

SPONSORSHIP AGREEMENT
AGREEMENT NO. BEVSVC2000/DB

CONFIDENTIAL

THIS AGREEMENT is made and entered into this 22 day of March, 2002, by and between **THE REGENTS OF THE UNIVERSITY OF CALIFORNIA**, a California corporation ("University") acting on behalf of its Berkeley Campus Residential and Student Service Programs ("RSSP"), Associated Students of the University of California Auxiliary Berkeley ("ASUC Auxiliary"), and Intercollegiate Athletics and Recreational Sports ("IARS") known as "The Departments" at Berkeley, **COCA-COLA NORTH AMERICA, A DIVISION OF THE COCA-COLA COMPANY**, a Delaware corporation ("Company"), and **BCI COCA-COLA BOTTLING COMPANY OF CALIFORNIA**, a Delaware corporation ("Bottler") (Company and Bottler are sometimes jointly referred to herein as "Sponsor").

WITNESSETH:

WHEREAS, Sponsor engages in the business of providing beverage products for sale or sampling and equipment and related services and is willing to provide these services to the University under the terms and conditions hereinafter set forth; and

WHEREAS, The Departments have a desire for such services and wish to obtain them from the Sponsor; and

WHEREAS, the University and Sponsor wish to enter into the mutually beneficial agreement (the "Agreement");

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth, and other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. Term of Agreement

This Agreement will remain in effect for a period of ten (10) years commencing on August 4, 2001, through August 3, 2011 (the "Term"). The University and Sponsor may mutually agree to extend the Term of the Agreement for two (2) one (1) year periods, not to exceed two (2) years (for a total of twelve (12) years at the same terms, conditions, and prices). By giving at least thirty (30) days prior written notice, University may extend the Agreement for an additional 120 days beyond the expiration of the Term at the same terms and conditions, except the Sponsorship Fees and University marketing rights including those in **Exhibit K** will not apply to any such extension. All price changes will be as stated in **Exhibits A, B, C, D, and E**.

2. Prices

The pricing level of all Products provided within the scope of the Agreement are listed in **Exhibits A, B, D, and E**. All Product pricing shall be f.o.b. Destination, freight prepaid and allowed, and include transportation.

3. Definitions

Defined terms used in this Agreement and not otherwise defined shall have the meanings identified below.

“Affiliate” shall mean, 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") shall 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 beginning with the first day of the Term.

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

“Approved Cups” means disposable cups the design of which is approved by Company from time-to-time as its standard trademark cups and/or vessels and/or other (disposable and non-disposable) containers approved by Company from time-to-time, all of which shall prominently bear the trademark(s) of Coca-Cola and/or other Products on one hundred percent (100%) of the cup surface except in the case of souvenir cups that shall have space for University Marks and/or logos. Company's current standard trademark cup is attached hereto as **Exhibit H**.

“ASUC Auxiliary” means the Associated Students of the University of California Auxiliary, which controls all campus vending including current and future academic buildings and associated student buildings, that is, any sales venue outside of those controlled directly by RSSP and IARS, and/or any successor organizations.

“Bankruptcy Event” means an event where party hereto is unable to pay its liabilities when due, or shall make any assignment for the benefit of creditors or file a voluntary petition in bankruptcy or be adjudicated bankrupt or insolvent, or if any receiver is appointed for its business or property, or if any trustee in bankruptcy or insolvency shall be appointed under the governing laws of the United States or of any state.

“Beverage” or **“Beverages”** means all non-alcoholic beverages, including but not limited to, hot, cold or frozen, carbonated, noncarbonated or naturally or artificially flavored soft drinks, mixers, tap water, packaged or bottled water, fruit and/or vegetable juices, fruit and vegetable

flavored drinks, purchased freshly squeezed juice, milk, flavored milk, ready-to drink chocolate based drinks, hot chocolate, ready-to-drink tea products, freshly brewed tea, freshly brewed coffee, sports drinks, isotonic and electrolyte beverages, and all beverage bases from which these can be prepared (such as syrups, powders, crystals or concentrates).

“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 Berkeley campus (or any portion thereof) and/or of any event held on the Berkeley campus including without limitation, any Team games.

“Competitive Products” means all Beverages other than Products.

“IARS” means the University’s Department of Intercollegiate Athletics and Recreational Sports and/or any successor departments or divisions of the University having responsibility for the athletic department venues and the Teams.

“OMMT” means the University’s Office of Marketing & Management of Trademarks, which is the delegated authority to review all uses of the University’s Marks in a commercial context, including but not limited to, marketing materials, media advertisements, web sites, packaging and promotional products.

“Products” shall mean any and all Beverage products marketed under trademarks or brand names owned by or licensed for use to Company.

“RD” means the University’s Resource Development department that promotes the sale of the campus’ many products and services through partnerships with campus units.

“RSSP” means the University’s Residential and Student Services Programs and/or any successor departments or divisions of the University having responsibility for RSSP.

“RSSP Operations” means (i) all student dining halls and food and beverage outlets on the Berkeley campus, including cash operations such as snack bars, (ii) all vending locations, excluding those controlled by ASUC Auxiliary or IARS, (iii) RSSP catering services, and (iv) all other Berkeley campus facilities now or hereafter controlled by RSSP Operations excluding the ASUC Auxiliary Sales Venues.

“Sales Venues” means RSSP Operations, ASUC Auxiliary, IARS facilities and other affiliated locations of the Berkeley campus.

“Team” or **“Team(s)”** means all intercollegiate athletic teams associated with the Berkeley campus of the University.

“University Marks” means Team names, colors, uniforms, and emblems, and all tradenames, trademarks, service marks, designs, logos, mascots, characters, identifications, symbols and other proprietary designs relating to the Team(s) and the Intercollegiate Athletics and Recreational

Sports department that are in existence on the Effective Date or which will be created during the Term of the Agreement and which are owned, licensed or otherwise controlled by University.

4. Limited Exclusivity

- 4.1 This Agreement shall be limited to the sales and distribution of Beverages at Sales Venues.
- 4.2 The Departments shall have the right to allow temporary signage, sponsorship recognition, sponsor acknowledgment and/or trademark display for Competitive Products to occur at the IARS facilities during up to five (5) "Special Events" (as hereinafter defined) per Agreement Year; provided, however, that (i) Sponsor's sponsorship rights shall not be otherwise affected during such Special Events and its sponsorship recognition panels shall not be covered, and (ii) no Competitive Products may be sold, served or otherwise made available to attendees or any Team during any such Special Event. For purposes hereof, a single event which continues for up to three (3) twenty-four hour periods shall be considered one Special Event. As used herein, the term "Special Event" shall mean and be limited to one-time events which are sponsored by a manufacturer, licensee or distributor of a Competitive Product and for which the sponsor or promoter represents to University that such rights for a Competitive Product are mandated in the agreement between such sponsor and the artists or athletes performing in such event. University shall provide Sponsor with no less than thirty (30) days prior written notice, or if impracticable, as much notice as practicable, that it intends to designate an event as a Special Event.

5. Exclusions

The following areas of the Berkeley campus are excluded from this Agreement are:

- Art Museum – MUSE
- Tang Center – Beverage/Coffee Cart
- Haas School of Business – Jimmy Bean's Restaurant
- Moffit Library – Free Speech Movement Café
- Law School – Café Zeb
- Lawrence Hall of Science – Small Planet
- Bears Lair
- Cal Student Store
- Faculty Clubs
- Greek Theatre

6. Permitted Exceptions

- 6.1 University will have the right to provide tap water as well as make the following available for sale at Sales Venues: (i) freshly brewed coffee, (ii) freshly brewed teas,

- (iii) hot chocolate, (iv) fresh milk and milk products, (v) individual pack fresh natural juices and (vi) fruit juice bars.
- 6.2 IARS, for the Term of Agreement and any subsequent extensions, retains the right to have an exclusive agreement for the advertising, promotion, and sale of Gatorade and electrolyte beverages (not to include energy drinks, e.g. Red Bull, KMX, etc.) for use during athletic events and for non-vending sale at the Recreational Sports Facility (RSF) Pro Shop. IARS will make available on an exclusive basis Gatorade-identified cups, coolers, ice chests, squeeze bottles, sideline carts and towels (hereinafter "Gatorade Merchandise") to members of the University's Team or Teams to be used during athletic events. IARS is not permitted to sell in IARS facilities other isotonic and electrolyte beverages competitive to the Gatorade isotonic and electrolyte beverages, and will not enter into another sponsorship for any other such isotonic and electrolyte beverages.
- 6.3 The parties agree that, except as noted in Sections 6.1 and 6.2 above, the exception for Competitive Products shall not be deemed to allow advertising, promotional or sampling rights with respect to such Competitive Products except that trademarks for such Competitive Products may be displayed on menu boards and dispensing equipment.

7. Beverage Availability Rights

- 7.1 Subject to Sections 4, 5 & 6 set forth above, University agrees that all Beverages sold, distributed, or sampled at Sales Venues will be Products. The University shall require that The Departments cause their contracted concessionaire(s), to purchase their complete requirements of Products for the Sales Venues from Company or Bottler (either directly or as Company's agent) or Minute Maid Food Service authorized wholesalers, whichever is applicable. The University will require that The Departments cause their contracted concessionaire(s) to sell Products at the Sales Venues. Sponsor and University agree that, to the maximum extent possible, the following Products shall be available at each Sales Venues: Coca-Cola® classic (or Coke®), diet Coke®, Sprite®, Cherry Coke®, Fruitopia®, Minute Maid® fruit juices, POWERaDE®, and Mr. Pibb®. No Competitive Products shall be made available, advertised or promoted at Sales Venues except for the Permitted Exceptions set forth in Section 6.
- 7.2 University will use reasonable efforts to maximize the sale and distribution of Product(s) including hawking Products in stands in Approved Cups or twenty-ounce contour bottles at all sporting events and during all events when any items of any make or description are hawked at the Sales Venues. Company's current standard trademark cup is attached as **Exhibit H**.

- 7.3 Subject to the Permitted Exceptions set forth in Section 6 above, all Beverages sold, dispensed, served, distributed for free (sampled), advertised or promoted anywhere, anytime at the and in connection with Sales Venues excluding those venues identified in Section 5 above, shall be Products.
- 7.4 University agrees to purchase Products, Approved Cups and lids according to the pricing schedules set forth in **Exhibits A, B, D and E**.
- 7.5 University will place orders for Products from the following:

<u>Company/Location</u>	<u>Contact Person</u>	<u>Phone/Fax Number</u>
<u>Carbonated and Non-carbonated Bottle/Can Products:</u>		
<ul style="list-style-type: none"> • BCI Coca-Cola Bottling of Los Angeles d/b/a Coca-Cola Bottling Company of California 7901 Oakport Street, Suite 1000 Oakland, CA 94621-4067 	Area Vice President	(510) 613-2664
<u>Fruit Juice – University Master Distributor(s):</u>		
<ul style="list-style-type: none"> • BiRITE Food Service Distributors 123 South Hill Drive Brisbane, California 94005 	Manager	(800) 227-5373 Ext. 569
<ul style="list-style-type: none"> • The Minute Maid Company 6601 Owens Drive, Suite 150 (925) 734-8624 (Fax) Pleasanton, CA 94988 	Fountain Business Mgr.	(925) 847-3919
<ul style="list-style-type: none"> • Coca-Cola Fountain Products Carbonated and Non-carbonated 6601 Owens Drive, Suite 150 Pleasanton, CA 94988 	Fountain Business Manager	(925) 847-3919 (925) 734-8624 (Fax)

- 7.6 Sponsor shall make Product deliveries to various sites/locations on the Berkeley campus. Each location for The Departments will place their orders for Products as needed furnishing delivery location, Agreement number, Purchase Order number, and date of required delivery. The University department contact persons and phone numbers regarding Product purchases are as follows:

<u>Department</u>	<u>Contact Person</u>	<u>Phone/Fax Number</u>
RSSP	Administrative Analyst	510/643-9753 510/643-7962 (Fax)
IARS	Department Buyer	510/642-5822 510/642-0990 (Fax)
	Director of Marketing	510/642-2550 510-642-0507 (Fax)
ASUC Auxiliary	Administrative Analyst	510/642-5421 510/642-3022 (Fax)

7.7 University payment terms are net 30 days upon acceptance. University shall qualify for Bottler's standard prompt payment discounts, if any.

8. University Marks

8.1 License: University grants to Sponsor a non-exclusive license to use the University Marks in promotions, on Products and signage, provided such use is in accordance with the State of California Education Code 92000, and federal trademark law. University acknowledges that Sponsor's intended uses of University Marks under this Agreement comply with applicable University programs and requirements. Sponsor acknowledges University's intellectual property rights in regard to the University Marks and the goodwill associated therein, and will not modify, change, alter, or otherwise diminish the University Marks. All uses of the University's Marks shall be acknowledged as the University's intellectual property and include appropriate trademark notices, such as "TM", circle "R", or circle "C".

8.2 Review and Approvals: The University's Office of Marketing & Management of Trademarks (OMMT) is the delegated authority to review all uses of the University's Marks in a commercial context, including but not limited to: marketing materials, media advertisements, Web sites, and promotional products. Sponsor or sponsor's supplier of promotional products shall submit graphics and/or products using University Marks to OMMT for review and obtain OMMT's written approval, subject to Section 9.1 below, prior to any production.

8.3 Promotional Products: Sponsor shall have Promotional Premium Products (i.e., T-shirts, headwear, or novelty items) using the University Marks produced by an authorized University licensee since said licensee shall be capable of producing Products in accordance with the University's quality standards, royalty and accounting requirements, and the University of California Code of Conduct for Trademark Licensees ("CODE"). In the event a University licensed vendor is unable to produce the University-marked promotional product, Sponsor may identify another

manufacturer to produce the products. Said manufacturer must, however, enter into a license agreement with OMMT which conforms to OMMT's licensing requirements, including but not limited to the CODE, attached to this agreement as **Exhibit I**.

9. Marketing Rights

9.1 University grants to Sponsor, subject to prior written reasonable approval of any promotion or use of promotional packaging material and subject to Section 8 above, the following exclusive promotional rights on and off the Berkeley campus, to:

9.1.1 Market and promote Beverages in connection with the Sales Venues and with the Teams, including the right to recognition of its sponsorship on panels, as specified in **Exhibit K**.

9.1.2 Market and promote Beverages in connection with the Sales Venues for IARS using the University Marks, including offering Products in promotional packaging bearing University Marks.

9.1.3 University acknowledges and agrees that such promotional activities may be conducted in conjunction with Sponsor's customers. Sponsor shall have the right to incorporate its customers marks, logos and/or branded Products with the University's Marks, in connection with approved promotional activities, on any advertising, point-of-sale (POS), packaging or premium items or materials whether on campus or off-site. University hereby grants Sponsor a license to use the University Marks on a royalty-free basis for the purposes of promoting Products as provided herein. However, promotional premiums, such as T-shirts, headwear or novelty items bearing the University's name or trademarks may not be royalty-free (i.e., a mutually agreeable royalty may apply).

9.1.4 Offer Products, in addition to those Products in **Exhibit O**, as mutually agreed in writing between the parties without charge to attendees and guests in The Departments' Sales Venues.

9.1.5 Cross-licensing. Company or its licensee shall enter into a separate cross-licensing agreement with University's OMMT in the event that Company wishes to create and market for retail sale, either at Company's retail stores or through its catalogue, merchandise incorporating the University's Marks and trademarks of Products.

9.1.6 Publicity. The Sponsor wishes to communicate and promote positive awareness of the University/Company partnership via electronic and print media. Use of the University's Marks in electronic or print media may not be used to imply endorsement of Company and is subject to review and

approval by the University's OMMT. Company may, however, identify itself as a "Sponsor" of the Teams.

- 9.2 University grants to Sponsor, subject to Sections 4, 5 and 6 set forth above, the following exclusive merchandising rights:
- 9.2.1 All Beverages served, sold, or dispensed at the Sales Venues in disposable vessels (including Beverages sold, served, or made available in locker rooms and player's benches) shall be served in Approved Cups.
 - 9.2.2 Materials promoting the Products which shall be limited to menu boards, equipment and Approved Cups at the point-of-sale at the Sales Venues, and other mutually agreed to items, shall be clearly visible to the purchasing public.
 - 9.2.3 Product trademarks shall be prominently displayed on each menu board at the Sales Venues.
- 9.3 University will provide Sponsor with the tickets as set forth in **Exhibit K**.
- 9.4 University will provide Sponsor with the media and other marketing rights set forth in **Exhibit K**, all of which shall be exclusive, subject to Sections 4, 5 and 6 set forth above, with respect to Beverages.
- 9.5 Bottler agrees to submit to the University for written prior approval all advertising displays, subject to Section 8 above, including price lists for use in vending services, which shall not be unreasonably withheld. Sponsor shall not use the University's name or use it in connection with any paid advertising or publicity materials published or otherwise made public without the express prior written consent of the University not to be unreasonably withheld. University shall have the right to pre-approve (i) the concept for any promotional activity undertaken hereunder and (ii) any artwork or other items created by Sponsor for use in promotional activities or otherwise in accordance with the terms of this Agreement and that incorporate any of the University Marks.
- 9.6 University agrees, subject to Sections 4, 5 and 6 above, that it will not, directly or indirectly, (nor shall 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 the Berkeley campus University Marks or the Teams in any fashion that creates or tends to create the impression of a relationship or connection between the Sales Venues or the Teams and any Competitive Product for the Term of this Agreement. 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 at the Sales Venues and limited to The

Departments control. Nothing contained herein shall prevent on-campus consumption of Competitive Products purchased outside the Sales Venues.

- 9.7 Nothing contained in this Agreement shall be construed to permit Sponsor to create, design, promote, or otherwise use any mark or name other than those University Marks as set forth in **Exhibit L**.

10. Consideration

The consideration components from Company and/or Bottler to the University are as follows:

- 10.1 Sponsorship Fees. In exchange for the rights granted under this Agreement, Sponsor agrees to pay University the "Sponsorship Fees" described below:

Agreement Year One	\$755,000
Agreement Year Two	\$755,000
Agreement Year Three	\$755,000
Agreement Year Four	\$555,000
Agreement Year Five	\$555,000
Agreement Year Six	\$555,000
Agreement Year Seven	\$555,000
Agreement Year Eight	\$555,000
Agreement Year Nine	\$555,000
Agreement Year Ten	\$555,000
Total	\$6,150,000

The Sponsorship Fees for each Agreement Year will be earned by University and allocated on an equal daily basis over the course of the year. The Sponsorship Fees will be paid in annual installments on August 4th of each Agreement Year. Company and Bottler will each pay fifty percent (50%) of each installment. The Departments of the University will provide separate invoices to Company and Bottler for their shares of the Sponsorship Fees at least thirty (30) days before payment is due.

- University will send invoices to Company as follows:

Coca-Cola North America, a division of The Coca-Cola Company
One Coca-Cola Plaza
Atlanta, Georgia 30313
Attn: Group Vice President, Customer & Alliance Marketing

- University will send invoices to Bottler as follows:

BCI Coca-Cola Bottling Company of Los Angeles
d/b/a Coca-Cola Bottling Company of California
7901 Oakport Street, Suite 2100
Oakland, California 94621
Attn: Mahmodd Ismail, Division Controller

- A copy of all invoices will be sent to:

Coca-Cola North America
7901 Oakport Street
Oakland, California 94621-4067
Attn: College Market Development Manager, Education

If University establishes a method for electronic fund transfers for Sponsorship Fees, and if such method is compatible with Bottler's and Company's capabilities, Company and Bottler shall pay by electronic funds transfer. Company and Bottler agree to pay their share of annual Sponsorship Fees as follows:

- Two Hundred Thousand Dollars (\$200,000) shall be made payable to the Regents of the University of California on behalf of the ASUC Auxiliary. Fifty Thousand Dollars (\$50,000) of which the University intends to annually give to the Graduate Assembly for their continued support of the University beverage contract. Send the check to the ASUC Auxiliary as follows:

ASUC Auxiliary
University of California, Berkeley
400 Eshleman Hall
Berkeley, California 94705-4500
Attn: Director

- Two Hundred and Twenty Thousand Dollars (\$220,000) for each of the first three years, and Eighty Thousand Dollars (\$80,000) per year thereafter, shall be made payable to the Regents of the University of California on behalf of the RSSP. Send the check to RSSP as follows:

Residential and Student Service Programs
University of California, Berkeley
Berkeley, California 94720-2272
Attn: Director of Budget and Finance

- Two Hundred and Seventy Five Thousand Dollars (\$275,000) shall be made payable to the Regents of the University of California on behalf of the IARS. Send the check to IARS as follows:

Intercollegiate Athletics and Recreational Sports
University of California, Berkeley
Berkeley, California 94720-4420
Attn: Director, Budget and Finance

- Sixty Thousand Dollars (\$60,000) for each of the first three years shall be made payable to the Regents of the University of California on behalf of Resource Development. Send the check to Resource Development as follows:

Resource Development
University of California, Berkeley
2150 Kittredge, #3C
Berkeley, California 94720-1928
Attn: Assistant to the Vice Chancellor, Business Services

- 10.2 Marketing Funds. During each Agreement Year, Sponsor will expend Forty-five Thousand Dollars (\$45,000) on marketing programs to be implemented on the Berkeley campus by Sponsor. Sponsor and University will mutually agree on the types of marketing programs. Company and Bottler will share equally (50/50) in the costs for such marketing programs. Additional marketing recognition committed by the Sponsor to the University is noted in **Exhibit N**.
- 10.3 Fountain Price Adjustment. Company shall pay RSSP Fifty-two Thousand Dollars (\$52,000) for each Agreement Year on August 4th. This payment will be earned by the University and allocated on an equal daily basis over the course of the year and will continue as long as RSSP remains self operated and self managed.
- 10.4 Commissions. Bottler shall pay to University commissions for Company Beverages sold through Bottler's full service Beverage vending machines on the Berkeley campus as described in Exhibit C. The Sponsor will file a detail commission statement with each of The Departments within thirty (30) calendar days following the conclusion of each calendar month, including quantity count of product sold (itemized by Product Segment and packaging size) by machine location, itemized gross revenue and commissions paid. Vending commission rates will be as noted in **Exhibit C** and the commissions paid will be based on net sales after deduction for taxes, refunds and deposits (if applicable).
- 10.5 Products and Supplies. Sponsor shall provide Products and supplies annually to the University at no charge as set forth in **Exhibit O**.

- 10.6 Volume Incentive. Volume incentive support shall be paid on bottles and cans cases purchased by University from Bottler for sale at Sales Venues. Volume incentive funds shall be paid at the end of each Agreement Year, with consideration for settlement and volume tracking not to exceed 45 days as noted in **Exhibit M**.
- 10.7 Debit Card Readers. Bottler shall provide Twenty Thousand Dollars (\$20,000) for debit card readers and their installation on vending machines.
- 10.8 SA CASH Partnership Marketing Fund. The Sponsor shall provide Thirty Thousand Dollars (\$30,000) annually if the University enters into an agreement with SA CASH to promote and market a University sponsored debit card.

11. Vending

Bottler requirements specifically that relate to the University's vending operations are as follows:

- 11.1 Bottler shall be responsible for vending at each assigned vending site and/or location and shall report regularly to the representatives of The Departments on the operation of the service. It shall be the responsibility of a designated individual of the Bottler's supervisory staff to ensure satisfactory performance of service by making routine inspections of the vending locations and providing effective communication between the Bottler and the University.
- 11.2 Bottler's service personnel shall at all times conduct themselves professionally and responsibly and the University reserves the right to discuss the conduct of performance of Bottler's employees with the Bottler and cause replacement if such is reasonably warranted and would not constitute a violation of law, rule or regulation. The Bottler's service personnel shall wear a uniform while in performance of their duties on University property. The University will provide two general campus-parking permits to Sponsor during the Term of the Agreement for purpose of making deliveries and conducting other business related to this Agreement.
- 11.3 Products must be either date coded or otherwise marked in a manner that allows for determination of the Product's age.
- 11.4 All license obligations shall be the responsibility of the Bottler.
- 11.5 Bottler and University may from time to time mutually agree in writing upon new or additional locations, requiring additional equipment and/or moving of equipment to new locations. The Bottler shall make reasonable efforts to satisfy the mutually agreed upon changes within ten (10) working days.

11.6 An information label shall be supplied and affixed to each vending machine by the Bottler which shall read as follows:

" For service call _____. If not satisfied with results, call _____ and explain complaint."

11.7 A reimbursement fund in the amount adequate to handle all necessary refunds between service calls shall be made available at each vending location by the Bottler. Information on refunds should be included in the labeling with an indication for how long it takes to receive a refund from the Bottler. Prior to installation of vending machines, the Bottler must furnish a list of reimbursement locations, the name of persons handling the fund and their phone numbers. The Bottler must keep said list current.

11.8 To ensure the highest degree of cleanliness at each vending location, Bottler's service person shall, each time of service at the location, clean the equipment as necessary. Bottler shall at all times keep University premises where the work is performed and adjoining premises free from accumulations of waste material or rubbish caused by its employees.

11.9 Bottler shall be responsible for the installation and removal of its equipment and liable for any damages to University property. Bottler shall not charge the University for removal of machines. Bottler at its sole cost, shall be responsible for installation and removal of equipment. University retains the right to oversee and inspect all installation and removal of equipment.

11.10 Bottler shall submit a delivery and fill schedule in detail for all vending locations, including information on the number of service personnel involved, the frequency of service per location and a description of vehicles used for deliveries.

11.11 Bottler shall provide the following to the University by the 15th day of each month for the preceding months activity:

- Cash Sales Figures
- University Commissions

Cash Sales Figures and/or Commission reports shall be mailed or delivered to the following:

- Vending Commission reports for RSSP sales venues:

Residential and Student Service Programs
University of California
2535 Channing Way, #2272
Berkeley, California 94720-2272
Attn: Housing Cashier Supervisor

- Vending Commission reports for IARS sales venues including alumni vending:

Intercollegiate Athletics and Recreational Sports
2301 Bancroft Way, #4420
University of California
Berkeley, California 94720-4420
Attn: Director Budget and Finance

- Vending Commission reports for ASUC Auxiliary sales venues:

ASUC Auxiliary
University of California
400 Eschelmann Hall, #4500
Berkeley, California 94720-4500
Attn: Director

- Vending Commission reports for RD sales venues:

Resource Development
University of California
2150 Kittredge, #3C
Berkeley, California 94720-1928
Attn: Assistant to the Vice Chancellor – Resource Development

11.12 Bottler shall provide a total minimum of two hundred (200) vending machines at locations to be mutually agreed upon by Bottler and The Departments.

11.13 Vending machines shall have counters or other mechanisms that report the total sales by machine which is auditable by University personnel.

11.14 Vending machines shall be new or like new. Equipment shall be modifiable to accommodate both coin operated and an electronic debit card (for future

development) and bill acceptance. Bottler shall install all the debit card readers at a total committed expense of up to Twenty Thousand Dollars (\$20,000), as provided in Section 10.7. Upon termination of this Agreement, Bottler shall remove all the debit card readers at its expense. Bottler agrees to sell its debit card readers to the University at the fair market value in effect at the time of termination. Each vending machine shall have refrigeration and change-making apparatus inherent to the machine. University prefers each vending machine have a locked meter which accurately registers each transaction. Each vending machine shall match all others in design, style and size to present a flushed-up uniform appearance, and be maintained by the Bottler in a clean and sanitary condition at all times. Sponsor shall work with University to develop a custom vend front(s) which will be installed on University selected vending machines in place of the traditional Coca-Cola vending machines fronts. All agreed upon locations must be serviced by a minimum of one vending machine. Bottler shall provide description of equipment (including photo) and explanation of loading procedures. The University and Bottler shall mutually agree upon the types of equipment to be installed. Any subsequent machine modification by the Bottler after initial installation will be subject to University approval. Bottler shall install any agreed upon modifications to the equipment at no cost to the University. Additional funding for the debit card readers and custom vend fronts shall be provided by the Sponsor and/or Bottler as covered in the above Section 10.2. OMMT will be responsible for coordinating the vend front provisions between The Departments.

11.15 Products must be of top quality and nationally known brands as set forth in **Exhibits A, B, C, D and E**. Sponsor shall submit a product list prior to filling the vending machines for University acceptance. Where applicable, sponsor shall submit a product rotation policy. No changes shall be made without the agreement of the University and confirmed in writing. Sponsor shall identify the mix of beverages to be provided by machine and location. Bottler hereby certifies that with respect to the beverages sold by Bottler to University that the following shall apply:

11.15.1 The Beverages manufactured by Bottler comprising sales hereby made by the Bottler to, or on the order of Account (the "Bottler's Products"), are hereby warranted as of the date of such sale, to be, on such date, not adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act (the "Act"), as amended, including the Food Additives Amendment of 1958 or within the meaning of any state food and drug law, the adulteration and misbranding provisions of which are similar to those of the Act, and not to be articles which may not under the provisions of Section 404 or 505 of the Act be introduced into interstate commerce.

11.15.2 The warranty given in paragraph 11.15.1 above will not apply when any of Bottler's Products are shipped or delivered under a label or labeling designed or furnished by Account and/or the Bottler's Products are manufactured in accordance with Account's written specifications.

- 11.15.3 THE WARRANTY SET FORTH IN PARAGRAPH (a) ABOVE IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS, AND CONSTITUTE THE ONLY WARRANTIES OF BOTTLER WITH RESPECT TO THE BOTTLER'S PRODUCTS.
- 11.15.4 Bottler agrees that in the event of complaints, claims or legal action by any person other than the Account alleging damage for loss to property, death, illness or injuries, directly or indirectly resulting from the use or consumption of any of such Bottler's Products, Bottler will hold Account harmless from any and all liability in connection therewith in proportion to its liability for such except as set forth in paragraph (e) below, and Bottler will assume full responsibility and expense of investigation, litigation, judgment and/or settlement of any such complaint, claim or legal action, on the condition that Bottler is notified promptly (in no event later than thirty days after the first receipt thereof by Account) in writing of any such complaints, claims or legal action and is permitted to deal therewith at its own discretion and through its own representatives and on the further condition that any such complaint, claim or legal action was caused by the fault or negligence of Bottler or, with respect to any direct action by Account against Bottler, Bottler was in breach of the warranty set forth in paragraph (a) hereof at the time of delivery to Account.
- 11.15.5 This agreement sets forth the sole and exclusive remedy for Account against the Bottler with respect to the Bottler's Products, and is the complete agreement between the parties with respect to the subject matter thereof. Bottler shall not be liable to Account whether in contract or in tort or on any other legal theory for any indirect, incidental, special or consequential damages, any lost revenues, profits or business opportunities, or for any other loss or cost of a similar type of Account or any customer of Account.
- 11.15.6 Notices required hereunder shall be sent by certified mail to the Risk Management Department, Coca-Cola Enterprises Inc., P.O. Box 723040, Atlanta, Georgia 31139.
- 11.16 Bottler shall take all reasonable precautions in the performance of the work under this Agreement to protect the health and safety of employees and members of the public and to minimize danger from all hazards to life and property, and shall comply with all health, safety, and fire protection regulations and requirements (including reporting requirements) of University. In the event that Bottler fails to comply with said regulations or requirements of University, University may, without prejudice to any other legal or contractual rights of University, issue an order stopping all or any part of the work; thereafter a start order for resumption of work may be issued at the

discretion of the University. Bottler shall make no claim for extension of time or for compensation or damages by reason of or in connection with such work stoppage. The safety of all persons employed by Bottler and its subcontractors on University premises, or any other person, who enters upon University premises for reasons relating to this Agreement, shall be the sole responsibility of Bottler. Bottler shall at all times maintain good order among its employees and shall not employ on the work any unfit person or anyone not skilled in the work assigned to him or her. Bottler shall confine its employees and all other persons who come onto University's premises at Bottler's request or for reasons relating to this Agreement and its equipment to that portion of University's premises where the work under this Agreement is to be performed or to roads leading to and from such work sites, and to any other area which University may permit Bottler to use. Bottler shall take all reasonable measures and precautions at all times to prevent injuries to or the death of any of its employees or any other person who enters upon University premises. Such measures and precautions shall include, but shall not be limited to, all safeguards and warnings necessary to protect workers and others against any conditions on premises which could be dangerous and to prevent accidents. To the extent compliance is required, Bottler shall comply with all University safety rules and regulations when on University premises.

12. Payments to the University, Excluding Sponsorship

Company and Bottler shall make payments, except for Sponsorship Fees covered in Section 10.1, including checks for marketing funds (if any reimbursements are owed), fountain price adjustment, cash advance for vending commission, and vending commissions, payable to The Regents of the University of California and delivered to the following:

University of California, Berkeley
University Cashier Room 140 University Hall, #1111
Berkeley, California 94720-1111
Attention: University Cashier

13. Equipment and Locations

- 13.1 During the Term of the Agreement as set forth Company or Bottler shall provide equipment reasonably necessary to meet University needs at no charge. Under the terms of this Agreement Company shall provide post-mix (and related equipment including racks) to RSSP and ASUC Auxiliary. Company shall provide post-mix (and related equipment including, racks, and handling) to IARS. Bottler shall provide vending equipment (and related equipment) to The Departments pursuant to Bottler's standard equipment placement agreement as set forth in **Exhibit F**. Should there be a conflict between the terms and conditions of Bottler's standard placement agreement and this Agreement, the terms and conditions of this Agreement shall prevail. Company shall provide post-mix equipment (and related equipment) pursuant to the

terms of Company's separate agreement(s) with University's concessionaire(s), as amended or renewed from time-to-time during the Term. If University (i) selects a concessionaire that does not have an agreement with the Company or (ii) elects to self-operate the food and Beverage operations on the Berkeley campus, Company will loan to University post-mix equipment subject to the terms and conditions of Company's standard lease agreement attached hereto as **Exhibit G**, at no charge to University. If there is a conflict between the terms and conditions of Company's standard lease agreement and this Agreement, the terms and conditions of this Agreement shall prevail.

13.2 Company shall provide the following minimum equipment requirements for post mix dispensing of Products and flavors presently at each dining service location, which is operated by RSSP.

13.2.1 Unit 1 Dining Service

- 4 Fast Flow with 8 Heads and Ice Dispenser - Push

13.2.2 Unit 2 Dining Service

- 2 Fast Flow with 6 Heads and Ice Dispenser - Push

13.2.3 Unit 3 Dining Service

- 3 Fast Flow with 6 Heads and Ice Dispenser - Lever
- 1 Fast Flow with 8 Heads and Ice Dispenser - Push

13.2.4 Foothill Dining Service

- 3 Fast Flow with 6 Heads and Ice Dispenser - Push
- 1 Fast Flow with 8 Heads and Ice Dispenser - Push

13.2.5 Clark Kerr Campus Dining Service

- 2 Fast Flow with 6 Heads and Ice Dispenser - Push

13.3 Company shall provide, as required, equipment requirements for post mix dispensing of Products in locations controlled by IARS.

14. Ownership of Machines

All machines placed on University premises by Sponsor are and shall remain the property of the Sponsor. Except for damage attributable to the University by reason of the negligence or willful misconduct of its officers, agents or employees acting within the scope of their

employment, Sponsor assumes the full risk and responsibility for any loss, destruction, or damage to the machines.

15. Electrically Operated Machines

All electrically operated machines furnished hereunder shall bear the seal of approval of the Underwriters' Laboratories, Inc. (UL) or National Sanitation Foundation (NSF). All electrical equipment and wiring required to be installed to provide for the operation of the machines shall be installed in strict accordance with the applicable ordinance and regulations of the State of California.

Bottler agrees to procure all necessary permits or licenses and abide by all applicable laws, regulations and ordinances of the University, State of California, county and city in which the work under this Agreement is performed. Bottler shall be liable for all damages and shall indemnify and save University harmless from and against all damages and liability to the extent they arise out of failure of Bottler to secure and pay for any such licenses or permits or to comply fully with any and all applicable laws, ordinances and regulations.

16. Personnel of Supplier

All persons employed by the Sponsor shall be employees of Sponsor and not the University. Sponsor in performing work required by a contract(s), shall not discriminate against any employee or applicant for employment because of race, creed, sex, color, national origin, or age in violation of Federal, State or local law. Sponsor's employees and agents shall comply with and observe all applicable rules and regulations concerning conduct on the premises which University imposes upon University's employees and agents. Sponsor shall comply with all applicable Federal, State and local laws and regulations pertaining to wages and hours of employment.

17. Space and Utilities

University, without cost to Sponsor, will provide Sponsor with the necessary space for the operation of equipment including vending services, and shall furnish without cost to Sponsor, except as noted, all utilities and facilities reasonable and necessary for the performance of this Agreement by Sponsor, including, but not limited to the following: heat, water, lights and electric current, garbage removal services, and exterminator services. University will, at its own cost and expense, install any such utility outlets at the mutually agreed upon areas where the vending/refrigerated equipment is to be located.

18. Building Maintenance/Janitorial Service

University will provide building maintenance and janitor service, without cost to Sponsor, in order to sweep, mop, and keep the vending service area and the premises in a safe and clean condition. The University shall not be responsible for any goods, merchandise or equipment stored at the University nor will it be responsible for damage resulting from fire, explosion,

falling plaster, steam, gas, electricity or power failure, water or rain which may leak from any part of the building or from any other place resulting from dampness, theft, vandalism, flood, earthquake, act of God, or any other cause whatsoever.

19. Alterations in Facilities

University facilities are subject to alteration closure, remodel or adjustment based solely upon the University's determination of its operating needs. Sponsor shall make no alterations to University premises unless authorized in writing by the University. University shall give Sponsor not less than fifteen (15) days advance notice in writing of any alterations in the premises that may affect the operation of the vending/refrigerated machine service or which will affect other areas covered by this Agreement.

20. Equipment, Maintenance and Service

The Company or Bottler shall provide preventative maintenance and repair service for all their furnished equipment at no cost to the University. Company or Bottler by the beginning of each academic year (July 1) shall (i) make a complete equipment check for satisfactory performance and (ii) provide a complete listing of equipment by site/location, quantity and brand type to The Departments as appropriate with a copy to Procurement and Business Contracts. Any equipment not acceptable shall be repaired and replaced by August 1 of each Agreement Year. Emergency repairs shall be provided within a four (4) hour response time per incident, seven (7) days a week. The Sponsor and the University shall jointly conduct an equipment audit and will review new equipment upgrades and/or supply opportunities. Equipment installation or removal should be completed during off-peak periods.

21. Remedies for Loss of Rights

- 21.1 In addition to any other legal or equitable remedy, University may terminate this Agreement upon forty-five (45) days' written notice to Company and Bottler at any time if:
- 21.1.1 Either Company or Bottler fails to make any payment due under this Agreement, and such default continues uncured for said forty-five (45) day period;
 - 21.1.2 Sponsor breaches any other material term or condition of this Agreement, and such breach continues uncured for said forty five (45) day period;
 - 21.1.3 A Bankruptcy Event occurs with respect to the Company or Bottler; provided, however, that University shall not have the ability to terminate this Agreement upon any insolvency or other financial instability of Bottler if Company agrees to assume all of Bottler's financial obligations hereunder.

- 21.2 In addition to any other legal or equitable remedy, Sponsor may terminate this Agreement upon forty-five (45) days' written notice to University at any time if:
- 21.2.1 University breaches any material term or condition of this Agreement, and such breach continues uncured for said forty five (45) day period;
 - 21.2.2 A Bankruptcy Event occurs with respect to the University; or
 - 21.2.3 University's right to convey the promotional and Beverage availability rights contained in this Agreement expire or are revoked; or
 - 21.2.4 The Berkeley campus is closed for a period of more than one hundred twenty (120) days.
- 21.3 Upon termination of this Agreement for any reason other than termination under that set forth in Sections 21.1.1 and 21.1.2 above, University will refund any prepaid Sponsorship Fees pro rated to the date of termination or, if earlier, the date of any default hereunder by University, and such pro rated amount will be calculated on the Sponsorship Fees for each Agreement Year being allocated on an equal daily basis throughout the year.
- 21.4 If the Berkeley campus is closed for more than thirty (30) consecutive days, but less than ninety (90) consecutive days, Sponsor may extend the Term for a corresponding period, whether or not such closure is due to a cause beyond the reasonable control of University.
- 21.5 Subject to the exceptions stated in Sections 4, 5 and 6, if (i) any of the rights granted to Sponsor herein are materially restricted or limited during the Term (including, without limitation, as a result of Ambush Marketing), or (ii) the Berkeley campus is closed for a period of more than ninety (90) consecutive days, or (iii) a Team fails to play all of its scheduled home games on the Berkeley campus for a period of more than thirty (30) consecutive calendar days during its scheduled season (whether or not such failure to play is due to a cause beyond the reasonable control of University including a strike or other work stoppage), then in addition to any other remedies available to Sponsor, Sponsor may elect, at its option, to adjust the Sponsorship Fees to be paid to University for the then remaining portion of the Term (and University will pay to Sponsor a pro rata refund of any prepaid amounts) to reflect the diminution of the value of rights granted hereunder to Sponsor. In the event Sponsor elects to exercise its right to such adjustment and refund, University may, at its option, within thirty (30) days following receipt of notice of any adjustment, notify Sponsor of its disagreement with the amount of the adjustment. The parties shall then attempt in good faith to resolve the disagreement over such adjustment. If the parties cannot, after good faith negotiation, resolve the matter, Sponsor may exercise the right of termination described in Section 21.2.

21.6 Subject to the exceptions as stated in Sections 4, 5 and 6, University will promptly oppose Ambush Marketing and take all reasonable steps to stop Ambush Marketing and to protect the exclusive association rights granted to Sponsor by University in this Agreement. In the event any such Ambush Marketing occurs during the Term, each party shall notify the other parties of such activity immediately upon learning thereof.

22. Confidentiality

Each party will exercise due diligence to protect the confidentiality of each of the other party's records and information, and to the extent possible, will not disclose confidential information. All information considered confidential shall be marked "Confidential Information." The University as a public entity may be required to disclose records pursuant to the California Public Records Act and the California Information Practices Act and federal law. University agrees that the amount of Sponsorship Fees provided to University by Sponsor under this Agreement will be kept confidential by University, its agents, employees and representatives and, except as may be required by law, will not be disclosed in any manner whatsoever, in whole or in part, by University or its agents, employees or representatives without the prior written consent of Sponsor. The foregoing obligation regarding confidentiality shall remain in effect for a period of three years after the expiration of this Agreement.

23. Representations, Warranties and Covenants

23.1 University represents, warrants and covenants to Sponsor as follows:

- 23.1.1 University has full power and authority to enter into this Agreement and to grant and convey to Sponsor the rights set forth herein.
- 23.1.2 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.
- 23.1.3 University has the exclusive right to license the University Marks.
- 23.1.4 Subject to the exceptions stated in Sections 4, 5 and 6, 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 Berkeley 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 and merchandising or promotional and/or advertising rights that are inconsistent with the rights granted to Sponsor pursuant to this Agreement.

23.2 Each of Company and Bottler hereby represents, warrants and covenants as follows:

23.2.1 Company or Bottler, as the case may be, has full power and authority to enter into and perform this Agreement.

23.2.2 All necessary approvals for the execution, delivery and performance of this Agreement by Company or Bottler, as the case may be, have been obtained, and this Agreement has been duly executed and delivered by Company or Bottler, as the case may be, and constitutes the legal and binding obligation of Company or Bottler, as the case may be, enforceable in accordance with its terms.

23.2.3 Neither Company nor Bottler, as the case may be, has entered into and during the Term of this Agreement, will enter into, any other agreements which would prevent it from fully complying with the provisions of this Agreement.

24. Construction of this Agreement

24.1 The captions used in this Agreement are for convenience only and shall not affect in any way the meaning or interpretation of the provisions set forth herein.

24.2 This Agreement, including the Exhibits, which are an integral part of this Agreement and are expressly incorporated herein by this reference, shall constitute the final complete and exclusive written expression of the intentions of the parties hereto and shall supersede all previous communications, representations, agreements, promises or statements, either oral or written, by or between any party. This provision shall not invalidate or amend any other written agreement between Sponsor and/or any Affiliate of Sponsor and University and/or Affiliate of University. This Agreement, and each of its terms and conditions, may be amended, modified, or waived only in writing signed by each of the parties hereto. Any such modification, waivers, or amendments shall not require additional consideration to be effective.

24.3 In the event of conflict between the terms of the Agreement and Exhibits, the terms of this Agreement shall prevail.

25. General Provisions

25.1 This Agreement shall be subject to the examination and audit of the Auditor General of the State of California for a period of three (3) years after final payment under the Agreement. The examination and audit will be confined to those matters connected with the performance of the Agreement, including, but not limited to, the costs of administering the Agreement.

25.2 Sponsor shall abide by all parking requirements and regulations in all areas of the University. Failure to do so may result in lost time and appropriate fines. For information regarding parking or vehicular access to the Berkeley campus, Sponsor may phone 510/642-4283.

25.3 No party shall obtain, by this Agreement, any right, title, or interest in the trademarks and/or trade names of the other parties, nor, except as provided herein, shall this Agreement give any party the right to use, refer to, or incorporate in any way, including, but not limited to, marketing, promotion, advertising, or other materials the name, trade names, logos, trademarks, copyrights or any other intellectual property rights of the other parties. Except as expressly granted herein, University retains all rights, title, and interest in University Marks including any and all University trademarks, trade names, logos, copyrights or other intellectual property.

25.4 Company shall, in its sole discretion, have the right to pre-approve any use by University of Company's logo or trademarks.

26. Access to Records:

26.1 Sponsor shall make all books, documents, and records pertaining to the goods and services furnished under the terms of this Agreement, available for inspection, examination, or copying at all reasonable times at the Sponsor's place of business, or at such other mutually agreed upon location in California, to the University or its duly authorized representatives and comply with the requirements issued as a result of such inspection.

26.2 Sponsor shall maintain financial records for a period of three (3) years after final payment under the Agreement concerning any financial transactions with the University. This obligation is not terminated upon termination of this Agreement whether by rescission or otherwise.

27. Indemnity:

27.1 The University will defend, indemnify, and hold Sponsor, its officers, employees and agents harmless from and against any and all liability, loss, expense (including reasonable attorney's fees) or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the University, its officers, agents, employees, or students under its supervision.

27.2 Company and Bottler shall each defend, indemnify, and hold the University, its officers, employees and agents harmless from and against any and all liability, loss, expense (including reasonable attorney's fees) or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent

such liability, loss, expense, attorney's fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of Company and/or Bottler, and each of its officers, agents, or employees.

28. Insurance:

28.1 The University agrees to keep in full force and effect during the term of this Agreement at the expense of the University:

Comprehensive or Commercial General Liability Insurance or an equivalent funded program of self-insurance as follows:

a.	Each Occurrence	\$1,000,000.00
b.	Products/Completed Operations	\$2,000,000.00
c.	Personal and Advertising Injury	\$1,000,000.00
d.	General Aggregate*	\$2,000,000.00

*(Not applicable to comprehensive form)

However, if such insurance is written on claims made form, following termination of this Agreement, coverage shall survive for a period of three (3) years. Coverage shall provide for a retroactive date of placement prior to or coinciding with the effective date of this Agreement.

Within ten (10) days of the execution of this Agreement, the University will file a Certificate(s) of Insurance or self-insurance with Company and Bottler. Such provision shall apply in proportion to and to the extent of the negligent acts or omissions of the University or any person or persons under the University's direct supervision and control.

28.2 Each of Bottler and Company agree to keep in full force and effect during the term of this Agreement at the expense of Bottler and Company:

Comprehensive or Commercial General Liability Insurance or an equivalent funded program of self-insurance as follows:

a.	Each Occurrence	\$1,000,000.00
b.	Products/Completed Operations	\$2,000,000.00
c.	Personal and Advertising Injury	\$1,000,000.00
d.	General Aggregate*	\$2,000,000.00

*(Not applicable to comprehensive form)

However, if such insurance is written on claims made form, following termination of this Agreement, coverage shall survive for a period of three (3) years. Coverage shall provide for a retroactive date of placement prior to or coinciding with the effective date of this Agreement.

Premiums on the insurance policies shall be paid by each of Bottler and Company, and shall be deemed included in the Agreement.

Within ten (10) days of the execution of this Agreement, each of Bottler and Company shall file a Certificate(s) of Insurance or self-insurance with the University naming The Regents of the University of California as an additional insured and as the certificate holder. Such provision shall apply in proportion to and to the extent of the negligent acts or omissions of Bottler or Company or any person or persons under Bottler's or Company's direct supervision and control. Certificate(s) of Insurance shall be sent to the attention of Dennis Bartling, Principal Buyer, Procurement and Business Contracts, University of California, Suite 218, Berkeley, CA 94720-5600.

Certificate of Insurance will require that the each of Bottler's or Company's insurance carriers shall provide the University in writing thirty (30) days prior to the effective date of the cancellation of or change in any insurance provided pursuant to this Agreement.

29. Independent Contractor:

No relationship of employer and employee is created by this Agreement, nor does it create a joint venture. In performing the rights and duties identified in this Agreement, Company and Bottler each shall act only as independent contractors of and not as agents for the University, and neither party shall in any event be held liable or accountable for any obligations incurred by the other party other than as specified herein. It is specifically understood and agreed that the respective business of each of the parties shall be operated separate and apart from each other. Each party shall be responsible for its own salaries, payroll taxes, withholdings, insurance, and other benefits of any kind. In no event shall any party have or exercise control over the manner in which another party provides the professional service or other services required by this Agreement.

30. Severability:

If any article, term or provision of this agreement shall be held illegal, unenforceable or in conflict with any law of a federal, state or local government having jurisdiction over this Agreement, the validity of the remaining portions or provisions shall not be affected thereby, unless the purpose of the Agreement is frustrated.

31. Assignment:

None of the parties may assign its rights or delegate its duties identified in this Agreement without prior written consent of the other parties. At least thirty (30) days prior written notice requesting assignment must be given to the other parties.

32. Waiver:

Any failure of a party to insist upon strict compliance with any term, undertaking or condition of this Agreement shall not be deemed to be a waiver of such term, undertaking or condition. To be effective, a waiver must be in writing, signed and dated by the parties.

33. Governing Law:

This Agreement shall be construed and governed in all respects in accordance with the laws of the State of California.

34. Procurement Code of Conduct:

All parties to this Agreement shall comply with the Procurement Code of Conduct, **Exhibit J**.

35. Equal Opportunity Affirmative Action:

Sponsor shall not maintain or provide racially segregated facilities for employees at any establishment under its control. Sponsor agrees to adhere to the requirements set forth in Executive Orders 11246 and 11375, and with respect to activities occurring in the State of California, to the California Fair Employment and Housing Act (Government Code section 12900 et seq.). Expressly, Sponsor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, medical condition (as defined by California Code section 12925f), marital status, age, physical and mental handicap in regard to any position for which the employee or applicant for employment is qualified, or because he or she is a disabled veteran or veteran of the Vietnam era. Sponsor shall further specifically undertake affirmative action regarding the hiring, promotion and treatment of minority group persons, women, the handicapped, and disabled veterans and veterans of the Vietnam era. Sponsor shall communicate this policy in both English and Spanish to all persons concerned within its company, with outside recruiting services and the minority community at large. Sponsor shall provide the University on request a breakdown of its labor force by groups, specifying the above characteristics within job categories, and shall discuss with the University its policies and practices relating to its affirmative action programs.

36. Notices:

All written notices to be given in connection with this Agreement shall be sufficient if sent by facsimile (together with proof of transmission and provided a hard copy is mailed within one business day), certified or registered mail, postage prepaid or national overnight delivery service addressed to the party entitled to receive such notice at the address specified by such party.

Notices to the respective parties shall be given as follows:

If to Company:

Coca-Cola North America, a division of The Coca-Cola Company
One Coca-Cola Plaza
Atlanta, Georgia 30313
Attention: Group Vice President, Customer and Alliance Marketing
Facsimile: (404) 515-0464

with a copy to:

Coca-Cola North America General Counsel
Facsimile: (404) 515-4129

If to Bottler:

BCI Coca-Cola Bottling Company of Los Angeles
d/b/a Coca-Cola Bottling company of California
7901 Oakport Street, Suite 2100
Oakland, California 94621
Attention: General Counsel
Facsimile: (510) 729-7023

with a copy to:

Coca-Cola Enterprises Inc.
2500 Windy Ridge Parkway
Atlanta, Georgia 30339
Attention: General Counsel
Facsimile: (770) 989-3619

If to University:

University of California
Procurement and Business Contracts
Berkeley, California 74720-5600
Attention: Dennis Bartling, Principal Buyer
Facsimile: (510) 642-8604

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized representatives as of the date first above written.

**COCA-COLA NORTH AMERICA,
A DIVISION OF THE COCA-COLA
COMPANY**

By: Melody Justice
Melody Justice

Title: Senior Vice President, Media and
Marketing Alliances

Date: 3/20/02

**THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA AT BERKELEY**

By: Kurt Libby
Kurt Libby

Title: Director of Materiel Management

Date: 3/22/2002

**BCI COCA-COLA BOTTLING
COMPANY OF LOS ANGELES d/b/a
COCA-COLA BOTTLING COMPANY OF
CALIFORNIA**

By: G. David Van Houten, Jr.
G. David Van Houten, Jr.

Title: Executive Vice President, and
President, North America

Date: _____

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EXHIBIT A

RESIDENTIAL AND STUDENT SERVICE PROGRAMS (RSSP), INTERCOLLEGIATE ATHLETICS AND RECREATIONAL SPORTS (IARS), AND ASSOCIATED STUDENTS OF THE UNIVERSITY OF CALIFORNIA AUXILIARY BERKELEY (ASUC AUXILIARY)

FOUNTAIN PRICING

Bottler agrees to provide the following Products and other items to RSSP during the Term at the following prices:

Post-mix Products (5 Gallon Bag-N-Box) : National Account Pricing:

- Coca-Cola classic
- Sprite and Allied Products
- Diet Coke and Other diet Products

Post-mix Products price adjustments may be made effective January 1st of each year beginning in Agreement Year 1. Notification of price adjustments to the University shall be made 30 days prior to an adjustment.

CO2: \$15.00 per 20 lb

Coca-Cola Trademark Cups/lids:*

Size	Cups	Lids
16 oz	\$43.00/1000	\$36.00/2000
24 oz	\$55.00/1000	\$36.00/2000
32 oz	\$43.00/500	\$36.00/1000

The prices for CO2, cups, and lids will remain in effect for Agreement Years 1-3. Prices may increase in Agreement Years 4-10 with a three percent (3%) cap per annum over the previous Agreement Year's price. Notification of price adjustments to the University shall be made 30 days prior to an adjustment.

EXHIBIT B

INTERCOLLEGIATE ATHLETICS AND RECREATIONAL SPORTS (IARS), ASSOCIATED STUDENTS UNIVERSITY OF CALIFORNIA, BERKELEY AUXILIARY (ASUC AUXILIARY) AND RESIDENTIAL AND STUDENT SERVICE PROGRAMS (RSSP)

BOTTLE/CAN PRICING

Bottler agrees to provide the following Products and other items to IARS, ASUC and RSSP during the Term at the following prices:

<u>Product</u>	<u>Case</u>	<u>Price</u>
12 oz. Can (Carbonated Beverages)	24	\$6.50/Case + CRV
16 oz. Minute Maid Juice	24	\$14.65/Case +CRV
20 oz. Contour Bottles	24	\$11.95/Case + CRV
16 oz. Nestea Bottles)	24	\$14.65/Case + CRV
20 oz. Fruitopia Bottle	24	\$14.65/Case
20 oz. Powerade Bottle	24	\$14.65/Case
1 Liter Carbonated Beverages	8	\$11.50/Case
20 oz. Dasani	24	\$10.00/Case

The prices for CO2, cups, and lids will remain in effect for Agreement Years 1-3. Prices may be adjusted in Agreement Years 4-10 with a three percent (3%) cap each year per annum over the previous Agreement Year's price. Price adjustments are effective August 3 of each year for years 4-10. Notification of price adjustments to the University shall be made 30 days prior to an adjustment.

EXHIBIT C

INTERCOLLEGIATE ATHLETICS AND RECREATIONAL SPORTS (IARS), ASSOCIATED STUDENTS UNIVERSITY OF CALIFORNIA AUXILIARY BERKELEY (ASUC AUXILIARY) AND RESIDENTIAL AND STUDENT SERVICE PROGRAMS (RSSP)

FULL SERVICE VENDING COMMISSION SCHEDULE

Bottler agrees to provide the following Products and other items to IARS, ASUC and RSSP during the Term at the following prices:

<u>Package</u>	<u>Vend Price</u>	<u>% Commission</u>
12 oz. (Carbonated Beverages) Can	\$0.75	45%
20 oz. Coke Contour Bottle	\$1.00	45%
12 oz. Fruitopia Can	\$0.75	30%
20 oz. Fruitopia Bottle	\$1.00	30%
20 oz. POWERaDE Bottle	\$1.00	30%

The vend prices listed above are fixed for the initial three (3) years of the Term. Vend pricing for years 4-10 shall be as mutually agreed between the parties.

Bottler shall advance University One Hundred Fifty Thousand Dollars (\$150,000) of full-service vending commission by August 4 each Agreement Year. Commissions paid will be based on net sales (gross sales after deduction for sales tax, refunds, and deposits (if applicable)). If University does not earn commissions in an amount equal to \$150,000 for an Agreement Year, the commission for the subsequent Agreement Year will be automatically reduced by the unearned amount. For example, if commissions earned for Agreement Year Two are \$80,000, then Bottler will advance University \$70,000 for Agreement Year Three. Conversely, should annual commission payments exceed \$150,000, Bottler shall advance previous years commission payment total. For example, if commissions earned for Agreement Year Two is \$185,000, then Bottler will advance University \$185,000 for Agreement Year Three.

EXHIBIT D

INTERCOLLEGIATE ATHLETICS AND RECREATIONAL SPORTS (IARS) AND ASSOCIATED STUDENTS OF THE
UNIVERSITY OF CALIFORNIA AUXILIARY BERKELEY (ASUC AUXILIARY)

FOUNTAIN PRICING

Bottler agrees to provide IARS' concessionaire, (currently Fanfare), Products, CO2, and Approved Cups and lids under the terms of the existing contract between Fanfare and the Company.

If IARS or ASUC Auxiliary becomes self-operating, it will receive the pricing not to exceed prices to RSSP. If IARS or ASUC Auxiliary elects to change concessionaires during the term of the Agreement, then the Product prices listed in Exhibits A, B, and E may not apply. Company and Bottler will then negotiate prices for Products with that concessionaire at prices not greater than listed in Exhibits A, B and E. IARS or ASUC Auxiliary with any new agreements must cause the concessionaire to purchase all of concessionaire's requirements (100%) for Products, Approved Cups, lids and carbon dioxide on the Berkeley campus from Bottier (acting for itself or as Company's agent).

EXHIBIT E

**INTERCOLLEGIATE ATHLETICS AND RECREATIONAL SPORTS (IARS), ASSOCIATED STUDENTS UNIVERSITY OF
CALIFORNIA BERKELEY (ASUC AUXILIARY) AND
RESIDENTIAL AND STUDENT SERVICE PROGRAMS (RSSP)**

Company agrees to provide juice concentrate Products to RSSP, ASUC and IARS during the Term at the following delivered prices:

Product	Code	Pack Size	U.C. Berkeley Bid Price
Five Alive	3430	4/90 oz	\$52.92
Orange Juice	6401	4/90 oz	\$55.35
Raspberry Lemonade	6454	4/90 oz	\$44.07
Lemonade	6476	4/90 oz	\$39.60
Apple Juice	6501	4/90 oz	\$67.59
Grape Juice	6504	4/90 oz	\$55.51
Hi-C Fruit Punch	6505	4/90 oz.	\$40.37
Orange/Strawberry/Banana	6326	4/90 oz	\$50.17
Cranberry	6330	4/90 oz	\$75.70
Chilled Orange Juice	2611	12/32 oz	\$20.41

Minute Maid Juice delivered prices will be reviewed on an annual basis. For years two through five, price changes will be adjusted by the percentage change in the national list price; but will not exceed five percent (5%) annually. Minute Maid will also review prices on an annual basis in years six through ten and will adjust pricing up or down by the equal amount of change to national list price. Notification of price adjustments to the University shall be made 30 days prior to an adjustment. If University is no longer self-operating, then pricing will be subject to Company's agreement with the concessionaire.

EXHIBIT F

Coca-Cola Bottling Company of California EQUIPMENT MOVE ORDER

7117

GENERAL INFORMATION

CUSTOMER STATUS
 Outlet #: 30
 Outlet #: 7114952
 Document#: 6225047
 Present Customer
 New Customer

WORK TYPE
 Removal of Asset #:
 Installation
 Relocation
 Data Change
 From outlet#:
 To outlet#:

One of the following MUST be checked
 Bus. Closed Lost/Stolen Foreign Product
 Vandalized Like for Like Service Problem
 Competition Exchange Sales Problem
 Low Volume Seasonal

PLACEMENT TYPE
 Full Service
 Rent Rate: \$0.00

SALES METHOD
 Full Service
 Home Market
 Cold Drink
 Inside Sales
 Bottle/Can
 Fountain

OUTLET INFORMATION

DELIVERY INFORMATION
 Outlet Name: UCB Lawrence Hall Cafeteria
 Address: 1 Centennial Dr
 Cross street: The View Suite/Floor/Bldg#:
 City: Berkeley County: Alameda
 State: CA Zip: 94720
 Contact Name: Steve Mullin
 Phone#: 510-643-7653 Extension: 0
 Business Hours: Delivery hours: 8am to Noon

PAY TO INFORMATION ("CREDIT TO")
 NOTE: Subject to tax forms received in Oakland
 Name: Regents of UCB
 Address: 1 Centennial Dr Rm 208
 City: Berkeley State: CA Zip: 94720
 Attention: Anna Rafferty Phone#: 510-643-7653

Taxpayer name:
 Federal Tax ID# / Social Security #:

SITE LOCATION INFORMATION

Inside cafeteria
 Dimensions: H: 0 W: 0 D: 0 Door: H: 0 W: 0
 How many steps: 0 Landing Swing Size
 Exclusive Account Electric Outlet w/in 4 ft.

Vend Price	FS Comm Rate	FS Comm-Freq	Min. req. purch.
Carb <input type="text"/> \$0.00	<input type="text"/> 0%	<input type="text"/>	Machine/Month
Non-carb <input type="text"/> \$1.00	<input type="text"/> 30%	<input type="text"/>	

Full Line Operator Information
 Name:
 Address:
 City: State: Zip: 0
 Contact: Phone#:

The equipment and permanent merchandising which remain property of Coca-Cola are hereby authorized for installation under the terms and conditions stated on the reverse side.

Customer's Signature _____ Date _____
 Print Name _____ Title _____
 Customer's Receipt Signature upon delivery _____ Date _____

DELIVERY INSTRUCTIONS

SALES CENTER AUTHORIZATION
 Sls Ctr Rep Name: Debra Wilkerson/Joe Geranio Date: 09/05/2001
 Sls Rep Pager: 510-453-2048 Personnel Code: 8881

Authorized Supervisor Signature _____ Title _____

EQUIPMENT INFORMATION

Equipment Type: Contour Vender
 Equipment Model#: 79"
 Graphics: M Mald
 Cage
 Bolt Down
 Set Vend Price at: \$1.00

FLAVORS:

MM OJ	MM CranApple R
MM OJ	MM Pink Grpft
MM AJ	MM Frt Punch
MM AJ	Dassni
MM CranApple R	

Special Setup instructions:

FOR COOLER SERVICES ONLY

Received	Entered By	Scheduled By	Installed By	Settled By	Mileage	Drive Time	Work Time
Date: <input type="text"/> 09/05/2001	<input type="text"/> 09/05/2001	<input type="text"/>	<input type="text"/>	<input type="text"/>	Start: <input type="text"/> 0	<input type="text"/>	<input type="text"/>
Initials: <input type="text"/> sp	<input type="text"/> sp	<input type="text"/>	<input type="text"/>	<input type="text"/>	End: <input type="text"/> 0	<input type="text"/>	<input type="text"/>

Equipment installed: New Used
 Asset#: Serial#: Model#:
 Customer Office Prep

1. Installation and Operation

Bottler shall deliver and install the equipment described herein (the "Equipment") at the location specified herein and Customer shall use the Equipment only at such location. Customer, at its expense, shall provide all the necessary service connections. Customer hereby guarantees that (a) no logo, advertisement or other indication of Bottler's ownership of the Equipment shall be obstructed, defaced or removed and no other logo or advertisement shall be attached to the Equipment, (b) in the event that the Equipment contains an illuminated sign, Customer shall keep such sign illuminated at all times, and (c) the Equipment shall not be obstructed, moved, or removed without the prior written consent of the Bottler.

2. Full Service

If Full Service is checked on the front of this Agreement, Customer agrees to permit Bottler to place the Equipment on the Customer's premises. Bottler shall stock the Equipment and shall collect all proceeds from the sale of soft drinks. If applicable, Bottler shall pay Customer a commission on sales through the Equipment. The initial commission and vend price is set forth herein but may be changed by Bottler as set forth in *Exhibit C* to the Sponsorship Agreement.

3. Disclaimer of Warranties

Customer acknowledges that the Bottler is not the manufacturer of the Equipment. BOTTLER MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND AND EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES AS TO THE FITNESS, MERCHANTABILITY, DESIGN, CONSTRUCTION, CONDITION, SPECIFICATIONS OR PERFORMANCE OF THE EQUIPMENT. Customer accepts no warranties and expressly waives any implied warranties as to the fitness, merchantability, design, construction, condition, specification, or performance of the Equipment. Bottler shall not be liable to Customer for any claims based upon or arising out of lost profits, loss of product or consequential or incidental damages in any way relating to the installation, use or operation of the Equipment. This limitation of liability is not applicable to any claims the Bottler's Equipment infringes the patent, copyright, trade secret or any other intellectual property right of any third party.

4. Miscellaneous

This Agreement shall not be assignable by Customer without the prior written consent of Bottler. This constitutes the entire Agreement between the parties and may be amended only in writing signed by both parties. NO modification or waiver shall be enforceable unless in writing and signed by the party against whom enforcement is sought.

The Coca-Cola Company

FOUNTAIN EQUIPMENT INSTALLATION AND LEASE AGREEMENT

CUSTOMER NAME ("ACCOUNT")		
STREET ADDRESS (NO P.O. BOXES, PLEASE)		CITY AND STATE
ZIP + 4		FEDERAL ID#
MANAGER/OWNER NAME	OUTLET PHONE	SHIP TO ACN
CONTACT NAME	CONTACT PHONE	HEADQUARTERS ACN

LEASE OF EQUIPMENT

THE COCA-COLA COMPANY, THROUGH ITS COCA-COLA NORTH AMERICA DIVISION, ("COMPANY") WILL LEASE THE EQUIPMENT TO ACCOUNT AS SET FORTH IN THE FOUNTAIN EQUIPMENT SCHEDULE DATED _____ (AND ATTACHED HERETO) AND WILL PROVIDE OTHER EQUIPMENT, AS PROVIDED HEREIN (COLLECTIVELY, THE "EQUIPMENT"). WITHOUT THE APPROVAL OF COMPANY, THE MAXIMUM VALUE OF THE EQUIPMENT TO BE INSTALLED WILL NOT EXCEED \$ _____, BASED ON THE MANUFACTURER'S SUGGESTED RETAIL PRICE OF THE EQUIPMENT, OR, IF NOT AVAILABLE, COMPANY'S COST.
 THE LEASE RATE FOR THE EQUIPMENT SHALL BE \$ _____ PER MONTH, OR, IN THE ABSENCE OF AGREEMENT, A MONTHLY LEASE RATE EQUAL TO 1/12TH OF 24% OF THE TOTAL COST OF THE TOTAL INSTALLED COST OF THE EQUIPMENT.

INSTALLATION OF EQUIPMENT

SEE ATTACHED FOUNTAIN EQUIPMENT SCHEDULE. THE EQUIPMENT REFERRED TO IN THE EQUIPMENT SCHEDULE WILL BE INSTALLED UPON THE TERMS AND SUBJECT TO THE CONDITIONS PROVIDED HEREIN. ACCOUNT WILL ASSUME ALL RESPONSIBILITY FOR COSTS ASSOCIATED WITH INSTALLATION IN EXCESS OF \$ _____.

SERVICE

COMPANY WILL PROVIDE REASONABLE ROUTINE MAINTENANCE AS NEEDED. ANY ADDITIONAL SERVICE, SUCH AS REINSTALLATIONS, FLAVOR CHANGES, LINE REPLACEMENTS, AND MAJOR REPAIRS DUE TO DAMAGE OUTSIDE THE ORDINARY COURSE OF BUSINESS, WILL BE BILLED TO ACCOUNT. ALL SERVICE CALLS MUST BE HANDLED THROUGH COMPANY SERVICE DISPATCH. FOR SERVICE PLEASE CALL:

(1-800-241-COKE)

THE UNDERSIGNED HEREBY REPRESENTS THAT HE/SHE IS A DULY AUTHORIZED AGENT OR OFFICER OF ACCOUNT AND AUTHORIZES THE INSTALLATION OF THE ABOVE EQUIPMENT. ACCOUNT AGREES TO PAY ANY INSTALLATION FEES AND MONTHLY FEES WHEN DUE AND ANY EXCESS COSTS OF INSTALLATION OR EQUIPMENT. ACCOUNT ACKNOWLEDGES THAT THE ABOVE EQUIPMENT WILL REMAIN THE PROPERTY OF COMPANY AND AGREES TO THE TERMS AND CONDITIONS STATED ON THE REVERSE SIDE HEREOF, WHICH HAVE BEEN READ BY THE UNDERSIGNED.

SIGNATURE	DATE
PRINT NAME	TITLE

In consideration of the mutual promises set forth below, The Coca-Cola Company, through its Coca-Cola North America division, its successors and assigns ("Company"), and the account identified on Sponsorship Agreement ("Lessee") agree as follows:

1. **LEASE AGREEMENT.** All fountain beverage dispensing equipment described in the attached Sponsorship Agreement installed at the outlets and other locations ("Facilities") is subject to the terms and conditions set forth in the Sponsorship Agreement and this Lease Agreement. In the event of a conflict between the terms of the Sponsorship Agreement and the other exhibits attached hereto and this Lease Agreement, the terms of the Sponsorship Agreement shall control. Unless otherwise agreed in writing, the Equipment shall include all dispensers, permanent merchandising, menu boards, lines, fittings, carbonators, regulators, valves, refrigeration units, and bag-in-box pumps and racks installed by Company at the Facilities.

2. **LEASE TERM.** All Equipment is leased for the term of beginning on the date each item of Equipment is installed and continuing for the remainder of the Term of the Sponsorship Agreement.

3. **COSTS OF INSTALLATION.** Company shall bear the reasonable costs associated with the initial installation of the Equipment as set forth in the attached Sponsorship Agreement, provided that, such reasonable costs shall not include any labor costs for personnel other than employees of Company's regular network of authorized service providers, or any additional costs created by action of the Lessee or the Facilities (such as costs associated with Facility's or Lessee's collective bargaining agreements, unusual construction configurations, construction delays, etc.), and provided further, that, if this Lease is terminated for any reason prior to 60 months from installation, Lessee shall reimburse Company upon termination for the actual costs of installation and removal and the standard costs for remanufacturing such Equipment incurred by Company. Following notice of termination, the terms of this Lease shall continue in effect until the Equipment has been removed from the Facilities by an authorized service provider of Company. The Company shall not be responsible for the installation of, or any costs associated with the installation of water lines, backflow preventors, water filters, electrical lines or ice makers or any costs associated with meeting local plumbing codes, all of which shall be borne by Lessee.

4. **TITLE TO THE EQUIPMENT.** The Equipment shall be identified with a serial number maintained in the internal records of Company in accordance with Company policy. In the event of any dispute, those records shall be dispositive and bind the parties, absent evidence of mutual or unilateral mistake. Such Equipment is, and shall at all times be, the sole and exclusive property of Company, and Lessee shall have no right, title, or interest in or to the Equipment, except the right to quiet use of the Equipment in the ordinary course of its business as provided herein. The parties agree, and Lessee warrants, that the Equipment is, and shall at all times be and remain, personal property of Company notwithstanding that the Equipment or any part thereof may now be, or hereafter become, in any manner affixed or attached to, or embedded in, or permanently resting upon, real property or improvements on real property or any building.

5. **TITLE DOCUMENTS.** Lessee shall cooperate with Company and shall execute such title documents, financing statements, fixture filings, certificates and such other instruments and documents as Company shall reasonably request to ensure to Company's satisfaction, protection of Company's title to the Equipment and Company's interests and benefits under this Interim Lease.

6. **USE OF EQUIPMENT.** Unless otherwise agreed in writing, Lessee agrees that if the Equipment is a fountain beverage dispenser, then the Equipment will be used solely for the purpose of dispensing fountain beverage products of Company, such as Coca-Cola® classic (or Coke®), Diet Coke® and Sprite®. If the Equipment is other than a fountain beverage dispenser or a pump, then the Equipment will be used only in a location where fountain beverage products of Company are served and where no fountain beverage products of PepsiCo, Inc. or of an affiliate thereof is served. This Section 6 shall not apply within the State of Wisconsin.

7. **INSPECTION AND NOTIFICATION.** Company shall have the right during Lessee's regular business hours to inspect the Equipment at the Facilities or wherever the Equipment may be located and to review all records that relate to the Equipment. Lessee shall promptly notify Company of all details arising out of any change in location of the Equipment, any alleged encumbrances thereon or any accident allegedly resulting from the use or operation thereof.

8. **WARRANTY DISCLAIMER: LESSEE ACKNOWLEDGES THAT COMPANY IS NOT A MANUFACTURER OF THE EQUIPMENT AND THAT COMPANY HAS MADE NO REPRESENTATIONS OF ANY NATURE WHATSOEVER PERTAINING TO THE EQUIPMENT OR ITS PERFORMANCE, WHETHER EXPRESS OR IMPLIED, INCLUDING (WITHOUT LIMITATION) ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER WARRANTIES RELATING TO THE DESIGN, CONDITION, QUALITY, CAPACITY, MATERIAL OR WORKMANSHIP OF THE EQUIPMENT OR ITS PERFORMANCE, OR ANY WARRANTY AGAINST INTERFERENCE OR INFRINGEMENT, OR ANY WARRANTY OR AUTHORITY WITH RESPECT TO PATENT RIGHTS, IF ANY, PERTAINING TO THE EQUIPMENT. COMPANY SHALL NOT BE RESPONSIBLE FOR ANY LOSS OF PROFITS, ANY DIRECT, INCIDENTAL OR CONSEQUENTIAL LOSSES, OR DAMAGES OF ANY NATURE WHATSOEVER, RESULTING FROM THE DELIVERY, INSTALLATION, MAINTENANCE, OPERATIONS, SERVICE OR USE OF ANY EQUIPMENT OR OTHERWISE; PROVIDED, HOWEVER, THAT THE FOREGOING LIMITATION OF LIABILITY SHALL NOT BE APPLICABLE TO ANY CLAIM THAT THE EQUIPMENT INFRINGES THE COPYRIGHT, PATENT, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHT OF ANOTHER.** Notwithstanding the foregoing, Company agrees to repair or replace Equipment that has a manufacturing or design defect, provided that Company is given prompt notice of such defect. Repair or replacement shall be Lessee's sole remedy against the Company for such defects.

9. **ALTERATIONS.** Lessee shall not make any alterations, additions, or improvements to the Equipment without the prior written consent of Company; provided, however, that nothing shall be deemed to prohibit Lessee from performing ordinary maintenance and repairs to the Equipment as required by this Interim Lease. All parts, additions, or improvements added to the Equipment through alterations, repairs, additions or improvements shall constitute accessions to and shall be considered an item of the Equipment and title to such shall immediately vest in Company. Lessee shall not permit the removal of the Equipment without Company's written authorization.

10. **MAINTENANCE AND REPAIRS.** Company establishes policies, from time to time, concerning repairing Equipment and such policy shall govern the maintenance of Equipment. Such policies may be altered or abolished by Company in its sole discretion upon advance written notice to Lessee. Except as provided in the attached Sponsorship Agreement, in all respects, Lessee shall, at its expense, keep the Equipment in good condition, repair, and working order, normal usage wear and tear only excepted, using Company's regular network of authorized service providers

unless otherwise agreed in writing. Defective workmanship during the maintenance or repair of the Equipment undertaken by Company or its agents on its behalf will be corrected at no additional charge to Lessee, provided that Company is given prompt notification of any such defective workmanship. This obligation to correct defective workmanship shall be Lessee's sole recourse against Company with respect to defective workmanship.

11. **DEFAULT.** The occurrence of a default as defined by the Sponsorship Agreement or any failure of Lessee to observe, keep, comply with or perform any material provision of this Lease and failure of Lessee to remedy, cure, or remove such failure within ten (10) days after receipt of written notice thereof from Company shall constitute a "Default" by Lessee.

12. **REMEDIES.** Upon the occurrence of any default or during the existence of any Default, Company may terminate this Lease as to any or all items of Equipment and shall have all other remedies at law or in equity for breach of the Interim Lease, and in addition may enter the Facilities and retake possession at Lessee's expense of the Equipment, but only upon ten (10) days' advance written notice and during normal working hours. Lessee acknowledges that a breach of the provisions of this Agreement would cause damages that would be difficult or impossible to ascertain or quantify, and Lessee therefore agrees that Company shall have the right to seek an injunction in any court of competent jurisdiction restraining said breach and granting Company the right to immediate possession of the Equipment.

13. **ASSIGNMENT.** Lessee warrants that it will not, nor will it attempt to, assign, mortgage, sublease, transfer, pledge or otherwise encumber this Lease, the Equipment, or any part thereof, or any interest in or under this Lease or the Equipment without prior written permission of Company and that any assignment in violation of this Agreement is void. Lessee agrees that Company may transfer or assign all or any part of Company's right, title and interest in, under, or to, any Equipment (in whole or in part) and/or this Lease and any amounts due or to become due pursuant to any of the above, to any division, affiliate, or bottler of Company ("Assignee") for any reason. Upon receipt of written notice from Company of such assignment, Lessee shall perform all its obligations with respect to any such Equipment for the benefit of the applicable Assignee, and, if so directed, shall pay all amounts due or to become due hereunder directly to the applicable Assignee or to any other party designated by such Assignee.

14. **OTHER TERMS.** This Lease, the Sponsorship Agreement and the other exhibits attached hereto constitute the entire agreement of the parties and supersede all prior and oral written agreements between the parties governing the subject matter of the Lease; provide, however, to the extent that any of the terms in this Lease Agreement and the other exhibits attached hereto conflict with the terms set forth in the Sponsorship Agreement, the terms of the Sponsorship Agreement will control.

EXHIBIT H

Coca-Cola Appoved Cup



[82947]

EXHIBIT I**UNIVERSITY OF CALIFORNIA****Code of Conduct for Trademark Licensees****Introduction/Notice/Remediation****Standards/Compliance and Disclosure/Verification**

- I. Introduction:** The University of California (“University”) is committed to conducting its business affairs in a manner consistent with its employee personnel policies and expects its licensees to conduct their business in a manner consistent with, and follow workplace standards that adhere to this Code of Conduct (the Code). The Code is subject to amendment to reflect any subsequently developed standards either by the University or a national higher education organization whose code the University chooses to adopt.
- II. Notice:** This Code shall apply to all trademark licensees of the University of California. Throughout this code the term “licensee” shall include all persons or entities who have entered a written licensing agreement with the University to manufacture products bearing the name, trademarks and/or images of the University. Additionally, this Code shall apply to all of the licensee’s contractors. Throughout this Code the term “contractor” shall include each contractor, subcontractor, vendor, or manufacturer that is engaged in a manufacturing process that results in a finished product for the consumer. “Manufacturing process” shall include assembly and packaging.

As a condition of being permitted to produce and/or sell licensed products bearing the name, trademarks and/or images of the University, each licensee must comply with this Code and ensure that its contractors comply with this Code. All licensees and contractors are required to adhere to this Code within six months of notification of the Code and as required in applicable license agreements.

- III. Remediation:** If the University determines that any licensee or contractor has failed to remedy a violation of this Code, the University will consult with the licensee to examine the issues and determine the appropriate measures to be taken. The remedy will, at a minimum, include requiring the licensee to take all steps necessary to correct such violations including, without limitation, paying all applicable back wages found due to workers who manufactured the licensed articles, and reinstating any worker whose employment has been terminated in violation of this Code of Conduct. If consultation and agreed upon measures fail to adequately resolve the violations within a specified time period, the University and the licensee will implement a corrective action plan on

EXHIBIT I

terms acceptable to the University. The University reserves the right to terminate its relationship with any licensee which continues to conduct its business in violation of the corrective action plan, in accordance with the terms set forth in the licensee agreement.

- IV. Standards:** University licensees and their contractors must operate workplaces, and ensure that their contractors operate workplaces, that adhere to the following minimum standards and practices:
- A. Legal Compliance:** University licensees and their contractors must comply, at a minimum, with all applicable legal requirements of the country in which products are manufactured. Where this Code and the applicable laws of the country of manufacture conflict or differ, the higher standard shall prevail. Such compliance shall include compliance with all applicable environmental laws.
- B. Ethical Principles:** Licensees shall commit to conduct their business according to a set of ethical standards which include, but are not limited to, honesty, integrity, trustworthiness, and respect for the unique intrinsic value of each human being.
- C. Employment Standards:** The University will do business only with licensees whose workers are present to work voluntarily, are not at undue risk of physical harm, are fairly compensated, and are not exploited in any way. In addition, the following specific guidelines must be followed:
- 1. Wages and Benefits:** Licensees and their contractors must provide wages and benefits which comply with all applicable laws and regulations and which match or exceed the local prevailing wages and benefits in the relevant industry or which constitute a "living wage," whichever provides greater wages and benefits.
 - 2. Working Hours:** Except in extraordinary circumstances, employees shall (i) not be required to work more than the lesser of (a) 48 hours per week and 12 hours overtime per week, or (b) the limits on regular and overtime hours allowed by the law of the country of manufacture; and (ii) be entitled to at least one day off in every 7-day period.
 - 3. Overtime:** Compensation: In addition to their compensation for regular hours of work, employees shall be compensated for overtime hours at such a premium rate as is legally required in that country, but not less than at a rate equal to their regular hourly compensation rate.
 - 4. Child Labor:** No person shall be employed at an age younger than 15 (or 14 where, consistent with International Labor Organization practices for developing countries,

EXHIBIT I

the law of the country of manufacture allows such exception). Where the age for completing compulsory education is higher than the standard for the minimum age of employment stated above, the higher age for completing compulsory education shall apply to this section. Licensees agree to work with governmental, human rights, and non-governmental organizations, as determined by the University and licensee, to minimize the negative impact on any child released from employment as a result of the enforcement of this Code.

5. **Forced Labor:** There shall not be any use of forced labor, whether in the form of prison labor, indentured labor, bonded labor or otherwise (March 1977 Regents' Action, *University Policy on the Procurement of Foreign-Made Equipment, Materials, or Supplies Produced by Forced Labor, Convict, or Indentured Labor* and *Administrative Guidelines* issued April 7, 1998).
6. **Health and Safety:** Licensees and their contractors must provide workers with a safe and healthy work environment and must, at a minimum, comply with local and national health and safety laws. If residential facilities are provided to workers, they must be safe and healthy facilities.
7. **Nondiscrimination:** Licensees and their contractors shall employ individuals solely on the basis of their ability to perform the job. Licensees and their contractors may not discriminate against employees in subsequent personnel decisions. The pregnancy of an employee shall not be used as a basis for disciplinary treatment or termination of employment. Licensees and their contractors shall use their best efforts to reinstate workers who have taken maternity leave to the same or similar position at the same rate of pay and benefits. No employee or prospective employee shall be subjected to involuntary use of contraceptives or pregnancy testing.
8. **Harassment or Abuse:** Every employee shall be treated with dignity and respect. No employee shall be subject to any physical, sexual, psychological or verbal harassment or abuse. Licensees will not use or tolerate any form of corporal punishment.
9. **Freedom of Association:** Licensees and their contractors shall recognize and respect the right of employees to freedom of association and collective bargaining with bargaining representatives of their own choice. No employee shall be subject to harassment, intimidation or retaliation as a result of his or her efforts to freely associate or bargain collectively.

EXHIBIT I

- V. **Compliance:** Prior to the date of an annual renewal of a license agreement, the licensee shall be required to provide the following to the University, as set forth in the license agreement:
- A. The company names, owners and/or officers; and addresses, phone numbers, email addresses and the nature of the business association of all the licensees' contractors and manufacturing plants which are involved in the manufacturing process of items which bear, or will bear, the name, trademarks and/or images of the University;
 - B. Written assurances that it and its contractors adhere to this Code (except that in the initial phase-in period, licensee must provide such written assurances within six months of receipt of this Code); and
 - C. A summary of the steps taken, and/or difficulties encountered, during the preceding year in implementing and enforcing this Code at each site.
- VI. **Disclosure:**
- A. The company names, owners, and/or officers, addresses, and nature of the business association, including the steps performed in the manufacturing process, of all the licensees' contractors and manufacturing plants which are involved in the manufacturing process of items which bear, or will bear, the name, trademarks and or images of the University shall be made public information.
 - B. The Licensee shall be required to report immediately to the University any changes in its business operations which materially affect the application of this Code, such as the selection of a new factory. This information will also be made publicly available.
- VII. **Verification:** It shall be the responsibility of each University licensee to ensure its compliance with this Code, and to verify that its contractors are in compliance with this Code.

Clearly defined methods of internal monitoring, training and independent external monitoring have not yet been determined by the University and licensee. The University and its licensees shall undertake efforts to determine and clearly define the obligations associated with the development of adequate training and monitoring methods, including establishment of a reasonable time frame within which compliance measures, including internal monitoring and independent external monitoring, will begin.

September 13, 2001

EXHIBIT J

Procurement Code of Conduct

The University of California ("University" or "UC") has adopted a Procurement Code of Conduct relating to providers of University products and services.

1. This Exhibit provides information and guidance for implementing the University Policy on the Procurement of Foreign-Made Equipment, Materials, or Supplies Produced by Forced Labor, Convict, or Indentured Labor as adopted by The Regents in March 1997, which is as follows:

It is the policy of the University of California that no foreign-made equipment, materials, or supplies furnished to the University of California shall be produced by forced labor, as defined in sec. 1307 of Title 19 of the United States Code and sec. 6108 of the California Public Contract Code, convict labor, or indentured labor under penal sanction.

2. Forced, Convict, and Indentured Labor. By signing this Agreement, Sponsor hereby certifies that to the best of its knowledge, information and belief no foreign-made equipment, materials, or supplies furnished to the University pursuant to the agreement will be produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction.

3. Sanctions. Any seller contracting with the University who reasonably knew or should have known that the foreign-made equipment, materials, or supplies furnished to the University were produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction, when entering into a contract pursuant to the above, may have any or all of the following sanctions imposed:

- i) The contract under which the prohibited equipment, materials, or supplies were provided may be voided at the option of the University.
- ii) The seller may be removed from consideration for University contracts for a period not to exceed 360 days.

4. Resolution of Controversies over the Imposition of Sanctions. When imposing the sanctions described in 20.3 above, the University shall notify Sponsor of the following process to protest imposition of such sanctions:
- A. Authority of the Vice Chancellor--Administration - The Vice Chancellor—Administration shall have authority to resolve protests regarding the imposition of sanctions for providing to the University foreign-made equipment, material, or supplies made by forced labor, convict labor, or indentured labor under penal sanction.
 - B. Filing of Protest - Any seller, contractor, or recipient who has a complaint regarding the imposition of sanctions for providing to the University foreign-made equipment, material, or supplies made for forced labor, convict labor, or indentured labor under penal sanction should first attempt to resolve the grievance with the buyer, Material Manager, or other University contracting officer involved in the transaction. If the controversy cannot be resolved at this level, the complainant may file a protest with the Vice Chancellor—Administration. A protest must be filed promptly and in any event within two calendar weeks after such complainant knows or should have known of the facts giving rise thereto. All protests must be in writing.
 - C. Decision - The Vice Chancellor—Administration shall appoint individuals to investigate the issues involved in the complaint, analyze the findings, consult with General Counsel, and promptly issue a decision in writing. A copy of that decision shall be mailed or otherwise furnished to the aggrieved party and shall state the reasons for the action taken.
 - D. Unresolved Controversies - General Counsel shall be consulted concerning disputes which cannot reasonably be settled in a fair and equitable manner through the administrative process described above.

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EXHIBIT K

Coca-Cola Marketing Rights

Signage

Haas Pavilion

One (1) icon adjacent to both video boards: 2 total
One (1) permanent panel adjacent to both matrix boards: 2 total
Two (2) panels at courtside scorer's table (rotate simultaneously, major TV exposure)
Recognition on six (6) permanent panels along Cal's new Walk of Fame (on 2nd level of Pavilion) – when constructed

Memorial Stadium

One (1) permanent panel on main scoreboard (south end)
One (1) permanent panel on auxiliary scoreboard (north end)
Two (2) lexan permanent panel on playing field level

Evans Baseball Field

One (1) permanent sponsor sign

Edwards Track/Soccer Stadium

One (1) permanent sponsor sign

Recreational Sports Facility

One (1) banner displaying corporate logo (Size between 4' x 6' and 7' x 9' – featuring former Cal athlete, corporate logo not to exceed 25 percent of the lower section of the banner)

Media

Radio

Six (6) :30 spots, basketball and football each
One (1) special in-game radio broadcast feature during all basketball and football games
Two (2) :10 live reads in-game basketball and football broadcasts
One (1) opening and closing billboard in basketball and football broadcasts

Television

One (1) :30 in-game ad during basketball and football games televised on Fox Sports Net Bay Area

One (1) :30 in-program during the 25 broadcasts of the Cal Weekly Sports Magazine Show

Print

One four-color ad in the game programs, basketball and football

Gold Club Logo:

Recognition as one of Cal's Top 4 partners in the Gold Club logo, which will appear on widespread collateral materials, including:

Ticket Backs

Will Call Envelopes

Posters

Game Programs

Season Ticket Brochures

Schedule Cards

One (1) full page in game day programs, football and basketball

Internet

Full title sponsorship with banner links and banner rotations throughout the entire Cal website, www.calbears.com (approximately 200-page website).

Promotional Opportunities

One (1) title/presenting Game Day sponsor (basketball and football)

One (1) half-time contest (basketball and football)

One (1) public address announcement per home game (basketball and football)

Opportunity to conduct product sampling

Opportunity to conduct premium item giveaway

Sponsor recognition on instant replays on Video Board in Haas Pavilion

Merchandising Opportunities

Twenty (20) reserved season football tickets

Twelve (12) reserved season basketball tickets

Six (6) football and six (6) basketball season parking passes

Haas Club privileges, including company use of the clubroom on two mutually agreed upon dates

Four (4) invitations to the annual Cal Football Kick-off Reception

Four (4) tickets to the annual Awards Banquet

One (1) foursome in the annual golden Bear Golf tournament (Football/spring)

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EXHIBIT L

University Marks
Include:



EXHIBIT M**Volume Growth Incentive**

Bottler, based on annual Product sales of bottle and can cases only, shall provide Volume Growth Incentive to University as follows:

- Incentive is in addition to other monetary considerations provided by Bottler.
- Incentive shall be paid against case plateaus including new University generated sales outside The Departments.

<u>Annual Cases Plateau</u>	<u>One-time Payment</u>
80,000 cases	\$30,000
85,000 cases	\$35,000
90,000 cases	\$40,000
95,000 cases	\$45,000
100,000 cases	\$50,000
105,000 cases	\$50,000
110,000 cases	\$50,000

Payment is based on sales reaching annual cases plateau levels indicated above. To the extent that case sales exceed the applicable annual cases plateau level, they will be carried over and count toward sales for only the next Agreement Year. Payment will be made after the end of each Agreement Year based on sales for that year, if the applicable annual cases plateau level was reached. Once an annual cases plateau level is reached, then no additional payments will be made unless and until a higher annual cases plateau level is reached. Examples: If sales volume is 82,000 cases, the incentive payment will be \$30,000 and 2,000 cases will be carried forward for the next Agreement Year and applied to the next annual cases plateau volume level of 85,000 cases. If sales volume for the subsequent year is 83,000 cases, plus the 2,000 cases from the previous year, making the total 85,000 cases, then the incentive payment will be \$35,000. But if the sales volume for that subsequent year is 80,000 cases, plus the 2,000 cases from the previous year, making the total 82,000 cases, then no incentive payment will be received by University. If sales volume is 85,000 cases the first year, the incentive payment will be \$30,000 and 5,000 cases will be carried forward for the next Agreement Year and applied to the next annual cases plateau level.

EXHIBIT N

Value-added Marketing Support

Sponsor may provide the following additional annual marketing support which University intends to use for promotional and development purposes, which may include, but are not limited to:

- Sponsor may execute at a minimum of 4 promotions per semester.
 - 2 vending, 2 retail/fountain. These promotions will most likely be national or college channel promotions. The Departments may use the marketing funds allocated to improve these programs or create totally custom programs. Sponsor will provide point of sale (POS) and signage for all promotions.
- In order to support campus events, Sponsor may hire and pay for a UC Berkeley student as a Campus Marketing Manager.
- Sponsor may hire and pay for a Marketing Intern for the Norcal Marketing Department.
- Sponsor may provide to the University the luxury suite at Pac Bell park for two game days. Sponsor may also provide to the University premium stadium seat tickets for a minimum of 2 games. (total of 48 tickets)
- Sponsor may provide miscellaneous tickets to partner properties such as Waterworld, Great America, Raging Waters, Disneyland, etc. through the term of the contract.
- Sponsor may provide use of the Coca-Cola Party vehicle (SUV).

Total annual value not to be less than \$40,500.00, as determined in good faith by Sponsor.

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EXHIBIT O

Product Donations

Sponsor shall provide the following products annually, at no cost to the Departments, that will be distributed at the discretion of The Departments:

To Intercollegiate Athletic and Recreational Sports

- 1) 600 cases (12 oz. cans) various Products
- 2) 100 cases Minute Maid juice boxes
- 3) 10 Post Mix Bags (each Post Mix Bag is considered 1 case)
- 4) 20 cases - 12 oz. cups
- 5) 15 cases - 7 oz. cups

To Housing and Dining Services

- 1) 200 cases Minute Maid Products
- 2) 150 cases (12 oz. cans) various Products

To Associated Students

- 1) 200 cases (12 oz. cans) various Products
- 2) 150 cases Minute Maid Products

Total Donated Annually: 1,445 Cases