

SPONSORSHIP AGREEMENT

This agreement (the "Agreement") is made by and between BCI Coca-Cola Bottling Company of Los Angeles d/b/a Coca-Cola Bottling Company of Southern California, a Delaware corporation (the "Sponsor"), and Desert Community College District Auxiliary, a not-for-profit corporation incorporated under the laws of the State of California, on behalf of College of the Desert, located in Palm Desert, California (the "Auxiliary"). The parties are entering into this exclusive sponsorship agreement because the Auxiliary wishes to grant to Sponsor, and Sponsor wishes to obtain, the exclusive rights (i) to offer Beverages for sale and/or sampling on the Campus, and (ii) to market and associate Beverages with the Auxiliary and to promote their consumption and sale generally and on the Campus. In consideration of the mutual promises contained herein, the parties agree as set forth below.

1. **Term.** This Agreement takes effect on November 1, 2008 (the "Effective Date") and expires on October 31, 2014, unless (i) mutually extended under the terms hereof or by written agreement of the parties, or (ii) sooner terminated as provided herein (the "Term").
2. **Definitions.** All defined terms used in this Agreement and not otherwise defined will have the meanings set forth on **Exhibit A**.
3. **Beverage Availability Rights.**
 - 3.1 Auxiliary agrees that all Beverages sold, distributed, or sampled (that is, distributed at no cost), advertised or promoted anywhere, anytime on the Campus and in connection with the Auxiliary and/or the Teams will be Products. Sponsor and Auxiliary agree that, at a minimum, the following Products will be available: Coca-Cola® classic (or Coke®), diet Coke®, Coke Zero®, Sprite®, Nestea®, Minute Maid® juices, Dasani® and PowerAde®. No Competitive Products will be sold, distributed, sampled, advertised, or promoted anywhere, any time on Campus.
 - 3.2 Auxiliary and/or its Concessionaire will purchase from Sponsor, and Sponsor will sell to Auxiliary and/or its Concessionaire, all of Auxiliary's requirements for Beverages and Approved Cups, lids and carbon dioxide at the prices listed in **Exhibit B**. Such prices shall remain in effect through Agreement Year one. Thereafter, such prices will be subject to an annual increase of no more than five percent (5%) over the previous Agreement Year's price, except in the event of an increase in a component of Sponsor's cost of goods, manufacture or delivery, in which case Sponsor may increase prices to cover such increased costs. Annual price increases shall occur automatically on the anniversary date of each Agreement Year. Sponsor may offer tiered pricing that requires Auxiliary and/or its Concessionaire to order certain quantities or to comply with Sponsor's minimum order quantities to get the contractual price or may charge a delivery fee if such minimums are not met.

If, during the Term, Auxiliary elects to contract with a Concessionaire that has an existing agreement with Sponsor, purchases of Beverages and Approved Cups, lids and carbon dioxide by such Concessionaire will be made at prices and on terms set forth in Sponsor's existing agreement with Concessionaire, if any. If no agreement exists between Concessionaire and Sponsor, such purchases will be made at prices and on

- 4.1.5 Create and market for retail sale merchandise incorporating the Auxiliary Marks and trademarks of Products. Sponsor will pay a royalty on each item of merchandise consistent with industry standards for sales of such merchandise.
- 4.1.6 Sample Products and survey individuals on the Campus with Auxiliary's prior approval as to location and time.
- 4.2 Auxiliary grants to Sponsor the following exclusive merchandising rights:
 - 4.2.1 Auxiliary agrees that all Beverages served, sold, or dispensed on the Campus in disposable vessels will be served in Approved Cups. Notwithstanding the foregoing, however, Auxiliary may use Approved Cups or generic, unbranded cups to serve Beverages in locker rooms and players' benches.
 - 4.2.2 Materials promoting the Products at the point-of-sale on the Campus, which will include translites and pictorials on dispensing equipment depicting Approved Cups and Products, will be clearly visible to the purchasing public and will be displayed in a manner and location acceptable to Sponsor.
 - 4.2.3 Product trademarks will be prominently displayed on each menu board and Beverage vending machine on the Campus.
- 4.3 Auxiliary will have the right to pre-approve: (i) the concept for any promotional activity undertaken hereunder; and (ii) any artwork or other items created by Sponsor for use in promotional activities or otherwise in accordance with the terms of this Agreement and that incorporate any of the Auxiliary Marks. If Auxiliary fails to respond to any submission within a period of ten (10) working days subsequent to the actual receipt by Auxiliary of such submission, then such submission will be deemed approved by Auxiliary. Auxiliary agrees that its approval hereunder will not be unreasonably withheld.
- 4.4 Auxiliary agrees that it will not, directly or indirectly (nor will Auxiliary permit anyone to whom Auxiliary has granted promotional, advertising or other rights), maintain any agreement or relationship pursuant to which any Competitive Products are associated in any manner with Auxiliary, the Campus, or the Teams in any fashion that creates or tends to create the impression of a relationship or connection between the Auxiliary, the Campus or the Teams and any Competitive Product. For further specificity, and not by way of limitation, Auxiliary agrees that no permanent or temporary advertising, signage, or trademark visibility for Competitive Products will be displayed or permitted anywhere on the Campus. Nothing contained herein will prevent on-Campus consumption by students, faculty or their guests of Competitive Products purchased outside the Campus.
- 5. **Consideration.** For the rights described herein, Sponsor agrees to the following:
 - 5.1 **Sponsorship Fees.** In consideration of the rights and benefits granted to Sponsor hereunder and provided a minimum of six thousand four hundred (6,400) standard physical cases (each a "Case") of Products are purchased and paid for by Auxiliary directly from Sponsor and sold through Sponsor's full-service vending machines on Campus in any Agreement Year (the "Annual Volume Commitment"), Sponsor agrees to pay Auxiliary a total amount of One Hundred Thirty-two Thousand Dollars (\$132,000) for the entire Term (the "Sponsorship Fees"). Subject to the adjustment described below, Sponsor shall pay Auxiliary the Sponsorship Fees in six (6) annual installments as follows, provided the Annual Volume Commitment has been met:

prices and/or commission rates on an annual basis as necessary to reflect changes in its costs, including cost of goods, manufacture or delivery. Commissions will be paid on or about the 20th of 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 Auxiliary, and shall become immediate property of Auxiliary.

5.4 Complimentary Product. Each Agreement Year, Sponsor shall provide Auxiliary, upon Auxiliary's advance request, with up to one hundred (100) standard physical cases of complimentary 12 oz. Product of Sponsor's choosing. In the event Auxiliary does not request all complimentary Product by the end of each Agreement Year, any remaining complimentary Product shall be retained by Sponsor with no further obligation.

Product Available
- see Business Affairs

5.5 Marketing Support. Sponsor shall establish a fund in the maximum amount of Two Thousand Five Hundred Dollars (\$2,500) for Auxiliary each Agreement Year (the "Marketing Support Fund"). The Marketing Support Fund shall be held and managed by Sponsor and will be used to defray the costs of various promotional activities to promote the sales of Products at the Campus. Any amounts in the Marketing Support Fund remaining unused at the end of any Agreement Year shall be retained by Sponsor with no further obligation.

Promotional Available
- see Business Affairs

6. ***Permitted Exception.***

Notwithstanding anything in this Agreement to the contrary, Auxiliary may make available non-carbonated Competitive Products in non-carbonated Beverage categories for which Sponsor does not distribute a comparable Product, as reasonably determined by Sponsor, provided, however, that: (i) such Competitive Products shall not be placed in any equipment owned by Sponsor; (ii) Products shall also be made available alongside any such Competitive Products in any location where such Competitive Products are available; (iii) no more than five percent (5%) of the total Beverage space on the Campus will be allocated to any such Competitive Products at any time; and (iv) if Sponsor begins distribution of a comparable Product, as determined by Sponsor, University will cease to sell such Competitive Products and will instead begin selling Sponsor's comparable Product. Auxiliary agrees that this provision shall not be read to allow advertising or promotional rights with respect to any such Competitive Products except that trademarks for such Competitive Products may be displayed on menu boards and on dispensing equipment to indicate availability.

7. ***Equipment and Service.***

Sponsor will loan vending equipment and service sufficient to meet Auxiliary's reasonable needs as follows:

7.1 During the Term, Sponsor will loan to Auxiliary all Beverage dispensing equipment ("Equipment") which is reasonably required in Sponsor's discretion to dispense Products at the Campus.

7.2 Auxiliary agrees that: (i) upon request of Sponsor, Auxiliary will execute Sponsor's equipment placement agreements, however, if any of the terms of the equipment placement agreements are in conflict with the terms of this Agreement, this Agreement will control; (ii) the Equipment may not be removed from the Campus without Sponsor's written consent; (iii) Auxiliary will not encumber the Equipment in any manner or permit any attachment thereto except as authorized by Sponsor for its Equipment; and (iv) Auxiliary will be responsible to Sponsor for any loss or damage to the Equipment, reason-

games on the Campus for a period of more than thirty (30) consecutive calendar days during its scheduled season (whether or not due to a cause beyond the reasonable control of Auxiliary, including a strike or other work stoppage), then in addition to any other remedies available to Sponsor, Sponsor may elect, at its option, to adjust the Sponsorship Fees and/or other funding to be paid to Auxiliary for the then remaining portion of the Term (and Auxiliary will pay to Sponsor a pro rata refund of any prepaid amounts and a pro rata refund of the costs of refurbishing and installing the Equipment) to reflect the diminution of the value of rights granted hereunder to Sponsor. In the event Sponsor elects to exercise its right to such adjustment and refund, Auxiliary may, at its option, within ten (10) days following receipt of notice of any adjustment, notify Sponsor of its disagreement with the amount of the adjustment. The parties will then attempt in good faith to resolve the disagreement over such adjustment. If the parties cannot, after good faith negotiations, resolve the matter, Sponsor may terminate this Agreement.

- 8.6 The parties acknowledge that the rights granted to Sponsor herein are special, unique and extraordinary, and are of peculiar value, the loss of which cannot be fully compensated by damages in an action at law or any application of other remedies described herein. As a result, Auxiliary acknowledges and agrees that, in addition to any other available remedies, in the event of a material limitation of any of Sponsor's rights hereunder, Sponsor will be entitled to seek and obtain equitable relief, including an injunction requiring Auxiliary to comply fully with its obligations under this Agreement.
- 8.7 Auxiliary recognizes that Sponsor has paid valuable consideration to ensure an exclusive associational relationship with Auxiliary, the Teams, the Auxiliary Marks, and the Campus with respect to Beverages and that any dilution or diminution of such exclusivity seriously impairs Sponsor's valuable rights. Accordingly, Auxiliary will promptly oppose Ambush Marketing and take all reasonable steps to stop Ambush Marketing and to protect the exclusive associational rights granted to Sponsor by Auxiliary in this Agreement. In the event any such Ambush Marketing occurs during the Term, each party will notify the other parties of such activity immediately upon learning thereof.
- 8.8 Sponsor shall have the right to withhold and not pay further Sponsorship Fees or any other amounts which may become payable to Auxiliary pursuant to this Agreement if: (i) Auxiliary has failed to perform its obligations hereunder; (ii) Sponsor's rights hereunder have been lost, limited or restricted, including the existence of Ambush Marketing; or (iii) there exists a bona fide dispute between the parties.
9. **Rights of First Negotiation and Refusal.**
- 9.1 Sponsor will have the Rights of First Negotiation and Refusal upon expiration of this Agreement for any similar agreement regarding Beverage availability, merchandising, promotional or advertising rights.
- 9.2 Sponsor will have the Rights of First Negotiation and Refusal for any new forms of advertising or sponsorship offered by the Auxiliary and not otherwise covered by this Agreement.
10. **Confidentiality.** Subject to the provisions of applicable law, Auxiliary agrees that the terms and conditions provided to Auxiliary by Sponsor under this Agreement will be kept confidential by Auxiliary, its agents, employees and representatives and will not be disclosed in any manner whatsoever, in whole or in part, by Auxiliary or its agents, employees or representatives

12. **Construction of this Agreement.**

- 12.1 This Agreement and any dispute arising out of or relating to this Agreement will be governed by and construed in accordance with the laws of the State of California without regard to principles of conflicts of law.
- 12.2 The captions used in this Agreement are for convenience only and will not affect in any way the meaning or interpretation of the provisions set forth herein.
- 12.3 This Agreement, including the Exhibits, which are an integral part of this Agreement and are expressly incorporated herein by this reference, and the document(s) referred to herein, shall constitute the final, complete and exclusive written expression of the intentions of the parties hereto with respect to the subject matter hereof and will supersede all previous communications, representations, agreements, promises or statements, either oral or written, by or between any party with respect thereto. This provision will not be read to invalidate or amend any other written agreements between Sponsor and/or any Affiliate of Sponsor and Auxiliary and/or any Affiliate of Auxiliary. This Agreement, and each of its terms and conditions, may be amended, modified, or waived only in writing signed by each of the parties hereto. Any such modifications, waivers, or amendments will not require additional consideration to be effective.
- 12.4 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.

13. **Miscellaneous.**

13.1 Indemnification Rights

13.1.1 Auxiliary Indemnification Obligations. Auxiliary agrees to defend, indemnify, and hold Sponsor harmless from and against all claims, suits, liabilities, costs, and expenses, including reasonable attorneys' costs and fees related to: (i) Auxiliary's material breach of this Agreement; (ii) for injury to, including death of, persons (whether they be third persons or employees of any of the parties hereto) or any loss of or damage to property in any manner arising from, the rights conveyed herein; and (iii) all claims, demands or litigation alleging that any of the Auxiliary Marks violates or infringes on trademarks, tradenames, copyrights, or other proprietary rights provided that such tradenames, trademarks, and copyrights have been used in the exact manner provided by Auxiliary, with the understanding that the obligations set forth above shall not apply to any loss or damage to the extent caused by the acts, omissions, or negligence of the party seeking to be indemnified.

13.1.2 Sponsor Indemnification Obligations. Sponsor shall defend, indemnify, and hold Auxiliary harmless from and against all claims, suits, liabilities, costs, and expenses, including reasonable attorney's costs and fees related to: (i) Sponsor's material breach of this Agreement; and (ii) for injury to, including death of, persons (whether they be third persons or employees of any of the parties hereto) or any loss of or damage to property in any manner arising from the negligence of Sponsor, its employees, and agents in the course of their duties

Attention: General Counsel
Facsimile: 770-989-3619

If to Auxiliary:

College of the Desert
43500 Monterey Avenue
Palm Desert, CA 92260
Attention: Vice President, ~~Administrative Services~~ Business Affairs
Facsimile: 760-341-8678 [insert fax number]

- 13.4 This Agreement or any part hereof will not be assigned or otherwise transferred by any party without the prior written consent of the other parties; provided, however, that Sponsor or Auxiliary shall have the right to assign or delegate this Agreement to any of its divisions or wholly-owned subsidiaries, or in connection with the sale or merger of a majority of its assets upon providing written notice to the other parties, but such assignment will not operate to relieve Sponsor or Auxiliary, as the case may be, of any of its liability or duties hereunder after such assignment becomes effective.
- 13.5 The parties are acting herein as independent contractors and independent employers. Nothing herein contained will create or be construed as creating a partnership, joint venture or agency relationship between the parties and no party will have the authority to bind the other in any respect.
- 13.6 No party will obtain, by this Agreement, any right, title, or interest in the trademarks of the other parties, nor, except as provided herein, will this Agreement give any party the right to use, refer to, or incorporate in marketing or other materials the name, logos, trademarks or copyrights of the other parties.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be duly executed.

Sponsor

By: 

Printed Name: Esther Kowalski

Title: Pricing Execution Manager

Date: 5/18/09

Auxiliary

By: 

Printed Name: Edwin Deas

Title: Vice President, Business Affairs

Date: June 1, 2009

"Products" means Beverage products purchased directly from Sponsor or sold through vending machines owned and stocked exclusively by Sponsor.

"Rights of First Negotiation and Refusal" means that Auxiliary will negotiate exclusively with Sponsor (i) for a period of ninety (90) days before the termination of this Agreement for any similar agreement regarding Beverage availability, merchandising, promotional or advertising rights and/or (ii) for a period of ninety (90) days following the date new forms of signage or advertising become available. After such exclusive negotiation period, Auxiliary will be free to negotiate with any person or entity. If Auxiliary receives a Bona Fide Offer regarding such rights from a third party, then Auxiliary will be obligated to notify Sponsor of such offer and Sponsor will have thirty (30) business days from the date of such notice to offer to contract with Auxiliary on terms no less favorable to Auxiliary than those contained in the Bona Fide Offer of a third party. In no event will Auxiliary enter into a contract with a third party upon terms and conditions more favorable to such third party than those previously offered to Sponsor.

"Team" or "Team(s)" means all intercollegiate athletic teams associated with College of the Desert.

"Auxiliary Marks" means the College of the Desert'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 Effective Date or which will be created during the Term and which are owned, licensed or otherwise controlled by the Auxiliary.

EXHIBIT C

Approved Cup Graphic

