

SCHOOL DISTRICT AGREEMENT

This Agreement (“*Agreement*”) is made effective as of August 1, 2015 between Bottling Group, LLC, operating as Pepsi Beverages Company, with an office located at 801 W. Birchwood Street, Morton, IL 61550-9613 (“*Pepsi*”) and Normal School District Unit #5, having its principal place of business at 1809 W. Hovey Avenue, Normal, IL 61761 (“*Customer*”).

RECITALS

WHEREAS, Pepsi desires the right to be the limited supplier of Beverages (defined below) to the Customer.

WHEREAS, Pepsi has submitted a proposal to the Customer for the limited right to develop and carry out a program for the sale of its Products (defined below) in the Facilities (as hereinafter defined).

WHEREAS, Pepsi is experienced in installing, operating, servicing and maintaining equipment for dispensing Beverage products.

WHEREAS, the parties desire to confirm the terms and conditions under which the Customer will contract with Pepsi to install, operate, service, and maintain all Beverage dispensing Equipment.

NOW, THEREFORE, in consideration of the mutual promises herein contained, the parties hereto agree as follows:

1. Definitions.

“*Beverage*” or “*Beverages*” means all carbonated and non-carbonated, non-alcoholic drinks, however dispensed, including but not limited to, (i) colas and other flavored carbonated drinks; (ii) fruit juice, fruit juice containing and fruit flavored drinks; (iii) chilled coffee drinks; (iv) chilled tea products; (v) hypertonic, isotonic and hypotonic drinks (sports drinks and fluid replacements); (vi) energy drinks, (vii) packaged carbonated or still water (including spring, mineral or purified), (viii) liquid concentrate teas (“*LCT*”), (ix) frozen carbonated and non-carbonated beverages (“*FB*”), and (x) any future categories of nonalcoholic beverage products that may be distributed by Pepsi. “*Beverage*” or “*Beverages*” does not include milk or milk products, hot coffee, hot tea, and hot chocolate.

“*Cases*” shall mean the number of cases of Packaged Products purchased by the Customer from Pepsi or sold by Pepsi through its full-service Vending Machines at the Facilities, initially delivered in quantities of 24, 15, and 12 bottle/can units, and thereafter in such other size, quantity and type of containers as determined by Pepsi, from time to time.

“*Competitive Products*” means any and all Beverages that are not Products (as defined herein).

“*Equipment*” means the following types of equipment owned and operated by Pepsi and used to sell or dispense the Products: (1) full service vending machines (“*Vending Machines*”); (2) retail single-serve food service equipment and (3) fountain service equipment.

“*Facilities*” means the entire premises of every school and facility owned or operated by the Customer, now or in the future, including all elementary, middle, high, and alternative schools, athletic facilities, convenience stores, book stores, student operated stores, teachers’ lounges, and concession stands, parking lots, dining facilities, unbranded and branded food service outlets and vending areas. All elementary, middle and high schools within the School District shall be listed on **Exhibit A** attached

hereto. Without limiting the generality of the foregoing, the parties wish to stipulate that the definition of Facilities will also include the Unit Office, Warehouse, and Transportation Building.

“**Food Service Area**” means all locations within the Facilities where meals, snacks and beverages are served or consumed or areas managed or operated by the Customer’s designated Food Service Operator.

“**Food Service Operator**” means the Customer or any third party that provides food, Beverage or vending services at the Facilities.

“**Gallons**” shall mean the number of gallons of Postmix Products purchased by the Customer from Pepsi.

“**Packaged Products**” shall mean Beverages that are distributed in pre-packaged form (*e.g.*, Bottles & Cans). A current list of Pepsi’s Packaged Products is found in attached Exhibit B which may be amended from time to time by Pepsi to include Beverages permitted pursuant to the then-current School Policy.

“**Postmix Products**” shall mean beverage products used to create and dispense fountain Beverages. A current list of Pepsi’s Postmix Products is found in attached Exhibit B which may be amended by Pepsi from time to time by Pepsi to include Beverages permitted pursuant to the then-current School Policy.

“**Products**” shall mean Postmix Products and Packaged Products manufactured, bottled, sold and/or distributed, now or in the future, by Pepsi. A current list of Products is attached hereto as **Exhibit B**, which may be amended from time to time by Pepsi to include Beverages permitted pursuant to the then-current School Policy (defined below).

“**Special Events**” means any athletic contests, booster club activities, and all other special events conducted at the Facilities where parents and other adults are a significant part of an audience.

“**Units**” means Gallons and Cases (including Cases sold through Vending Machines). For the purposes of determining Units sold, 1 Case shall equal 1 Gallon.

“**Year**” means each 12-month period during the Term commencing on the first day of the Term or an anniversary thereof.

2. Term.

The term of this Agreement shall commence on August 1, 2015 and expire upon the later of July 31, 2022, or at such time as the number of Cases meets or exceeds a volume threshold (the “**Volume Threshold**”) of 52,850 Cases (the “**Term**”). Thus, in the event the Volume Threshold is not met on or before the date indicated above, then the Term shall automatically extend for the period of time necessary until the Volume Threshold has been met (the “**Automatic Extension**”). Except for applicable Rebates and Commissions, which may be earned during the Automatic Extension, Pepsi shall not provide any other consideration to Customer. When fully executed, this Agreement will constitute a binding obligation of both parties until expiration or termination.

3. Beverage Availability Rights.

The Customer hereby grants to Pepsi the following Beverage availability rights limited only with regard to the **Permitted Exceptions** set forth below:

Pepsi shall have the exclusive right to have the Products sold and distributed at the Facilities, including the right to have the Products sold at Special Events. Subject to the terms and conditions set forth in this

Agreement, the Customer agrees that Products shall be the exclusive Beverages sold, dispensed or served or available at the Facilities. The hours during which the Products will be available for sale, both through Vending Machines and the Food Service Area, are attached hereto as **Exhibit C**.

(A) Except with regard to the **Permitted Exception** set forth below, Pepsi shall have the exclusive right to make the Beverages available for sale and distribution at the Facilities, including the right to provide all Beverages sold at Special Events. Subject to the terms and conditions set forth in this Agreement, the Customer agrees that Products shall be the exclusive Beverages sold, dispensed or served or available at the Facilities. The hours during which the Products will be available for sale, both through Vending Machines and the Food Service Area, are attached hereto as **Exhibit C**.

Permitted Exception: Customer and Pepsi acknowledge and agree that the following are the only permitted exceptions to Pepsi's Beverage rights at the Facilities:

- Pepsi acknowledges that school sponsored organizations, clubs, and other groups associated with the Customer may purchase Beverages or receive donated Beverages from third parties for sale or distribution at Special Events, subject to the limitations below. Pepsi further acknowledges the use of the Facilities by various private and community groups and that such groups may sell or distribute to members of the group. Customer shall encourage such organizations, clubs, and groups to request that donated products be Pepsi brands, however, Pepsi acknowledges that this is not always possible. In circumstances where school sponsored organizations or clubs purchase Beverages, Customer will require that such purchases will be Pepsi Products, although such purchases may from time to time be purchased from local stores.
- Pepsi acknowledges that Customer's Food Service Operator currently has Coke fountain dispensing equipment located in its Food Service Areas and sells Coke fountain products. Pepsi further acknowledges that it will take Customer some time to properly remove such equipment from the Facilities. Customer agrees to remove this equipment and cease selling Coke fountain products no later than September 2016.

(B) Pepsi shall have the exclusive right to install Equipment throughout the Facilities at locations mutually agreed to with Customer. Pepsi shall have the further right to install additional Equipment in buildings and facilities acquired and/or constructed by the Customer after the date of this Agreement and during the term of this Agreement. Pepsi shall install Equipment at its sole expense, except where otherwise prescribed by law. Pepsi shall have the right to place full trademark panels on all sides of its Equipment. Pepsi, or one of its affiliates, shall retain title to all Equipment. The Customer shall not permit the operation of any other equipment used for the sale of Beverages at the Facilities without the prior written consent of Pepsi.

(C) The Customer and its Food Service Operators shall purchase Products and cups, lids and carbon dioxide (if used) directly from Pepsi at the prices established by this Agreement. Pepsi acknowledges that booster clubs and school sponsored organizations, such as the PTO, may from time to time purchase Products from local stores and Customer will require that all such purchases will be of Pepsi Products.

(D) The Customer agrees to comply with Pepsi's School Policy, attached hereto as **Exhibit D** ("**School Policy**"). Any proposed changes to the School Policy during the Term will be communicated to the Customer (*e.g.*, the School Policy was updated in July 2014 in accordance with changes made to USDA guidelines at that time). A copy of the Policy in effect as of the beginning of the Term is attached hereto as **Exhibit D**. The Customer agrees that it shall at all times during the Term comply with the School Policy and shall cause any designated Food Service Operator, subject to the permitted exceptions above, to comply with the School Policy, including applicable Beverage type, size

and timing requirements/restrictions. The Customer's or Food Service Operator's willful failure to comply with the School Policy shall be a material breach of this Agreement.

(E) The Customer shall permit Pepsi, its employees, agents and representatives, during normal school hours, to enter the Facilities for purposes of servicing and stocking the Equipment, and verifying the Customer's compliance with the School Policy.

4. Pricing.

(A) Products sold through Vending Machines. The price for Products sold from Pepsi's Vending Machines are set forth in Section 5(C).

(B) Products purchased by the Customer. Pricing for Products purchased by the Customer, its designated Food Service Operator or any other party from Pepsi for sale at the Facilities are listed on **Exhibit B**. The Customer recognizes that such pricing is available for the first Year of this Agreement, thereafter, the pricing may increase. Pepsi shall provide the Customer with notice of any proposed increases. The Customer shall have the right to set retail prices for the Products in Food Service Areas and in other areas where the Customer is the seller of the Products.

(C) The Customer acknowledges that the Annual Sponsorship Fee (as herein defined) was calculated based on the Customer purchasing Products directly from Pepsi at the pricing structure established by this Agreement during the entire Term. Pepsi acknowledges that the Customer currently self-operates all Food Service Areas of the Facilities. Customer agrees that any Food Service Operator that Customer engages to perform services at the Facilities will be required by Customer to honor the terms and conditions of this Agreement, including the Product pricing established by this Agreement.

5. Consideration.

In consideration of the rights granted in this Agreement and provided Pepsi has not terminated this Agreement due to Customer's failure to cure a breach hereof, Pepsi shall provide to the Customer the following:

(A) **An Annual Sponsorship Fee**, payable annually pursuant to the following:

<i>Year</i>	<i>Applicable Time Period</i>	<i>Amount</i>	<i>Due Date: within 60 days after</i>
1	August 1, 2015 – July 31, 2016	\$22,000	Execution of Agreement by parties
2	August 1, 2016 – July 31, 2017	\$22,000	August 1, 2016
3	August 1, 2017 – July 31, 2018	\$22,000	August 1, 2017
4	August 1, 2018 – July 31, 2019	\$22,000	August 1, 2018
5	August 1, 2019 – July 31, 2020	\$22,000	August 1, 2019
6	August 1, 2020 – July 31, 2021	\$22,000	August 1, 2020
7	August 1, 2021 – July 31, 2022	\$22,000	August 1, 2021

(B) **An Annual Scholarship Fund**, payable annually pursuant to the following:

<i>Year</i>	<i>Applicable Time Period</i>	<i>Amount</i>	<i>Due Date: within 60 days after</i>
1	August 1, 2015 – July 31, 2016	\$5,000	Execution of Agreement by parties
2	August 1, 2016 – July 31, 2017	\$5,000	August 1, 2016
3	August 1, 2017 – July 31, 2018	\$5,000	August 1, 2017
4	August 1, 2018 – July 31, 2019	\$5,000	August 1, 2018
5	August 1, 2019 – July 31, 2020	\$5,000	August 1, 2019
6	August 1, 2020 – July 31, 2021	\$5,000	August 1, 2020
7	August 1, 2021 – July 31, 2022	\$5,000	August 1, 2021

(C) **Commissions**, as a percentage of the actual cash (“*cash in bag*” or “*CIB*”) collected by Pepsi from the Vending Machines placed at the Facilities, less any state-regulated fees or deposits or sales tax (“*Commissions*”). Such Commissions shall be at the rate(s) set forth below (the “*Commission Rate*”) and shall be calculated as follows:

$$(CIB - \text{applicable fees/deposits/sales tax}) * \text{Commission Rate} = \text{Commission due}$$

<i>Product</i>	<i>Minimum Vend Price*</i>	<i>Commission Rate**</i>
20 oz. Carbonated Soft Drinks and Aquafina	\$1.25	40%
20 oz. Gatorade and SoBeLifewater	\$1.50	40%
12 oz. cans of Carbonated Soft Drinks	\$0.75	No Commission
*Customer acknowledges that Pepsi shall have the right to increase all vend prices by \$0.25 at the beginning of Year Four and again at the beginning of Year Seven.		
**Commission Rate stated above shall only apply to Products sold by Pepsi through its Vending Machines at the beginning of the Term. If Pepsi proposes any new Products to the Customer during the Term, then Pepsi shall have the right to propose a different Commission Rate and/or Minimum Vend Price for such new Product.		

(1) **Commissions Payment.** Commissions shall be remitted by Pepsi to the Customer within thirty (30) days of the end of each 4-week accounting period established by Pepsi and provided to the Customer. Pepsi shall make all pertinent revenue and sales records respecting the Vending Machines available to Customer. Customer agrees that it is responsible for reviewing such records and that any claim or dispute relating to the Commissions must be brought by Customer in writing within one (1) year of the date such Commissions payment is due. Customer further acknowledges and agrees that it shall not receive any Commissions payment from Pepsi if Commissions fail to reach a certain threshold amount per period or quarter as agreed to with the Customer. The applicable threshold amounts vary based on the payment period and will be established and communicated to the Customer within 30 days prior to the period or quarter, pursuant to Pepsi’s policies and procedures related to its full service vending business, as may be revised by Pepsi from time to time. The current threshold amount for payments made on a four-week period basis is \$50 per commission check.

(2) **Change to Commission Formula.** In addition to the above, Customer agrees that Pepsi shall have the right to change its formula/method for calculating Commissions at any time in its reasonable discretion provided that any such formula adjustments shall not result in a material change to the Commissions due with respect to the same sales of Products.

(D) **Rebates.** Each Year throughout the Term, Pepsi shall calculate the total applicable Cases of bottle and can Products purchased from Pepsi by the Customer and its Food Service Operator pursuant to this Agreement, and shall provide the Customer with rebates calculated based on applicable amounts set forth below (the “*Rebates*”). The Rebates, if applicable, shall be paid by Pepsi within sixty (60) days of the end of each applicable Year during the Term.

<i>Rebate Amount</i>	<i>Applicable Products</i>
\$5.00/Case	24-pk Cases of Packaged Products*
\$2.00/Case	12-pk and 15-pk Cases of Packaged Products*
*Rebates are not payable on Cases of 12 oz. cans of carbonated soft drinks. 12 oz. bottles of Gatorade and 10 oz. Dole products will be rebated at \$2.00 per case. No rebates will be paid on Full Service Vending cases, just commission as set forth in Section 5(C) above.	

(E) Any additional consideration set forth on **Exhibit E**.

6. Competitive Products. During the entire Term of this Agreement:

(A) No Competitive Products shall be sold, served or dispensed anywhere at the Facilities;

(B) No permanent or temporary advertising, signage or trademark visibility for Competitive Products shall be displayed anywhere at the Facilities.

(C) No agreement will be entered into or maintained by the Customer and/or its designated Food Service Operator pursuant to which Competitive Products will be associated with the Customer or the Facilities in any advertising or promotional activity that creates a relationship or connection between Competitive Products and the Customer or the Facilities.

7. Equipment and Service.

(A) Pepsi shall place Equipment based upon Pepsi's survey of the Customer's needs and as agreed to with the Customer, and shall have the right to replace all current beverage vending, retail and dispensing equipment located at the Facilities that is not identified as equipment of Pepsi with Equipment owned by Pepsi. Pepsi shall be allowed to place and maintain Vending Machines in optimal locations at the Facilities during the Term as agreed to with the Customer. Notwithstanding the foregoing, Pepsi reserves the absolute right to remove any glass front Vending Machines that sells less than eight (8) cases of Product per week or any other Vending Machines that sells less than two (2) cases of Product per week.

(B) Pepsi or one of its subsidiaries or affiliates shall retain ownership in and title to all Equipment.

(C) The Equipment may not be removed from the Facilities without Pepsi's written consent, and the Customer agrees not to encumber the Equipment in any manner or permit other equipment to be attached thereto except as authorized by Pepsi in writing. At the end of the Term, Pepsi shall have the right to, and shall upon request of the Customer, remove all Equipment from the Facilities at no expense to the Customer.

(D) Pepsi will provide, at no charge to the Customer, preventative maintenance and service to the Equipment. Pepsi's service of the Equipment will be provided during normal school hours, and Pepsi will not be obligated to provide service during periods in which it is prevented from doing so due to strikes, civil disturbances, unavailability of parts or other causes beyond the control of Pepsi, and shall not be liable for damages of any nature arising out of delays in rendering service.

(E) Pepsi shall be responsible for collecting, for its own account, all cash monies from the Vending Machines and for all related accounting for all cash monies collected therefrom. Customer agrees to provide reasonable assistance to Pepsi in apprehending and prosecuting vandals. Pepsi shall not be obligated to pay Commissions on documented revenue losses resulting from vandalism or theft of Product with respect to any Vending Machines.

8. Breach of Contract and Termination.

(A) The Customer may terminate this Agreement for any breach of this Agreement's material terms by Pepsi, provided that the Customer shall first provide Pepsi with written notice of the breach and a thirty (30) day opportunity for Pepsi to cure such breach. If Pepsi fails to cure the breach

within the thirty (30) day period, the Customer may terminate the Agreement upon written notice to Pepsi.

(B) If any of the material terms of this Agreement, including but not limited to the exclusive rights to sell any one or more of the Products, are terminated, violated, prohibited or limited during the Term of this Agreement for any reason, other than by Pepsi, including but not limited to: (1) if Pepsi is restricted from vending or the Customer is restricted from selling any of the Products on **Exhibit B**, or (2) if Pepsi is restricted from vending or the Customer is restricted from selling one or more of the Products during the permitted hours set forth in **Exhibit C** (“*Affected Rights*”), then Pepsi may give the Customer written notice of such event and the Customer shall have a thirty (30) day period within which to cure such breach.

If the Customer fails to cure such breach within a thirty (30) day period, Pepsi shall have the right to:

(1) (a) terminate this Agreement in its entirety; and

(b) then, if applicable, Pepsi shall, without prejudice to any other right or remedy available to Pepsi, obtain a reimbursement from the Customer of any unearned funding paid by Pepsi to the Customer which remains unearned as of the time of termination. With respect to the Annual Sponsorship Fee and the Annual Scholarship Fund, the amount of such reimbursement shall be determined by multiplying the total amount of the Annual Sponsorship Fee and Annual Scholarship Fund paid in the Year during which such termination occurs by a fraction, the numerator of which is the number of months remaining in such Year at the time of such termination or limitation and the denominator of which is twelve.

If the breach is the result of a limitation or restriction of the availability of the Products at the Facilities during the Term (due to District and/or legislative restrictions); Pepsi and Customer shall have the right upon mutual agreement to forego termination and instead:

(2) (a) reduce Pepsi’s ongoing fees including support and Commissions payable hereunder to an amount equal to the then-current ongoing fees and Commissions Pepsi would pay for the right to market, sell or distribute the remaining Products as a result of such Affected Rights; and

(b) provide a reimbursement to Pepsi, if applicable, an amount pursuant to Subsection (1)(b) above relative to the Products subject to such Affected Rights.

9. Taxes.

Customer acknowledges and agrees that neither Pepsi nor its affiliates shall be responsible for any taxes payable, fees or other tax liability incurred by the Customer in connection with any fees payable by Pepsi under this Agreement. In addition, Pepsi shall be responsible only for the payment of taxes on the sales of Products through Vending Machines. Pepsi shall not be assessed common area maintenance fees, taxes or other charges based on its occupation of the space allocated to its Equipment.

10. Representations and Warranties

(A) Each party represents and warrants to the other: (1) it has full power and authority to enter into this Agreement and to grant and convey to the other the rights set forth herein; and

(2) all necessary approvals for the execution, delivery and performance of this Agreement have been obtained and this Agreement has been duly executed and delivered by the parties and constitutes the legal, valid and binding obligation, enforceable in accordance with its terms, and nothing contained in this Agreement violates, interferes with or infringes upon the rights of any third party; (3) the respective signatory of this Agreement is duly authorized and empowered to bind the party to the terms and conditions of this Agreement for the duration of the Term; and (4) the parties have complied with all applicable laws, ordinances, codes, rules and regulations relating to its entering into this Agreement and its performance hereunder.

(B) Each of the parties hereto agree that: (1) the representations, warranties and covenants contained herein shall survive the execution and delivery of this Agreement, and (2) except as expressly set forth herein, neither party has made, and neither party is relying on, any representation or warranty, express or implied, with respect to the subject matter hereof.

11. Indemnification.

(A) Pepsi will indemnify and hold the Customer harmless from any and all suits, actions, claims, demands, losses, costs, damages, liabilities, fines, expenses and penalties (including reasonable attorneys' fees) arising out of: (i) its breach of any term or condition of this Agreement; (ii) product liability suits resulting from the use or consumption of Products purchased directly from Pepsi; and/or (iii) the negligence or willful misconduct of Pepsi, (excluding claims arising out of the Customer's negligence or willful misconduct).

(B) To the extent permitted by applicable law, the Customer will indemnify and hold Pepsi harmless from and against any and all suits, actions, claims, demands, losses, costs, damages, liabilities, fines, expenses and penalties (including reasonable attorneys' fees) arising out of (i) its breach of any term or condition of this Agreement, including failure to comply with the School Policy; and/or (ii) the negligence or willful misconduct of the Customer (excluding claims arising out of Pepsi's negligence or willful misconduct).

(C) The provisions of this Section shall survive the termination of this Agreement.

12. Injunctive Relief.

It is understood that the rights granted to Pepsi in this Agreement are special, unique and extraordinary, and are of peculiar value, the loss of which cannot be fully compensated by damages in an action at law or any application of any of the other remedies described herein. Accordingly, in the event the Products are not made available as provided in this Agreement or if any of the provisions concerning Competitive Products are not complied with, the Customer acknowledges and agrees that Pepsi shall be entitled to seek and obtain equitable relief including an injunction requiring the Customer to comply fully with its obligations under this Agreement to the extent permitted by law.

13. Relationship of Parties.

(A) The Customer and Pepsi are acting herein as independent contractors and independent employers. Nothing herein shall create or be construed as creating a partnership, joint venture or agency relationship between any of the parties and no party shall have the authority to bind the other in any respect. Pepsi and any person employed by or conducting business with the Customer shall not be a partner, employee, agent or joint venturer of the Customer.

(B) No goods or equipment shall be purchased in the name of the Customer by Pepsi or any person employed by or conducting business with Pepsi nor shall any goods or equipment be purchased by the Customer in the name of Pepsi. No debts, liabilities, obligations or contracts of whatever kind made or incurred by either of the parties hereto or any person employed by or conducting business with said party shall be in the name or upon the credit of the other party, and the other party shall not be liable or responsible therefor.

14. Retention of Rights.

The Customer shall not obtain by virtue of this Agreement, any right, title or interest in the trademarks of Pepsi or PepsiCo, Inc., nor shall this Agreement give the Customer the right to use, refer to, or incorporate in marketing or other materials the name, logos, trademarks or copyrights of Pepsi or PepsiCo, Inc.

15. Confidentiality.

(A) Except as otherwise required by federal or state law, including without limitation the Illinois Freedom of Information Act, or the rules or regulations of any national securities exchange or the rules or regulations of the Customer, the Customer and Pepsi agree not to disclose Confidential Information (as hereinafter defined) to any third party other than to their respective directors, officers, employees and agents (and directors, officers, employees and agents of their respective Affiliates) and advisors (including legal, financial and accounting advisors) (collectively, “**Representatives**”), as needed.

(B) “**Confidential Information**” shall include all non-public, confidential or proprietary information that the Customer or its Representatives make available to Pepsi or its Representatives or that Pepsi or its Representatives make available to Customer or its Representatives in connection with this Agreement.

(C) The provisions of this Section and the obligations of the parties hereunder will survive the expiration or sooner termination of this Agreement for a period of three (3) years following such date of expiration or termination of this Agreement.

16. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois without regard to conflicts of laws principles.

17. Insurance.

(A) Each party hereto maintains and agrees to maintain, at all times during the Term and for a period of three (3) years thereafter, a comprehensive program of risk retention and insurance with such insurance carriers and in such amounts of insurance coverage reasonably acceptable to the other party. Each party agrees to name the other, and each of its Affiliates, and their respective officers, directors, employees, agents, representatives and successors and assigns, as additional insureds on such insurance during the Term.

(B) Either party shall have the right, during the Term from time to time, to request copies of certificates of insurance and/or other evidence of the adequacy of the above insurance coverages.

18. Entire Agreement.

(A) This document is intended by the parties as the final and binding expression of their agreement and is a complete and exclusive statement of the terms thereof and supersedes all prior negotiations, representations, and agreements and no representations, understandings, or agreements have been made or relied upon in the making of this Agreement other than those specifically set forth herein.

(B) No modification or waiver of any of the terms and conditions of this Agreement shall be effective unless such modification or waiver is expressed in writing and signed by each of the parties. This Agreement may be amended only in writing signed by each of the parties. No course of prior dealings between the parties and no use of trade shall be relevant or admissible to supplement, explain or vary the terms of this Agreement, whether the same be consistent with the terms of this Agreement or otherwise.

19. Assignment; Binding Nature; Multiple Originals.

To the extent permitted by law, this Agreement shall be binding upon and inure to the benefit of Pepsi and the Customer and its respective successors and permitted assigns. The Customer and Pepsi may not subcontract or assign its rights or obligations under this Agreement to any other entity or person without the express written consent of the other party, which consent may be withheld at its sole discretion. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

20. Savings Clause.

If any provision of this Agreement shall be deemed or declared unenforceable, invalid or void, the same shall not impair any of the other provisions contained herein which shall continue to be enforceable in accordance with their respective terms, except that this clause shall not deprive any party of any remedy afforded under this Agreement.

21. Waiver.

No waiver of any breach of any provision of this Agreement shall operate as a waiver of such provision of this Agreement or as a waiver or subsequent or other breaches of the same or any other provisions of this Agreement, nor shall any action or non-action by either party be construed as a waiver of any provisions of this Agreement or of any breach thereof unless the same has been expressly declared or recognized as a waiver by such party in writing.

22. Fortius Contra Proferentem.

The parties agree that they have had meaningful discussion and/or negotiation of the provisions, terms and conditions contained in this Agreement. Therefore, doubtful and ambiguous provisions, if any, contained in this Agreement, shall not be construed against the party who physically prepared this Agreement. The rule commonly referred to as *Fortius Contra Proferentem* shall not be applied to this Agreement or any interpretation thereof.

EXHIBIT A**List of Elementary, Middle and High Schools within the School District****Elementary Schools:**

1. _____
2. _____
3. _____
4. _____

Middle Schools:

1. _____
2. _____
3. _____
4. _____

High Schools:

1. _____
2. _____
3. _____
4. _____

Combined Middle and High Schools:

1. _____
2. _____
3. _____
4. _____

Exhibit B

Products & Pricing

Customer acknowledges and agrees (and shall require that any third parties or Food Service Providers purchasing Products through this Agreement agree) that Pepsi shall be entitled to pass-through any incremental state regulated fees, deposits, taxes or other governmentally imposed charges (whether local, state, federal or judicially imposed) and that the pass-through of any such governmentally imposed fees, deposits, taxes or charges on the Products shall not be deemed as a price increase subject to any pricing cap or notification restrictions that may be specified in this Agreement.

Exhibit C

Vending and Food Service Hours

All hours permitted under applicable laws, unless otherwise stated below.

Exhibit D
PepsiCo U.S. School Policy for Beverages
(Updated as of September 2014)

SUMMARY

PepsiCo follows all federal, state and local regulations governing beverage sales in schools and the company's Global School Beverage Policy (available on pepsico.com). In addition, PepsiCo will not offer caffeinated beverages that are marketed as energy drinks for sale to students in elementary, middle or high schools, even if they meet the nutrition thresholds in these standards.

PERMITTED PRODUCTS

Consistent with federal regulations issued by the U.S. Department of Agriculture (USDA) and PepsiCo's Global School Beverage Policy, PepsiCo will offer schools only those beverage products that meet the following standards, if such products are to be sold to students. In addition, PepsiCo will not offer caffeinated beverages that are marketed as energy drinks for sale to students in elementary, middle or high schools, even if they meet these standards, and will follow state and local regulations if stricter than these standards.

Elementary School

- Plain water or plain carbonated¹ water (no size limit)
- 100% fruit/vegetable juice (up to 8-ounce)
- 100% fruit/vegetable juice diluted with water - with or without carbonation¹ - and no added sweeteners (up to 8-ounce)
- Low-fat milk, unflavored (up to 8-ounce)
- Non-fat milk, flavored or unflavored, including nutritionally equivalent milk alternatives (up to 8-ounce)

Middle School

- Same as elementary school except that juice and milk meeting elementary school criteria may be up to 12-ounce
- As a practical matter, if middle school and high school students have common access to areas where beverages are sold on a common campus or in common buildings, then the school community has the option to adopt the high school standard.

High School

- Same as middle school except that the following beverages are also permitted:
 - Zero-calorie beverages with or without flavors and with or without carbonation up to 20-ounce. (As defined by U.S. Food and Drug Administration (FDA), "zero-calorie" beverages are labeled to contain less than 5 calories per 8-ounce, or no more than 10 calories per 20-ounce)
 - Low-calorie beverages with or without flavors and with or without carbonation up to 12-ounce. (As defined by FDA, "low calorie" beverages are labeled to contain no more than 40 calories per 8-ounce, or no more than 60 calories per 12-ounce)
 - Sports drinks with more than 40 calories per 8-ounce: only before, during and after physical activity/exposure to heat (such as at sport practices, training sessions and competitions), when such sales take place either (1) during the "extended day" (as defined in this policy below) in those schools not subject to USDA regulations, or (2) outside of the "school day" (as defined by USDA¹) in those schools subject to USDA regulations

APPLICATION OF POLICY

- Schools: This school beverage policy applies to all elementary, middle and high schools in the United States, whether public or private and whether or not such schools participate in the reimbursable school breakfast or lunch plan run by the Federal government.
- Time of Day: This policy applies to beverages sold to students on school grounds during the school day as well as the extended school day. The “extended school day” is the time before and after school when students are involved in events (e.g., clubs, yearbook, band and choir practice, student government, drama and childcare programs) that are primarily under the control of the school or third parties on behalf of the school.

As noted above, the inclusion of the extended day in this school beverage policy does not prohibit sales of sports drinks with more than 40 calories per 8-ounce during the extended school day to student athletes at practices, training sessions and competitions or to other students engaged in physical activity/exposed to heat, except in those schools subject to the USDA regulations where sports drinks may be sold to these students only during the period from 30 minutes after the school day until midnight prior to the next school day.

- Special Circumstances: This policy does not apply to the sale of beverages: (1) in staff areas of schools that are not accessible to students; (2) at, or immediately before or after, school-related events where parents and other adults are a significant part of an audience (e.g., sporting events, school plays and band concerts); or (3) for fundraisers held at schools (other than fundraising through vending machines, school stores, snack bars, à la carte sales).

Providing Choice and Information

PepsiCo will work to provide vending machines in a variety of graphic designs, including designs featuring low-calorie brands; to show calorie counts on vendor selection buttons; and to include a calorie awareness message such as “Calories Count – Check then Chose” (or similar) on vendor fronts.

Promoting Wellness and Education

PepsiCo will encourage schools to use contract-related sponsorship and marketing funds, if any, to promote student fitness, wellness and health education programs in schools.

Independent Bottlers and Third Party Distributors

Independent bottlers and third-parties that distribute PepsiCo products to schools should comply with all federal, state and local regulations governing the sale of beverages in schools. In addition, PepsiCo encourages independent bottlers and third-party distributors to follow the product standards and other guidance outlined within PepsiCo’s policy above.

Notes:

1. *The USDA regulations which took effect July 1, 2014 do not apply to (1) beverages sold to students in schools that do not participate in the reimbursable school breakfast or lunch plan run by the Federal government; or (2) beverages sold to students outside the “school day” (“school day” is defined by USDA as the period from midnight before, to 30 minutes after the end of the official school day).*

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Exhibit E

Additional Consideration/Benefits

In addition to the consideration specified in the Agreement, Pepsi shall provide the following further consideration to the Customer:

(A) Each Year during the Term, Pepsi shall provide the Customer with a Gatorade sideline kit valued at up to Five Hundred Dollars (\$500).

The Customer acknowledges that any marketing support or product donation set forth above does not represent a cash payment to the Customer and any unused marketing support or product donation (in whole or in part) shall not be carried over to the next Year.

The consideration set forth in this Exhibit will only be provided by Pepsi if signed below by a Pepsi representative:

Approved and Accepted

By: _____

Print Name: _____

Title: _____

Date: _____