

PERSONAL SERVICE AGREEMENT

CC-802A REV. 2/00 (Stock No. 170-01)

STATE OF CONNECTICUT
OFFICE OF THE STATE COMPTROLLER
ACCOUNTS PAYABLE DIVISION

1. PREPARE IN QUINTUPLICATE
2. THE STATE AGENCY AND THE CONTRACTOR AS LISTED BELOW HEREBY ENTER INTO AN AGREEMENT SUBJECT TO THE TERMS AND CONDITIONS STATED HEREIN AND/OR ATTACHED HERETO AND SUBJECT TO THE PROVISIONS OF SECTION 4-98 OF THE CONNECTICUT GENERAL STATUTES AS APPLICABLE.
3. ACCEPTANCE OF THIS CONTRACT IMPLIES CONFORMANCE WITH TERMS AND CONDITIONS STATED ON THE REVERSE SIDE OF PART 1.

(1) Amendment #1 <input type="checkbox"/> ORIGINAL <input checked="" type="checkbox"/> AMENDMENT	(2) IDENTIFICATION NO. P.S.
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CONTRACTOR	(3) CONTRACTOR NAME Pepsi-Cola Bottling Company of Worcester Inc.		(4) ARE YOU PRESENTLY A STATE EMPLOYEE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO CONTRACTOR FEIN / SSN - SUFFIX 06-0796151
	CONTRACTOR ADDRESS 90 Industrial Drive, Holden, MA 01520		
STATE AGENCY	(5) AGENCY NAME AND ADDRESS Board of Trustees, for Connecticut State University Eastern Connecticut State University, 83 Windham St. Willimantic, CT 06226		(6) AGENCY NO. 7805
CONTRACT PERIOD	(7) DATE (FROM) August 1, 2008	THROUGH (TO) July 31, 2013	(8) INDICATE <input type="checkbox"/> MASTER AGREEMENT <input type="checkbox"/> CONTRACT AWARD NO. _____ <input checked="" type="checkbox"/> NEITHER

CANCELLATION CLAUSE	THIS AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECT FOR THE ENTIRE TERM OF THE CONTRACT PERIOD STATED ABOVE UNLESS CANCELLED BY THE STATE AGENCY, BY GIVING THE CONTRACTOR WRITTEN NOTICE OF SUCH INTENTION (REQUIRED DAYS NOTICE SPECIFIED AT RIGHT).	(9) REQUIRED NO. OF DAYS WRITTEN NOTICE N/A
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(10) CONTRACTOR AGREES TO: (Include special provisions - Attach additional blank sheets if necessary.)

In accordance with the provisions of the existing agreement the contract period is extended for an additional five (5) years beginning August 1, 2008. Provide services as described in the Sponsorship Agreement set forth in pages 3 through 15 which are attached hereto and made a part hereof. If a conflict in language between terms and conditions contained on page 2 and those contained on pages 3 through 15 the language stated in pages 3 through 15 will take precedent.

(11) PAYMENT TO BE MADE UNDER THE FOLLOWING SCHEDULE UPON RECEIPT OF PROPERLY EXECUTED AND APPROVED INVOICES.
No Cost - Revenue Generating Agreement

COST AND SCHEDULE OF PAYMENTS

(12) ACT. CD. A	(13) DOC. TYPE PS	(14) COMM. TYPE	(15) LSE. TYPE	(16) ORIG. AGCY.	(17) DOCUMENT NO.	(18) COMM. AGCY.	(19) COMM. NO.	(20) VENDOR FEIN / SSN - SUFFIX 06-0796151
(21) COMMITTED AMOUNT \$ 0				(22) OBLIGATED AMOUNT \$ 0			(23) CONTRACT PERIOD (FROM/TO) August 1, 2008 July 31, 2013	

(24) ACT. CD.	(25) COMM. LINE NO.	(26) COMMITTED AMOUNT	(27) COMM. AGENCY	(28) COST CENTER		(29) OBJECT	AGENCY TAIL			(33) F.Y.
				FUND	SID		(30) FUNCTION	(31) ACTIVITY	(32) EXTENSION	

An individual entering into a Personal Service Agreement with the State of Connecticut is contracting under a "work-for-hire" arrangement. As such, the individual is an independent contractor, and does not satisfy the characteristics of an employee under the common law rules for determining the employer/employee relationship of Internal Revenue Code Section 3121 (d) (2). Individuals performing services as independent contractors are not employees of the State of Connecticut and are responsible themselves for payment of all State and local income taxes, federal income taxes and Federal Insurance Contribution Act (FICA) taxes.

ACCEPTANCES AND APPROVALS		(34) STATUTORY AUTHORITY C.G. S 10a - 151b	
(35) CONTRACTOR (OWNER OR AUTHORIZED SIGNATURE) <i>[Signature]</i>	TITLE ON Premise MGR	DATE 8/1/08	
(36) AGENCY (AUTHORIZED OFFICIAL) <i>[Signature]</i>	TITLE VP ADMIN + FINANCE	DATE 8/01/08	
(37) OFFICE OF POLICY & MGMT./DEPT. OF ADMIN. SERV.	TITLE	DATE	
(38) ATTORNEY GENERAL (APPROVED AS TO FORM)		DATE	

DISTRIBUTION: PART 1 - CONTRACTOR PART 2 - COMPTROLLER PART 3 - OPMD/AS PART 4 - ATTORNEY GENERAL PART 5 - AGENCY

TERMS/CONDITIONS

EXECUTIVE ORDERS

This Agreement is subject to the provisions of Executive Order No. 3 of Governor Thomas J. Meskill promulgated June 16, 1971, and, as such, this Agreement may be canceled, terminated or suspended by the State Labor Commissioner for violation of or noncompliance with said Executive Order No. 3, or any state or federal law concerning nondiscrimination, notwithstanding that the Labor Commissioner is not a party to this contract. The parties to this Agreement, as part of the consideration hereof, agree that said Executive Order No. 3 is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the State Labor Commissioner shall have continuing jurisdiction in respect to contract performance in regard to nondiscrimination, until the contract is completed or terminated prior to completion. The contractor, agrees, as part consideration hereof, that this Agreement is subject to the Guidelines and Rules issued by the State Labor Commissioner to implement Executive Order No. 3, and that he will not discriminate in his employment practices or policies, will file all reports as required, and will fully cooperate with the State of Connecticut and the State Labor Commissioner. This Agreement is also subject to provisions of Executive Order No. 17 of Governor Thomas J. Meskill promulgated February 15, 1973, and, as such, this Agreement may be canceled, terminated or suspended by the contracting agency or the State Labor Commissioner for violation of or noncompliance with said Executive Order No. 17, notwithstanding that the Labor Commissioner may not be a party to this Agreement. The Parties to this Agreement, as part of the consideration hereof, agree that Executive Order No. 17 is incorporated herein by reference and made a part hereof. The Parties agree to abide by said Executive Order and agree that the contracting agency and the State Labor Commissioner shall have joint and several continuing jurisdiction in respect to contract performance in regard to listing all employment openings with the Connecticut State Employment Service. This contract is also subject to Executive Order Number 16 of Governor John G. Rowland promulgated August 4, 1999, and as such, the Agreement may be canceled, terminated or suspended by the state for violation of or noncompliance with said Executive Order No. 16. The Parties to this Agreement, as part of the consideration hereof, agree that (a) The Contractor shall prohibit as a condition of employment, any weapon or dangerous instrument defined in (b): (b) Weapon means any firearm, including BB gun, whether loaded or unloaded, any knife (excluding a small pen or pocket knife), including a switchblade or other knife having an automatic spring release device, a stiletto, any police baton or nightstick or any martial arts weapon or electronic defence weapon. Dangerous instrument means any instrument, article, or substance that, under the circumstances, is capable of causing death or serious physical injury. (c) The Contractor shall prohibit employees from attempting to use, or threaten to use, any such weapon or dangerous instrument in the state work site and employees shall be prohibited from causing, or threatening to cause, physical injury or death to any individual in the state work site. (d) The Contractor shall adopt the above prohibition as work rules, violation of which shall subject the employee to disciplinary action up to and including discharge. The Contractor shall insure and require that all employees are aware of such work rules. (e) The contractor agrees that any subcontract it enters into in furtherance of the work to be performed hereunder shall contain provisions (a) through (d) of this Section. This Agreement is subject to Executive Order No. 7B of Governor Jodi M. Rell, promulgated on November 16, 2005. The Parties to this Agreement, as part of the consideration hereof, agree that (a.) The State Contracting Standards Board ("the Board") may review this contract and recommend to the state contracting agency termination of the contract for cause. The state contracting agency shall consider the recommendations and act as required or permitted in accordance with the contract and applicable law. The Board shall provide the results of its review, together with its recommendations, to the state contracting agency and any other affected party in accordance with the notice provisions in the contract no later than fifteen (15) days after the Board finalizes its recommendation. For the purposes of this Section, "for cause" means: (1.) a violation of the State Ethics Code (Conn. Gen. Stat. Chapter 10) or Section 4A-100 of the Conn. Gen. Statutes or (2.) wanton or reckless disregard of any state contracting and procurement process by any person substantially involved in such contract or state contracting agency. (b.) For the purposes of this Section, "contract" shall not include real property transactions involving less than a fee simple interest or financial assistance comprised of state or federal funds, the form of which may include but is not limited to grants, loans, loan guarantees, and participation interests in loans, equity investments and tax credit programs. Notwithstanding the foregoing, the Board shall not have any authority to recommend the termination of a contract for the sale or purchase of a fee simple interest in real property following transfer of title. (c.) Effective January 1, 2006, notwithstanding the contract value listed in Conn. Gen. Stat. §§ 4-250 and 4-251, all procurements between state agencies and private entities with a value of \$50,000 (fifty thousand dollars) or more in a calendar or fiscal year shall comply with the gift affidavit requirements of said Sections. Certification by agency officials or employees required by Conn. Gen. Stat. § 4-252 shall not be affected by this Section.

NON-DISCRIMINATION

- (a) For the purposes of this section, "minority business enterprise means any small contractor or supplier of materials fifty-one percent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise; (2) who have the power to direct the management and policies of the enterprise; and (3) who are members of a minority, as such term is defined in subsection (a) of Conn. Gen. Stat. 32-9n; and good faith means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. Good faith efforts shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements.
- For purposes of this section, Commission means the Commission on Human Rights and Opportunities.
- For purposes of this section, Public works contract means any agreement between any individual, firm or corporation and the state or any political subdivision of the state other than a municipality for construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, or which is financed in whole or in part by the State, including but not limited to, matching expenditures, grants, loans, insurance or guarantees.
- (b) (1) The Contractor agrees and warrants that in the performance of the contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation or physical disability, including but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut. The Contractor further agrees to take affirmative action to insure that applicants with job related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, or physical disability, including but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved; (2) the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the Commission; (3) the Contractor agrees to provide each labor union or representative of workers with which the Contractor has a collective bargaining agreement or other contract or understanding and each vendor with which the Contractor has a contract or understanding, a notice to be provided by the Commission, advising the labor union or workers' representative of the Contractor's commitments under this section and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the Contractor agrees to comply with each provision of this section and Conn. Gen. Stat. 46a-68e and 46a-68f and with each regulation or relevant order issued by said Commission pursuant to Conn. Gen. Stat. 46a-56, 46a-68e and 46a-68f; (5) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this section and section 46a-56. If the contract is a public works contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works projects.
- (c) Determination of the Contractor's good faith efforts shall include, but shall not be limited to, the following factors: the Contractor's employment and subcontracting policies, patterns and practices, affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the Commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.
- (d) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the Commission, of its good faith efforts.
- (e) The Contractor shall include the provision of subsection (b) of this section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Conn. Gen. Stat. 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.
- (f) The Contractor agrees to comply with the regulations referred to in this Section as they exist on the date of this contract and as they may be adopted or amended from time to time during the term of this contract and any amendments thereto.
- (g) The contractor agrees to the following provisions: The contractor agrees and warrants that in the performance of the agreement such Contractor will not discriminate or permit discrimination against any persons or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation, the Contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to Section 46a-56 of the general statutes; the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this section and Section 46a-56 of the general statutes.
- (h) The Contractor shall include the provisions of the foregoing paragraph in every subcontract or purchase order entered into in order to fulfill any obligations of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Section 46a-56 of the general statutes; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.

INSURANCE

The contractor agrees that while performing services specified in the agreement that he shall carry sufficient insurance (liability and/or other) as applicable according to the nature of the service to be performed so as to "save harmless" the State of Connecticut from any insurable cause whatsoever. If requested, certificates of such insurance shall be filed with the contracting State agency prior to the performance of services.

STATE LIABILITY

The State of Connecticut shall assume no liability for payment for services under the terms of this agreement until the contractor is notified that this agreement has been accepted by the contracting agency and, if applicable, approved by the Office of Policy and Management (OPM) or the Department of Administrative Services (DAS) and by the Attorney General of the State of Connecticut.

Continued from Box 10, page 1:

1.0 Executive Orders Nos. 3, 17, 16, 7C and 14:

Executive Order No. 3: This contract is subject to the provisions of Executive Order No. 3 of Governor Thomas J. Meskill promulgated June 16, 1971 and as such this contract may be canceled, terminated or suspended by the State Labor Commissioner for violation of or non-compliance with said Executive Order No. 3, or any state or federal law concerning nondiscrimination, notwithstanding that the Labor Commissioner is not a party to this contract. The parties to this contract, as part of the consideration hereof, agree that said Executive Order No. 3 is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the State Labor Commissioner shall have continuing jurisdiction in respect to contract performance in regard to nondiscrimination, until the contract is completed or terminated prior to completion. This Contractor, agrees as part consideration hereof, that this contract is subject to the Guidelines and Rules issued by State Labor Commissioner to implement Executive Order No. 3, and that he will not discriminate in his employment practices or policies, will file all reports as required, and will fully cooperate with the State of Connecticut and the State Labor Commissioner

Executive Order No. 17: This contract is also subject to provisions of Executive Order No. 17 of Governor Thomas J. Meskill promulgated February 15, 1973, and, as such, this contract may be canceled, terminated or suspended by the contracting agency or the State Labor Commissioner for violation of or noncompliance with said Executive Order No. 17 notwithstanding that the Labor Commissioner may not be a party to this contract. The parties to this contract, as part of the consideration hereof, agree that Executive Order No. 17 is incorporated herein by reference made a part hereof. The parties agree to abide by said Executive Order and agree that the contracting agency and the State Labor Commissioner shall have joint and several continuing jurisdiction in respect to contract performance regard to listing all employment openings with the Connecticut State Employment Service.

Executive Order No. 16: This contract is also subject to provisions of Executive Order No. Sixteen of Governor John J. Rowland promulgated August 4, 1999, and, as such, this contract may be cancelled, terminated or suspended by the contracting agency or the State for violation of or noncompliance with said Executive Order No. Sixteen.

The parties to this contract, as part of the consideration hereof, agree that:

1. The Contractor shall prohibit employees from bringing into the state work site, except as may be required as a condition of employment, any weapon or dangerous instrument as defined in Section 2 to follow.

2. Weapon means any firearm, including a BB gun, whether loaded or unloaded, any knife (excluding a small pen or pocket knife), including a switchblade or other knife having an automatic spring release device, a stiletto, any police baton or nightstick or any martial arts weapon or electronic defense weapon. Dangerous instrument means any instrument, article or substance that, under the circumstances, is capable of causing death or serious physical injury.
3. The Contractor shall prohibit employees from attempting to use, or threaten to use, any such weapon or dangerous instrument in the state work site and employees shall be prohibited from causing, or threatening to cause, physical injury or death to any individual in the state work site.
4. The Contractor shall adopt the above prohibitions as work rules, violation of which shall subject the employee to disciplinary action up to and including discharge. The Contractor shall require that all employees are aware of such work rules.

The Contractor agrees that any subcontract it enters into in the furtherance of the work to be performed under this contract shall contain these provisions.

Executive Order No. 7C: This contract is also subject to provisions of Executive Order No. Seven C of Governor M. Jodi Rell promulgated July 13, 2006, and, as such, this contract may be cancelled, terminated or suspended by the contracting agency or the State for violation of or noncompliance with said Executive 7C.

a. The State Contracting Standards Board ("Board") may review this contract and recommend to the state contracting agency termination of this contract for cause. The State contracting agency shall consider the recommendations and act as required or permitted in accordance with the contract and applicable law. The Board shall provide the results of its review, together with its recommendations, to the state contracting agency and any other affected party in accordance with the notice provisions in the contract not later than fifteen (15) days after the Board finalizes its recommendation. For the purposes of this Section, "for cause" means:

(1) a violation of the State Ethics Code (Chapter 10 of the general statutes) or section 4a-100 of the general statutes or

(2) wanton or reckless disregard of any state contracting and procurement process by any person substantially involved in such contract or state contracting agency.

b. For purposes of this Section, "contract" shall not include real property transactions involving less than a fee simple interest or financial assistance comprised of state or federal funds, the form of which may include but is not limited to grants, loans, loan guarantees, and participation interests in loans, equity investments and tax credit programs. Notwithstanding the

foregoing, the Board shall not have any authority to recommend the termination of a contract for the sale or purchase of a fee simple interest in real property following transfer of title.

Notwithstanding the contract value listed in sections 4-250 and 4-252 of the Connecticut General Statutes and section 8 of Executive Order Number 1, all State Contracts between state agencies and private entities with a value of \$50,000 (fifty thousand dollars) or more in a calendar or fiscal year shall comply with the gift and campaign contribution certification requirements of section 4-252 of the Connecticut General Statutes and section 8 of Executive Order Number 1. For purposes of this section, the term "certification" shall include the campaign contribution and annual gift affidavits required by section 8 of Executive Order Number 1.

Executive Order No. 14: This Agreement is subject to the provisions of Executive Order No. 14 of Governor M. Jodi Rell, promulgated on April 17, 2006. Pursuant to this Executive Order, the Contractor shall use cleaning and/or sanitizing products having properties that minimize potential impacts on human health and the environment, consistent with maintaining clean and sanitary facilities.

- 1.0 Affirmative Action: The Contractor shall submit to the University a written affirmative action plan acceptable under Connecticut General Statutes. Instructions on preparing the plan and technical assistance are available from the University. Within thirty (30) days after the commencement of the contract, the affirmative action plan shall be submitted to Eastern Connecticut State University Purchasing Office, 83 Windham Street, Willimantic, CT 06226. The Contractor agrees to post in conspicuous places, available for employees and applicants for employment, a notice to be provided by the University that sets forth the provisions of the State of Connecticut non-discrimination clause. Failure to comply with the conditions of this clause may result in the Contractor's becoming declared an "ineligible" Contractor, termination of the contract, or withholding of payment.

- 3.0 Campaign Contribution Restrictions: This section (the "CCR Section") is included here pursuant to Conn. Gen. Stat. § 9-333n and, without limiting its applicability, is made applicable to State Contracts, bid solicitations, request for proposals and prequalification certificates, as the context requires. This CCR Section, without limiting its applicability, is also made applicable to State Agencies, Quasi-public Agencies, the General Assembly, State Contractors, Prospective State Contractors and the holders of valid prequalification certificates, as the context so requires.

For purposes of this CCR Section only:

"Quasi-public Agency" means the Connecticut Development Authority, Connecticut Innovations, Incorporated, Connecticut Health and Educational Facilities Authority, Connecticut Higher Education Supplemental Loan Authority, Connecticut Housing Finance Authority, Connecticut Housing

Authority, Connecticut Resources Recovery Authority, Connecticut Hazardous Waste Management Service, Capital City Economic Development Authority, Connecticut Lottery Corporation, or as this definition may otherwise be modified by Title 1, Chapter 12 of the Connecticut General Statutes concerning quasi-public agencies.

"State Agency" means any office, department, board, council, commission, institution or other agency in the executive, legislative or judicial branch of State government, or as this definition may otherwise be modified by Title 9, Chapter 150 of the Connecticut General Statutes concerning campaign financing.

"State Contract" means an agreement or contract with the State or any State Agency or any Quasi-public Agency, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a fiscal year, for (A) the rendition of personal services, (B) the furnishing of any material, supplies or equipment, (C) the construction, alteration or repair of any public building or public work, (D) the acquisition, sale or lease of any land or building, (E) a licensing arrangement, or (F) a grant, loan or loan guarantee, or as this definition may otherwise be modified by Title 9, Chapter 150 of the Connecticut General Statutes concerning campaign financing.

"State Contractor" means a person, business entity or nonprofit organization that enters into a State Contract. Such person, business entity or nonprofit organization shall be deemed to be a State Contractor until the termination of said contract. "State Contractor" does not include a municipality or any other political subdivision of the State or an employee in the executive, legislative or judicial branch of State government or a Quasi-public Agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a State or Quasi-public Agency employee, or as this definition may otherwise be modified by Title 9, Chapter 150 of the Connecticut General Statutes concerning campaign financing.

"Prospective State Contractor" means a person, business entity or nonprofit organization that (A) submits a bid in response to a bid solicitation by the State, a State Agency or a Quasi-public Agency, or a proposal in response to a request for proposals by the State, a State Agency or a Quasi-public Agency, until the State Contract has been entered into, or (B) holds a valid prequalification certificate issued by the Commissioner of Administrative Services under Section 4a-100 of the Connecticut General Statutes. "Prospective State Contractor" does not include a municipality or any other political subdivision of the State or an employee in the executive, legislative or judicial branch of State government or a Quasi-public Agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a State or Quasi-public Agency employee. Title 9, Chapter 150 of the Connecticut General Statutes concerning campaign financing may modify this definition, which modification shall control.

"Principal of a State Contractor or Prospective State Contractor" (collectively referred to in this CCR Section as "Principal") means (A) an individual who is a member of the board of directors of, or has an ownership interest in, a State Contractor or Prospective State Contractor, which is a business entity, except for an individual who (i) owns less than five per cent of the shares of any such State Contractor or Prospective State Contractor that is a publicly traded corporation, or (ii) is a member of the board of directors of a nonprofit organization qualified under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, (B) an individual who is employed by a State Contractor or Prospective State Contractor, which is a business entity, as president, treasurer or executive or senior vice president, (C) an individual who is the chief executive officer of a State Contractor or Prospective State Contractor, which is not a business entity, (D) an employee of any State Contractor or Prospective State Contractor who has managerial or discretionary responsibilities with respect to a State Contract, (E) the spouse or a dependent child of an individual described in this subparagraph, or (F) a political committee established by or on behalf of an individual described in this subparagraph, or as this definition may otherwise be modified by Title 9, Chapter 150 of the Connecticut General Statutes concerning campaign financing.

On and after December 31, 2006, no State Contractor, Prospective State Contractor or Principal, with regard to a State Contract, bid solicitation or request for proposals with or from a State Agency in the executive branch or a Quasi-public Agency, and no Principal of a holder of a valid prequalification certificate, shall make a contribution to, or solicit contributions on behalf of (1) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (2) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (3) a party committee.

On and after December 31, 2006, no State Contractor, Prospective State Contractor or Principal, with regard to a State Contract, bid solicitation or request for proposals with or from the General Assembly, and no Principal of a holder of a valid prequalification certificate, shall make a contribution to, or solicit contributions on behalf of (1) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of State senator or State representative, (2) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (3) a party committee.

On and after December 31, 2006, if a State Contractor or a Principal of a State Contractor makes or solicits a contribution prohibited under this CCR Section, the contracting State Agency or Quasi-public Agency may, in the case of a State Contract executed on or after December 31, 2006, void the existing contract with said Contractor, and no State Agency or Quasi-public Agency shall award the State Contractor a State Contract or an extension or an amendment to a State

Contract for one year after the election for which such contribution is made or solicited.

On and after December 31, 2006, if a Prospective State Contractor or a Principal of a Prospective State Contractor makes or solicits a contribution prohibited under this CCR Section, no State Agency or Quasi-public Agency shall award the Prospective State Contractor the contract described in the bid solicitation or request for proposals, or any other State Contract for one year after the election for which such contribution is made or solicited.

On and after December 31, 2006, the chief executive officer of each Prospective State Contractor, or if a Prospective State Contractor has no such officer then the officer who duly possesses and exercises comparable powers and duties, shall: (1) inform each individual described in subsection (a)(6) of this CCR Section with regard to said Prospective State Contractor concerning the provisions of subsection (b) or (c) of this CCR Section, whichever is applicable, and this subsection (f), (2) submit a sworn affidavit under penalty of false statement that no such individual will make or solicit a contribution in violation of the provisions of subsection (b) or (c) of this CCR Section, whichever is applicable, and this subsection (f), and (3) acknowledge in writing that if any such contribution is made or solicited, the Prospective State Contractor shall be disqualified from being awarded the contract described in the bid solicitation or request for proposals or being awarded any other State Contract for one year after the election for which such contribution is made or solicited. Such officer shall attach the affidavit and the acknowledgement to their bid, proposal or application for prequalification, as applicable.

2.0 Whistleblower Provision: This Agreement is subject to the provisions of section 4-61dd of the Connecticut General Statutes. In accordance with this statute, if an officer, employee or appointing authority of the Contractor takes or threatens to take any personnel action against any employee of the Contractor in retaliation for such employee's disclosure of information to any employee of the Contracting state or quasi-public agency or the Auditors of Public Accounts or the Attorney General under the provisions of subsection (a) of such statute, the Contractor shall be liable for a civil penalty of not more than five thousand dollars for each offense, up to a maximum of twenty per cent of the value of this Agreement. Each violation shall be a separate and distinct offense and in the case of a continuing violation, each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The State may request that the Attorney General bring a civil action in the Superior Court for the Judicial District of Hartford to seek imposition and recovery of such civil penalty. In accordance with subsection (f) of such statute, each large state Contractor, as defined in the statute, shall post a notice of the provisions of the statute relating to large state Contractors in a conspicuous place which is readily available for viewing by the employees of the Contractor.



SPONSORSHIP AGREEMENT

Eastern Connecticut State University
83 Windham Street
Willimantic, CT 06226

This Sponsorship Agreement sets forth the agreement (the "Agreement") between Pepsi-Cola Bottling Company of Worcester, Massachusetts, a corporation organized and existing under the laws of the state of Massachusetts ("Pepsi-Cola"), and Eastern Connecticut State University ("the Customer") relating to the sale by Pepsi-Cola and its partner Next Generation Vending of beverages, juices, candy, snacks, gum, etc. through fountains, vending machines and coolers, installed at the customer's facilities located at: 83 Windham Street, Willimantic, Connecticut (the "Premises")

The terms of the Sponsorship agreement are as follows:

1. **TERM:** The term of this agreement will be for a period of five (5) years, commencing August 1, 2008, and expiring July 31, 2013 ("the initial Term"), as used in this Agreement, the capitalized term "Year" shall mean each 12-month period during the term, commencing on the first day of the Term or an anniversary thereof.
2. **RENEWAL:** At the expiration of the initial Term, Customer may renew this Agreement for an additional term of five (5) years if doing so is determined by Customer's Associate Director of Fiscal Affairs and its Vice President for Finance and Administration to be in the best interests of the Customer. Should Customer decide to renew this Agreement for said additional 5-year term, the terms and conditions set forth herein (including, but not limited to, the provisions of Section 7 of this Agreement attached hereto) shall be reviewed and modifications so agreed upon shall be set forth in an amendment to this Agreement, which shall be signed by both parties.
3. **EXCLUSIVITY/VENDING AND DISPENSING RIGHTS:** During the initial term and any Renewal Term of this Agreement, Pepsi-Cola shall be the exclusive supplier of soft drink beverages to the Customer. Such soft drink beverages shall include, but not be limited to, Pepsi-Cola branded products, Lipton products, Dole juice products, Sobe drink product, Gatorade isotonic, and Aquafina bottled water and such other soft drink, tea, isotonic, bottled water and juice products as Pepsi-Cola offers for sale to Customer (the "Products"). It is understood by both Pepsi-Cola and the Customer that this exclusive right of Pepsi-Cola's shall extend not only to Customer's needs for soft drink beverages on Campus through Pepsi-Cola identified soft drink fountain, vending and/or visi-cooler equipment. No beverage products, which are competitive with the Products, shall be made available by Customer on the Premises during the initial term or any Renewal Term of this Agreement.

4. **EQUIPMENT/SERVICE SUPPORT:** Pepsi-Cola will supply and install all vending, fountain and visi-cooler equipment (collectively referred to as the "Equipment") for dispensing of the Products on the Premises, as mutually agreed to by Pepsi-Cola and Customer on the Premises throughout the Term of this Agreement. The Equipment shall at all times remain the sole property of Pepsi-Cola or an affiliate thereof. Pepsi-Cola will repair, clean and maintain the Equipment, and agrees to keep the Equipment in good working order and condition at all times. Pepsi-Cola shall have the exclusive right to repair, replace, move or remove any piece or portion of Equipment, except in case of emergency. Notwithstanding the foregoing, Customer agrees to use reasonable efforts to keep the equipment in clean and sanitary condition, wholly free of all advertising or other Customer materials at all times. In addition, Customer agrees to promptly notify Pepsi-Cola of any need for repair or service of any piece of Equipment, and to fully cooperate with Pepsi-Cola in effecting such necessary repairs or service. Customer, at its expense, agrees to provide the necessary electricity supply for the Equipment installed at the Premises.
5. **PRODUCT PRICING:** Pricing shall be reviewed annually by Pepsi-Cola and the customer annually.
6. **COMMISSION RATES:** Commission rates will be as stated in the attached Vending Services Agreement.
7. **CONSIDERATION:** In consideration of the rights granted hereunder, Pepsi-Cola agrees to the following.
 - a. To make a one-time contribution to the Eastern Connecticut State University Foundation in the amount of \$28,500.00 to be paid by Pepsi-Cola and its partner Next Generation Vending.
 - b. Pepsi-Cola will also make a one-time payment to Eastern Connecticut State University of \$5,000.00 to Customer for electronic scoreboard maintenance. *To Ball Field Rental Act*
 - c. Pepsi-Cola will also make payments to the Foundation in the amount of \$4,800.00 per year for the Term of this contract for stadium signage. *To Foundation VFFO 03*
 - d. Pepsi-Cola will also make a yearly payment of \$3,000.00 to the Foundation for product promotion support of programs conducted by the Foundation with the University. *to Foundation*
 - e. Pepsi-Cola will also provide up to 100 cases of canned or bottled product to Foundation annually, free of charge, for Foundation, as Foundation, in its sole judgment, deems appropriate.
 - f. Pepsi-Cola will also provide to the University commissions on sales received from vending machines sales at Eastern Connecticut State University by Pepsi-Cola's vending contractor "Next Generation Vending and Food Service, Inc. A copy of the agreement between Pepsi-Cola and Next Generation Vending and Food Service, Inc is attached hereto and made a part of hereof.
8. **DEFAULT AND TERMINATION:** Either party to this Agreement shall have the right to immediately terminate this Agreement prior to its expiration upon a material breach by the other party of the terms or conditions hereof, providing the non-breaching party has not cured such breach within thirty (30) days of its receipt of the written notice of said breach. The rights of termination referred to in this Agreement are not intended to be exclusive and are in addition to any other rights available to either party in law or in equity.
9. **REPRESENTATIONS AND WARRANTIES:** Customer represents and warrants that: (1) it has full right and authority to enter into this Agreement and to grant and convey to Pepsi-Cola all of

the rights and privileges, terms and conditions set forth herein. Upon expiration or revocation of such authority, then as an option but not as its sole remedy, Pepsi-Cola may terminate this Agreement; (2) all approvals and/or resolutions required in connection with the execution of and performance of the terms and conditions of this Agreement by state, county or local law have been obtained; and (3) the execution of and performance of the terms and conditions of this Agreement is not prohibited by or in conflict with any rights granted by Customer to any other party. Pepsi-Cola represents and warrants that: (1) it has full right and authority to enter into this Agreement and to grant and convey to Customer all of the rights and privileges set forth herein, and (2) it will comply with all the laws, ordinances, codes, rules and regulations bearing on the conduct of its work under this Agreement and (3) the execution of and performance of the terms and conditions of this Agreement is not prohibited by or in conflict with any rights granted by Pepsi-Cola to any other party.

10. **RIGHTS UPON TERMINATION:** Upon the expiration or earlier termination of this Agreement by either party, Customer shall permit Pepsi-Cola reasonable access to the Premises, free from any claims of trespass, for purposes of removing any Equipment within thirty (30) days, of the date of expiration or earlier termination of this Agreement. Until such time as all Equipment is removed, Customer's obligations shall continue as set forth in paragraph four of this Agreement. Pepsi-Cola will use its best efforts to leave each Equipment site in the condition in which it existed prior to installation of the Equipment, excepting reasonable wear and tear, and excepting any damage that may have occurred which was beyond Pepsi-Cola's control or reasonable anticipation.
11. **ASSIGNMENT:** This Agreement shall not be assigned by either party hereto without the prior written consent of the other party.
12. **ENTIRE AGREEMENT:** This Agreement contains the entire understanding and agreement between the parties hereto regarding the placement of soft drink vending, visi-cooler and/or fountain equipment on the Premises and supercedes all other agreements between the parties respecting such. This Agreement may be amended or modified only by written statement, signed by each of the parties.
13. **NOTICES:** All notices required to be given hereunder shall be properly given if in writing and sent by certified or registered mail, postage prepaid, or by generally recognized prepaid overnight delivery service to the respective addresses of the recipient thereof set forth at the commencement of this Agreement or such other address as may be designated in writing by the parties hereto. Notice shall be deemed given on the date of receipt thereof by the recipient.
14. **AUTHORIZATION:** The person signing this Agreement on behalf of the Customer warrants and represents that he or she has all requisite authority to sign and deliver this Agreement on behalf of the Customer.


Pepsi-Cola Bottling Co.
90 Industrial Dr.
Holden, Ma. 01520

Date: 8/1/08


Eastern Connecticut State University
83 Windham Street
Willimantic CT. 06226

Date: 8/01/08

NEXT GENERATION VENDING AND FOOD SERVICE, INC.
VENDING SERVICE AGREEMENT (with Commissions)

This is a Service Agreement (this "Agreement") by and between Next Generation Vending and Food Service, Inc., its successors and assigns, with a place of business as set forth below (hereinafter called "Operator") and the Customer identified in its signature line below, its successors and assigns, with place of business as set forth below (hereinafter called "Client"). In consideration of the mutual promises and obligations hereinafter set forth to be performed and observed by each of the parties, the parties hereby covenant and agree as follows:

1. Client does hereby grant to Operator the exclusive right to sell, through vending machines (the "Equipment"), the following: prepackaged snacks and confections, beverages of all types, and similar vended items at Client's facilities identified at the location(s) set forth at the end of this Agreement (the "Premises") for the term established at the end of this Agreement (the "Initial Term"). During said Initial Term, or any renewal thereof:
 - 1.1 DURATION OF INITIAL TERM OF AGREEMENT: 5 YEARS
 - 1.2 COMMENCEMENT DATE OF INITIAL TERM: August 15, 2008
 - 1.3 LOCATION(S) OF PREMISES TO BE SERVICED UNDER THIS AGREEMENT:

Eastern Connecticut State University, 83 Windham St., Willimantic, CT.
- 1.4 Operator will pay Client, in consideration of the exclusive rights granted herein, certain mutually agreed upon amounts on the sale of certain vending products in accordance with the terms and conditions set forth in the Commissions Schedule attached to this Agreement, which Commissions Schedule is made a part hereof and incorporated herein by reference.
- 1.5 The obligations, responsibilities, and rights of the Operator in providing the services set forth above, and the obligations, responsibilities and rights of the Client in connection with such contracted services shall be governed by Operator's Standard Terms and Conditions to Service Agreements ("Standard Terms") attached hereto as Schedule A.
2. The terms and conditions under which this Agreement may be cancelled by the parties hereto, such cancellation to be effective only by written notice sent by certified mail return receipt requested ("certified mail") and specifying a termination date which shall be no less than thirty (30) days after the receipt thereof, are as follows:
 - 2.1 In the event that either party shall default in the performance of any of its obligations hereunder, and such default shall not be cured by the defaulting party within thirty (30) days after receipt by the defaulting party of a written notice sent by certified mail from the aggrieved party specifying such default, then and in that event and for so long thereafter as such default shall not be cured, such aggrieved party may terminate this Agreement by sending to the defaulting party the requisite written notice as set forth above.
 - 2.2 In the event that Operator's business hereunder should become unprofitable, then Operator may terminate this Agreement by sending to Client the requisite written notice as set forth above.
3. This Agreement, together with the Operator's Standard Terms, constitute the entire Agreement between the parties with respect to the subject matter hereof and supersedes all previous communications, representations, understandings and agreements, oral or written, between the parties. The terms and conditions of this Agreement may only be modified, amended, or waived by written agreement executed by both parties hereto. This Agreement shall be construed in accordance with and governed by the laws of the State of Connecticut, without giving effect to its provisions regarding choices of laws.

THE UNDERSIGNED EACH ACKNOWLEDGE THAT THEY POSSESS THE REQUISITE AUTHORITY TO ENTER INTO THIS TRANSACTION AND EXECUTE AND DELIVER THIS AGREEMENT ON BEHALF OF THEIR RESPECTIVE PARTIES.

IN WITNESS WHEREOF, this Agreement has been duly executed as an instrument under seal as of the date set forth below.

OPERATOR:

CLIENT:

NEXT GENERATION VENDING AND FOOD SERVICE, INC.

PEPSI-COLA BOTTLING CO. OF WORCESTER

By: _____
Corporate Officer

By: Cliff McGlory

Print Name: _____

Print Name: Cliff McGlory

Title: _____

Title: On premise mgr

Date: _____

Date: 7/24/08

Address: 5 Campanelli Circle, Suite 200
Canton, MA 02021

Address: 90 Industrial Drive
Holden, MA. 01520

Telecopier: 781-828-0427

Telecopier: 508-825-1680

E-Mail: aweintraub@nextgenvendfood.com

E-Mail: cmcg10ry@pepsicoworcester.com

COMMISSIONS SCHEDULE

Pursuant to Section 1.4 of the Vending Service Agreement (the "Agreement") of which this Commissions Schedule is made a part thereof and incorporated therein by reference, Operator has agreed to pay to Client either (i) a percentage of its net receipts, excluding any sales or use taxes or container deposits, or (ii) amounts based on some other mutually agreed upon basis as set forth below, on the following products sold through its Equipment as set forth below ("Commissions"), subject to the terms and conditions set forth in this Commissions Schedule:

PRODUCTS SUBJECT TO COMMISSIONS

BASIS FOR AMOUNT OF COMMISSIONS

SODA AND WATER	30%
SPORTS DRINKS AND JUICES	24%
HOT BEVERAGES	24%
CANDY, SNACKS, MINTS, GUM, AND PASTRIES	24%

Commissions shall only be paid upon the categories of products specifically identified herein. Commissions shall be paid monthly or quarterly in accordance with the Operator's fiscal months or quarters, on or before the thirtieth (30th) day of the month following the end of the applicable fiscal month or quarter of the Operator, unless otherwise expressly provided herein. Commissions shall be paid on a monthly or quarterly basis in accordance with the amount of Commissions generated or projected to be generated on average on a monthly basis as set forth in the Standard Terms of this Agreement, unless otherwise expressly provided herein.

Addendum to Article 2a:

Operator will guarantee commissions of \$40,000.00 or commissions percentages as stated in Article 2a; whichever is greater in An annual period, contingent upon enrollment ECSU remains at current level.

Addendum to Article 2b:

Operator, in conjunction with Client, will install Blackboard system debit readers on all vending machines as required by ECSU Operator will depreciate readers over a 5- year term. Client will be responsible for payment to Operator of un-amortized value of readers should vending service partnership as agreed upon under the terms of this Agreement terminate prior to full depreciation Of readers.

NEXT GENERATION VENDING AND FOOD SERVICE, INC.

SCHEDULE A: STANDARD TERMS AND CONDITIONS FOR
VENDING SERVICE AGREEMENT WITH COMMISSIONS

1. APPLICABILITY TO SERVICE AGREEMENTS. The Standard Terms and Conditions (hereinafter referred to as these "Standard Terms") set forth herein shall apply to and govern all Service Agreements (hereinafter referred to as the "Service Agreement(s)") between Next Generation Vending and Food Service, Inc., Inc. (hereinafter referred to as the "Operator") and its vending and/or office refreshment customers (hereinafter referred to as the "Client"), to the extent that these Standard Terms are identified in the applicable Service Agreement(s) as being made a part thereof and incorporated therein by reference to these Standard Terms. In the event that there is a conflict between the terms of any applicable Service Agreement and these Standard Terms, then the terms of the Service Agreement shall govern.
2. OPERATOR SERVICES. During the Initial Term of an applicable Service Agreement (as said Initial Term is defined in the Service Agreement), or any renewal thereof:
 - 2.1 Operator shall provide for the installation of its Equipment (as defined in the applicable Service Agreement) placed in designated service areas at the Premises (as defined in the applicable Service Agreement). Client agrees to accept the Equipment and to furnish adequate space, water, utilities and utility outlets in such locations, and to provide Operator with reasonable access to its Equipment at the Premises. Client agrees to take preventative action reasonably requested in writing by Operator to prevent vandalism and theft.
 - 2.2 Operator will maintain adequate liability insurance coverage for all products and its Equipment, vehicles and employees.
 - 2.3 Operator shall be responsible for the selection of products purchased from Pepsi - Cola Bottling Co. of Worcester and delivered by there Windham, CT. facility to be vended and the determination of selling prices subject to review by Client.
 - 2.4 Operator shall be solely responsible for the management, operation, maintenance and repair of the Equipment at Client's Premises. All Equipment, together with the contents thereof, are and shall remain the property of the Operator, and only Operator or its representatives may remove or replace Equipment at the Premises. If during the term of the Service Agreement all or part of the business conducted by Client at the Premises is moved to a new location, then Operator in its sole discretion shall determine whether to continue providing its services at the new location either directly or through a subcontractor or other assignee.
 - 2.5 All persons employed by Operator shall be employees of Operator and neither the Operator nor any agent or employee of Operator shall be or shall be deemed to be an employee of Client. During the term of the applicable Service Agreement and for a one (1) year period after the termination of the Service Agreement, Client shall not, either separately or in association with others, directly or in directly, solicit any of the Operator's employees to terminate their relationship with Operator or allow former employees of Operator to provide vending and/or office refreshment services to the Client in any manner.
3. CANCELLATION OF SERVICE AGREEMENT(S). The terms for cancellation or termination as set forth in the applicable Service Agreement are and shall be the exclusive manner by which either party to the Service Agreement may cancel or terminate such Service Agreement. In the event that the applicable Service Agreement provides that the Operator may terminate the Service Agreement if its business at the Client's Premises becomes unprofitable, the Operator shall also have the alternative to elect, in its sole discretion, to (i) reduce commissions, if applicable, and/or (ii) reduce the amount of services and/or equipment to be provided hereunder or extend the term of the Service Agreement or otherwise restructure the economic terms thereof, the election of which must be made by thirty (30) days prior written notice to Client sent by certified mail. Any time thirty (30) days following the implementation of any of such economic restructuring of the applicable Service Agreement, the Operator shall have the right to determine in its sole discretion that its business thereunder continues to be unprofitable and to exercise its termination rights for unprofitability under the Service Agreement as provided therein.
4. FORCE MAJEURE. The parties to the applicable Service Agreement shall not be liable for failure to perform its respective part or obligation when such failure is the result of causes beyond its reasonable control, including without limitation fire, flood, strikes, industrial disturbances, accident, war, riots, insurrection, or similar occurrences. Operator shall not be obligated to provide services at the Premises of the Client if Operator reasonably believes that conditions at the Premises present a health or safety hazard to any of its employees.
5. BENEFIT. The applicable Service Agreement shall be binding upon the parties hereto and shall inure to the benefit of, and be binding upon, the respective successors and assigns of each party hereto. Operator and Client each have the absolute right, in their sole discretion, to assign their rights, benefits and responsibilities under the applicable Service Agreement
6. NOTICES. All notices required by the terms of the applicable Service Agreement to be sent to the other party in writing shall be forwarded by certified mail, to the addresses indicated in the Service Agreement following the signature lines of the parties, or such other address as may be requested by a party thereto by notifying the other party in writing as provided herein.
7. ATTORNEYS' FEES. In the event that Client wrongfully removes or allows to be removed any Equipment (as defined in the applicable Service Agreement), becomes delinquent in any payments due under the applicable Service Agreement, or otherwise defaults in any of the terms and conditions of

the applicable Service Agreement and/or these Standard Terms, Client will be liable for all attorneys' fees and any other costs incurred by Operator to enforce any of the terms of the Service Agreement and/or these Standard Terms or to collect any monies due under the applicable Service Agreement, whether or not litigation is instituted.

8. DISPUTE RESOLUTION; GOVERNING LAW. Client and Operator agree to meet and confer in good faith to resolve any issues or disputes that may arise under the applicable Service Agreement. Except to the extent that injunctive, equitable or emergency relief may be necessary to enforce the terms of any applicable Service Agreement, any controversy or claim arising out of or relating to the Service Agreement, or the breach of the Service Agreement, shall be settled by binding arbitration in Boston, Massachusetts, pursuant to the Expedited Procedures of Commercial Arbitration before the American Arbitration Association. The applicable Service Agreement(s) and these Standard Terms shall be construed in accordance with and governed by the Laws of the State of Massachusetts, without giving effect to its provisions regarding choice of laws.
9. SEVERABILITY; HEADINGS. In the event that any court of competent jurisdiction shall determine that any provision of an applicable Service Agreement and/or of these Standard Terms shall be unenforceable in any respect, then such provision shall be deemed limited to the extent that such court deems it enforceable, and as so limited shall remain in full force and effect. In the event that such court shall deem any such provision wholly unenforceable, the remaining provisions of the applicable Service Agreement and/or of these Standard Terms shall nevertheless remain in full force and effect. The headings or captions of the various sections of any applicable Service Agreements and these Standard Terms are for convenience of reference only and shall in no way modify or affect the meaning or construction of any of the terms or provisions of the applicable Service Agreement or these Standard Terms.
10. COMMISSIONS.
- (A) Commissions to be paid by Operator to Client, to the extent provided in the applicable Service Agreements, shall be based upon a percentage of Operator's net receipts, excluding any sales or use taxes or container deposits, or some other mutually agreed upon basis ("Commissions").
 - (B) Commissions shall be paid monthly or quarterly in accordance with the Operator's fiscal months or quarters, on or before the thirtieth (30th) day of the month following the end of the applicable fiscal month or quarter of the Operator on which the Commission is being paid, unless otherwise specifically provided in the Service Agreement. Clients with total monthly net receipts above One Hundred Dollars (\$100.00) on average, or projected to be above \$100.00 on average, will be paid Commissions on a monthly basis; in all other cases, Commissions will be paid on a quarterly basis.
 - (C) In the event that there are any receivables owed by a Client to Operator that have been unpaid and outstanding for more than thirty (30) days, Operator shall be entitled to offset any such delinquent receivables owed against any Commissions due to such Client. In the event that any portion or all of the vending sales are made on a debit card system pursuant to which the Client reimburses the Operator for such debit card charges, Operator shall be entitled to immediately deduct from any outstanding Commissions due to Client any amounts owed by Client for debit card reimbursements as they become due.