

Marketing Partnership Agreement
STATE UNIVERSITY OF NEW YORK AT BINGHAMTON

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This Agreement made by and between by and between the State University of New York, an educational corporation organized and existing under the laws of the State of New York, and having its principal place of business located at H. Carl McCall SUNY Building, Albany, New York 12246, for and on behalf of the State University of New York, Binghamton University, located at PO Box 6000, 4400 Vestal Parkway East, Binghamton, New York 13902-6000, hereinafter referred to as "University" or "SUNY", and _____ having its principal place of business located at _____, hereinafter referred to as "Contractor".

WITNESSETH:

WHEREAS, the University seek advertising revenue; and WHEREAS, Contractor is capable of providing such advertising; and

WHEREAS, Contractor has demonstrated its qualifications and ability to provide advertising in an acceptable manner, and has agreed to provide such services pursuant to the terms and conditions of this Agreement; and

WHEREAS, the University desires to enter into an Agreement with the Contractor, therefore.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein set forth the parties hereto agree as follows:

Contractor shall provide advertising services ("Services") as described in Exhibit B. Contractor understands and agrees that it is responsible for the performance of the services in accordance with the terms and conditions of this Agreement.

1. In consideration of the above, Contractor shall pay the University a sum of _____ dollars (\$ _____) for the term of this Agreement. Payment will be made in accordance with New York State Finance Law.

2. Unless modified as provided herein, this Agreement shall commence on _____ and end on _____

3. **ASSIGNMENTS.** In accordance with Section 138 of the State Finance Law, this Agreement or any of its provisions shall not be assigned, delegated, transferred, conveyed, sub-let, or otherwise disposed of without the prior written consents of SUNY, the New York State Attorney General and the New York State Office of the State Comptroller, and any attempts to assign, delegate, transfer, convey, sub-let, or otherwise dispose of this Agreement without said written consents shall be null and void.

4. **BINDING EFFECT:** The Agreement shall be binding upon its execution by both parties and, if required, upon the written approvals of the New York State Office of the Attorney General (OAG) and the Office of the State Comptroller (OSC). In the event that this Agreement is subject to the approval of the OAG and OSC, it shall not be valid and enforceable, and the State shall bear no liability, until such approval is given, or the pertinent pre-audit review period has lapsed.

5. **CONTRACT AMENDMENTS:** The Agreement may be amended at any time upon mutual consent of the parties in writing. Such written amendment will not be effective until signed by both parties, and if required, approved by the OAG and OSC.

6. **CONTRACT ENTIRETY/ORDER OF PRECEDENCE:** The following documents will be annexed to, and incorporated into, and made part of, the Agreement: a. [Exhibit A, State University of New York Standard Contract Clauses](#), b. [Exhibit A-1, State University of New York Affirmative Action Clauses](#) c. This Agreement and Exhibit B, Services. In the event of any inconsistency in or conflict among the document elements described above, such inconsistency or conflict shall be resolved by giving precedence to the document elements in the order set forth above.

7. **DISPUTE RESOLUTION:** At the option of SUNY, the parties shall use good faith efforts to amicably resolve any dispute arising under this Agreement. If the parties are unable to amicably resolve the dispute within thirty (30) days, then either party may seek legal or equitable redress.

8. **FOIL:** Contractor acknowledges that this Agreement is subject to the New York State Freedom of Information Law ("FOIL") as set forth in Article 6 of the New York State Public Officers Law, and that only

Contractor's proprietary information that satisfies the requirements of §87(2)(d) of the Public Officers Law shall be excepted from disclosure thereunder.

9. **GOVERNING LAWS:** The laws of New York State will govern this Agreement without regard for New York State's choice of law statute. The parties agree to bring any action to construe, interpret or enforce this Agreement in a court of competent jurisdiction in New York State. The Contractor agrees to submit itself to such court's jurisdiction.

10. **SUNY REQUIREMENTS FOR CONTRACTOR RESPONSIBILITY:** (a) General Responsibility: The Contractor shall at all times during the contract awarded term remain responsible. The Contractor agrees, if requested by the SUNY Chancellor or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity. (b) Suspension of Work for Non-Responsibility: The SUNY Chancellor, in his or her sole discretion, reserves the right to suspend any or all activities under the contract awarded, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. The Contract activity may resume at such time as the SUNY Chancellor or his or her designee issues a written notice authorizing a resumption of performance of the contract awarded.

(c) Termination for Non-Responsibility: Upon written notice to the Contractor and a reasonable opportunity to be heard with appropriate SUNY officials or staff, the contract awarded may be terminated by the SUNY Chancellor or his or her designee at the Contractor's expense, where the Contractor is determined by the SUNY Chancellor or his or her designee to be non-responsible. In such event, the SUNY Chancellor or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

11. **TERMINATION:** This Agreement may be terminated by SUNY for any of the following reasons: (a) Convenience of SUNY: The Agreement may be terminated at any time upon receipt of 30 days prior written notice given by SUNY for any reason or no reason. (b) Event of default: The Agreement may be terminated in the event of breach of any of its provisions by the Contractor, or if the Contractor's Services are deemed unsatisfactory in SUNY's sole discretion, due to Contractor's fault or negligence, or that of its officers, employees, subcontractors, agents, licensees, licensors, or affiliates. In such event, SUNY will send a written cure notice in accordance with the Notice provisions of the Agreement, and the Contractor shall have 30 days to correct the

deficiencies noted. If the deficiencies are not corrected, SUNY may terminate this Agreement immediately upon written notice. (c) Deficient Certifications: If the awarded contract has a value greater than \$15,000, SUNY shall have the right to terminate in the event the State Finance Law sections 139-j and 139-k certifications executed by the Contractor are found to be false or incomplete. If the contract has a value of greater than \$100,000 and Contractor's sales for the immediately preceding four quarters were greater than \$300,000, or if the contract has a value of \$125,000 or greater, the University shall have the right to terminate in the event the Contractor's Department of Taxation and Finance Contractor Certification form, ST 220- CA, statements are found to be false or incomplete. (d) Lack of Funds: If for any reason the State of New York terminates or reduces its appropriations to SUNY, the awarded contract may be terminated or reduced at SUNY's discretion, provided that no such reduction or termination shall apply to allowable costs already incurred by the Contractor where funds are available to SUNY for payment of such costs. In any event, no liability shall be incurred by the State (including SUNY) beyond monies available for the purposes of the awarded contract. (e) SUNY may terminate the awarded contract, upon written notice, in the event of any of the following: (i) The Contractor makes an assignment for the benefit of creditors; (ii) a petition in bankruptcy or any insolvency proceeding is filed by or against the Contractor and is not dismissed within 30 days from the date of filing; or (iii) all or substantially all of Contractor's property is levied upon or sold in any judicial proceeding. (f) Upon expiration or termination of this Agreement, the Contractor shall provide SUNY with all necessary records, electronic and otherwise, in the Contractor's possession relating to the Services provided under this Agreement. At SUNY's request, the Contractor shall also make appropriate Staff available to SUNY during normal business hours to answer questions regarding such records and the Services which have been provided by the Contractor under this Agreement. The Contractor shall cooperate to the fullest extent with any successor contractor in order to accomplish a smooth and orderly transition, so that the Services are uninterrupted and are not adversely impacted.

12. TRADEMARKS AND SERVICE MARKS: The Contractor understands and agrees that SUNY trademarks, service marks and logos are registered trademarks or owned by SUNY (the "Licensed Marks"). To the extent required by this Agreement, SUNY hereby grants to the Contractor a license to use the Licensed Marks only in connection with its work for SUNY under this Agreement. Such license shall be limited to the use identified herein and shall not be construed as permission by SUNY to use its name or the Licensed Marks for any other purpose. The Contractor agrees not to use, reproduce, copy, or create materials bearing the SUNY name, logos or Licensed Marks without prior written approval and review of such materials by SUNY.

Initial Here _____

13. WARRANTIES: Contractor warrants, represents and conveys full ownership, clear title free of all liens, of any trademarks or logos included in the advertising to be displayed at University events or on the premises of the University. Contractor agrees to fully indemnify SUNY for any loss, damages or actions arising from a breach of said warranty without limitation. This Agreement, along with any annexed exhibits, constitutes the entire Agreement of the parties hereto and all previous communications between the parties, whether written or oral, with reference to the subject matter of this Agreement are hereby superseded. A waiver of enforcement of any provision of this Agreement by the University shall not constitute a waiver by the University of any other provision of this Agreement, nor shall it preclude the University from subsequently enforcing such provision thereafter.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year first written.

STATE UNIVERSITY OF NEW YORK

By: _____ Date _____
Matthew Schofield, Director of Procurement

CONTRACTOR

By: _____ Date _____
Name:
Title:

**Binghamton University
State University of New York
Notary Acknowledgement**

(ACKNOWLEDGEMENT BY INDIVIDUAL)

FORM IX

STATE OF _____)
COUNTY OF _____) SS.:

On this _____ day of _____, 20____, before me personally came _____, to me known and known to me to be the person described in and who executed the foregoing instrument and he/she acknowledged to me that he/she executed the same.

Notary Public

(ACKNOWLEDGEMENT BY UNINCORPORATED ASSOCIATION)

STATE OF _____)
COUNTY OF _____) SS.:

On this _____ day of _____ 20 ____, before me personally came _____ to me known and known to me to be the person who executed the above instrument, who, being duly sworn by me, did for himself/herself depose and say that he/she is a member of the firm of _____ and that he/she executed the foregoing instrument in the firm name of _____, and that he/she had authority to sign same, and he/she did duly acknowledge to me that he/she executed the same as the act and deed of said firm of _____ for the uses and purposes mentioned therein.

Notary Public

(ACKNOWLEDGEMENT BY CORPORATION)

STATE OF _____)
COUNTY OF _____) SS.:

On this _____ day of _____ 20 ____, before me personally came _____ to me known, who being duly sworn, did depose and say that he/she resides in _____; that he/she is the _____ of the _____, the corporation described in and which executed the foregoing instrument; that he/she knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal, that it was so affixed by the order of the Board of Directors of said corporation, and that he/she signed his/her name thereto by like order.

Notary Public

EXHIBIT B: SERVICES