monthly commission check and shall specify the calculations Vendor used to determine the commission value.

18. Vendor shall maintain complete and accurate records of vending transactions for each machine in accordance with accepted industry standards and will keep such financial records for a period of 4 years after the close of each year's operations.

19. Vendor shall make all applicable financial books and records pertaining to this agreement available for audit during normal business hours by the District or its designated auditor. Upon 15 days written notice to Vendor, District personnel may perform an audit of Vendor's books and records if District believes a discrepancy has occurred regarding the commission checks or other payments made under this agreement.

20. All machines provided by Vendor under this agreement shall conserve energy and reduce energy-related costs through energy efficiency. To satisfy this requirement, Vendor either can install machines with an Energy StarR label (or equivalent) or can utilize energy-saving devices such as the Vending MiserR or equivalent.

Vendor shall incur all costs associated with energy-saving machines or devices. District reserves the right to install energy-savings devices after machines have been placed on District property. District shall do so at its own expense and shall be responsible for any service-related issues that result from such installation.

21. Vendor shall provide, install and maintain sufficient vending equipment and supplies necessary to facilitate the continued sale of Permitted Beverage Products. Vending machines shall be new or completely reconditioned at the time of installation. No machine shall be installed that does not meet the energy efficiency requirements set forth in this agreement. Automatically operated dispensing

machines shall be adequately metered with non-reset meters and shall operate on AC-110 volts. The machines shall be double insulated or grounded. All machines shall be equipped with dollar bill validators and coin-operated mechanisms with change return, slug rejection and coin-return features.

22. During the term of this Agreement, Vendor shall be responsible for the ordinary maintenance and repair of vending equipment.

23. District shall furnish, at no cost to Vendor, the electrical power necessary for the operation of the vending machines.

24. District will not be required to relocate any electrical outlets or circuits in order to provide electrical power to vending machines at desired locations. Vendor shall bear all costs associated with such relocation, unless relocation is requested solely by District, in which case District shall bear the cost of relocation. Vendor must obtain District's prior written approval for the use of vending machine electrical cords that are longer than 10 feet.

25. For the initial installation of vending machines, Vendor shall obtain prior written permission from District to install additional electrical outlets or circuits, or to move existing outlets. All requested and approved electrical outlet or circuit additions shall be done by a duly licensed electrical contractor. All work performed must be done in full compliance with state and local building, electrical, and safety codes and regulations. All electrical work shall be subject to District's inspection. Any re-work deemed necessary by the District's inspection, due to code non-compliance, shall be done at Vendor's sole expense.

26. Vendor shall be responsible for the remittance of taxes on the sales of Permitted Products through vending machines on District property. Vendor is not responsible for taxes related to commission income. District shall not assess Vendor for common area maintenance fees, taxes or other charges based on its occupation of the space allocated to vending machines.

27. District shall have the right, in its absolute discretion, to require the removal of Vendor's personnel at any level assigned to the performance of the services provided under this agreement. District shall provide written notice to Vendor of its request for removal of Vendor's personnel, which notice will become effective upon receipt. Such personnel shall be promptly removed from performing services under this agreement at no cost or expense to District. Further, an employee who is removed from the Project for any reason shall not be re-employed under this agreement.

28. Vendor shall secure and maintain such insurances as will protect it and the District from claims under Workers' Compensation laws, and such public liability insurance as will protect it and the District from claims for damages for personal injury, including death and damage to property, which may arise from operations under this Agreement, whether such operations be by Vendor itself or anyone directly or indirectly employed by it.

29. Vendor shall set aside a minimum of \$15.00 for each District building for possible refunds due to machine malfunctions. This fund shall be checked periodically to ensure adequate funding. Vendor shall provide District with a form to account for any refunds. At a minimum, this form shall contain fields to enter

the date, refunded amount, name of person receiving refund, reason for refund, and machine involved.

30. Vendor shall file a certificate of insurance for all insurance required under this Agreement with District. Certificates shall include the following language: This policy shall not be canceled or reduced in required amounts of liability or amounts of insurance until notice has been mailed to the Board of Education of the Township of Brick stating the date of cancellation or reduction. The date of cancellation or reduction may not be less than 30 days after the date of mailing the notice.

31. The Board of Education of the Township of Brick, its officers, officials, employees, and agents are to be covered as additional insured's in respect to any liability arising out of work or services performed by or on behalf of the Vendor during the Agreement's term.

32. Vendor shall indemnify and defend District, its employees, agents and members of its governing body at all times after the execution of this agreement against (a) any liability, loss, damages (including punitive damages), claim, settlement payment, cost and expense, interest, award, judgment, diminution of value, fine, fee, and penalty, or other charge, other than any Litigation Expenses (as defined in subsection b), arising out of or relating to the services, equipment, or products provided under this agreement; and (b) any court filing fee, court cost, arbitration fee or cost, witness fee, and each other fee and cost of investigating and defending or asserting any claim for indemnification under this agreement, including without limitation, in each case , attorneys' fees, other professionals' fees, and disbursements (collectively, "Litigation Expenses")

33. Vendor shall, at its sole cost and expense, obtain and maintain in force at all times during the term of this agreement commercial general liability insurance including contractual liability and personal injury liability and all similar coverage, with combines single limits of \$1,000,000 on account of bodily injury to or death of one or more persons as the result of any one accident or disaster and on account of damage to property. Such policy shall be written on an "occurrence" basis and not a "claims made" basis.

34. Skrip's shall conduct all of these activities in accordance with all state, local and federal guidelines, regulations and laws.

35. INDEPENDENT CONTRACTOR. Skrip's is and will perform its Services as an independent contractor for the BOE. Nothing in this Agreement shall be construed so as to render Skrip's an employee, agent, representative, joint venture or partner of the BOE, and Skrip's shall not hold itself out to others in such capacity. Skrip's shall not enter into any contracts, agreements or other obligations with any other parties which bind, or are intended to bind, the BOE. Skrip's shall have no authority to bind the BOE to contracts or to incur any other obligations on behalf of the BOE, and any such contracts or obligations entered into or incurred by Skrip's shall be void.

36. As an amendment to Paragraph 33, throughout the term of this Agreement, Skrip's agrees to provide and maintain General Liability insurance coverage in the amount of one million dollars (\$1,000,000.00) per occurrence and three million dollars (\$3,000,000.00) in the aggregate, per year, and Licensed Professional

Liability insurance coverage in the amount of one million dollars (\$1,000,000.00) per occurrence and three million dollars (\$3,000,000.00) in the aggregate, per year. Skrip's shall provide the BOE with evidence of such coverage upon request. Said insurance shall name the BOE as an additional insured.

37. CONFIDENTIALITY. During the course of the business relationship, each party may be given access to proprietary or confidential information of the other, including, but not limited to, pricing policies, the identity and social security numbers of employees, and business policies and systems ("Confidential Information"). Each party shall hold Confidential Information of the other party in confidence, treating such Confidential Information with no less care than it treats its own, and shall not disclose such Confidential Information to any third party or use such Confidential Information for any purpose other than as contemplated by the Agreement. Upon termination of this Agreement, or sooner if requested by either party, each party return all Confidential Information of the other party in its possession, without retaining copies of such Confidential Information. This section shall not apply to information (i) that is in the public domain, or (ii) required to be disclosed by law or legal process. Each party agrees to immediately return to the other party or destroy all Confidential Information of the other in its possession, custody or control in whatever form held (including all copies of all written documents relating to that) upon termination of the Agreement or at any time, or from time to time, upon the request of the other party.

38. TERMINATION. If either party breaches any part of the Agreement they will have thirty (30) days to remedy the problem. If remedy is not made within thirty (30) days, either party has the right and option to terminate this Agreement upon thirty (30) days written notice to the other party.

39. Assignment of Rights. Except as specified in this Agreement, the rights and obligations of each party under this Agreement are exclusive to that party and cannot be assigned or transferred to any other person, firm, organization, corporation or other entity without the prior written consent of the other party.

40. AFFIRMATIVE ACTION. The Parties agree to incorporate by reference into this contract the mandatory language of Subsection 3.4 (a) and the mandatory language of Section 5.3 of the Regulations promulgated by Treasurer of the State of New Jersey pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time, and that Skrip's agrees to comply fully with the terms, provisions, conditions and obligations of said Subsection 3.4 (a), provided that said Subsection 3.4 (a) shall be applied subject to the terms of Subsection 3.4 (d) of said Regulations. Skrip's shall also comply with the requirements of the Affirmative Action set forth in Exhibit A attached hereto and made a part hereof. The Parties agree to further incorporate into this Contract the mandatory language of subsections 7.4 (a) and (b) of regulations promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time, and Skrip's or subcontractor agrees to comply fully with the terms, provisions, and obligations of said subsections 7.4 (a) and (b). Skrip's shall execute and comply with all requirements contained in the Affirmative Action Affidavit attached hereto, which shall be incorporated herein by reference. Skrip's shall submit a copy of its Certificate of Employee Information Report or Form AA-302 (Initial Employee

Information Report) prior to any payments being made under this Agreement. The Parties, for themselves, their heirs, executors, administrators, successors, or assigns, hereby agree to the full performance of the covenants herein contained.

41. AMERICANS WITH DISABILITIES ACT OF 1990. Skrip's shall comply with the "Americans With Disabilities Act of 1990".

42. INTERPRETATIONS OF SPECIFICATIONS AND CONTRACT. This Contract shall be construed pursuant to the laws of the State of New Jersey. Any litigation with respect to the interpretation of the terms of this Contract shall be within the sole jurisdiction of the Court of the State of New Jersey and venue shall be in Ocean County.

43. NOTICES. All notices, requests, demands and other communications hereunder shall be written, and shall be deemed to have been duly given if delivered or mailed, by certified mail, return receipts requested, to the parties hereto at the addresses stated on the first page of this contract.

44. COUNTERPARTS. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

45. BENEFIT. This Agreement shall be binding upon, and inure to the benefit of the representatives, Successors and assigns of the parties hereto.

46. ENTIRE AGREEMENT. This Agreement contains and sets forth the entire understanding of the parties. It shall not be altered or modified except by written instrument signed by all of the parties hereto.

47. Failure of either party to insist upon the strict performance of any of the provisions of this Agreement shall not be construed as a waiver of any subsequent default or breach of the same or similar nature.

48. This Agreement constitutes the entire and complete agreement between the parties and may not be amended, modified or changed in any respect whatsoever except by a further agreement in writing duly signed by all the parties.

49. In the event that any court of competent jurisdiction shall declare any section of this Agreement invalid for any reason, all other sections shall remain in full force and effect.

50. Skrip's shall comply with Exhibit A "Mandatory Equal Opportunity Language".

51. Whenever the consent of any party is required, such consent shall not be unreasonably withheld nor delayed.

I accept the terms of this agreement.

Client: Brick School District
101 Hendrickson Avenue
Brick, NJ 08724

Operator: Skrip's Classic Vending
1235 Mercedes Bend
Toms River, NJ 08755

James W. Edwards, Jr., CPA
Business Administrator/Board Secretary

VENDING MACHINE LOCATIONS

Brick High School

- 1 snack by gym
- 1 juice by gym
- 1 snack cafeteria #1
- 1 juice cafeteria #1
- 1 snack cafeteria #2
- 1 juice cafeteria #2
- 1 snack cafeteria #3
- 1 juice cafeteria #3
- 1 snack faculty lounge
- 1 juice faculty lounge

Brick Memorial High School

- 1 snack by gym
- 1 juice by gym
- 1 snack gold cafeteria
- 1 juice gold cafeteria
- 1 snack green cafeteria
- 1 juice green cafeteria

Vets Memorial Middle School

- 1 snack cafeteria / hall
- 1 water cafeteria / hall

Lake Riviera Middle School

- 1 snack cafeteria / hall
- 1 water cafeteria / hall
- 1 snack faculty lounge
- 1 juice faculty lounge

Vets Memorial Elementary School

- 1 snack faculty lounge
- 1 juice faculty lounge

Emma Havens Elementary School

- 1 snack faculty lounge
- 1 juice faculty lounge

Brick Transportation Bus Depot

- 1 snack break room

1 juice break room