



Vending Machine Agreement **Contingency Acknowledgement**

For

Host Name:	
Host Contact:	
Contact E-mail:	
Contact Phone#:	
Address:	
City, State, Zip	
Tax Filing Jurisdiction	

Accepted for Host by:

Signature: _____
Name: _____
Title: _____
Date: _____

MY SIGNATURE ABOVE INDICATES THAT I HAVE CAREFULLY READ THIS VENDING MACHINE AGREEMENT COMPLETELY UNDERSTAND IT, AND HEREBY ACKNOWLEDGE AND UNDERSTAND THAT THE TERMS OF THIS AGREEMENT ARE CONTINGENT ON VENDOR RECEIVING A VENDING MACHINE FROM VENDOR'S SUPPLIER. I FURTHER UNDERSTAND THAT THE BENEFITS, RIGHTS, DUTIES AND OBLIGATIONS OF THIS AGREEMENT ONLY BECOME EFFECTIVE UPON VENDOR PROVIDING WRITTEN NOTICE FROM ITS SUPPLIER THAT A VENDING MACHINE IS TO BE DELIVERED TO THE LOCATION SET FORTH IN THE BELOW AGREEMENT.

I CERTIFY THAT I AM AUTHORIZED TO EXECUTE THIS AGREEMENT ON BEHALF OF HOST, AND DO HEREBY AGREE TO THE CONTENT OF THIS AGREEMENT IN ITS ENTIRETY.

Accepted for Purple Buggy Vending, LLC by:

Signature: PURPLE BUGGY VENDING, LLC
Name: JEROME DELAIN
Title: Member
Date: _____

VENDING MACHINE AGREEMENT

This Vending Machine Agreement (the "Agreement") is entered into this _____ day of _____, 2024, by and between [Entity Name], a South Carolina [Entity Type] with its principal place of business at [address] ("Host") and Purple Buggy Vending, LLC, a South Carolina Limited Liability Company with its principal place of business at 944 College Park Road, Unit B, Summerville, SC 29419 ("Vendor") (Host and Vendor are referred herein collectively as the "Parties," and individually as a "Party"). **THE PARTIES AGREE THAT THIS IS A CONTINGENT CONTRACT AND DOES NOT BECOME EFFECTIVE UNLESS AND UNTIL VENDOR PROVIDES HOST WITH A COPY OF THE SUPPLIER'S WRITTEN NOTICE THAT A VENDING MACHINE UNIT IS READY TO BE PLACED AT HOST'S LOCATION.**

RECITALS:

WHEREAS, Vendor is engaged in the business of installing, maintaining and servicing vending machines (hereinafter a "Unit"), containing beverages, including sodas, waters and teas, sold by the Coca-Cola Company (the "Supplier") and other drinks and/or snacks ("Vending Products").

WHEREAS, pursuant to the terms and conditions of this Agreement, Host desires to appoint Vendor as an independent contractor to install, maintain and service such Unit at [address the unit is to be placed] (the "Location"); and

WHEREAS, Vendor desires to place the Unit at the Location.

NOW THEREFORE, in consideration for the mutual promises contained herein and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

AGREEMENT:

I. TERM. This Agreement shall only become effective upon Vendor delivering to Host Supplier's written notice that a Unit is ready to be placed at Host's Location (hereinafter the "Effective Date"). Until the Effective Date, either Party may cancel this Agreement upon thirty (30) days written notice. This Agreement shall have an initial term of three (3) months from Supplier's delivery of the Unit to the Host's Location. Upon the expiration of such term (or any renewal term) this Agreement shall automatically renew for an additional three (3) month period unless either Party notifies the other party at least thirty-five (35) days prior to the expiration of the then current term of its intention not to renew the Agreement (the initial term and any renewal term shall be collectively referred to as the "Term").

II. APPOINTMENT OF VENDOR

A. Grant to Vendor: Subject to the terms and conditions of this Agreement and the limitations set forth below, Host grants permission to Vendor to install a Unit at Host's Location. Host agrees that it does not currently, and will not through the Term of this Agreement, represent, distribute or promote any other vending machines featuring beverages or snacks that compete with the Vending Products Vendor places in the Unit at the Location. Host hereby grants Vendor exclusive rights to stock and sell such Vending Products at the Location.

B. Ownership: Host hereby acknowledges that all right, title and interest in the Unit and Vending Products shall at all times remain with Supplier and/or Vendor, including all monetary profits (with the exception of the Consideration, as defined below), with respect to the Unit. Host shall have no right, title or interest therein, and Host is not authorized to grant any right or license with respect thereto except as expressly set forth in and permitted under this Agreement.

C. Theft and Vandalism: Except as reasonably attributable to the acts or omissions of Host's personnel or other contractors, Vendor shall bear the risk of loss to the Unit and any Vending Products from theft or vandalism while the Unit is placed at the Location. Host shall take all reasonable precautions to assure that the Unit is not vandalized, damaged, altered or manipulated in any way. Should theft of the Unit or Vending Products contained in the Unit or vandalism to the Unit itself occur, Host shall notify Vendor as soon as practicable. In the event that theft and/or vandalism continues, Vendor reserves the right to remove the Unit without notice and without penalty, loss or default under this Agreement.

D. Utilities: Host shall provide any electricity required to operate the Unit at Host's expense.

E. Maintenance and Repair: Host shall, neither itself, nor permit any other party to, repair, service, maintain, replace, relocate, move, remove or stock the Unit. Vendor shall use its commercially reasonable efforts to keep the Unit in good working order and condition at all times during the Term. Vendor shall have the exclusive right to repair, replace, refurbish or remove the Unit. Notwithstanding the foregoing, Host agrees to use its best efforts to keep the Unit in clean and sanitary condition, wholly free from all advertising and other materials, at all times. In addition, Host agrees to promptly notify Vendor of any need for repair or service, of any consumer complaints respecting the Unit. Host further agrees to fully cooperate with Vendor in effecting any necessary repairs or service, or in addressing any consumer complaints received.

III. VENDOR OBLIGATIONS. Vendor, in conjunction with the Supplier, shall install the Unit as soon as reasonably possible after the Effective Date. Vendor shall maintain the Unit in good working order and regularly maintain and clean the Unit so as not to detract from the Location. If there is a major equipment failure, Vendor will make effort to complete repair within five (5) business days of receipt of the parts necessary to make the repair. Vendor shall use its commercially reasonable efforts to regularly service and properly maintain the Unit at Host's Location. Host may terminate this Agreement and require Vendor/Supplier to remove the Unit in the event that the Unit is unsightly or its ongoing malfunctions reasonably detract from the Host's reputation. Vendor will re-fill and re-stock the Vending Products in the Unit on an "as needed" basis.

IV. CONSIDERATION. The Parties agree that, in exchange for the permission to place a Unit at the Host's Location, Host is expected to receive benefits from the provision of the Vending Products to Host's invitees, customers, and employees, could generate greater foot traffic at the Host's Location and may increase goodwill for Host (the "Consideration").

V. LIMITATION OF LIABILITY. FOR ANY AND ALL SERVICES PERFORMED PURSUANT TO THIS AGREEMENT (INCLUDING AND NOT LIMITED TO INSTALLATION OF THE UNIT), IN NO EVENT WILL VENDOR BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL OR INDIRECT DAMAGES, OR ANY KIND OR TYPE OF LOST BUSINESS, ACTUAL OR PERCEIVED LOST PROFITS, LOST DATA OR INFORMATION, ACTUAL OR PERCEIVED LOST REVENUES, REGARDLESS OF ANY FAULT, AND REGARDLESS AS TO WHETHER VENDOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER OR NOT SUCH DAMAGES WERE

FORESEEABLE. VENDOR WILL ONLY BE LIABLE FOR DAMAGES RESULTING FROM ITS PROVEN GROSS NEGLIGENCE OR INENTIONAL BREACH OF THIS AGREEMENT.

VI. INDEMNITY OF THE PARTIES. Subject to Section V above, the Parties agree to indemnify, defend, and hold harmless each other and the other's directors, officers, employees and agents from and against all claims, losses and liabilities arising out of or resulting from the grossly negligent acts or willful misconduct of the indemnifying party's employees or agents and/or any acts performed by the other under the direction of the indemnifying party, its employees or agents.

VII. INDEPENDENT CONTRACTOR RELATIONSHIP.

A. No Employer-Employee Relationship: It is expressly understood and agreed that during the Term of this Agreement, Vendor's relationship to Host will be that of an independent contractor and that neither this Agreement nor the services to be rendered hereunder shall for any purpose whatsoever or in any way or manner create any employer-employee relationship.

B. Taxes: The Parties agree that each shall have sole and exclusive responsibility for the payment of all federal, state and local income taxes derived from that portion of the proceeds received by that party based upon the revenue from the Unit.

C. Compliance with Law: Vendor shall assume and accept all responsibilities which are imposed on independent contractors by any applicable statute, regulation, ruling or otherwise. Vendor represents and warrants that Vendor will continue to be an independent merchant or enterprise within the meaning and requirement of any laws or customs in South Carolina. Vendor will comply with Host's policies and all applicable laws, rules, regulations of South Carolina and will take no action in connection with Vendor's duties under this Agreement that would violate any such laws, rules or regulations.

D. Not Agent: The Parties agree that neither Party will hold itself out or permit itself to be described otherwise than as an independent contractor of the other Party, and unless specifically authorized in advance in writing from the other Party, shall not enter into, assume or incur any obligation on behalf of the other Party or transact any business for the other Party.

VIII. COMPLIANCE WITH APPLICABLE LAWS. Vendor shall, at its own expense, comply with all applicable laws and make, obtain and maintain in force at all times during the Term of this Agreement, all filings, registrations, reports, licenses, permits and authorizations required under applicable law, regulation or order required for Vendor to perform its obligations under this Agreement.

IX. ASSIGNMENT. Vendor may assign, transfer or otherwise dispose of this Agreement in whole or in part to any individual, corporation or other entity without the prior written consent of Host, provided that Vendor shall continue to remain obligated to Host for the assignee's performance or breach of Vendor's duties and obligations hereunder until the next renewal of the Term, at which time Vendor's assignee shall be solely responsible for the performance or any breach of the Vendor Obligations under Section III and Vendor shall cease to be responsible for the same.

X. TERMINATION. Notwithstanding anything herein to the contrary, either Party may terminate this Agreement at any time with or without cause upon sixty (60) days written notice.

Upon Termination of this Agreement by either party, Host shall permit Vendor reasonable access to the Location, free from any claims of trespass, for purposes of removing the Unit and any other Vendor property at the Location within thirty (30) days from termination of this Agreement. Until such time as the Unit and Vendor property is removed, Host's obligations with respect to care of the Unit shall continue as set forth herein, and Host shall be responsible to Vendor for all costs and expenses associated with damage to the Unit or missing pieces/equipment, excepting reasonable wear and tear. Vendor shall use its best efforts to leave the Location in the condition in which it existed prior to the placement of the Unit, excepting reasonable wear and tear and any damage which may have occurred which was beyond Vendor's reasonable control and/or anticipation.

XI. CONFIDENTIALITY. Except as may otherwise be required by law or legal process, neither Party hereto shall disclose to any third party the terms and conditions of this Agreement or any information respecting sales or revenue of the Unit, during the Term or thereafter. This obligation shall survive termination of this Agreement.

XII. GENERAL TERMS.

A. Governing Law and Arbitration: The formation, interpretation and performance of this Agreement shall be governed by and construed according to the laws of the State of South Carolina. Any controversy, claim or breach arising out of or relating to this Agreement shall be settled by binding arbitration, held in Charleston, South Carolina and administered in accordance with the Uniform Arbitration Act of South Carolina. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction.

B. Waivers, Notices and Payment Performance: No term or provision of this Agreement will be considered waived by either Party, and no breach excused by either Party, unless such waiver or excuse of breach is, in writing, signed on behalf of the Party against whom the waiver is asserted. No such waiver or excuse of breach of any provision of this Agreement by either Party shall be deemed to be an ongoing waiver or excuse of subsequent breaches of any provision of this Agreement by the other Party. No delay or omission in the exercise of any remedy shall impair or affect a Party's right to exercise the same. All notices to the other Party must be in writing and may be faxed, delivered personally, or sent by certified or registered mail, return receipt requested, or by a recognized overnight courier service. All notices shall be sent using the address designated in writing in this Agreement or subsequent addendum(s). Any notice shall be deemed given when delivered.

C. Force Majeure: Neither Party shall not be liable to the other Party for any failure or delay caused by events beyond that Party's control, including, without limitation, actions or inactions of any government agency; sabotage; failure or delays in transportation or telecommunications; non-warranted failures or unauthorized; labor disputes; vendor failures; or shortages of labor, fuel or raw materials. In the event of any such delay or failure of performance, the date of delivery or performance shall, at the request of either Party, be deferred for a period equal to the time lost by reason of the delay. In no event shall either Party be liable for any delay or re-procurement costs for failure to meet any delivery or performance date. Host shall not be liable to Conserve for any failure or delay caused by events beyond Customer's control, including, without limitation, Acts of God; actions or inactions of Occupants; actions or inactions of any government agency; sabotage; failure or delays in transportation or telecommunications; non-warranted failures or unauthorized; labor disputes; vendor failures; or shortages of labor, fuel or raw materials.

D. Amendments, Severability, Entire Agreement, Construction, Miscellaneous: No amendment or modification of this Agreement shall be valid or effective unless put into writing and signed by Vendor and Host. If any portion of this Agreement is invalid, illegal or unenforceable the other portions shall not be affected in any way and this Agreement shall be interpreted to enforce such provision consistent with the intentions of the parties to the maximum extent permitted by applicable law. This Agreement and all currently attached and future exhibits, addendum(s), and schedules, which collectively are called the Agreement, shall constitute the entire Agreement. All prior negotiations, proposals, bids, orders and any other communications are superseded by this Agreement and there are no other understandings, agreements, or express or implied representations. The Parties agree that this Agreement was fully negotiated by the parties and, therefore, no part of this Agreement shall be interpreted against the party that drafted it. All paragraph captions are for reference only, and shall not be considered in construing this Agreement.

HOST:

VENDOR:

Company: _____

Company: Purple Buggy Vending, LLC

By: _____

By: Jerome Delain, Member

Title: _____