



Kenton County School District | *It's about ALL kids.*

**THE KENTON COUNTY BOARD OF
EDUCATION**

1055 EATON DRIVE, FORT WRIGHT, KENTUCKY
41017

TELEPHONE: (859) 344-8888 / FAX: (859) 344-1531

WEBSITE: www.kenton.kyschools.us

Dr. Henry Webb, Superintendent of Schools

KCSD ISSUE PAPER

DATE:

February 24, 2020

AGENDA ITEM (ACTION ITEM):

Consider/Approve Dispenser Loan Agreement (cold brew coffee) with Danone

APPLICABLE BOARD POLICY:

Legal Status of the Board 01.1

HISTORY/BACKGROUND:

Dixie Heights High School Student Nutrition would like to sell STOK brand coffee to students during breakfast and lunch serving times. Per loan agreement terms, five cases of product must be purchased every month for equipment to be leased at no charge. If Dixie is unable to meet the case minimum the company reserves the right to pick up the machine.

FISCAL/BUDGETARY IMPACT:

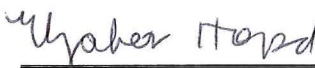
None

RECOMMENDATION:

Approval of loan agreement with Danone.

CONTACT PERSON:


Elizabeth Hord, Director of Student Nutrition



Principal



District Administrator



Superintendent

Use this form to submit your request to the Superintendent for items to be added to the Board Meeting Agenda.

Principal –complete, print, sign and send to your Director. Director –if approved, sign and put in the Superintendent's mailbox.

Kenton County Board of Education

Board Members: Carl Wicklund, Chairperson Karen L. Collins, Vice Chairperson Carla Egan Shannon Herold Jessica Jehn
"The Kenton County Board of Education provides Equal Education & Employment Opportunities."



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xDispenser Loan Agreement – Page One
Complete, scan & e-mail to foodservice_orders@danone.com

Business/Store Name: **Kenton Co Schools**

Customer Contact (First/Last Name): **Elizabeth Hord** Title: **Student Nutrition Director**

Corporate Address: **1055 Eaton Drive**

City, State, Zip: **Ft. Wright KY 41017**

Telephone: **859-957-2659** Fax: **859-957-2658**

Dispenser Location, Address & Telephone (if different from above): **Dixie Heights High School 3010 Dixie Highway Ft. Mitchell KY 41017 859-426-4913**

Customer's Distributor: **Sysco** Distributor Branch: **Cincinnati**

Dispensers Requested: **1** Dispenser Graphics: International Delight _____ Other **x**

Is this Dispenser(s) replacing existing equipment? Yes **NO**

(Attach Store List for More than One Location)

What We Do

By accepting the terms of this Dispenser Loan Agreement ("Agreement"), Danone U.S., LLC ("Company") agrees to provide the following goods and services to the Customer:

- CreaMiser® bulk Dispenser(s) shipped to Customer's location(s)
- Dispenser User's Manual
- Toll-free Dispenser help line
- International Delight®, Silk®, and/or STOK® bulk products in bags through an authorized distributor

What You Do

By accepting the terms of this Agreement, Customer agrees to:

- Not sell, lease or move the Dispenser(s)
- Use the Dispenser(s) for 2 or more years
- Purchase directly from an authorized distributor a minimum # of International Delight and/or STOK bulk product in bags as stated on page two of this Agreement under MINIMUM PURCHASE REQUIREMENT
- Maintain the Dispenser(s) according to the instructions in the User's Manual
- Provide 24 hours, 110/120 volt service to the Dispenser

Creamer Dispensers:

M210 (2-head): _____ (Qty)

M215 (2-head): _____ (Qty)

M400 (4-head): _____ (Qty)

M600 (4-head w/o flavors): _____ (Qty)

M600 (4-head w/flavors): _____ (Qty)

Iced Coffee Dispensers:

M220 (2-head – 13" wide): _____ (Qty)

M225 (2-head – 17.75" wide): _____ (Qty)

Flavor Dispensers (FD100):

Hot Bev.: _____ (Qty) Select Cover: Black or Silver

Cold Bev.: _____ (Qty) Select Cover: Black or Silver

Tea Bev.: _____ (Qty) Select Cover: Black or Silver

Cold Brew Coffee Dispenser:

M230 (2-head): **X** (Qty)

AlmondMilk Dispenser:

M225 (2-Head): _____ (Qty) Select: Vanilla Only ____ Original Only ____ Both ____

SoyMilk Dispenser:

M225 (2-Head): _____ (Qty) Select: Vanilla Only ____ Choc. Only ____ Both ____

Portion Control Racks

4-Tier Black Rack: _____ (Qty)

Modular Bin Rack: (Select flavors by indicating quantities below):

Half & Half: _____ French Vanilla: _____ Choc. Caramel: _____

Hazelnut: _____ Sweet Cream: _____ Cinnamon Roll: _____

Car. Macchiato: _____ Irish Crème: _____ STOK: _____

Silk® Dairy Free: _____ Peanut Butter Cup: _____

Featured Flavor: _____ Create Your Own Flavor: _____

Please refer to Page 2 for other important terms

All Dispensers Remain the Property of Danone U.S., LLC



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Dispenser Loan Agreement – Page Two

DEFINITIONS: "Company" refers to Danone U.S., LLC. "Customer" refers to business entity receiving the Dispenser(s) as set forth on the first page of this Agreement. "Dispenser" refers to bulk Dispenser.

USE OF DISPENSER: Customer shall use the Dispenser as intended, as detailed in the User's Manual, shall keep the Dispenser in good working order, and shall comply with all laws relating to its possession, use or maintenance, and shall not make any alterations or additions to the Dispenser.

eth (initial) LOSS AND DAMAGE: Customer agrees that if a Dispenser is lost, damaged or stolen, Customer will pay the following per dispenser: FD100 - \$202; M210 - \$1,109; M215, M220, M225, M400 - \$1,512; M230, M600 - \$1,915.

eth (initial) TERM, DISPENSER REQUIREMENT: Customer agrees to use the program for a minimum period of 24 months. If Customer voluntarily or involuntarily elects to discontinue the program prior to the completion of the 24-month obligation, Customer agrees to return the Dispenser(s) to Company.

eth (initial) MINIMUM PURCHASE REQUIREMENT: Customer agrees to purchase a minimum of # of bags per Dispenser, as stated below, directly from an authorized distributor. If Customer's volume falls below the minimum purchase requirement, Customer may be asked to return the Dispenser(s) at the Customer's expense.

- Creamer – Minimum of 23 bags of International Delight bulk creamer product per month, per Dispenser
- Iced Coffee – Minimum of 10 bags of International Delight bulk iced coffee per month, per Dispenser
- Cold Brew Coffee – Minimum of 10 bags of STOK bulk cold brew coffee per month, per Dispenser
- Soy – Minimum of 28 bags of Silk bulk soymilk per month, per Dispenser
- Almond – Minimum of 28 bags of Silk bulk almondmilk per month, per Dispenser
- Flavor – Minimum of 18, 2-pack cases (36 bags) annually of International Delight Flavor Shots®, per Dispenser

COMPETING PRODUCTS: Customer agrees to discontinue the use of products that compete with those used in conjunction with Company's bulk program. Other Company-branded products are permitted.

CUSTOM GRAPHICS: Customer-created custom graphics shall not be applied to the Dispenser without Company's prior written consent.

ASSIGNMENT: Customer shall not directly or indirectly assign this agreement or sell, lease or transfer the Dispenser without Company's prior written consent. Company must be notified of the sale/transfer of store ownership. Customer acknowledges that the Dispenser is, and shall remain, the property of Company. Customer agrees not to remove or obscure any identifying property, serial, or instructional labels placed on the Dispenser by Company. The sale/transfer of store ownership does not eliminate the obligations contained in this Agreement and must be honored by Customer's successor.

DEFAULT: Customer shall be in default of this Agreement if, with or without notice from Company: Customer shall fail to make any payment due if any, or Customer shall fail to observe, keep or perform any other provision of this Agreement, including but not limited to the maintenance of all terms or if Customer has made any misleading or false statement in connection with application for or performance of this Agreement; or the Dispenser or any part thereof shall be subject to any lien, levy, seizure, assignment, transfer, encumbrance, application, attachment, execution, sublease, or sale without prior written consent of Company, or if Customer shall abandon the Dispenser or permit any other entity or person to use the Dispenser without prior written consent of Company.

EXPIRATION AND TERMINATION: Company may terminate this agreement upon five (5) days' notice to Customer due to Customer's failure to comply with the requirements set forth herein. Upon termination, Company may remove the Dispenser. Customer may terminate this Agreement following the minimum obligation of twenty-four (24) months with thirty (30) days written notice. The bulk program covered by this Agreement will automatically renew for additional one-year terms. If Customer voluntarily or involuntarily elects to discontinue the program after the initial twenty-four (24) month period, it agrees to return the Dispenser to Company by placing the Dispenser in an acceptable box and making it available for pick-up by Company or its authorized agent.

REPAIRS: Company retains full ownership of the loaned Dispenser. As such, the Company retains responsibility for and agrees to provide replacement parts or replacement to the Dispenser as reasonably requested for the duration of this Agreement. The Company's obligation is limited to replacing Dispenser parts or Dispenser, which the Customer shall be responsible for installing. Customer shall allow Company or its agent(s) to enter its premises for the purpose of inspection with or without notice during normal business hours. In no event will the Company be liable for any incidental, punitive, exemplary or consequential damage under any circumstances whatsoever relating to the Dispenser. Customer assumes liability and responsibility for replacement parts(s) or repairs due to Customer's or any other third party's negligent acts, misuse or damage to the Dispenser.

CUSTOMER INDEMNIFICATION OF COMPANY: Customer shall indemnify, defend and hold Company harmless for, from and against any and all claims, actions, costs, losses, expenses, damages or liabilities, (collectively referred to hereafter as "Damages") arising out of or in any way connected with (i) the use of the Dispenser and/or installation of Dispenser and Dispenser parts by the Customer to the extent such Damages are the result of the negligence or willful misconduct of the Customer or Customer's employees, (ii) the failure of the Customer or Customer's employees to comply with the operating procedures of the Dispenser or any legal requirement, (iii) any illegal acts or omissions of Customer or Customer's employees; or (iv) Customer's breach of this Agreement.

MISCELLANEOUS: This Agreement: (a) is the entire agreement between the parties; (b) is severable as to any word or provision that is unenforceable; (c) will be governed by the laws of Colorado; (d) may only be modified or amended by a writing signed by both parties, or a provision waived by a writing signed by the waiving party; (e) is binding on the parties' permitted successors and assigns; (f) may be specifically enforced; and, (g) is subject to exclusive jurisdiction and venue of the courts located in Boulder County, Colorado. Any notices shall be effective when sent by facsimile, delivered to the other party in person, by private carrier or by registered mail to the parties' addresses herein. Each party shall promptly sign additional documents and perform additional acts reasonably necessary to conform to its obligations herein.

Customer

By: _____

Printed Name/Title: _____

Date: _____

Danone U.S., LLC

By: _____

Printed Name/Title: _____

Date: _____

NOTE: Must be signed by Customer – cannot be signed by third party signatory.