

3. Advertising Rights

(a) Account hereby grants to Bottler the exclusive right to advertise Beverages and specifically Products (i) at the Facilities and (ii) in connection with the Facilities. No permanent or temporary advertising, signage or trademark visibility for Competitive Products will be displayed or permitted anywhere at the Facilities.

(b) Account 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 and the media. The Products shall be prominently listed on any menu boards located at the Facilities and all equipment dispensing Products shall be prominently identified with the appropriate trademarks/logos.

(c) Account further agrees that only Products will be dispensed in Bottler's equipment and that no other trademarked, equipment, coolers or containers will be permitted.

4. Sponsorship Rights

(a) 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 Facilities.

(b) Account hereby grants to Bottler a royalty-free license, exclusive for Beverages, to use the trademarks, logos and other intellectual property of the Account and Facilities ("Account Marks") in connection with the promotion of Products. Such promotion may occur in advertising (TV, radio, and print), packaging, vessels, promotional materials, and point of sale materials for Products and may be in connection with the marks and logos of Bottler's customers.

(c) Account will not enter into any agreement or relationship whereby any Competitive Products are associated in any manner with Account, the Facilities, or any of the Account Marks in any advertising or promotional activity of any kind.

5. Product Rights

(a) Subject to the Permitted Exception set forth in Section 7, Account hereby grants to Bottler the exclusive right to sell or distribute Beverages at the Facilities. Account and/or its Concessionaires shall purchase all Products, (and cups, lids and carbon dioxide, if applicable) directly from Bottler. Subject to the Permitted exception set forth in Section 7, no Competitive Products may be sold, dispensed, sampled or served anywhere at the Facilities.

(b) Account hereby grants to Bottler the exclusive Beverage vending rights at the Facilities. Account agrees that Bottler shall have the right to place a minimum of One (1) Beverage vending machine, One (1) Beverage Fountain Machine and Eight (8) Beverage Coolers in mutually agreed upon locations at the Facilities.

(c) During the Term, Bottler will loan to Account, pursuant to the terms of Bottler's equipment placement agreement, at no cost, that Beverage dispensing equipment reasonably required and as mutually agreed upon to dispense Beverages at the Facilities ("Equipment"). Bottler's equipment placement agreement will apply to all Equipment provided by Bottler, except to the extent any of its provisions are prohibited by applicable law and to the extent the terms thereof are in conflict with the terms of this Agreement, in which case this Agreement will control. Account represents and warrants that electrical service at the Facilities is

proper and adequate for the installation of Equipment, and Account agrees to indemnify and hold Bottler harmless from any damages arising out of defective electrical services.

6. Consideration

In consideration of the rights and benefits granted to Bottler hereunder, Bottler agrees to provide Account with the following:

(a) Sponsorship Fees. Bottler agrees to pay Account an aggregate of Eighty-Two Thousand and Five Hundred Dollars (\$82,500) for the entire Term (the “Sponsorship Fees”).

The Sponsorship Fees shall be paid in equal annual installments of Sixteen Thousand Five Hundred Dollars (\$16,500). Each such installment shall be payable within sixty (60) days following the end of each Agreement Year in the Term. The Sponsorship Fees shall be deemed earned evenly over the Agreement Year for which they are paid.

(b) Commissions. Bottler agrees to pay Account a monthly commission based on the commission rates and initial vend prices set forth in Exhibit A.

(c) Pricing. Account shall be entitled to purchase Products from Bottler in accordance with the price schedule set forth in Exhibit B. Such prices shall remain in effect until February 28, 2025.

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 Bottler’s cost of goods, manufacture or delivery, or increases in taxes, deposits and other government related fees in which case Bottler may increase prices to cover such increased costs. Annual price increases shall occur automatically on March 1st.

(d) Rebates. Bottler will pay Account (i) a rebate of Fifty Cents (\$0.50) for each gallon of post mix fountain Products purchased and paid for by Account for sale at the Facilities during the Term and (ii) the rebate shown below for each standard physical case of bottle/can Products identified below which are purchased and paid for by Account for sale at the Facilities during the Term (“Rebates”). The Rebates shall be paid quarterly, in arrears, within thirty (30) days after the end of each applicable three-month period in which the Rebate was earned and will be based on Bottler’s case sales records. Rebates shall not be earned for sales of Products through Bottler’s full-service vending machines.

Product Description	Units per std phy case	Price per std phy case
16 oz PET - BodyArmor	24	\$ 5.00*
20 oz PET - KO CSD	24	\$ 7.00
16 oz Can - Monster Brands	24	\$ 2.50
20 oz PET - Dasani	24	\$ 6.00
20 oz PET - Powerade	24	\$ 2.50
14 oz PET - Core Power	24	\$ 7.00*
15.5 oz PET - Topo Chico	24	\$ 2.50
13.7 oz PET - Dunkin Donuts	24	\$ 2.50*
20 oz PET - Vitaminwater	24	\$ 5.00*
20 oz PET - Smartwater	24	\$ 5.00

12 oz PET - MMJTG	24	\$	7.00
18.5 oz PET - Gold Peak	24	\$	5.00*

* This item is sold in a 12-unit physical case. Therefore, the rebate will be half of the amount shown per 12-unit case to total the amount shown per a standard 24-unit case. For illustration purposes, if the rebate shown above is \$5.00 per standard physical case, the rebate for a 12-unit case will be \$ 2.50.

(e) Marketing Funds. For each of Agreement Years 1-5, Bottler will establish a marketing fund in the maximum amount of Two Thousand Dollars (\$2,000) to be used to support promotional and marketing activities to promote the sale of Products at the Facilities (the “Marketing Fund”). Bottler will hold, manage and administer this Marketing Fund. Any amounts remaining unused at the end of any such Agreement Years shall be retained by Bottler with no further obligation to Account.

(f) Bodyarmor Marketing Fund. Bottler will establish a fund in the maximum amount of Five Thousand Dollars (\$5,000) for each of Agreement Years 1-5 which will be used for mutually agreed upon promotional and marketing activities, facility activations, retail/food service promotions and/or products for sampling events (“Bodyarmor Marketing Fund”). Bottler will hold, manage and administer this Bodyarmor Marketing Fund. Any amounts remaining unused at the end of any Agreement Year shall be retained by Bottler without further obligation to Account.

(g) Complimentary Product. Each Agreement Year during the Term, Bottler shall provide Account with complimentary Products of Bottler’s choosing, with an estimated retail value of up to One Thousand Two Hundred Fifty Dollars (\$1,250) as determined in good faith by Bottler. Such complimentary Products will be provided to Account upon reasonable advance request. Account must request all available complimentary Products during the course of each Agreement Year. If Account 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 Account and retained by Bottler with no further obligation.

(h) In the event Account employs a Concessionaire, Account 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. Account acknowledges that there will be no duplication of allowances, funding or benefits (including pricing) to Account or Concessionaire if Concessionaire has an existing agreement with Bottler. If such Concessionaire requires Bottler to pay the Concessionaire funding or to provide Products pursuant to prices under the separate agreement with the Concessionaire, then Customer agrees that Bottler may deduct such duplicate funding and lost margin on such lower cost Products paid or sold to Concessionaire from any payment made by Bottler to Customer.

7. Permitted Exception. Account shall have the right to make available for sale freshly brewed coffee, freshly brewed tea and sno cones served in cups bearing the trademarks of Beanstalk Coffee and Sno at the existing Beanstalk Coffee and Sno location so long as Competitive Products at such location are limited solely to freshly brewed coffee, freshly brewed teas and sno cones. In addition, Account will ensure that Beanstalk Coffee and Sno makes available for purchase Bottler’s Products at such location.

Account agrees that this Section shall not be read to allow advertising or promotional rights with respect to such Competitive Products except that the names, logos, or trademarks of Beanstalk Coffee and Sno may

be displayed on menu boards, on dispensing equipment, branded paper cups, cup sleeves and similar disposable branded items provided in the course of the sale and service of freshly brewed coffee freshly brewed tea and sno cones.

8. Miscellaneous

During the Term, Account shall provide to Bottler those items set forth in Exhibit C hereto.

9. Prohibition on Transshipping; Wholesaling

Account will not Transship or Wholesale any Beverages offered for sale by Bottler. Account also will not purchase from third-parties any Beverages offered for sale by Bottler that have been Transshipped. If Account Transships, Wholesales or purchases any Beverages offered for sale by Bottler that have been Transshipped or Wholesaled, then Bottler reserves the right to limit quantities or to refuse to sell Products to Account, to withhold any funding payable to Account, and to seek reimbursement of any costs or expenses from Account that result from any Transshipping or Wholesaling.

10. Termination

(a) If either party breaches any of its obligations set forth in this Agreement and fails to cure such breach within thirty (30) days after written notice from the non-breaching party, then at its option and not as its sole remedy, the non-breaching party may terminate this Agreement, and Account shall (i) return any Equipment, (ii) pay to Bottler a pro rata portion of the costs of refurbishing and installing the Equipment, and (iii) pay to Bottler the unearned portion of pre-paid Sponsorship Fees or other upfront funding, if any.

(b) Notwithstanding the other provisions of this Agreement, if any federal, state or local law, rule, regulation or order prohibits, restricts or in any manner interferes with the sale or advertising of Beverages at any time during the Term of this Agreement or if for any reason the use of the Facilities declines, then at its option and not as its sole remedy, Bottler may terminate this Agreement and Account shall (i) return any Equipment, (ii) pay to Bottler a pro rata portion of the costs of refurbishing and installing the Equipment, and (iii) pay to Bottler the unearned portion of pre-paid Sponsorship Fees or other upfront funding, if any.

(c) Account 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. Upon expiration or revocation of such authority, then at its option and not as its sole remedy, Bottler may terminate this Agreement, and Account shall (i) return any Equipment, (ii) pay to Bottler a pro rata portion of the costs of refurbishing and installing the Equipment, and (iii) pay to Bottler the unearned portion of pre-paid Sponsorship Fees or other upfront funding, if any.

(d) Bottler shall have the right to withhold and not pay further any amounts which may become payable to Account pursuant to this Agreement if: (i) Account 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.

(e) Bottler agrees that Account has the continuing right to terminate this Agreement at the end of any fiscal year of Account in which funds for this Agreement are not appropriated. In such case of termination for non-appropriation, Account shall provide notification to the Bottler of such non-appropriation, and in such notice shall certify that it has no intention to enter into any contract for the goods and services which are in substance identical or similar to any of the goods and services provided by Bottler under this Agreement for the remainder of the Term of the Agreement. In the event of such termination Account will (i) pay Bottler, for all goods delivered and obligations incurred prior to the date of termination in accordance with the terms hereof (ii) return any Equipment and (iii) pay to Bottler a pro rata portion of the

costs of refurbishing installing the Equipment and (iv) pay to Bottler the unearned portion of pre-paid Sponsorship Fees or other upfront funding, if any.

(f) In the event of a termination of this Agreement for any reason, Account agrees it shall only be entitled to the earned Sponsorship Fees pro-rated to the date of termination, or, if earlier, the date of any default hereunder by Account.

(g) Nothing in this section shall operate to restrict any of either party's other remedies in the event of a material breach by the other party.

11. Record Retention. Bottler agrees to maintain records pertaining to the sale of Products and the payment of the consideration to Account under the Agreement during the Term and for one (1) year thereafter. Such records shall be made available by Bottler for review by Account within ten (10) days following written request by Account. Notwithstanding the foregoing, any such review shall be requested during the Term of the Agreement and be limited to no more than once per year.

12. Governing Law

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 Oklahoma, without reference to its conflict of law rules.

13. Compliance with Law

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.

14. Retention of Rights

Account 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 Account 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.

15. Confidentiality

During the Term, and for a one (1) year period thereafter, the parties shall keep the terms of this Agreement confidential.

16. Entire Agreement

This Agreement and its exhibits and Bottler's equipment placement agreement contain the entire agreement between the parties with respect to the subject matter hereof. Neither party shall assign this Agreement without the prior written consent of the other party, except that Bottler may assign this Agreement to any of its subsidiaries or affiliates without the prior written consent of Account. All amendments to or waivers of this Agreement must be in writing signed by all the parties.

17. Insurance

Bottler shall, at its own expense, keep in force insurance of the following types, including the City as an additional insured for Commercial General Liability and Automobile Liability insurance policies required by

the Agreement, and in not less than the following amounts, issued by a company or companies licensed to do business in Oklahoma and with an A.M. Best Rating of at least A-VII, against liabilities for accidents arising out of or in connection with Bottler's operations under this Agreement, except when caused by the City's negligence or that of its agents, contractors or employees, and shall furnish to the City certificates evidencing the insurance coverage required by this Agreement. Bottler shall endeavor to provide to the City a thirty (30) day written notice if any insurance required by this Agreement is cancelled or materially changed, and this statement shall be reflected on the certificate of insurance.

(a) Worker's Compensation Insurance and Employer's Liability Insurance as prescribed by State Statute, with any subcontractors working at the Facilities to also provide the same.

(b) Provide both Commercial General Liability Insurance with minimum limits of \$1,000,000 each occurrence, \$2,000,000 general aggregate and \$2,000,000 products/completed operations aggregate; and Automobile Liability Insurance with minimum limits of \$1,000,000 combined single limits.

18. Nondiscrimination

Both parties agree to comply with all applicable federal, state, and local non-discrimination laws.

19. Relationship of Parties

This Agreement does not create any partnership or joint venture between the parties hereto, or render any party liable for any of the debts or obligations of the other party. Neither party shall be deemed to be an agent or representative of the other.


20. Severability

If any provision of this Agreement is determined to be unenforceable, invalid, or illegal, then the enforceability, validity, and legality of the remaining provisions will not in any way be affected or impaired, and such provision will be deemed to be restated to reflect the original intentions of the parties as nearly as possible in accordance with applicable law.

[Signature Page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written. The parties agree that this Agreement may be signed electronically and that the electronic signatures are deemed original signatures for purposes of the validity, enforceability, and admissibility of this Agreement.

COCA-COLA SOUTHWEST BEVERAGES LLC (BOTTLER)

BY: 
Robert Sweeney (May 22, 2024 09:51 CDT)
Printed Name: Robert E Sweeney
Title: Vice President
Date: 05/22/2024

CITY OF NORMAN (ACCOUNT)

APPROVED this _____ day of _____, 2024 by the Norman City Council.

Larry Heikkila, MAYOR

ATTEST:

Brenda Hall, City Clerk

APPROVED as to form and legality this _____ day of _____, 2024.

CITY ATTORNEY

**EXHIBIT A
COMMISSIONS**

Product Description	YR 1 & 2	YR 3 & 4	YR 5	Commission
20 oz PET - Sodas	\$ 2.75	\$ 3.00	\$ 3.25	16%
20 oz PET - Dasani	\$ 2.75	\$ 3.00	\$ 3.25	16%
20 oz PET - Powerade	\$ 2.75	\$ 3.00	\$ 3.25	16%
16 oz PET - BodyArmor	\$ 3.00	\$ 3.25	\$ 3.50	16%
14 oz PET - Core Power	\$ 3.50	\$ 3.75	\$ 4.00	16%
16 oz Can - Monster Brands	\$ 3.75	\$ 4.00	\$ 4.25	16%

Commissions are paid based upon cash collected after deducting taxes, deposits, recycling fees, other handling fees, communication charges and credit and debit card fees, if any. Commissions shall not be payable on any sales from vending machines not filled or serviced exclusively by Bottler. Bottler may adjust the vend prices and/or commission rates as necessary to reflect changes in its costs, including cost of goods or to implement cash discounts. 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 Account and shall become immediate property of Account.

EXHIBIT B
INITIAL PRICE SCHEDULE*

Product Description	Units	Price
16 oz PET - BodyArmor	12	\$ 20.50
20 oz PET - Sodas	24	\$ 36.99
16 oz Can - Monster Brands	24	\$ 47.72
20 oz PET - Dasani	24	\$ 24.58
20 oz PET - Powerade	24	\$ 30.71
14 oz PET - Core Power	12	\$ 34.85
15.5 oz PET - Topo Chico	24	\$ 30.85
13.7 oz PET - Dunkin Donuts	12	\$ 27.23
20 oz PET - Vitaminwater	12	\$ 19.89
20 oz PET - Smartwater	24	\$ 35.40
12 oz PET - MMJTG	24	\$ 37.47
18.5 oz PET - Gold Peak	12	\$ 21.33
5 - Gallon BNB	1	\$ 114.50
2.5 - Gallon BNB	1	\$ 59.63

* All products are subject to availability. Account agrees to comply with Bottler's minimum order requirements. Any changes in minimum order requirements shall be submitted in writing to Account thirty (30) days prior to such changes taking effect.

EXHIBIT C

Each Agreement Year during the Term, Account shall provide Bottler the following at no cost to Bottler:

- 50 golf passes to the Westwood Golf Course
- 50 swim passes to the Westwood Family Aquatic Center






City of Norman.5.22.2024 Contract

Final Audit Report

2024-05-22

Created:	2024-05-22
By:	Beatriz Rodriguez (rodriguezbeatriz@cocacolaswb.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAGMOS6XcNe-vOC695geH-zX_yB2Z-HcHV

"City of Norman.5.22.2024 Contract" History

-  Document created by Beatriz Rodriguez (rodriguezbeatriz@cocacolaswb.com)
2024-05-22 - 1:33:50 PM GMT
-  Document emailed to Robert Sweeney (robert.sweeney@cocacolaswb.com) for signature
2024-05-22 - 1:33:54 PM GMT
-  Email viewed by Robert Sweeney (robert.sweeney@cocacolaswb.com)
2024-05-22 - 2:50:17 PM GMT
-  Document e-signed by Robert Sweeney (robert.sweeney@cocacolaswb.com)
Signature Date: 2024-05-22 - 2:51:28 PM GMT - Time Source: server
-  Agreement completed.
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