

**BEVERAGE VENDING MACHINE SERVICES
AND
SPONSORSHIP AGREEMENT**

1.00 Agreement: This Agreement is made and entered into this 1st day of March 2004, by and between The Laredo Coca-Cola Bottling Company, Inc., a Texas Corporation with its principal place of business at 1402 Industrial Boulevard, Laredo, Texas, 78041 ("Vendor") and Texas A&M International University, a component of The Texas A&M University System and an agency of the state of Texas ("University"). In consideration of the benefits to be received by both parties, Vendor and University agree to the following provisions and endorsements, if any.

1.01 Definitions: All capitalized terms used in this Agreement and not otherwise defined will have the meanings set forth on **Exhibit A**.

2.00 Installation: Vendor shall install, maintain and supply a mutually agreed upon number of vending machines which shall include dollar bill validators, and change machines and other dispensing equipment ("Equipment"), subject to Vendor's equipment placement agreement. Such Equipment will be located in such buildings and at such locations as designated by University in writing and agreed to by Vendor. Such designation, including number and location of Equipment on University's property, may be amended from time to time as mutually agreed upon.

2.01 No Equipment may be installed or delivered until its location has been approved by University in writing. All Equipment shall be adequate in size, new or reasonably recent models so as to compare favorably in appearance and performance with the best machines available and will be subject to prior approval by University.

2.02 Subject to the provisions of section 6.02, all Equipment shall remain the property of Vendor, and Vendor shall not be required to maintain any Equipment at any place other than a location in which it is economically feasible. In order for Vendor to demonstrate to University that a location is economically unfeasible, it must document in writing those facts which support such conclusion to the reasonable satisfaction of University prior to removal of such machine.

2.03 All Equipment shall be installed by Vendor in conformity with all federal, state and local building, health, and other applicable laws and regulations. All electrical services shall be installed by the University free of cost to Vendor, and electricity and water, if required, shall be supplied by University at no charge to Vendor.

2.04 Vendor must have a sales representative on site at all times during the installation process of all Equipment.

- 2.05** Any damages that may occur to the flooring, wall areas, ceiling, as well as to other equipment present on the premises, during Vendor's installation of the Equipment shall be Vendor's responsibility.
- 2.06** Vendor's installation of machines is subject to acceptance by University. Any and all items not completed to University's satisfaction must be remedied in a timely manner.
- 3.00 Maintenance:** Vendor shall have the right to enter upon the premises of University at all reasonable times for the purpose of servicing and inspecting the Equipment and for removal upon termination of this agreement.
- 3.01** Vendor shall service the Equipment so as to keep them in a good working order and adequately supplied with the products dispensed.
- 3.02** All Equipment shall be checked each day that University is open for business in order to ensure that the Equipment is operational and supplied with products, as defined herein.
- 3.03** Vendor shall keep the Equipment and the area immediately adjacent thereto in a neat and sanitary condition at all times.
- 3.04** University may require replacement of Equipment which have a history of malfunction. Vendor agrees it will accomplish replacement or repair of its Equipment within fifteen (15) working days after receipt of notification from University. Vendor shall provide University an "800" number or local telephone number for contact by University personnel. This number must be operational twenty-four hours per day.
- 3.05** Vendor's marked vehicles will be permitted on University streets subject to University regulations so long as they do not impede circulation during the prescribed term of this Agreement and only for the purpose of performing the services at the designated locations. Vendor shall schedule service in a manner that causes the least inconvenience to the campus community and must exercise a high standard of care when operating any vehicles on the premises. Vendor and its employees are not provided with parking for their private vehicles on campus property.
- 3.06** On request of University, Vendor will meet with University and review each monthly Commission (reference section 8.00) statement, explain deviations, discuss problems and mutually agree on procedures to improve the required services included in this Agreement. Any adjustment required as a result of this review and/or audit will be reflected on the next monthly Commission statement.
- 3.07** Vendor agrees to comply with all applicable Federal State and local laws and regulations pertaining to wages, hours and employment practices. If required by

University, a list of the Vendor's employees involved in the performance of this Agreement will promptly be provided.

3.08 Vendor's employees, while on campus, shall conduct themselves in a professional manner. Failure to do so may be grounds for University requesting Vendor to remove such employee from University's premises and/or this project.

3.09 All employees of Vendor shall wear an approved uniform while on duty at University. Picture identification cards may also be required by University.

4.00 Products to be Dispensed: The types of Products to be dispensed by vending Equipment and the prices for such Products are listed on Exhibit B, which is attached hereto and incorporated herein for all purposes. Such Exhibit B may be amended from time to time upon written agreement of both parties hereto. No price may be altered without prior written approval by University.

4.01 All Products supplied from vending Equipment shall conform to all federal, state and local laws and regulations pertaining to the adulteration or handling of such products and shall in all respects be fit for human consumption.

5.00 Insurance and Hold Harmless:

University, The Texas A&M University System, its regents, officers and employees, shall not be liable or responsible for and shall be saved and held harmless by Vendor from and against any and all claims and damages of every kind, for injury to or death of any person or persons, and for damage or loss of property, arising out of or attributed, directly or indirectly, to the operations or performance of Vendor under this Agreement.

5.01 Vendor shall maintain throughout the life of this agreement Workers Compensation, comprehensive general liability insurance, and comprehensive automobile liability insurance. Vendor shall provide certificates indicating that such insurance is in force and effect, and such certificates shall state that University shall be notified in the event of cancellation of coverage. Insurance shall be carried in the following amounts:

<u>Type of Insurance</u>	<u>Minimum Liability</u>
1. Workers Compensation	State Statutory Limits
2. Employers Liability	\$500,000 Each Accident
Bodily Injury by Accident	\$500,000 Each Employee
Bodily Injury by Disease	\$500,000 Policy Limit

3. Comprehensive General \$1,000,000 aggregate

Liability

\$1,000,000 Products/Completed Operations Combined Bodily

\$1,000,000 Personal and Advertising Liability

Injury and Property Damage \$1,000,000 Each Occurrence

\$50,000 Fire Damage

\$50,000 Medical Expense

Comprehensive Automobile

Bodily Injury \$250,000 for each person

\$500,000 for each occurrence

5.02 All provisions relating to indemnification obligations shall survive the termination or expiration of this Agreement.

6.00 Payments and Performance: All payments and reports by Vendor to University shall be made to the following address: Comptroller, Texas A&M International University, 5201 University Blvd., Laredo, TX 78041.

Except as otherwise provided in this Agreement, all payments shall be made not later than the 20th business day after the close of Vendor's monthly accounting period, and shall be accompanied by an itemized report of gross sales by commodity, machine and location. University may designate an additional office to receive such report as it deems necessary. No more than 20 days after each occurrence of the anniversary date of this agreement, Vendor shall supply University with an annual sales tax report certified by a certified public accountant, as required by Section 2252.063, Texas Government Code.

6.01 Vendor shall be responsible for securing a performance bond and a financial statement prepared by a certified public accountant, as required by Subchapter C, Chapter 2252, Texas Government Code.

6.02 University shall retain a lien on all machines provided under this Agreement, pending payment of any amounts due to it from Vendor. University recognizes and acknowledges that prior liens against such machines may exist.

6.03 Vendor shall be solely responsible for making proper sales tax returns and payment to the State Comptroller of Public Accounts for any tax due on gross receipts from the machines.

6.04 University reserves the right to conduct and coordinate with Vendor reasonable audits of Vendor's operations that relate to this Agreement at any time during the life of this Agreement, including gross sales, and shall have free and immediate access coordinated with Vendor to all records of Vendor which relate to this Agreement and its performance upon request.

6.05 Vendor shall be responsible for operating an effective voucher refund procedure, as set forth in Section 6.06, to ensure that prompt reimbursement to individuals who have put money into vending Equipment and received no Product therefor. In addition to the necessary operating instructions, the Vendor shall provide at each vending location, information as to where malfunction reports, product quality comments, and refund requests are to be made. Vendor is responsible for providing all forms required for refund and maintenance operations.

6.06 A voucher refund system shall be required and shall involve dispensing of funds through representatives of University. The voucher system shall include a form supplied by Vendor and approved by University to be filled out by the person making the refund claim and shall include the following information: identification of Equipment, description of problem, amount of loss, amount of refund, date of occurrence, location of Equipment and identity of claimant.

6.07 Vendor shall be responsible for collecting and accounting for all monies generated from machine operations. Counters are to be provided in each machine for audit purposes. University reserves the right to randomly accompany Vendor's driver or sales representative for the purpose of auditing vending Equipment for verification of sales figures.

6.08 Vendor agrees to hold meetings or forums during each Fall and Spring to provide students at University a reasonable opportunity to discuss Vendor's performance hereunder pursuant to Texas Education Code Section 51.945.

7.00 Sponsorship: Except as set forth in Sections 7.01 and 7.02, Vendor will be the exclusive Beverage provider for fountain machines, vending machines and sales of bottles and cans on Campus.

7.01 Vendor understands that University currently maintains certain third party contractual relationships ("Third Party Vendors") which may conflict with the exclusive rights granted under this Agreement. Specifically, University maintains contractual relationships with Third Party Vendors in connection with University's Campus Food Service Program and University's Bookstore. University agrees to coordinate with Third Party Vendors so that Beverages sold by them will be Products.

7.02 The exclusive rights granted to Vendor in this Agreement shall not extend to on campus student organizational events. University agrees, however, to request the cooperation of student organizations in observing the exclusive rights granted in this Agreement provided University receives actual notice of student organizational plans to sponsor an on campus activity which will involve beverage service. If Beverages are served or sold at on-Campus student organizational events, University will ensure that such events will serve or sell Products. The exclusive Beverage rights granted in this Agreement do not extend to Beverages purchased off-Campus by students, faculty, employees or their guests and used on the Campus for personal consumption and not for resale.

7.03 In exchange for the rights granted under this Agreement, Vendor agrees to pay University an aggregate of Seventy Five Thousand Dollars (\$75,000) (the "Sponsorship Fees") described below:

Year One	(03/01/04 through 02/28/05)	\$14,000.00
Year Two	(03/01/05 through 02/28/06)	\$14,000.00
Year Three	(03/01/06 through 02/28/07)	\$11,000.00
Year Four	(03/01/07 through 02/29/08)	\$14,000.00
Year Five	(03/01/08 through 02/28/09)	\$22,000.00
TOTAL:		\$75,000.00

7.04 The Sponsorship Fee will be paid as follows: Payment for Agreement Year One will be paid within thirty days of the date that this Agreement is fully executed; payments for subsequent Agreement Years will be paid at the beginning of each Agreement Year. University will provide an invoice to Vendor at least thirty days prior to the due date for payments for Agreement Year Two through Five.

8.00 Commissions: Vendor will pay to University commissions on full-service vending sales based on cash collected (after deducting taxes, deposits and any government-mandated fees) at the rates and initial vend prices as described in **Exhibit B** ("Commissions"). The Commissions will be paid no later than the 20th of each month with an accounting of all monies. At the end of each Agreement Year, if the total earned Commissions for that Agreement Year are less than Twenty Two Thousand Five Hundred Dollars (\$22,500.00) ("Guaranteed Minimum Commission"), Vendor will pay University the difference between the earned Commissions and the Guaranteed Minimum Commission.

9.00 Product Donations. During each Agreement Year, Vendor will donate standard physical cases of Product with a value of One Thousand Dollars (\$1,000) to the University. University's Director of Student Services will be responsible for submitting Product donation requests to Vendor. Product donations will be valued at the prices set out in Exhibit C.

10.00 Student Internship. During each Agreement Year, Vendor agrees to sponsor two full time summer interns for employment by Vendor for thirteen weeks each during University's summer break in connection with Vendor's Management and Marketing Internship Program. University agrees to post notice of this employment opportunity in accordance with its standard procedures and to provide the names of interested students to Vendor. Vendor promptly shall notify University of the names of the summer interns selected by Vendor.

11.00. Marketing Rights.

11.1 University grants to Vendor the following promotional rights, which are exclusive to Beverages, to:

11.2 Market and promote Products in connection with the University, the Campus, and the Teams including the use of the University Marks on a royalty-free basis. University acknowledges and agrees that such promotional activities may be conducted in conjunction with Vendor's customers; and Vendor will have the right to incorporate its customers' marks, logos and/or branded products with the University Marks on any advertising, point-of-sale, packaging, or premium items or materials. University hereby grants Vendor a license to use the University Marks on a royalty-free basis for the purposes of promoting Products as provided herein. University agrees to work with Vendor on a case-by-case basis to assist in promotions conducted by Vendor with its customers. Use of University Marks does not allow Vendor's customers to be identified as sponsors of University.

11.3 Refer to Vendor in any of Vendor's marketing materials as a "sponsor" of the Campus, the University, and/or the Teams, and refer to any brand of Products in any of Vendor's marketing materials as the "official" or "exclusive" soft drink, sports drink, tea, juice, or juice drink of the Campus, University or the Teams.

11.4 University Approval Rights

- (A) **Promotions.** University has the right to approve in advance the following:
 - (1) the concept for any promotional activity with respect to University; and
 - (2) any materials that display any University Marks.
- (B) **Approval.** University will respond to a written submission for approval within ten (10) working days after receiving it. If approval is not received within such ten (10) working days, then Vendor may send notice to University that Vendor has not received University's response. University will then respond within 48 hours of that notice. If approval is still not received, it shall be deemed withheld.
- (C) **Withholding Approval.** University will not unreasonably withhold approval of a submission.

Vendor will be responsible for the payment of Vendor's costs associated with marketing rights.

12.00 Force Majeure: If, due to riots, war, public emergency or calamity, fire, earthquake, Acts of God, government restriction, labor disturbance, strike, or boycott, business operations of University are interrupted or cease, performance of this contract, with the exception of the payment of Commissions already due and owing, shall be suspended and excused to the extent such force majeure shall interfere with operations thereunder, and the expiration date of this contract shall be extended for a period of time equal to the time such default in performance is excused.

13.00 Damage or Destruction of Machines by Third Parties: University agrees that it will take such reasonable measures as may be required to protect Vendor's machines against loss by pilferage or damage, and will reasonably assist in every way possible to apprehend individuals who commit acts of destruction, theft, or fraud involving such machines located on property under the control of University. Vendor is responsible for damage or loss to its equipment located on such property. Vendor shall have the right to relocate or remove any machine that has been subject to theft or vandalism, and no Commissions shall be paid on sales for which the money has been stolen.

14.00 Term of Agreement: The term of this agreement shall be for a period of five (5) years commencing on **March 1, 2004 through February 28, 2009** ("Term").

15.00 Notice: In addition to other legal and equitable remedies, if either party defaults in any obligation in this Agreement, the other party shall give written notice of such default, and, if the party in default has not cured the default within thirty (30) days of the notice, the other party shall have the right to terminate this agreement.

Upon termination of this Agreement for whatever the reason, any license granted under this Agreement to use University Marks is immediately revoked.

All notices or communication required or permitted to be given by either party hereunder shall be deemed sufficiently given if (i) mailed by registered mail or certified mail, return receipt requested, or (ii) sent by overnight courier, such as Federal Express, or (iii) transmitted by confirmed facsimile to the other party at its respective address set forth below or to such other address as one party shall give notice of to the other from time to time hereunder. Mailed notices shall be deemed to be received on the second business day following the date of mailing. Notices sent by overnight courier shall be deemed received the following business day.

TO UNIVERSITY
Mr. Jose Garcia
VP for Finance & Administration
Texas A&M International University
5201 University Boulevard
Laredo, TX 78041-1900
Phone: (956) 326-2380
Facsimile: (956) 326-2379

TO VENDOR

Laredo Coca-Cola Bottling Company, Inc.

1402 Industrial Boulevard

Laredo, TX 78041

Attention Sales Center Manager

Phone: (956) 721-2702

Facsimile: (956) 726-2699

With a copy to: Coca-Cola Enterprises Inc.

P.O. Box 723040

Atlanta, GA 31139-0040

Attention: General Counsel

Facsimile: (706) 989-3619

16.00 Paragraph Headings: The paragraph headings used herein are descriptive only and shall have no legal force and effect.

16.00 Severability: If any of the provisions of this Agreement shall, for any reason be held in violation of law, and any portion of the Agreement is held to be unenforceable, then the invalidity of such specific provision shall not be held to invalidate any other provision, which shall remain in full force and effect.

18.00 Entire Agreement: This agreement constitutes the complete and exclusive statement of all mutual understandings between the parties with respect to the subject matter hereof, superceding all prior or contemporaneous proposals, communications and understandings, oral or written. There are no representations, agreements, arrangements or understandings oral or written, between or among the parties relating to the subject matter of this agreement that are not fully expressed herein.

19.00 Survival: All representations, warranties, covenants and agreements made herein and which by their express terms or by implication are to be performed after the execution and/or termination hereof, or are prospective in nature shall survive such execution and/or termination, as the case may be.

20.00 Waiver: No waiver of any provision hereof or of any right or remedy hereunder shall be effective unless in writing and signed by the party against whom such waiver is sought to be enforced. No delay in exercising, no course of dealing with respect to, or no partial exercise of any right or remedy hereunder shall constitute a waiver of any right or remedy, or future exercise thereof.

21.00 Amendment: No amendment, change, waiver, or discharge hereof shall be valid unless in writing and signed by both parties.

22.0 Assignment: This Agreement, with the rights and privileges it creates, is assignable only with the written consent of both parties.

23.00 Dispute Resolution: The dispute resolution process provided for in Chapter 2260 of the Government Code shall be used, as further described herein, by University and Vendor to attempt to resolve any claim for breach of contract made by the Vendor.

23.01 A Vendor's claim for breach of this Agreement that the parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260, subchapter B, of the Government Code. To initiate the process, the Vendor shall submit written notice, as required by subchapter B, to University in accordance with the notice provisions of this Agreement. Such notice shall specifically state that the provisions of Chapter 2260, subchapter B, are being invoked. A copy of the notice shall also be given to all other representatives of University and the Vendor otherwise entitled to notice under the Agreement. Compliance by the Vendor with subchapter B is a condition precedent to the filing of a contested case proceeding under Chapter 2260, subchapter C, of the Government Code.

23.02 The contested case process provided in Chapter 2260, subchapter C, of the Government Code is the Vendor's sole and exclusive process for seeking a remedy for any and all alleged breaches of contract by University if the parties are unable to resolve their disputes under subsection 12.01, above.

23.03 Compliance with the contested case process provided in subchapter C is a condition precedent to seeking consent to sue from the Legislature under Chapter 107 of the Civil Practices and Remedies Code. Neither the execution of this Agreement by University nor any other conduct of any representative of University relating to the Agreement shall be considered a waiver of sovereign immunity to suit.

23.04 The submission, processing and resolution of the Vendor's claim is governed by the published rules adopted by the Office of the Attorney General, pursuant to Chapter 2260, as currently effective, hereafter enacted or subsequently amended. These rules are found at 1 TAC, Ch. 68.

23.05 Neither the occurrence of an event nor the pendency of a claim constitutes grounds for the suspension of performance by the Vendor in whole or in part.

23.06 The designated individual responsible on behalf of University for examining any claim or counterclaim and conducting any negotiations related thereto as required under §2260.052 of H.B. 826 of the 76th Texas Legislature shall be Mr. Jose Garcia, Vice President for Finance and Administration.

24.00 Independent Contractors: The parties and their respective personnel are and shall be independent contractors and neither party by virtue of this agreement shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party. This Agreement creates no relationship or joint venture, partnership, limited partnership, agency, or employer-employee relationship between the parties, and the parties acknowledge that no other facts or relations exist that would create any such relationship between them. Neither party has any right or authority to assume or create any obligation or responsibility on behalf of the other party except as may from time to time be provided by written instrument signed by both parties.

25.00 Taxes: Vendor shall pay all Federal, State and local taxes which may be assessed against its equipment or merchandise while in or upon University's premises, as well as all Federal, State and local taxes assessed in connection with the operation of its business upon the premises of University.

26.0 Law: This Agreement shall be governed in all respects by the laws of the State of Texas without regard to its conflict of law provisions.

27.00 Retained Rights: This Agreement does not give any party any interest in or right to use the trademarks of another party except as specifically authorized in this Agreement. Even if use of a party's trademarks is specifically authorized, the trademarks remain solely that party's property, and no joint ownership can arise because of the other part's use under this agreement.

UNIVERSITY

VENDOR

**TEXAS A&M INTERNATIONAL
UNIVERSITY**

**THE LAREDO COCA-COLA
BOTTLING COMPANY, INC.**

By: Joe Garcia

By: Jid Hodges

Printed Name:
JOSE GARCIA

Printed Name:
JID HODGES

Title: VP FOR FIN. & ADM.

Title: VP/GM

Date: FEBRUARY 18, 2004

Date: 3-5-04

EXHIBIT A

DEFINITIONS

"**Agreement Year**" means each twelve-month period beginning with the first day of this Agreement and subsequent anniversaries thereof.

"**Approved Cups**" means disposable cups (12 oz., 16 oz., 24 oz., and 32 oz. minimum sizes) approved by The Coca-Cola Company ("Vendor") from time to time as its standard trademark cups. A depiction of Company's current Approved Cup is attached hereto as **Exhibit D**.

"**Beverage**" or "**Beverages**" means all nonalcoholic beverages of any kind. "Beverage" or "Beverages" shall not include fresh-brewed unbranded coffee and tea products, unflavored dairy products, water drawn from the public water supply or unbranded juice squeezed fresh on the Campus.

"**Campus**" means all facilities now or hereafter operated by or in connection with Texas A&M International University during the Term. References to Campus include all buildings and grounds associated with the University including branded or unbranded food service outlets, vending locations, and all athletic facilities (including press boxes, players' benches and locker rooms).

"**Competitive Products**" means any and all Beverages other than Products.

"**Products**" means Beverage products purchased from Vendor.

"**Team**" or "**Team(s)**" means all intercollegiate athletic teams now or in future associated with the University.

"**University Marks**" means the University's name, each Team's name, colors and uniforms, and emblems, and all tradenames, trademarks, service marks, designs, logos, mascots, characters, identifications, symbols and other proprietary designs that are in existence on the first day of this Agreement or which will be created during the Term and which are owned, licensed or otherwise controlled by the University.

Exhibit B
Vend/Commission
Rate

Vend Rate	Year 1	Year 2	Year 3	Year 4	Year 5
12 oz. CSD Cans	\$0.65	\$0.65	\$0.65	\$0.65	\$0.65
16 oz - MM Juices	\$1.00	\$1.00	\$1.00	\$1.00	\$1.00
20 oz CSD	\$1.00	\$1.00	\$1.00	\$1.00	\$1.00
20 oz - Powerade	\$1.00	\$1.00	\$1.00	\$1.00	\$1.00
20 oz - Dasani Water	\$1.00	\$1.00	\$1.00	\$1.00	\$1.00

Vend Rate	Year 1	Year 2	Year 3	Year 4	Year 5
12 oz. CSD Cans	28.0%	28.0%	30.0%	30.0%	35.0%
16 oz - MM Juices	28.0%	28.0%	30.0%	30.0%	35.0%
20 oz CSD	28.0%	28.0%	30.0%	30.0%	35.0%
20 oz - Powerade	28.0%	28.0%	30.0%	30.0%	35.0%
20 oz - Dasani Water	28.0%	28.0%	30.0%	30.0%	35.0%

EXHIBIT C
PRICING

12oz Cans	\$ 7.50
20oz Bottles	\$12.55
12oz Dasani Water	\$ 7.40
200z Dasani Water	\$11.00
16oz MM Juices	\$17.25
16oz Nestea	\$17.25
20oz POWERaDE	\$17.25
16oz Full Throttle	\$28.00

*Prices are subject to change annually upon a 30 day written notice.