

**BAIN & COMPANY, INC.**  
The Monarch Tower, Suite 1200  
3424 Peachtree Road, NE  
Atlanta, Georgia 30326

tel: 404 869 2727  
fax: 404 869 2222

August 6, 2001

Roger M. Miller  
Senior Vice President  
Chief Financial Officer  
CHEP USA  
8517 South Park Circle  
Orlando, FL 32819-9040

Dear Roger,

This letter is intended to confirm the scope and details of our current project with CHEP USA. Except as noted below, the April 30, 2001 contract signed by both CHEP USA and Bain & Company, Inc. will apply.

As we have agreed, Bain & Company will assist CHEP USA in

**REDACTED**

The duration of the assignment is four (4) months, starting on July 16, 2001 and continuing until November 16, 2001.

Bain & Company will field a team resourced at [REDACTED] per month in professional fees, led by Bill Hayes, Miles Cook and Laura Miles.

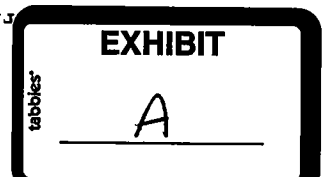
**REDACTED**

Atlanta • Beijing • Boston • Brussels • Chicago • Dallas • Hong Kong • Johannesburg • London • Los Angeles • Madrid • Mexico City  
Milan • Munich • New York • Paris • Rome • San Francisco • São Paulo • Seoul • Singapore • Stockholm • Sydney • Tokyo • Toronto • Zurich

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INVESTOR & ATTORNEY

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CHEP USA  
8517 South Park Circle  
Orlando, FL 32819-9040  
Attention: Roger M. Miller

**1) *Project Scope (Objective/Approach) and Timing:***

We will provide the services with respect to the project (the "Project") described in the proposal attached as Annex A (the "Proposal") on the terms and conditions set forth below and in the Standard Engagement Terms attached as Annex B. The Proposal sets forth a general outline of the work to be performed and may change over time. If either you or we believe the work to be performed should be expanded, modified, or otherwise changed, the changes must be agreed to by both parties in writing.

The Project Managers for CHEP USA are: Rex M. Lowe and Roger M. Miller

The Bain Project Managers are: William Hayes, Miles Cook and Laura Miles

The duration of the work described in the Proposal is six (6) weeks. The assignment will start on April 30, 2001.

**REDACTED**

**2) *Fees and Expenses***

For these services, we will bill you [REDACTED] in professional fees, unless changed by mutual agreement. Therefore, for the six week period for this assignment, the total professional fees will be [REDACTED]. If you request work outside that covered by the Proposal, such work will be invoiced separately on a time-incurred basis unless otherwise agreed by you and us. You will also reimburse us for our actual travel, hotel and other reasonable expenses (including charges from Graphics & Case Team support, Mail & Copy Center, external vendors, Communications & Management Information Systems, and Library & Market Research services) incurred in connection with providing these services. Variable and support services costs will be charged separately as expenses (see Addendum A).

Each month, we will send an invoice to the attention of Roger M. Miller. With each invoice for services, we will include an amount for our estimated expenses, equal to 25% of the monthly fee for services. We will reconcile any difference between estimated expenses and Bain's actual expenses when the amount of actual expenses becomes available and will include the difference in our next invoice to you.

Our payment terms are 30 days from receipt or 15 days after the end of the fee month to which the work is related, whichever is sooner. After this time, interest may be charged at a rate of 1% per month.

This letter is being delivered to you in duplicate. Kindly execute and return one copy of this letter which will constitute our agreement with respect to the subject matter of this letter.

Very truly yours,

BAIN & COMPANY, INC.

By 

Name: William J. Hayes

Title: Vice President

Bain taxpayer I.D.: 04-2878322

Location: Boston, Massachusetts

Accepted and agreed to:

CHEP USA

By 

Name: Roger M. Miller

Title: Senior Vice President/Chief Financial Officer

**Annex A**  
**MEMORANDUM**

TO: Rex Lowe, President  
Roger Miller, CFO

FROM: Bill Hayes

DATE: April 26, 2001

SUBJECT: CHEP Project

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**REDACTED**

cc: [redacted]  
[redacted]  
[redacted]  
[redacted]  
[redacted]  
[redacted]  
[redacted]  
[redacted]

In order to complete the work in a short time frame, we believe we need to dedicate a team of full-time consultants to the project instead of our usual model of assigning consultants 50%. As a result, the professional fees for this project will be [redacted] (versus the [redacted] we originally proposed). We will complete this phase of the work in six-weeks, for a total of [redacted] in fees. We can discuss the need for any work that extends beyond this period in early June. We will have regular informal updates as the project progresses, with the final recommendation complete by the week ending June 8<sup>th</sup>.

**REDACTED**

Annex B

## STANDARD ENGAGEMENT TERMS

## 1) Roles

- a) Client Support. Your support and cooperation is in the best interests of both you and Bain to ensure an efficient and effective assignment result. Bain's ability to provide the services set out in the Proposal requires your full support and cooperation, including your support and cooperation in gaining access to key people and information.
- b) Timetable. Bain will use its reasonable efforts to achieve the deadlines, if any, set forth in any timetable and or dates for delivery by Bain contained in the proposal (the "Proposal") attached as Annex A to the letter agreement (the "Agreement") to which this Annex B is also attached.

## 2) Proprietary Information

- a) Your Confidential Information. We recognize that in the course of performing services pursuant to the Agreement, we will have access to certain of your Confidential Information (as defined below), and we agree that, without your written consent, we will not disclose any such Confidential Information, unless disclosure is required by law or the lawful order of a court agency. We will also:
  - i) advise our employees and agents with access to the Confidential Information of its confidentiality;
  - ii) use the Confidential Information only for the purposes for which it was provided;
  - iii) at your request, promptly deliver to you all copies of written Confidential Information furnished to us by you in our possession and, at your request, destroy all copies of any analyses, compilations, studies or other documents prepared by us and in our possession which reflect Confidential Information, provided that we may retain for archival purposes a copy of any report and/or presentation and any supporting documents which we develop for you and may retain a copy of such report and/or presentation and any supporting documents and use it for internal training and sales development in a disguised form sufficient to protect your identity.
- b) Confidential Information. "Confidential Information" means any and all tangible and intangible information provided by you or your representatives to Bain relating to your management, operations, finances, and products or services, other than information which may be known to Bain or any of its employees or agents prior to disclosure to Bain by you and other than information which may at any time become available to the general public without fault of Bain or which may at any time become lawfully available to Bain or any of its employees or agent from any third party. Bain's obligations under this Section 2 shall survive for the five-year period following termination of its engagement under the Agreement.
- c) Developed Information. You shall own all materials prepared specifically for delivery to you by Bain in connection with the performance of services under the Agreement.
- d) Use of Your Name. Bain will not use your name in any of its advertising or sales promotion material or activities without your prior approval.
- e) Bain's Proprietary Information. Bain does not convey nor will you obtain any right, title, or interest in methodology, procedures, programs, systems, inventions, or data bases used, provided or developed by Bain, or obtained by you from Bain, in the performance of Bain's services, all of which are and will at all times remain the property of Bain (or Bain's licensor). You shall have the right to use any such materials

for your own internal purposes only. You shall not disclose such methodology, procedures, programs, systems, inventions, or databases to any third parties without the prior written consent of Bain.

f) Use of Bain Name

- i) You agree that you will not publish or otherwise disclose to any third party any study, report or other material prepared for you by Bain without the prior written consent of Bain. If such written consent is given, such study, report or other material shall be used in its entirety, unless any proposed summary or abridgment of the report has first been approved in writing by Bain.
- ii) You agree that, except for internal purposes only, you will not use or publish Bain's name without the prior written consent of Bain in each instance. Without limiting the foregoing, you agree that, without Bain's prior written consent, you will not use, identify, publish or otherwise reveal Bain's name or the name of any officer or employee of Bain in any presentation material, offering memorandum, prospectus or other external disclosure.
- iii) If Bain consents to the publication or disclosure of any study, report or other material, or the publication of Bain's name or the name of any officer or employee of Bain, then, at Bain's request, you shall obtain an acknowledgment from the recipient of such study, report or other material or publication that Bain is not making any representation or warranty with respect thereto and a waiver from such recipient in favor of Bain with respect thereto, in each case satisfactory to Bain.

3) Personnel

- a) ~~Independence Contractor. Bain's relationship to you is that of an independent contractor. Bain shall have no authority to commit you contractually, or otherwise, to any third party.~~
- b) Flexibility. Bain believes that a planned rotation of its personnel is in your best interest, both in terms of quality and cost management. Bain reserves the right to meet its responsibilities to you through the allocation of appropriate available skilled personnel without a guarantee that specific individuals will be assigned to your project.
- c) Hiring. You and Bain each agree not to offer employment to any employee of the other who is associated with the assignment during the assignment or for a period of 12 months after its completion. Any party who breaches the provisions of this paragraph shall immediately pay to the other party a fee equal to the greater of (1) the amount of total remuneration paid by the nondefaulting party to the applicable employee for the 12 month period ended prior to the termination of his employment with such party and (2) the amount of total remuneration to be paid to such employee by the defaulting party as evidenced in the offer letter to such employee.

4) Other Matters

- a) Subpoenas and other Legal Matters. You agree to reimburse Bain (which for purposes of this clause (a) shall include Bain's affiliates and their respective directors, officers, employees, agents and controlling persons) for all costs and expenses, including without limitation time spent by Bain consultants and legal staff, at Bain's standard consulting rates then in effect, together with out-of-pocket expenses including without limitation attorney's fees and disbursements, incurred by Bain as a result of subpoenas for your information, or other legal process, in matters in which Bain is not a party. In the event that Bain is requested or required to appear as a witness in any legal action or regulatory investigation or proceeding brought by or on behalf of or against you where Bain is not named as a defendant, you agree to promptly reimburse Bain for all of its costs and expenses as they are incurred in connection with such event.

- b) Bain will not support the acquisition of a client without the client's explicit permission, or represent two parties in any acquisition process.
- c) Defined Terms. Terms defined in the Letter Agreement and not otherwise defined herein are used herein with the meanings so defined.
- d) Termination. Either party may terminate Bain's engagement under the Agreement (1) at any time on 60 days' prior written notice to the other party and (2) if the other party has breached any of the provisions of the Agreement, on 10 days' prior written notice to the breaching party unless such breach shall have been cured to the reasonable satisfaction of the nonbreaching party within such 10 days. In the event of any such termination, Bain will make reasonable efforts to bring closure to any in-process work prior to the effective date of termination of Bain's engagement and will be paid professional fees to the effective date of termination, pro rated for any portion of a month. All out-of-pocket expenses reasonably incurred by Bain up to the effective date of termination shall also be reimbursed by you. You will pay Bain for any work performed by Bain at your request after the stated end date of Bain's engagement or after the termination of its engagement by either party at its customary rates on a time incurred basis unless otherwise agreed to by you and Bain and will reimburse Bain for all expenses incurred in connection with the performance of such work.
- e) Indemnification.  
You agree to indemnify Bain and its affiliates and their respective directors, officers, employees, agents and controlling persons (Bain and each such person being an "Indemnified Party") from and against any and all losses, claims, damages and liabilities, joint or several, to which such Indemnified Party may become subject under any applicable federal or state law, or otherwise, and related to or arising out of Bain's engagement with you or any services provided by Bain to you ("Bain's Engagement") and will reimburse any Indemnified Party for all costs and expenses (including without limitation time spent by Bain consultants and legal staff, at Bain's standard consulting rates then in effect, together with out-of-pocket expenses including without limitation counsel fees and disbursements) as they are incurred in connection with the investigation of, preparation for or defense of any pending or threatened claim or any action or proceeding arising therefrom, whether or not such Indemnified Party is a party and whether or not such claim, action or proceeding is initiated or brought by you or on your behalf; provided, however, if any Indemnified Party is specifically found in a final judgment by a court to not be entitled to indemnification from you for any loss, claim, damages, liability or expense, then that Indemnified Party shall repay to you that portion of such Indemnified Party's expenses that had been reimbursed by you, and that is the express subject of such final judgment.
- i) You will not be liable under the foregoing indemnification provision to the extent that any loss, claim, damage, liability or expense is specifically found in a final judgment by a court to have resulted from Bain's gross negligence or intentional misconduct. You also agree that no Indemnified Party shall have any liability (whether direct or indirect, in contract or tort or otherwise) to you related to or arising out of Bain's Engagement except to the extent that any loss, claim, damage or liability is specifically found in a final judgment by a court to have resulted from Bain's gross negligence or intentional misconduct.
- ii) If the indemnification of an Indemnified Party provided for herein is for any reason unavailable, you agree to contribute to the losses, claims, damages and liabilities for which such indemnification is unavailable (i) in such proportion as is appropriate to reflect the relative benefits to you, on the one hand, and Bain, on the other hand, related to or arising from Bain's Engagement (including any actual or proposed transaction) or (ii) if the allocation provided for in clause (i) is for any reason held unenforceable, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) but also the relative fault of you, on the one hand, and Bain, on the other hand, as well as any other relevant equitable considerations. You agree that for the purposes of this paragraph the relative benefits to you and Bain shall be deemed to be in the same proportion that the total value received or

contemplated to be received by you or your securityholders, as the case may be, bears to the fees paid or to be paid to Bain for Bain's Engagement, provided, however, that to the full extent permitted by applicable law, in no event shall the Indemnified Parties be required to contribute an aggregate amount in excess of the aggregate fees actually paid to Bain for Bain's Engagement.

iii) You agree that, without Bain's prior written consent, you will not settle, compromise or consent to the entry of any judgment in any pending or threatened claim, action or proceeding in respect of which indemnification could be sought hereunder (whether or not Bain or any other Indemnified Party is an actual or potential party to such claim, action or proceeding) unless such settlement, compromise or consent includes an unconditional release of each Indemnified Party from all liability arising out of such claim, action or proceeding.

f) Professional Judgment: Limitation of Liability

Bain's fees and expenses are based on a number of factors, including the provisions in this Agreement in favor of Bain relating to limitations of liability and indemnification. You acknowledge that performance of Bain's services will involve the expression of professional ideas, judgments and opinions by Bain, and that it is in your interest to have such ideas, judgments and opinions expressed frankly, without concern on the part of Bain that such ideas, judgments and opinions will be deemed representations, warranties or covenants upon which you may claim reliance. Accordingly, you understand and agree that any ideas, judgments, opinions, projections, analyses or estimates which Bain provides to you in the performance of its services cannot amount to a guarantee, prediction or determination of future events. You further agree as follows:

- i) You remain responsible for any reliance on such ideas, judgments, opinions, projections, analyses or estimates; and
- ii) That Bain shall not be liable to you for any liabilities, losses, damages, costs, or expenses of any kind which you may at any time sustain or incur in connection with or arising out of Bain's Engagement, other than liabilities, losses, damages, costs and expenses resulting from Bain's gross negligence or intentional misconduct.
- iii) In no event will Bain be liable for any lost profits, or other indirect, special, punitive or consequential damages. In no event will Bain be liable for any amount in excess of the total of fees (excluding reimbursement of expenses) actually paid to Bain in connection with Bain's Engagement.
- iv) You agree not to maintain any type of action and agree not to assist in maintaining any type of action against Bain or any Indemnified Party unless such action is premised on gross negligence or intentional misconduct on Bain's part. You agree to indemnify Bain and any Indemnified Party for any losses, damages, liabilities or costs (including without limitation time spent by Bain consultants and legal staff, at Bain's standard consulting rates then in effect, together with out-of-pocket expenses including without limitation any attorney's fees and disbursements) that are incurred by Bain or such Indemnified Party as a result of your breach of any of the provisions of this paragraph.
- g) No Third Party Beneficiaries. The Agreement is made solely for the benefit of you, Bain and the other Indemnified Parties and their respective successors, permitted assigns, heirs and personal representatives and no other person shall acquire or have any right under or by virtue of the Agreement.
- h) Non-Assignment of Duties. Neither party shall assign its rights (other than the right to receive payment) or delegate its duties under the Agreement without the prior written consent of the other party.
- i) Amendment, Waiver or Modification of Agreement. No provision of the Agreement shall be amended, modified or waived except by written agreement executed by both parties. The Agreement contains the

entire agreement of the parties as to Bain's services to you with respect to the Project, and supersedes all prior agreements, arrangements and understandings between the parties regarding the Project.

- j) Governing Law. The Agreement shall be governed by and construed under the laws of The Commonwealth of Massachusetts without reference to conflicts of laws principles.
- k) Consent to Jurisdiction: Jury Trial Waiver. Each party to the Agreement, by its execution hereof, (i) irrevocably submits to the exclusive jurisdiction of the state courts of The Commonwealth of Massachusetts or the United States District Court for the District of Massachusetts for the purpose of any action, claim, cause of action or suit, inquiry proceeding or investigation arising out of or based upon the Agreement or relating to the subject matter hereof, (ii) waives to the extent not prohibited by applicable law, and agrees not to assert, by way of motion, as a defense or otherwise, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that any such proceeding brought in one of the above-named courts is improper, or that the Agreement or the subject matter hereof may not be enforced in or by such court and (iii) hereby agrees not to commence any action, claim, cause of action or suit, inquiry proceeding or investigation arising out of or based upon the Agreement or relating to the subject matter hereof other than before one of the above-named courts nor to make any motion or take any other action seeking or intending to cause the transfer or removal of any such action, claim, cause of action or suit, inquiry, proceeding or investigation to any court other than one of the above-named court whether on the grounds of inconvenient forum or otherwise. Each party hereby consents to service of process in any such proceeding in any manner permitted by Massachusetts law.

TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW WHICH CANNOT BE WAIVED, EACH OF THE PARTIES HERETO HEREBY WAIVES, AND COVENANTS THAT IT WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE) ANY RIGHT TO TRIAL BY JURY IN ANY FORUM IN RESPECT OF ANY ISSUE OR ACTION CLAIM, CAUSE OF ACTION OR SUIT (IN CONTRACT, TORT OR OTHERWISE), INQUIRY, PROCEEDING OR INVESTIGATION ARISING OUT OF OR BASED UPON THE AGREEMENT OR THE SUBJECT MATTER HEREOF OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE TRANSACTIONS CONTEMPLATED HEREBY, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING.