

Club Coke Specialized Program Customer Marketing Agreement Terms and Conditions

These Terms and Conditions apply to, and are incorporated in and made a part of, the Club Coke Specialized Program Customer Marketing Agreement (collectively, the "Agreement") entered into by Coca-Cola Beverages Florida, LLC ("Coke Florida") and Customer, designed to increase the marketing and sale of Coke Florida Beverages at Customer's outlet(s) listed in the Agreement (each, an "Outlet," and collectively, the "Outlets"). Program performance elements and funding, discounts, and rebates are set forth in the Agreement. These Terms and Conditions are subject to change from time to time in Coke Florida's sole good faith discretion, with written notice of any such change provided by Coke Florida to Customer. If Customer objects to such change(s), Customer will have the right to terminate the Agreement, in full, by providing written notice to Coke Florida within thirty (30) days of the date of Coke Florida's notice.

- (a) The Agreement will begin the date it is signed by both parties (with Coke Florida signing last) and will continue until terminated by either party. Either party may terminate the Agreement with or without cause at any time by providing thirty (30) days' prior written notice to the other party.
- (b) "Coke Florida Beverages" are beverages sold by Coke Florida. Customer agrees to purchase all its requirements (100%) of Coke Florida Beverages directly from Coke Florida via the MyCoke website at <https://mycokedsdol.force.com/> (see website for details, including but not limited to, applicable Terms of Use and Sale), unless otherwise specified by Coke Florida. "Case" means a raw case, as specified by Coke Florida. "Core" Coke Florida Beverages means Coca-Cola, Diet Coke, Coca-Cola Zero Sugar, Sprite, Fresca, Inca Kola and any line extension of those brands (e.g., Cherry Coke, Coca-Cola Vanilla). "Flavor" Coke Florida Beverages means Fanta, Minute Maid, Seagram's, Barq's, Mello Yello, Pibb, and any line extension of those brands (e.g., Seagram's Tonic Water, diet Barq's). "Sparkling" or "SSD" means Core Coke Florida Beverages and the following other sparkling soft drinks and each of their line extensions: Fanta, Barq's, Mello Yello, Seagram's, Pibb and Minute Maid Lemonade. "Still" Coke Florida Beverages means each category of Coke Florida Beverages listed in the Still Programs in the Agreement. "Rebate Term" means October 1st – September 30th.
- (c) All pricing, discounts, and rebates set forth in the Agreement are per Case. Discounts are deducted from the then current Case price of the Coke Florida Beverages, which prices may be adjusted from time to time by Coke Florida pursuant to the terms herein. Any rebates that are earned by an Outlet pursuant to this Agreement will be paid solely to Customer on behalf of the Outlet, and Customer represents and warrants that: (i) it is authorized to enter into this Agreement on behalf of itself and the Outlet(s) without violating the rights of any third party and (ii) it has the authority to receive the Consideration (as defined below) provided pursuant to this Agreement on behalf of the Outlets. Customer agrees to defend, indemnify, and hold harmless Coke Florida from any and all claims or other costs and liabilities arising out of the execution of this Agreement and Coke Florida's provision of the Consideration to Customer. Rebates, if any, will be paid to Customer quarterly (i.e., based on the Rebate Term), in arrears, within sixty (60) days after the end of each applicable quarter in which the Rebates were earned.
- (d) Coke Florida's sales records will be used for calculation of all funding, discounts, and rebates due. Coke Florida will offer the net prices or pay funding, rebates, discounts, either by deducting the funding, rebates, discounts on the invoice, payment in arrears, or by such other method as determined by Coke Florida. All consideration, including pricing, discounts, rebates, funding, equipment, equipment service and any other benefits, (collectively, "Consideration") provided by Coke Florida to Customer and the Outlets under the Agreement are expressly conditioned on: (1) the Outlets being fully open to the public, and (2) Customer and the Outlets being in full compliance with the Agreement, including but not limited to these Terms and Conditions and Program performance elements. If Customer fails to adhere to any requirements of the Agreement, then Coke Florida is entitled to adjust, reduce, withhold or not provide any or all Consideration associated with the Program with or without notice to Customer until Customer and the Outlets come back into full compliance with the Agreement, including the Program and these Terms and Conditions, or Coke Florida may terminate the Agreement with or without notice. Coke Florida also has the right to adjust, reduce, withhold or not provide any Consideration which may become due to an Outlet or Customer pursuant to the Agreement or otherwise if: (i) Customer or any of its Outlets owes Coke Florida any money, (ii) Coke Florida's rights hereunder have been lost, limited or restricted, or (iii) there exists a bona fide dispute between the parties.
- (e) Coke Florida may from time to time offer special prices that are dead-net. In such event, funding, discounts, and/or rebates provided hereunder will not cause the dead-net price charged to Customer to fall below such special dead-net price or trade letter dead-net price.
- (f) If an Outlet is subject to another Customer Marketing Agreement or similar agreement with Coke Florida, the Agreement hereby supersedes the other agreement in whole for that Outlet. If an Outlet is subject to an agreement with The Coca-Cola Company ("TCCC") or another Coca-Cola bottler, there will be no duplication of Consideration and any Consideration will be provided only under one agreement, as specified by Coke Florida.
- (g) **PRICING FOR COKE FLORIDA BEVERAGES IS SUBJECT TO CHANGE BY COKE FLORIDA AT ANY TIME DURING THE TERM OF THE AGREEMENT WITH OR WITHOUT NOTICE TO CUSTOMER.**
- (h) Coke Florida has the right to evaluate Customer's performance at any time to determine whether Customer is in compliance with the Program and the Agreement. Customer agrees that Coke Florida may, at Coke Florida's own cost, implement the use of photo-recognition, shelf-sensors, or other technology or processes to validate Customer's compliance with the Agreement and for other purposes of facilitating the business relationship between the parties.
- (i) If an Outlet has not ordered for more than ninety (90) days any Coke Florida Beverages that are required by the Agreement to be placed and maintained at the Outlet, Customer acknowledges and agrees that Coke Florida may, in its sole good faith discretion, arrange for the delivery or shipment of such Coke Florida Beverages to the Outlet and charge Customer for such Coke Florida Beverages, with the intent to bring the Outlet back into compliance with the required Program performance elements.
- (j) Customer determines all retail pricing and whether to accept or reject category management recommendations.
- (k) The Agreement does not restrict pricing or display of competitive products.
- (l) Customer and its Outlets will not obtain, by the Agreement, any right, title, interest in, or right to use, the name, logos, trademarks or copyrights owned by or licensed to Coke Florida. Any uses by Customer and/or the Outlets of the name, logos, trademarks or copyrights owned by or licensed to Coke Florida must be approved by Coke Florida (and its licensors as applicable) in writing in advance. Customer hereby grants to Coke Florida a royalty-free license, exclusive for beverages, to use the trademarks, logos and other intellectual property of Customer and the Outlets ("Customer Marks") in connection with the promotion of Coke Florida Beverages. Such promotion may occur in all forms of advertising and marketing (e.g., TV, radio, internet, digital, social media, print, broadcast, billboard), packaging, vessels, promotional materials and point of sale materials and may be in connection with the marks and logos of Coke Florida's customers and other partners.
- (m) In no event will Coke Florida accept any claims of discrepancies or errors in pricing or other Consideration ("Claims") more than one (1) year from the date of invoice. Coke Florida reserves the right to specify the documentation it will require to review a Claim. Customer agrees not to withhold payments due to Coke Florida regardless of a Claim. Coke Florida will work directly with Customer to resolve any Claims or audit issues but will not interact with third-party auditors or contractors.

(n) Customer will not distribute Coke Florida Beverages, directly or indirectly, outside Coke Florida's territory ("Transshipment" or "Transshipping"). Coke Florida may terminate the Agreement for Transshipment and/or deduct or charge for Transshipping charges and other harm, loss and damage incurred by Coke Florida due to Customer's Transshipment, which Customer agrees to pay. This Program is intended to provide marketing support for consumer sales. Funding may be withheld if Customer makes non-retail sales. In addition, Coke Florida reserves the right to limit quantities and to refuse to sell.

(o) The parties will mutually agree upon all Coke Florida equipment placements. All Coke Florida equipment placements will be subject to Coke Florida's standard equipment placement agreement terms, which may be found at https://cocacolafloida.com/CCBF_EPA.pdf, which are hereby incorporated into the Agreement. Coke Florida equipment will remain the property of Coke Florida. Except where prohibited by law, Customer will exclusively store and dispense Coke Florida Beverages from Coke Florida equipment.

(p) Customer agrees that it is solely responsible for the safety and actions of its, its affiliates' and its Outlets' employees, contractors, subcontractors, agents, and representatives (collectively, "Customer Personnel") while on Coke Florida property, when working with Coke Florida equipment, or when working or interacting with Coke Florida's and its affiliates' employees, contractors, subcontractors, agents, and representatives (collectively, "Coke Florida Personnel"), including but not limited to while Coke Florida Personnel is on property at the Outlets. Customer agrees to, and agrees to cause Customer Personnel to, comply with all Coke Florida policies, guidelines, signage, instructions and rules when working on Coke Florida property, with Coke Florida equipment, and with Coke Florida Personnel (collectively, the "Covered Activities"), including but not limited to those pertaining to COVID-19 or other illness. Because the Coke Florida property and equipment are accessible for use by multiple individuals, including Coke Florida Personnel, Customer recognizes that Customer Personnel are at risk of being exposed to and/or contracting an illness, including COVID-19, when engaged in the Covered Activities. **WITH FULL AWARENESS, UNDERSTANDING AND APPRECIATION OF THE RISKS INVOLVED, CUSTOMER, FOR ITSELF AND ON BEHALF OF CUSTOMER PERSONNEL, RELEASES AND DISCHARGES COKE FLORIDA AND ITS AFFILIATES AND COKE FLORIDA PERSONNEL (COLLECTIVELY, THE "RELEASED PARTIES") FROM ALL, AND COVENANTS NOT TO SUE THE RELEASED PARTIES AS A RESULT OF ANY, LIABILITY OR RESPONSIBILITY WHATSOEVER FOR ANY ILLNESS, INJURY, DEATH, OR ANY OTHER TYPE OF DAMAGES, HOWEVER CAUSED, DIRECTLY OR INDIRECTLY, THAT MAY OCCUR AS A RESULT OF OR RELATING TO CUSTOMER'S OR CUSTOMER PERSONNEL'S ENGAGEMENT IN THE COVERED ACTIVITIES, INCLUDING ANY DAMAGES IN ANY WAY RELATED TO COVID-19 OR RESULTING FROM THE ALLEGED NEGLIGENCE OF ANY THIRD PARTY OR THE RELEASED PARTIES.** Customer further agrees, at its sole cost and expense, to defend, indemnify and hold harmless the Released Parties from and against all claims, allegations and lawsuits, including those made by Customer Personnel, alleging illness, injury, death, lost wages, property damage, or any other type of harm, loss, or damage, however caused, directly or indirectly, alleged to have occurred as a result of or relating to Customer's or Customer Personnel's engagement in the Covered Activities, including those in any way related to COVID-19, and all resulting damages, losses, liabilities, settlements, judgments, costs and expenses of any kind, including, but not limited to, reasonable attorneys' fees and disbursements. This Section will survive termination or expiration of the Agreement.

(q) The Agreement is strictly confidential and will not be disclosed by Customer.

(r) Notices to Coke Florida must be sent via certified or registered mail to: Coca-Cola Beverages Florida, LLC, 10117 Princess Palm Avenue, Suite 100, Tampa, FL 33610. Attn: Thomas Benford, President and Chief Operating Officer, with a copy to: tenford@cocacolafloida.com; and with a copy to Attn: Deborah Pond, Senior Vice President, General Counsel at the address above, with a copy to: dpond@cocacolafloida.com.

(s) The Agreement constitutes the final and complete agreement between the parties with regard to the subject matter hereof, and supersedes all previous agreements or statements, oral or written, by either party concerning such subject matter. The Agreement further supersedes in whole any terms that may appear on any of Customer's documents, including purchase orders, invoices, websites and other internet sites, forms or similar documents, regardless of priority of execution. No modification, waiver or amendment to the Agreement will be binding unless agreed in a signed writing by Coke Florida. Customer will not assign the Agreement without the prior written consent of Coke Florida.

(t) The Agreement and any dispute arising out of or relating to it or the parties' relationship will be governed by and construed in accordance with the laws of the state of Florida without reference to its conflict of law rules. The prevailing party in any dispute arising out of or relating to the Agreement or the parties' relationship will be entitled to recover its reasonable attorneys' fees and other costs and expenses.

(u) The parties, in good faith, will first attempt to settle any controversy or claim arising out of or relating to the Agreement, or any other aspect of the parties' relationship, including the breach, termination or validity of the Agreement, by confidential non-binding mediation. Either party may institute a mediation proceeding by written request to the other party. Any such mediation proceeding will be conducted in the Tampa, Florida metropolitan area in accordance with the then-current Arbitration and Mediation Rules and Procedures of the American Arbitration Association. Notwithstanding anything to the contrary in the Agreement, either party may seek from any court, in accordance with the governing law section above, any provisional remedy, including, without limitation, injunctive relief, that may be necessary to protect trademarks, copyrights, patents, confidentiality, non-competition or other rights or property pending the establishment or completion of the mediation proceeding. Any controversy or claim that cannot be resolved through mediation shall be finally resolved by arbitration before a single arbitrator in accordance with the Commercial Arbitration Rules of the American Arbitration Association in effect as of the date the matter is referred to arbitration. **FOR THE AVOIDANCE OF DOUBT, NEITHER CUSTOMER NOR COKE FLORIDA WILL HAVE THE RIGHT TO LITIGATE A CLAIM IN COURT.**

(v) **JURY TRIAL WAIVER: EACH PARTY, TO THE EXTENT PERMITTED BY LAW, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO A TRIAL BY JURY IN ANY ACTION OR OTHER LEGAL PROCEEDING ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT, THE TRANSACTIONS IT CONTEMPLATES OR WITH THE PARTIES' RELATIONSHIP. THIS WAIVER APPLIES TO ANY ACTION OR LEGAL PROCEEDING, WHETHER ARISING IN CONTRACT, TORT OR OTHERWISE.**

(w) **CLASS ACTION WAIVER: TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE PARTIES AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY ON ITS BEHALF AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE ACTION, INCLUDING IN MEDIATION AND ARBITRATION.**

(x) **BY EXECUTING THE AGREEMENT, CUSTOMER AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THE MYCOKE PLATFORM, WHICH MAY BE AMENDED FROM TIME TO TIME PER ITS TERMS AND AUTHORIZES COKE FLORIDA TO DELIVER OR CAUSE TO BE DELIVERED TO THE CUSTOMER CORRESPONDENCES, INCLUDING EMAILS, AND/OR MARKETING MATERIALS, AND/OR OFFERS FROM THE MYCOKE PLATFORM.**