

BEVERAGE AGREEMENT

Parties:

BOTTLER:

Coca-Cola Bottling Company United - East, LLC
d/b/a Tifton Coca-Cola Bottling Company

SCHOOL:

Hamilton County School Board

The parties hereto are entering into this agreement (the "Agreement") because the School wishes to grant to Bottler, and Bottler wishes to obtain, the exclusive rights set forth herein. In consideration of the premises and the mutual promises made herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Definitions.** All defined terms used in this Agreement and not otherwise defined will have the meanings set forth below:
 - (a) "Agreement Year" means each twelve-month period during the Term beginning on the Effective Date (as defined in Section 2).
 - (b) "Beverages" means all non-alcoholic beverages (i.e. anything consumed by drinking), whether or not such beverages (i) contain nutritive, food, or dairy ingredients, OR (ii) are in a frozen form. This definition applies without regard to the beverage's labeling or marketing. Powders, syrups, grounds (such as for coffee), herbs (such as for tea), concentrates, K-Cups® pods and all other beverage bases from which Beverages can be made, and brands and products of water purification and beverage making systems (e.g. Brita®, Soda Stream®, Keurig®) are deemed to be included in this definition. For the avoidance of doubt, "flavor enhancers", "liquid water enhancers", and non-alcoholic beverages sold as "shots" or "supplements" are considered Beverages.
 - (c) "Competitive Products" means all Beverages which are not Products.
 - (d) "Concessionaire" means any current or future third-party food or beverage service provider under agreement with School at the Campus that directly or indirectly relate to the sale or service of Beverages.
 - (e) "Campus" means the entire premises of all schools located in the Hamilton County School District, and all facilities owned or operated by School either now or in the future, including without limitation, the school, athletic facilities, offices, maintenance facilities, and including for each such location, the grounds, parking lots, all buildings which are a part of the location, all cafeterias, faculty and staff lounges, dining facilities, branded and unbranded food service outlets, concession stands, press rooms, sky boxes, stadium suites, vending locations, and players' benches, side-lines and locker rooms. The defined term "Stadium" is included within the collective term "Campus."
 - (f) "Products" means Beverages purchased, or available for purchase directly from Bottler or sold through vending machines owned and stocked exclusively by Bottler.
 - (g) "Stadium" means all stadiums within the Campus including, but not limited to, the grounds, parking lots, all buildings which are part of the Stadium, all concession stands, dining facilities, branded and unbranded food service outlets, press rooms, sky boxes, stadium suites, vending and players' benches, sidelines and locker rooms.
 - (h) "Team" or "Teams" means all interscholastic athletic teams associated with the School.
 - (i) "Unattended Retail Services" the provision and sale of Beverages, fresh brewed beverage(s), prepackaged food, snacks, and/or sundries through self-service kiosks, which permit sales directly to the consumer at the Facility without person-to-person interaction
2. **Term.** This Agreement shall be in effect for a period of Five (5) years beginning August 1, 2023 (the "Effective Date") through July 31, 2028 (as such may be extended, the "Term"). If the Effective Date referenced in the foregoing sentence is blank, such term shall mean the last signature date of this Agreement. The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature.
3. **Advertising Rights.**
 - (a) School hereby grants to Bottler the exclusive right to advertise Beverages and specifically Products (i) at the Campus and (ii) in connection with the School and Campus. No permanent or temporary advertising, signage or trademark visibility for Competitive Products will be displayed or permitted anywhere at the Campus.

- (b) Bottler will have the exclusive right to advertise the Products as the "official" or "exclusive" soft drink, sports drink, water, tea, energy drink and/or juice or juice drink, etc. of the School and Campus.
- (c) School hereby grants to Bottler a royalty-free license, exclusive for Beverages, to use the trademarks, logos and other intellectual property of the School, Teams and Campus ("School Marks") in connection with the promotion of Products. Such promotion may occur in advertising (TV, radio, print, social media and/or other electronic means), packaging, vessels, promotional materials, and point of sale materials for Products and may be in connection with the marks and logos of Bottler's other Customers.
- (d) Bottler shall be entitled to signage locations as selected by Bottler at the Campus, including but not limited to advertising panels located on any and all scoreboards. School agrees that Bottler's advertising shall be positioned at all times in such a manner that the advertising message is in no way obscured (electronically or otherwise) and is clearly visible to the general public. The Products shall be prominently listed on any menu boards located at the Campus and all equipment dispensing Products shall be prominently identified with the trademarks/logos corresponding to such Products.
- (e) School further agrees that only Products will be dispensed in Bottler's equipment and that no other trademarked Beverage-dispensing equipment, coolers or containers will be permitted at the Campus.
- (f) School will not enter into any agreement or relationship whereby any Competitive Products are associated in any manner with School, the Campus, or any of the School Marks in any advertising or promotional activity of any kind.

4. Product Rights.

- (a) Except with respect to Concessionaires, School hereby grants to Bottler the exclusive right to sell, serve, distribute or otherwise make available Beverages at the Campus. School agrees that School and and/or its Concessionaires, Teams, and booster clubs, shall purchase all Beverages (and cups, lids and carbon dioxide, if applicable) directly from Bottler. Notwithstanding anything in this Agreement to the contrary, no Competitive Products may be sold, dispensed, sampled, served or otherwise made available anywhere at the Campus. School agrees not to sell or distribute, directly or indirectly, any Products purchased hereunder outside of the Campus.
- (b) School agrees to offer 20oz packaged Products at all Athletic and School related events where concessions are sold, and to cause Products to be hawked in stands in 20oz bottles at all sporting events and during all events when any items of any make or description are hawked at the Campus.
- (c) School hereby grants to Bottler the exclusive Beverage vending rights at the Campus and exclusive rights to provide Unattended Retail Services at the Campus.
- (d) Products offered at the Campus in compliance with current USDA guidelines shall be available during the regular and extended school day and at all agreed locations at the Campus, except where not permitted by federal or state regulations. The extended day includes, but is not limited to, activities such as clubs, athletic practices, yearbook, band and choir practice, student government, drama, and childcare programs. School represents and warrants that the current federal and state regulations permit the sale of Beverages at the Campus in accordance with applicable guidelines.
- (e) Permitted Exceptions. Bottler acknowledges and understands that the School's Food Service Department is subject to state, federal and school board policy regarding competitive bidding and nutritional requirements. The School's Food Service Department shall have the right to accept competitive bids for the purchase of Beverages which are served and sold in Campus cafeterias by the Food Service Department during school hours. Nothing in this Agreement shall be interpreted as an agreement by the School to violate competitive bidding or nutritional requirements pursuant to law or school board policy for the purchase of Beverages by the School's Food Service Department. Bottler will have the opportunity to meet or beat any competitive bids for similar Beverages served and sold by the School's Food Service Department in the Campus cafeterias during meal hours considering such factors as pricing, product content, ingredient, equivalency, nutrition, availability, packaging and regulatory compliance. The availability of any Competitive Products on Campus, other than those served and sold by the School's Food Service Department in accordance with its competitive bidding and nutritional requirements, must be agreed to in writing by both parties. School agrees that this provision shall not be read to allow advertising or promotional rights with respect to such Competitive Products except that trademarks for such Competitive Products may be displayed on menu boards or dispensing equipment.

- 5. Consideration. In consideration of the rights and benefits granted to Bottler hereunder, Bottler agrees to provide School with the specific items as set forth in Exhibit A (collectively "Consideration").

6. **Pricing.** School shall be entitled to purchase bottle/can Products in accordance with Bottler's then current trade pricing. Thereafter, prices are subject to change each Agreement Year. Price increases generally occur automatically on or about the anniversary date of the Effective Date each Agreement Year. However, in the event of an increase in a component of Bottler's cost of goods, manufacture or delivery, or increases in taxes, deposits and other government related fees, Bottler may further increase prices to cover such increased costs at other times during the Agreement Year; in which case Bottler will provide thirty (30) days' written notice to School prior to such price changes taking effect.
7. **Equipment.** During the Term, Bottler will loan to School, subject to the terms of Bottler's Equipment Placement Addendum ("EPA") attached hereto as Exhibit B, at no cost, the Beverage dispensing equipment reasonably required and as mutually agreed upon to dispense Products at the Facility ("Equipment"). School agrees that Bottler shall have the right to place a mutually agreed upon number of Beverage vending machines, and coolers or other Equipment, determined by Bottler in its discretion, in mutually agreed upon locations at the Campus. Upon thirty (30) days' notice from Bottler, Bottler shall have the right to remove any Equipment, in its discretion, and School shall provide immediate physical access to Bottler for the removal of such Equipment. The Equipment will not include Freestyle equipment. School hereby agrees to the terms of the EPA set forth in Exhibit B.
8. **Concessionaire.** In the event School employs a Concessionaire, School will cause Concessionaire to purchase from Bottler all requirements for Beverages (and cups, lids and carbon dioxide, if applicable). Such purchases will be made at prices and on terms set forth in Bottler's existing agreement with Concessionaire, if any. If no agreement exists between Concessionaire and Bottler, such purchases will be made at prices and on terms set forth in this Agreement. Notwithstanding anything herein to the contrary, Bottler shall not pay to School any Consideration for a purchase of Products by a Concessionaire to the extent Bottler is required to pay the Concessionaire any funding duplicative of the Consideration for the same purchase of Products pursuant to an existing agreement between the Concessionaire and Bottler. In the event of a default in any of Concessionaire's obligations owing to Bottler, School will use commercially reasonable efforts to cause Concessionaire to cure default.
9. **Right of First Refusal.** School will negotiate exclusively with Bottler for a period of ninety (90) days before the expiration of the Term for any similar agreement regarding Beverage availability or promotional/advertising rights for the Campus. After such exclusive negotiation period, School may negotiate with any entity; provided, however, if School receives a bona fide offer from (or provides such an offer to) a third party regarding such rights, then School shall provide notice of such bona fide offer terms to Bottler and Bottler will have thirty (30) business days from the date of such notice to offer School terms no less favorable to School than those contained in the bona fide offer of the third party. In such event, School will contract with Bottler and not the third party. If nonalcoholic beverage rights are bundled with other product rights in a single third-party offer (e.g., in a beverage and food-service relationship), then School will require the third party to separate the nonalcoholic beverage rights, obligations, and payments from the rest of the offer.
10. **Termination.** If any of the following events occur during the Term of this Agreement, Bottler may (in addition to any other remedies available) terminate this Agreement immediately upon notice to School: (a) School breaches any of its obligations set forth in this Agreement and fails to cure such breach within 30 days' written notice thereof; (b) any federal, state or local law, rule, regulation or order prohibits, restricts or in any manner interferes with the sale or advertising of Beverages; (c) School files a petition under any bankruptcy law or becomes insolvent or makes any general assignment for benefit of creditors; or (d) School's full right and authority to enter into this Agreement and to grant and convey to Bottler the rights set forth herein has expired or been revoked. In the event of any termination of this Agreement, School shall (i) provide immediate physical access to Bottler for the removal of any Equipment, and (ii) pay to Bottler the unearned portion of any Consideration.
11. **Right to Off-Set and Withhold.** In the event School fails to pay Bottler any invoice due for Products received, transshipment charges or upon any other basis, Bottler shall have the right to deduct the amount of such unpaid invoice, transshipment charge or other charge from any consideration otherwise due from Bottler to School. Bottler shall have the right to withhold and not pay further any amounts which may become payable to School pursuant to this Agreement if: (i) School has failed to perform its obligations hereunder, (ii) Bottler's rights hereunder have been lost, limited or restricted, or (iii) there exists a bona fide dispute between the parties. Nothing in this section shall operate to restrict any of Bottler's other remedies in the event of a material breach by School.
12. **Adjustment.** If (i) any of the rights granted to Bottler herein are materially restricted or limited during the Term, including as a result of a Force Majeure Event (as defined in Section 14), or (ii) if any material component of the Campus is closed or substantially closed to students, other than in connection with regularly scheduled breaks, for a period of thirty (30) consecutive days, or (iii) a Team fails to play all of its scheduled home games on the Campus for a period of more than thirty (30) consecutive days during its scheduled season, or (iv) the School's full-time student enrollment declines by twenty-five percent (25%) over any prior Agreement Year or the standard school year is shortened, or (v) if the volume of Products sold to the School decreases for any reason in any twelve month period by ten percent (10%) or more over the prior twelve month period, then in addition to any

other remedies available to Bottler, Bottler may elect to adjust any Consideration to fairly reflect the decreased value of rights granted to Bottler hereunder (and School will pay to Bottler a refund of any prepaid amounts in excess of such Consideration).

13. **Notices.** Any notice or other communication under this Agreement must be in writing and must be sent by registered mail or by an overnight courier service (such as Federal Express) that provides a confirming receipt. Notice is considered duly given when it is properly addressed and deposited (postage prepaid) in the mail or delivered to the courier. Unless otherwise designated by the parties, notice must be sent to the following addresses:

If to Bottler:

Coca-Cola Bottling Company United – East, LLC
d/b/a Tifton Coca-Cola Bottling Company
22 Lamb Loop Road
Tifton, GA 31794

With a copy to:

Coca-Cola Bottling Company United, Inc.
4600 East Lake Boulevard
Birmingham, AL 35217
Attn: General Counsel

If to School:

Hamilton County School Board
5683 US Highway 129 South, Suite 1
Jasper, FL 32052

14. **Force Majeure.** The failure of a party to comply with the terms and conditions hereof because of an act of God, strike, labor troubles, war, fire, earthquake, hurricane, tornado, epidemic, act of terror or public enemies, action of federal, state or local governmental authorities, or for any reason beyond the reasonable control of such party ("**Force Majeure Event**"), will not be deemed a breach of this Agreement. Such party will resume full performance of and compliance with the terms and conditions hereof promptly upon removal of any such Force Majeure Event.
15. **Claims.** In no event will Bottler accept any audits of, or claims of discrepancies or errors in, pricing, rebates, commissions, funding, discounts, or other Consideration provided under this Agreement ("**Claims**") more than forty-five (45) days from the date of invoice, commission report, check or other applicable documentation. In order to submit a Claim, School shall provide Bottler a detailed, written request specifying the particular price, commission, funding, product, amount in dispute and reason for dispute, along with a true copy of the original invoice, commission report, check or other applicable documentation. Bottler will review each Claim in good faith and provide responses to each Claim submitted in accordance with this Section. Bottler will work directly with the School to resolve any Claims or audit issues but will not interact with third-party auditors or contractors. Any audits requested by School shall take place during normal business hours and shall be conducted at Bottler's place of business.
16. **Miscellaneous.** School represents and warrants that it has full right and authority to enter into this Agreement and to grant and convey to Bottler the rights set forth herein. This Agreement and any dispute arising out of or relating to this Agreement shall be governed by and construed in accordance with the laws of the State of Florida, without reference to its conflict of law rules. Each of the parties hereto agrees that it will, in its performance of its obligations hereunder, fully comply with all applicable laws, regulations and ordinances of all relevant authorities and shall obtain all licenses, registrations or other approvals required in order to fully perform its obligations hereunder. If any portion of this Agreement is severed, that is, held indefinite, invalid, or otherwise unenforceable, the rest of this Agreement continues in full force. But if the severance of a provision affects a party's rights, the severance does not deprive that party of its available remedies, including the right to terminate this Agreement. School shall not obtain, by this Agreement, any right, title or interest in the trademarks of The Coca-Cola Company or Bottler, nor shall this Agreement give School the right to use, refer to, or incorporate in marketing or other materials the name, logos, trademarks or copyrights of Bottler or The Coca-Cola Company. During the Term, and for a one (1) year period thereafter, the parties shall keep the terms of this Agreement confidential, subject to applicable laws. **EACH PARTY, TO THE EXTENT PERMITTED BY LAW, KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY ACTION OR OTHER LEGAL PROCEEDING ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT AND THE TRANSACTIONS IT CONTEMPLATES.** This waiver applies to any action or legal proceeding, whether arising in contract, tort or otherwise. This Agreement and its exhibits contain the entire agreement between the parties with respect to the subject matter hereof and supersede all prior agreements and understandings, both written and oral. In the event of a conflict between the provisions of this Agreement and a provision in any other document including any "click through" or other online terms and conditions referenced in any such documents or in a website (collectively, "**Supplemental Terms**"), the provisions of this Agreement shall control. No Supplemental Terms shall modify, amend or supplement the terms of this Agreement, even if such Supplemental Terms are accepted or acknowledged by a party after the execution of this Agreement. School may not assign this Agreement without the prior written consent of the Bottler. All amendments to or waivers of this Agreement must be in writing signed by all the parties. Bottler's delay or failure to

exercise any of its rights hereunder will not operate as a waiver thereof. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which shall constitute one Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

BOTTLER

By: _____

Printed Name: _____

Title: _____

Date: _____

Aulton Akridge III

Aulton Akridge III

On Premise Territory Manager

10-9-23

SCHOOL

By: _____

Printed Name: _____

Title: _____

Date: _____

Lee Hetherington Zamora

Lee Hetherington Zamora

Superintendent

09-11-23

Exhibits Attached:

Exhibit A – Consideration

Exhibit B – Equipment Placement Addendum

Exhibit C – Fundraiser Terms & Conditions

EXHIBIT A
CONSIDERATION

1. **Commissions.** Bottler agrees to pay School a monthly commission in the amount of Ten Percent (10%) on all Products sold through Bottler's full service vending. All taxes, deposits, recycling fees, other handling fees, communication charges and credit and debit card fees, if any, may be deducted from funds collected before calculating commissions. Commissions shall not be payable on any sales from vending machines not filled and serviced exclusively by Bottler. Bottler may adjust the vend prices and/or commission rates to recover its costs, including cost of goods, to implement cash discounts, or as it otherwise deems necessary or desirable, in its sole discretion. Commissions will be paid each month following the month in which they are earned, with an accounting of all sales and monies in a form reasonably satisfactory to the School and shall become immediate property of School.
2. **Powerade Sideline Support.** Each Agreement Year, Bottler agrees to make available to School Powerade sideline support, such as ten-gallon coolers, cups, squeeze bottles and carriers or other items, with an aggregate estimated retail value of One Thousand Dollars (\$1,000), as determined in good faith by Bottler ("**Powerade Sideline Support**"). Such Powerade Sideline Support will be provided to School upon reasonable advance request. School must request available Powerade Sideline Support during the course of each Agreement Year. If School does not request all available Powerade Sideline Support by the end of each Agreement Year, then any Powerade Sideline Support remaining at the end of each Agreement Year shall be forfeited by School and retained by Bottler with no further obligation. School understands and acknowledges that it will not receive cash in lieu of Powerade Sideline Support.
3. **Marketing Support.** Each Agreement Year, Bottler agrees to make available to School in-kind marketing support for mutually-agreed marketing activities, such as menu boards, banners or other items, with an aggregate estimated retail value of up to Three Hundred Dollars (\$300), as determined in good faith by Bottler ("**Marketing Support**"). School understands and acknowledges that it will not receive cash in lieu of Marketing Support.
4. **Complimentary Product.** Each Agreement Year, Bottler agrees to make available to School up to Fifty (50) standard physical cases of complimentary Products of Bottler's choosing. Such complimentary Products will be provided to School upon reasonable advance request. School must request all available complimentary Products during the course of each Agreement Year. Complimentary Products will only be delivered within the same Agreement Year in which they are requested. If School does not request all available complimentary Products by the end of each Agreement Year, then any complimentary Products remaining at the end of each Agreement Year shall be forfeited by School and retained by Bottler with no further obligation. Complimentary Products are not to be resold.
5. **Fundraisers.** School may participate in Coca-Cola truckload fundraiser sales each Agreement Year. School's participation in any truckload fundraiser sales shall be subject to the terms and conditions set forth in **Exhibit C** hereto.
6. **Event Trailers.**
 - (a) In connection with this Agreement, School may have the opportunity to use a trailer supplied by Bottler for concession sales of Products at School events ("**Event Trailer**"). Bottler shall not be liable to School for any claims based on or arising out of injury to person or property in any way relating to School's use of an Event Trailer, except such claims as might arise solely out of Bottler's gross negligence or willful misconduct. In no event and under no circumstances shall Bottler be liable to School for any claims based upon or arising out of lost profits or prospective profits, loss of Product, or consequential, special or incidental damages in any way relating to School's use of an Event Trailer.

EXHIBIT B
EQUIPMENT PLACEMENT ADDENDUM

During the Term of the Agreement, Bottler may provide to School Equipment (as defined below), subject to the terms of this Equipment Placement Addendum ("**EPA**"). The terms of this EPA shall apply to each piece of Equipment commencing on its date of installation at any School Location ("**Commencement Date**"). THE TERMS OF THIS EPA WILL CONTINUE IN EFFECT WITH RESPECT TO EACH PIECE OF EQUIPMENT UNTIL THE EQUIPMENT

HAS BEEN RETURNED TO BOTTLER AND WILL SURVIVE THE EXPIRATION OR TERMINATION OF ANY AGREEMENT INTO WHICH THIS EXHIBIT IS INCORPORATED. Any term capitalized, and not otherwise defined herein, shall have the meaning given in the Agreement.

1. Installation and Use Restrictions. Bottler may, from time to time, deliver and install Equipment (which term encompasses all equipment provided by Bottler at any time, including, without limitation, vending machines, coolers, fountain equipment, racks and/or any replacement parts, replacements, additions or accessories) reasonably required and as mutually agreed upon to dispense the Bottler's Products. School shall use the Equipment only at the particular location to which such Equipment is actually delivered unless otherwise agreed by Bottler. At all times during the term of this Agreement, School shall maintain records of the location of all Equipment and promptly provide copies of such records to Bottler upon request. The Agreement and this EPA, in addition to any additional documents and/or records by and/or between the parties describing the Equipment and the location(s) where such Equipment is placed, shall be maintained by Bottler and shall constitute the official book of record pertaining to the Equipment. School hereby agrees that: (i) no logo, trademark, advertisement, or other indication of Bottler's ownership of the Equipment shall be obstructed, defaced, or removed, and no other logo, trademark, or advertisement shall be attached to the Equipment; (ii) the Equipment shall not be obstructed, moved, or removed without the prior written consent of Bottler; (iii) the Equipment shall not be sold, reassigned, loaned, leased, or rented to any other party except as authorized by Bottler; in which case, School shall remain fully responsible for the Equipment as per the terms of this Agreement; (iv) no racks, merchandise, or any other objects shall be placed on top of or attached to the Equipment unless expressly authorized by Bottler; and (v) School will not attach the Equipment, or allow the Equipment to be attached, in such a manner as to become part of the realty as a fixture or otherwise, and that the Equipment will be maintained so that it may be easily removed without damage to buildings or realty.
2. Operation. In consideration of the provision of the Equipment by the Bottler to School pursuant to the Agreement, School agrees to purchase from Bottler and store in, or sell through, the Equipment only products supplied by Bottler. In Bottler's sole discretion, a review of School's product purchase volume and Equipment usage may justify ongoing Equipment placement or Equipment removal. Removal of any piece of Equipment will not affect the term of any agreement between the parties, and this EPA shall survive with respect to any Equipment remaining in School's possession.
 - a. If Bottler is providing full-service vending, School agrees to permit Bottler to place the vending Equipment on School's premises. Bottler shall stock such vending Equipment and shall collect all vending proceeds from the sale of beverages. If Bottler has agreed to pay School a commission on sales through the Equipment, all taxes, deposits, recycling fees, other handling fees, communication charges and credit and debit card fees, if any, may be deducted from funds collected before calculating any commissions due to School.
 - b. Bottler hereby loans the Equipment to School; however, during the term of this Agreement, Bottler reserves the right, upon prior notice to School, to lease or rent the Equipment to the School and, upon commencement of the lease or rental program, School agrees to pay a monthly rental/lease amount. Bottler may change the rental/lease rate charged under this Agreement by sending notice of such change to School at its present address. School may terminate this Agreement as set forth herein if it objects to such change.
 - c. If the Equipment includes a fountain beverage dispenser, School agrees to permit Bottler to install the fountain Equipment on School's premises. School agrees such fountain Equipment will be used only for the purpose of dispensing fountain beverage products of The Coca-Cola Company ("Company"), such as Coca-Cola® classic (or Coke®), diet Coke® and Sprite®, and other fountain products distributed by Bottler with the understanding that no product of PepsiCo, Inc. or of an affiliate thereof may be dispensed. School further agrees not to dispense any product whose pungency could affect the normal taste or quality of the Company's fountain beverage products.
3. Ownership. Bottler is and, at all times, shall remain, the exclusive owner of the Equipment. School shall protect Bottler's title and keep the Equipment free from all claims, liens, and encumbrances arising from the actions or inactions of School. School's obligation under this paragraph remains until such time as Bottler or Bottler's designee picks up the Equipment. School authorizes Bottler to execute and file any additional instruments in all jurisdictions where it deems it necessary to perfect and maintain Bottler's interest in the Equipment. Bottler shall have the right, during School's regular business hours, to inspect the Equipment at School's premises or wherever the Equipment may be located and to review all records that reasonably relate to the Equipment upon reasonable notice to School. School shall promptly notify Bottler of all details arising out of any alleged encumbrances thereon or any accident allegedly resulting from the use or operation thereof.
4. Service and Repair. School shall take reasonable care of the Equipment. Bottler agrees to provide reasonable service and repair for the Equipment during the term hereof. School shall allow Bottler to enter its premises for the purpose of inspection or performance of such service and repair, or necessary replacement or return or removal of the Equipment. In the event additional service and repair is requested by School or reasonably necessary as a result of School's negligence or willful misconduct, Bottler may bill School its standard rate per service call. All service and repair calls must be exclusively handled or authorized by Bottler. School's sole recourse against Bottler with respect to service and repair provided by Bottler or its agents to the Equipment is that Bottler will correct any defective workmanship at no additional charge to School, provided that Bottler is given prompt notification of any defective workmanship. School shall promptly notify Bottler of any Equipment malfunction and take reasonable steps to mitigate any risk of injury to person or property arising from such malfunction. For example, if a piece of Equipment is not cooling properly, School will unplug that piece of Equipment until it is repaired or replaced by Bottler.

5. Disclaimer of Warranties; Liability and Costs. School acknowledges that Bottler is not the manufacturer of the Equipment. BOTTLER MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND AND EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES AS TO THE FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, DESIGN, CONSTRUCTION, CONDITION, SPECIFICATIONS, OR PERFORMANCE OF THE EQUIPMENT. School accepts no warranties and expressly waives any implied warranties as to the fitness for a particular purpose, merchantability, design, construction, condition, specification, or performance of the Equipment. Except to the extent attributable to the gross negligence or willful misconduct of Bottler, School hereby assumes liability for any and all damage to (normal wear and tear excepted), or loss of, the Equipment from the time the Equipment is delivered to School until returned to or removed and accepted by Bottler. School assumes responsibility to report any damage to, or loss of, Equipment to Bottler immediately. To the extent any payment is due from Bottler to School under the Agreement or otherwise, Bottler may deduct from such payment the cost of repair or replacement of Equipment due to damages for which School is responsible hereunder. All taxes, licenses, charges, or other fees which may be imposed on School's sales of products through the Equipment or in connection with this Agreement by any taxing authority, shall be borne by School.
6. Exculpation. CUSTOMER ACKNOWLEDGES THAT INSTALLATION, USE, OR OPERATION OF EQUIPMENT CARRIES INHERENT RISKS INCLUDING BUT NOT LIMITED TO FLOODING AND DAMAGE TO FIXTURES AND OTHER PROPERTY. Bottler shall not be liable to School for any claims based on or arising out of injury to person or property in any way relating to the installation, use, repair, or operation of the Equipment, except such claims as might arise solely out of Bottler's gross negligence or willful misconduct. In no event and under no circumstances shall Bottler be liable to School for any claims based upon or arising out of lost profits or prospective profits, loss of product, or consequential, special or incidental damages in any way relating to the installation, use, repair, or operation of the Equipment. School represents and warrants that plumbing and electrical service on the property is proper and adequate for the installation and use of the Equipment, and School will not use extension cords or other electrical connections not expressly approved by Bottler. Notwithstanding anything herein to the contrary, the provisions of this section will survive termination of the Agreement.
7. Termination or Expiration. Upon termination or expiration of the Agreement, School shall promptly return all Equipment to Bottler.
8. Remedies. In the event of School's breach of this EPA, Bottler shall have the immediate right to exercise any one or more of the following remedies: (w) to terminate the Agreement; (x) to declare the entire amount of any rent immediately due and payable, without notice to or demand of School; (y) to take possession of any or all of the Equipment without demand or notice wherever the same may be located, without any court order or other process of law; or (z) to pursue any other remedy at law or in equity. If the Equipment is not made accessible by School, then School shall pay all costs and expenses relating to the removal of the Equipment, including reasonable attorneys' fees incurred by Bottler in enforcing its rights hereunder by litigation or otherwise. If this EPA is terminated with respect to any piece of Equipment for any reason prior to one year from the commencement date hereof, then School shall pay Bottler all costs and expenses for installation, removal and refurbishment of the Equipment. All rights and remedies provided herein may be exercised exclusively, concurrently, or cumulatively with any other right or remedy hereunder, or as otherwise provided by law.
9. Casters (if applicable). If School requests, at any time during the term of the Agreement, that Bottler provide the Equipment equipped with casters, the following provisions shall apply. School represents and warrants that the Equipment is required by a governmental authority pursuant to applicable health, safety, sanitary or other applicable codes or ordinances, or the School desires the Equipment to be equipped with casters to permit the efficient and thorough cleaning of the Equipment and surrounding areas. School recognizes and acknowledges that the casters provided on the Equipment are not designed or intended to allow for the movement of the Equipment beyond the minimal distances required for cleaning of the immediate area and are not designed for movement from room to room or other similar distances. School agrees that it shall not, and shall not permit its employees, agents, or subcontractors to use the casters to move the Equipment beyond the short distances necessary to adequately clean and maintain the Equipment and immediately surrounding areas. School agrees not to otherwise move or displace the Equipment from the area in which it was placed by Bottler. Any violation of this section by School shall constitute a breach of this EPA.
10. Miscellaneous. To the extent that any of the terms of this EPA conflict with the terms set forth in any other agreement between the parties (and the effect of such conflict diminishes the rights of Bottler under this EPA), the terms of this EPA will control; provided further that removal of any Equipment will not affect the terms of any other agreement between the parties.

EXHIBIT C
FUNDRAISER TERMS AND CONDITIONS

During the Term of this Agreement, School may have the opportunity to conduct truckload fundraiser sales (each, a "Fundraiser") from time to time in which School will promote the sale of Bottler's Products to interested groups and individuals that may order Products for in-person delivery. The pricing and selection of Products, location, and date of each Fundraiser shall be mutually agreed upon by School and Bottler. These terms and conditions shall apply to any and all Fundraisers conducted by School.

All proceeds from Fundraiser sales shall be remitted to Bottler. Bottler shall apply the proceeds to satisfy in full all (i) Bottler's costs for the Products delivered through the Fundraiser, (ii) applicable sales taxes, and (iii) Bottler's administrative costs associated with the Fundraiser (collectively, "Fundraiser Costs"). In the event of any chargebacks, refunds, or cancellations, the amount of the reversed charge and any resulting payment network fees incurred by Bottler shall be deducted from the Fundraiser proceeds. If the Fundraiser proceeds collected are insufficient to satisfy the Fundraiser Costs, School agrees to pay the deficiency amount to Bottler.

For each Fundraiser, Bottler's administrative costs are generally estimated to include (a) 4% of gross proceeds for payment card and gateway fees (plus actual fee amounts for any cancelled orders), and (b) a flat fee of \$0.50 per order for use of the Fundraiser's e-commerce website. School may obtain the specific administrative cost estimates for its Fundraiser from Bottler.

After satisfying the Fundraiser Costs, Bottler will remit all remaining proceeds from the Fundraiser to School via check ("Proceeds Check"). Should any chargebacks, refunds, or cancellations occur after Bottler has delivered the Proceeds Check to School, School agrees to pay Bottler the amount of the reversed charge and any resulting payment network fees incurred by Bottler.

Unless otherwise agreed in writing by both parties, School authorizes and directs Bottler to make the Proceeds Check payable to the School's name set forth in the Agreement and to deliver the Proceeds Check to School's notice address set forth in the Agreement. School releases and forever discharges the Indemnified Parties (defined below) from any and all claims arising from the Proceeds Check recipient's use, misuse, or possession of the Proceeds Check. Bottler shall not be liable to School for any claims based upon or arising out of lost profits or prospective profits, loss of Products, or consequential, special, or incidental damages in any way relating to a Fundraiser.