

# VENDING SERVICES AGREEMENT

**Client Name:** \_\_\_\_\_

**Client Address:** \_\_\_\_\_

**Effective Date:** \_\_\_\_\_

Prepared by Vendor

**Client** grants **Vendor** the exclusive right to operate the service(s) indicated above, and the exclusive right to provide and sell food, salty snacks, confections, pastry, and non-alcoholic beverages and other such articles on the Premises and all Client locations within the same county, with rights to continue service should Client relocate. Client authorizes Vendor to install, service, and maintain such mutually agreed number and type of vending machines at mutually agreed locations, sufficiently conspicuous to encourage sales activity.

Client will provide Vendor without cost all utilities and facilities reasonably necessary for the efficient performance of the service(s), including but not limited to: heat, hot and cold water, lights, electrical current and extermination services, and shall be responsible for all governmental permits and fees. Client will provide Vendor with prompt notice of any equipment malfunctions, out-of-stocks, and/or other problems, and Vendor agrees to respond in a timely manner to restore such equipment to operating condition. Vendor shall be entitled to remove all such equipment upon termination of this Agreement.

All persons employed by Vendor will be employees of Vendor, and not of Client. Client agrees that without prior written permission of a Vendor officer, it shall not permit Vendor to assign any confidential information or trade secrets of Vendor, including any part of its operation, to any third party and shall not permit employees of Vendor to be employed by Client.

Client shall not permit its employees or others to abuse, move, remove, disconnect, or tamper with equipment. Vendor shall not be liable for any damage caused by its personnel or equipment unless found to have been caused by Vendor's gross negligence.

The parties agree that continuing investment in Vendor's equipment is desirable in order to keep it up to date. To that end, the parties agree that if Vendor invests \$5,000 or more in upgrading the equipment during the Term, the Term shall be extended for a like Term.

If commissions are payable hereunder, they shall be payable monthly and calculated on net sales of all non-perishable snack products and carbonated beverages sold through vending machines (net sales is defined as gross sales less taxes, container deposits, product costs, permits, fees, waste/spoilage, refunds, credit card fees, cold food, pastry, and condiment usage).

The parties agree to first meet and attempt to resolve each and every dispute peaceably and among themselves. In the event the matter cannot be resolved between the day-to-day operations, the parties shall meet at the corporate officer level, and if still unresolved, shall submit to mediation with a good faith attempt to resolve all claims prior to arbitration.

Upon demand of either party, any controversy or claim arising under or out of the provisions of this Agreement, or the breach thereof, or with respect to the making or validity of this Agreement, shall be determined by arbitration, by one arbitrator, acting under the rules of the American Arbitration Association. The party substantially prevailing in the resolution of any dispute shall be entitled to recover from the other party all of its own prevailing party's reasonable attorney's fees and all other expenses reasonably incurred in connection with the successful result.

An award in any action hereunder shall include an award of the non-prevailing party of all of the substantially prevailing party's damages, including all loss profits, damages to its goodwill and reputation, as well as attorney's fees, costs, and disbursements.

The parties agree that in the event of a Client breach, it would be impossible to adequately determine damages at law. Therefore, if a Client breach occurs for any reason, Client shall pay Vendor as liquidated damages, and not as a penalty, a sum equal to the net number of weeks remaining in the term hereof multiplied by Vendor's average weekly profits. Profits shall mean the gross amount received weekly by Vendor less 65% as cost of operations including merchandise. In the event of

arbitration/litigation, venue shall be determined in accordance with Vendor's address above.

## COFFEE SERVICE

Client shall purchase all its coffee and related office refreshment supplies from Vendor only. All filters may be changed quarterly and invoiced at the standard rate in effect. All past due invoices shall be subject to a service charge of 1.5% per month and Vendor reserves the right to withhold commissions due hereunder until all past due invoices are paid in full.

## VENDING SERVICES

Client authorizes Vendor to install, service, and maintain surveillance cameras, cables, and display monitors for digital advertising. Utilities and facilities to be provided by Client shall include broadband internet with public IP address dedicated to Vendor with speed of at least 1Mb/2M (can be T1, DSL, Cable or similar circuit with ISP modem located at the vending kiosk) and electrical panel dedicated to the vending location.

Client shall provide a dedicated 15 amp circuit at 110v to power an isolated grounded circuit labeled as "electronic equipment only." Takeover installations must be completed over Vendor's network and network equipment removed within ninety (90) days or replaced with newer Vendor personnel and equipment only.

All security and operational surveillance systems and networks will not permit remote access from outside Vendor and all information will remain on Vendor's network behind Vendor's firewall. Vendor must approve Client-provided devices connected to Vendor's network before Vendor has the right to disconnect any unapproved devices.

The authorized vending installation shall remain and be serviced until the end of Vendor's agreement. After that, should Client terminate this agreement for reasons of unsatisfactory Vendor service, Vendor shall be given thirty (30) days written notice to correct said deficiencies.

If deficiencies remain unresolved, Client may cancel the agreement with another thirty (30) days written notice. Client agrees to provide Vendor with written Notice of any offer from any entity other than Vendor to provide food, vending, coffee, or vending services to Client (the "Competing Offer") received while the Agreement is in force, and to afford Vendor the opportunity to match the Competing Offer.

Should Vendor elect to match the Competing Offer, this Agreement shall remain in effect for a like Term in accordance with the terms of the Competing Offer, unless Vendor and Client agree otherwise.

Upon termination of this Agreement for any reason, Client agrees to pay Vendor all reasonable equipment installation and removal costs, and all outstanding obligations including past due invoices in full prior to Vendor's last day of service.

This Agreement constitutes the entire agreement between the parties. There are no other oral or written understandings. No modification of this Agreement or waiver of its provisions shall be valid unless in writing. This Agreement supersedes all other agreements between the parties with respect to the matters hereof, their successors, and assigns.

This Agreement shall be binding on all parties whose signatures appear herewith. The signatory for Client represents that he/she has full authority to execute this Agreement. All agreements, notices, and

requests by any party hereto shall be in writing, and all Notices to Vendor shall be defined as via certified mail to the address above: Attn: General Counsel.

## TERM

This Agreement shall remain in effect for **three (3) years from the Effective Date (“the Term”)**, and thereafter either party shall have the option to renew for successive like Terms which, if not exercised, shall be deemed exercised by both parties **unless either party provides Notice otherwise no more than one hundred twenty (120) days and no less than ninety (90) days prior to expiration of the initial or subsequent Terms.**

## SIGNATURES

### **Client:**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

### **Vendor:**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_