

VENDING AND UNATTENDED VENDING SERVICES AGREEMENT

This AGREEMENT, as from time to time amended (**Agreement**), is entered into between the undersigned client (**Client** or **SDCCD**), and Compass Group USA, Inc., by and through its Canteen Vending Services Division (**Canteen**), who, in consideration of the promises contained herein, agree as follows:

1. **CANTEEN RESPONSIBILITIES.** Client grants to Canteen, as an independent contractor, the exclusive right to provide vending services (**Vending Services**) and cashless self-checkout kiosk services (**Unattended Vending Services**) (collectively, the **Services**) and to install vending and other related equipment (collectively, the **Equipment**) to dispense food, beverage, and sundry products supplied by Canteen (**Products**) at the sites and facilities described on the signature page (**Premises**). Canteen will install, maintain, and service the Equipment in a sanitary manner in accordance with industry standards and all federal, state, and local laws. Client has no right, title, or interest to Equipment or Products, and shall not assert or disturb rights, title, or interest to any Equipment, inventory, or other property furnished or installed by Canteen on the Premises. Except to the extent necessary in connection with Services provided hereunder, Client shall not otherwise operate, remove, or tamper with such Equipment, Products, or other property. In the event that a piece of Equipment is not generating an appropriate volume of Net Vending Sales or revenues, Canteen may, upon mutual assent of the parties: (i) remove such piece of Equipment; or (ii) convert the Unattended Vending Services to Vending Services.

2. **CLIENT RESPONSIBILITIES.** The Client will furnish Canteen, at no cost to Canteen, with the necessary space, trash removal, extermination services, and utilities to permit the sanitary operation of the Services. Client will provide a reasonably secure area within the Premises for the installation of the Equipment. In the event that there is a disruption in utilities Client will notify Canteen as soon as Client becomes aware of such disruption. Client will maintain its Premises and service the areas around the Equipment in a sanitary manner in accordance with industry standards and all federal, state, and local laws. Client will provide Canteen employees the necessary access (and if required, necessary security access) and sufficient time to properly service and maintain the Equipment.

3. **PAYMENT TERMS.** Intentionally omitted.

4. **INDEMNIFICATION.** Each party shall indemnify, defend, and hold harmless the other from any and all losses, damages, or expenses, including reasonable attorneys' fees, arising out of or resulting from claims or actions for bodily injury, death, sickness, property damage, any breach or default hereunder, or other injury or damage if caused by any negligent act or omission of such party (except to the extent caused by the negligent act or omission or breach or default of the other party, its employees, or agents). Notification of an event giving rise to an indemnification claim must (a) be received by the indemnifying party no later than ten (10) days after the party to be indemnified receives notice of the claim or lawsuit accompanied by copies of the summons, complaint, or other relevant documents relating to the claim or lawsuit; and (b) include a brief factual summary of the damage and cause thereof. Indemnification hereunder is expressly subject to, and conditioned upon, compliance with the foregoing notice provisions.

5. **INSURANCE.** Canteen shall obtain and maintain insurance for the following risks in such amounts under such policies as appropriate: general liability (including contract, products-completed operations) business automobile coverage, and workers' compensation (including employers' liability coverage). Client shall obtain and maintain insurance for the Premises against risks covered by standard forms of fire, theft, and extended coverage in such amounts under such policies as appropriate.

Canteen shall take out and maintain, during the life of this contract, such commercial general liability insurance including bodily injury and property damage insurance in an amount not less than \$1,000,000.00 each occurrence and in the aggregate; property insurance in an amount not less than full replacement cost of Canteen's damaged property, and automobile liability, in an amount not less than \$1,000,000.00 each accident, which shall protect Canteen from claims for personal injury, bodily injury, including accidental death, as well as all claims of property damage arising from operations under this contract; and adequate workers' compensation insurance. Client shall be included as an insured under the commercial general liability and auto liability policies of insurance. Said policies of insurance shall provide for a 30-day written notice to Client before cancellation.

Canteen is required to provide the name of their insurance carrier, a contact person, and the company's financial rating. The carrier must be U.S. based, with historian AM Best rating of A VIII, and is subject to Client approval. Canteen shall not commence work under this contract until it has obtained all required insurance and certificates, which have been delivered to and approved by the Client Purchasing and Contract Services Department.

6. **TERM.** Unless sooner terminated as provided in Section 7 below, the term of this Agreement shall be for five (5) years beginning on the **Effective Date (Initial Term)**, which is the date upon which Canteen begins Services set forth on the signature page and thereafter shall

renew for consecutive one (1) year terms upon the mutual assent of the parties, unless sooner terminated as provided herein.

7. DEFAULT AND TERMINATION. If either party shall refuse, fail, or be unable to perform or observe any of the terms or conditions of this Agreement for any reason, then the party claiming such failure shall give the other party a written notice citing the specifics of such breach. Such notice shall include copies of any and all documented failures prior to such notice date. If, within sixty (60) days from such notice, the failure has not been corrected, the non-breaching party may terminate this Agreement effective thirty (30) days after the end of such sixty (60) day period. Additionally, either party may terminate this Agreement at the end of each renewal term upon ninety (90) days' prior written notice to the other party.

8. PROPRIETARY MARKS. Client acknowledges that the names, logos, service marks, trademarks, trade dress, trade names, and patents, whether or not registered, now or hereafter owned by or licensed to Canteen or its affiliated and parent companies (collectively **Marks**) are proprietary Marks of Canteen, and Client will not use the Marks for any purpose except as expressly permitted in writing by Canteen. Upon termination of this Agreement, Client shall (a) immediately and permanently discontinue the use and display of any Marks, and make, or cause to be made, such changes to the Premises as Canteen shall reasonably direct so as to effectively distinguish the Premises from its former appearance (collectively **De-Image**); and (b) immediately remove and deliver to Canteen all goods bearing any Marks. If Client shall fail to De-Image the Premises within thirty (30) days of the termination date, then Canteen and its agents shall have the right to enter the Premises and De-Image the Premises, without prejudice to Canteen's other rights and remedies.

9. ASSIGNMENT. Intentionally omitted.

10. FINANCIAL ARRANGEMENTS. The financial arrangements are set forth on Exhibit A, which is attached hereto and incorporated herein by this reference. In addition to the arrangements, the following record retention, audit rights, recordkeeping and business controls need to be included:

All records relating to or substantiating sales under this contract must be retained for five (5) years past termination of the contract. For example, the records pertaining to the first year sales would be retained for the entire contract period plus additional five (5) years. Records to be retained must include hard copy source documents (route slips) or the raw database (initial upload) from those who handle the detailed accounting by portable computers or other data gathering instrument.

The Client reserves the right to audit any and all records pertaining to sales under this contract at Canteen's facility with a seventy-two (72) hour prior written notice to vendor. In addition, there shall be no meter changes or machine replacements without notice and justification within twenty-four (24) hours. Canteen must maintain records that reflect closing and beginning meter readings whenever a change is necessitated. Whenever an audit is conducted and commissions are miscalculated by more than three percent (3%), the parties will mutually agree to an amount to be paid by the Contractor. Failure to provide records may be considered a breach of contract and a cause for termination

11. EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION. The parties shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that the parties take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

12. ENTIRE AGREEMENT. This Agreement, and the exhibit(s) attached hereto constitutes the entire agreement and understanding between the parties relating to the subject matter herein, and supersedes all other agreements between the parties with respect thereto. Except as otherwise noted, this Agreement may not be changed without a written amendment signed by an authorized representative of each party.

13. NOTICES. Unless otherwise stated, the parties shall be noticed at the addresses listed below, or to any other address as designated by one party upon notice to the other party. All notices to be given under this Agreement shall be in writing and shall be served either personally, by facsimile, by deposit with an overnight courier with charges prepaid, or by deposit in the United States mail, first-class postage prepaid by registered or certified mail. Any such notices shall be deemed to have been given (a) upon delivery in the case of personal delivery; (b) upon the first business day following facsimile receipt; (c) one (1) business day after deposit with an overnight courier; or (d) three (3) business days after deposit in the United States mail.

14. **INFORMATION TECHNOLOGY.** In connection with the services being provided hereunder, Canteen may need to operate certain information technology systems not owned by the Client (**Non-Client Systems**), which may need to interface with or connect to Client's networks, internet access, or information technology systems (**Client Systems**). Canteen shall be responsible for all Non-Client Systems, and Client shall be solely responsible for Client Systems, including taking the necessary security and privacy protections as are reasonable under the circumstances. If Canteen serves as the merchant-of-record for any credit or debit card transactions in connection with any of the services provided hereunder, then Canteen will be responsible for complying with all applicable laws, regulations and payment card industry data security standards related to the protection of cardholder data (**Data Protection Rules**). If Non-Client Systems interface with or connect to Client Systems, then Client agrees to implement forthwith upon request from Canteen, at its own expense, the changes to the Client Systems that Canteen reasonably requests and believes are necessary or prudent to ensure Canteen's compliance with the Data Protection Rules. Each party shall indemnify, defend and hold harmless the other party from all claims, liabilities, damages and costs (including reasonable attorneys' fees) to the extent caused by the indemnifying party's failure to comply with its obligations in this section.

<p>EFFECTIVE DATE: JANUARY 1, 2017</p> <p>CLIENT: SAN DIEGO COMMUNITY COLLEGE DISTRICT</p> <p>By: <u>EC</u></p> <p>Name: Edward Cook Purchasing Supervisor</p> <p>Signature Date: <u>5/23/17</u></p> <p>LOCATION OF CLIENT PREMISES:</p> <ul style="list-style-type: none"> • 3375 Camino Del Rio South Ste 270, San Diego, CA 92108 • 9315 Hillery Drive, San Diego, CA 92126 • 1313 Park Blvd., San Diego, CA 92101 • 7250 Mesa College Drive, San Diego, CA 92111 • 10440 Black Mountain Road, San Diego, CA 92126 • 4343 Ocean View Blvd., San Diego, CA 92113 • 3249 Fordham Street, San Diego, CA 92110 • 3792 Fairmount Ave., San Diego, CA 92105 • 8355 Aero Drive, San Diego, CA 92123 • 1901 Main Street, San Diego, CA 92113 <p>CLIENT NOTICE TO:</p> <p>Name: Kelly Rosas</p> <p>Principal Address: 3375 Camino Del Rio South Ste 270, San Diego, CA 92108</p>	<p>COMPASS GROUP USA, INC. BY AND THROUGH ITS CANTEEN VENDING SERVICES DIVISION</p> <p>By: <u>Chris Hulick</u></p> <p>Name: Chris Hulick Division President</p> <p>Signature Date: <u>5/25/2017</u></p> <p>CANTEEN NOTICE TO: CANTEEN VENDING SERVICES</p> <p>Name: Chris Hulick Division President</p> <p>Address: 5000 Hopyard Rd., Suite 322, Pleasanton, CA 94588</p> <p>COPY OF NOTICE TO: General Counsel and Secretary 2400 Yorkmont Road Charlotte, North Carolina 28217 Facsimile: 704-328-7998</p> <p>And President Canteen Vending Services Division 2400 Yorkmont Road Charlotte, NC 28217 Facsimile: 704-424-5037</p>
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EXHIBIT A

FINANCIAL ARRANGEMENTS

1. VENDING SERVICES—COMMISSIONS

Subject to the payment of the Vending Service Commission Structure to Client as further set forth herein, Canteen will provide the Vending Services on a profit and loss basis, whereby Canteen shall retain all income derived and bear all costs of operation (unless such costs of operation are otherwise a Client obligation pursuant to Section 2), resulting from the provision of Vending Services.

Commissions shall be computed monthly (based on Canteen's fiscal calendar) based upon Net Vending Sales on Client Premises. The report detailing Commissions due Client will accompany payment which shall be forwarded within ninety (90) days of month end.

Net Vending Sales are defined as the reported units sold multiplied by the Initial Unit Selling Prices (excluding cold food machine sales) less applicable sales taxes, California Redemption Value (if applicable), and container deposits.

Payments of commissions will be made to Client at the Notice address herein or such other place as Client may from time to time designate to Canteen in writing.

The commission rate(s) and prices are based, in part, on assumptions regarding population, hours of operation, other conditions, labor costs (including, but not limited to benefits and insurance), Product costs, fuel costs, Federal, state, and local tax structure, any change in Federal, state or local law including regulatory or legislative mandates, and any other levy or tax that impacts Canteen's Vending Services (or other Services as the case may be) (**Factors**). If there are changes in such Factors, Canteen may modify the commission rate(s) and/or prices upon mutual assent of the parties. The parties shall review the Agreement in the third (3rd) Agreement year to discuss the language in this section, including reevaluating and negotiating the commission rates.

Notwithstanding the foregoing, Product prices may be adjusted by Canteen annually at a rate equal to the greater of the then-current, relevant rate published for the Employment Cost Index (ECI) or Consumer Price Index (CPI) upon mutual assent of the parties and with thirty (30) days prior notice. Pricing must be consistent across all SDCCD campuses and shall be comparable to the local community, including the SDCCD Bookstore and Food Service locations, for like items. Variance as compared to the local community shall not be greater than ten percent (10%).

VENDING SERVICES COMMISSION STRUCTURE

For each of Canteen's monthly accounting periods, the commission shall be as follows:

If Net Vending Sales In A Monthly Accounting Period Are	The Commission Percentage On The Monthly Accounting Period Shall Be
\$1.00 - \$15,999	28%
\$16,000 - \$17,999	32%
\$18,000 - \$19, 999	34%
\$20,000 and over	36%

VENDING SERVICES ADVANCED COMMISSION

Within sixty (60) days prior to the Effective Date hereof, and subsequently within sixty (60) days prior to the commencement of each year of the Initial Term hereunder, Canteen shall pay Client an advanced commission of Forty Thousand Dollars (\$40,000), with a five (5) year aggregate total not to exceed Two Hundred Thousand dollars (\$200,000) (**Advanced Commission**). Canteen will accrue and withhold any further commission payments hereunder until such time when the Advanced Commission is fully repaid to Canteen. After the full repayment of the Advanced Commission, Canteen will commence payment of commissions as set forth above. During the accrual period, Canteen will provide Client with a statement showing the commissions earned (based upon the foregoing commission percentage rates) and the remaining balance of the Advanced Commissions. If this Agreement is terminated for any reason, regardless whether a permitted termination by either party, prior to the full reimbursement of the Advanced Commission, then Client is liable for and promises to pay to Canteen, within sixty (60) days of the termination notice date, the difference between the actual, accrued commission earned up and through such termination notice and the Advanced Commission paid.

VENDING SERVICES SIGNING BONUS

Within sixty (60) days of the execution of this Agreement, and subsequently within sixty (60) days prior to the commencement of each year of the Initial Term hereunder, Canteen shall pay to Client a signing bonus in the amount of Six Thousand Dollars (\$6,000), with a five (5) year aggregate total not to exceed Thirty Thousand Dollars (\$30,000) (**Signing Bonus**).

VENDING MACHINE PLACEMENT BONUS

Upon the mutual agreement of the parties, additional Vending Services Equipment may be added at the initial Premises locations or other Premises locations as such may be added to this Agreement. In connection therewith, within sixty (60) days of the mutually agreed upon placement of a Vending machine, Canteen shall pay to Client a Vending machine placement bonus in the amount of Two Hundred Fifty Dollars (\$250) (**Vending Machine Placement Bonus**).

2. UNATTENDED VENDING SERVICES

Canteen will provide the Unattended Vending Services on a commission basis, with an initial commission rate of ten percent (10%) on net Smart Market and Avenue C monthly sales. The commission rates and initial Products prices for the Unattended Vending Services are determined by Canteen and based upon distribution and Product costs in the market. The commission rates and Product prices may be adjusted by Canteen in the event of any changes in the market conditions and upon mutual assent of the parties. Notwithstanding the foregoing, commission rates and Product prices may be adjusted by Canteen annually at a rate equal to the greater of the then-current, relevant rate published for the Employment Cost Index (**ECI**) or Consumer Price Index (**CPI**) upon mutual assent of the parties and with thirty (30) days prior notice. Pricing must be consistent across all SDCCD campuses and shall be comparable to the local community, including the SDCCD Bookstore and Food Service locations, for like items. Variance as compared to the local community shall not be greater than ten percent (10%).

SMART MARKET PLACEMENT BONUS

Upon the mutual agreement of the parties, additional Unattended Vending Services Equipment may be added at the initial Premises locations or other Premises locations as such may be added to this Agreement. In connection therewith, within sixty (60) days of the mutually agreed upon placement of a Smart Market, Canteen shall pay to Client a Smart Market placement bonus in the amount of Five Thousand Dollars (\$5,000) (**Smart Market Placement Bonus**).

AVENUE C PLACEMENT BONUS

Upon the mutual agreement of the parties, additional Unattended Vending Services Equipment may be added at the initial Premises locations or other Premises locations as such may be added to this Agreement. In connection therewith, within sixty (60) days of the mutually agreed upon placement of an Avenue C kiosk, Canteen shall pay to Client an Avenue C placement bonus in the amount of Two Thousand Dollars (\$2,000) (**Avenue C Placement Bonus**).