

Amendment #2 to the  
Agreement Between  
Bottling Group, LLC, dba Pepsi Beverages Company  
And  
Western Connecticut State University  
For a Beverage Sponsorship Agreement

Contractor's Name: Bottling Group, LLC

Purpose of amendment: To amend contract terms found in section 1 and address of Bottling Group, LLC.

WHEREAS, Western Connecticut State University located at 181 White St., Danbury, CT 06810 and Bottling Group, LLC with offices at 1111 Westchester Avenue, White Plains, NY 10604 previously entered into an agreement on July 29, 2010 to support the above referenced activities.

WHEREAS, Western Connecticut State University and Bottling Group, LLC desire to amend the said agreement to be effective September 1, 2016 or upon the signature of the Office of the Attorney General, whichever is later.

NOW, THEREFORE, the original agreement is modified as follows:

1. Replace Section 1 as follows:

Term: This Agreement takes effect as of July 1, 2010 (the "Effective Date") and expires on June 30, 2019.

2. Change of Address for Bottling Group, LLC:

The address of Bottling Group, LLC is changed from 1 Pepsi Way, Somers, NY 10589-2201 to 1111 Westchester Avenue, White Plains, NY 10604.

End of Amendment 2. All other terms and conditions of the original agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be duly executed.

CGS10a-151b

Bottling Group, LLC

By: Brennan Kelly  
Title: Foodservice Sales Rep  
Date Signed: 7/1/2016

Western Connecticut State University

By: Sean Souhran  
Title: VP of Finance + Administration  
Date Signed: 7/8/16

Office of the Attorney General – State of Connecticut (approved as to form)

By: [Signature]  
Title: Special Counsel  
Date: 7/14/16

Amendment #1 to the  
Agreement Between  
Bottling Group, LLC, dba Pepsi Beverages Company  
And  
Western Connecticut State University  
For a Beverage Sponsorship Agreement

Contractor's Name: Bottling Group, LLC

Purpose of amendment: To amend contract terms found in sections 1, 6.7,9 and Exhibit C and add sections 17.6, 17.7, and 17.8.

WHEREAS, Western Connecticut State University located at 181 White St., Danbury, CT 06810 and Bottling Group, LLC with offices at 1 Pepsi Way, Somers, NY 10589-2201 previously entered into an agreement on July 29, 2010 to support the above referenced activities.

WHEREAS, Western Connecticut State University and Bottling Group, LLC desire to amend the said agreement to be effective July 1, 2015:

NOW, THEREFORE, the original agreement is modified as follows:

1. Replace Section 1 as follows:

Term: This Agreement takes effect as of July 1, 2010 (the "Effective Date") and expires on June 30, 2017, unless (i) mutually extended in writing for one (1) twenty four (24) month renewal extensions containing all the same terms herein or by written agreement between the parties for one (1) twenty four (24) month renewal extensions that contain changes to this original Agreement or (ii) sooner terminated as provided herein (the "Term").

2. Replace Section 6.7 as follows:

Vending Commissions: Sponsor agrees to pay University commissions based on actual cash collected (including revenue from debit and credit card sales), after deducting shortages, government-mandated deposits and handling fees, communication charges, debit and credit card fees and recycling fees, if any, from the sale of bottle and can Products sold through Sponsor's full-service vending machines on Campus, the pricing terms of which are described in Exhibit C. The Commission rate payable to the University for vend sales shall be not less than 38% for the duration of the Agreement. Commission statements provided to WCSU shall contain a list of all fees that were deducted from sales, if any. Commissions shall not be payable on any sales from vending machines not filled or serviced exclusively by Sponsor. Commissions shall be paid periodically, within thirty (30) days of the end of each 4-week accounting period established by the Sponsor, as defined herein as "Period Calendar," with a written accounting of all sales and monies, and shall become immediate property of University. The total value of this agreement shall have an estimated magnitude over its term of \$700,000.00.

3. Replace Section 9 as follows:

Non-Discrimination: Non-Discrimination: (a) For purposes of this Section, the following terms are defined as follows:

- i. "Commission" means the Commission on Human Rights and Opportunities;
- ii. "Contract" and "contract" include any extension or modification of the Contract or contract;
- iii. "Contractor" and "contractor" include any successors or assigns of the Contractor or contractor;
- iv. "Gender identity or expression" means a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth, which gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person's core identity or not being asserted for an improper purpose;
- v. "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations;
- vi. "good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements;
- vii. "marital status" means being single, married as recognized by the state of Connecticut, widowed, separated or divorced;
- viii. "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders;
- ix. "minority business enterprise" means any small contractor or supplier of materials fifty-one percent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise, and (3) who are members of a minority, as such term is defined in subsection (a) of Connecticut General Statutes § 32-9n; and
- x. "public works contract" means any agreement between any individual, firm or corporation and the State or any political subdivision of the State other than a municipality for construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, or which is financed in whole or in part by the State, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees.

For purposes of this Section, the terms "Contract" and "contract" do not include a contract where each contractor is (1) a political subdivision of the state, including, but not limited to, a municipality, (2) a quasi-public agency, as defined in Conn. Gen. Stat. Section 1-120, (3) any other state, including but not limited to any federally recognized Indian tribal governments, as defined in Conn. Gen. Stat. Section 1-267, (4) the federal government, (5) a foreign government, or (6) an agency of a subdivision, agency, state or government described in the immediately preceding enumerated items (1), (2), (3), (4) or (5).

(b) (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability

prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut; and the Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by the Contractor that such disability prevents performance of the work involved; (2) the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action equal opportunity employer" in accordance with regulations adopted by the Commission; (3) the Contractor agrees to provide each labor union or representative of workers with which the Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which the Contractor has a contract or understanding, a notice to be provided by the Commission, advising the labor union or workers' representative of the Contractor's commitments under this section and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the Contractor agrees to comply with each provision of this Section and Connecticut General Statutes §§ 46a-68e and 46a-68f and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes §§ 46a-56, 46a-68e and 46a-68f; and (5) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this Section and Connecticut General Statutes § 46a-56. If the contract is a public works contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works projects.

(c) Determination of the Contractor's good faith efforts shall include, but shall not be limited to, the following factors: The Contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the Commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.

(d) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the Commission, of its good faith efforts.

(e) The Contractor shall include the provisions of subsection (b) of this Section in every sub contract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such sub contract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes § 46a-56; provided if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.

(f) The Contractor agrees to comply with the regulations referred to in this Section as they exist on the date of this Contract and as they may be adopted or amended from time to time during the term of this Contract and any amendments thereto.

(g) (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes § 46a-56; and (4) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this Section and Connecticut General Statutes § 46a-56.

(h) The Contractor shall include the provisions of the foregoing paragraph in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes § 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.

4. Incorporate Section 17.6 Sovereign Immunity Clause:

Sovereign Immunity: The parties acknowledge and agree that nothing in this Agreement shall be construed as a modification, compromise or waiver by the State of any rights or defenses of any immunities provided by Federal law or the laws of the State of Connecticut to the State or any of its officers and employees, which they may have had, now have or will have with respect to all matters arising out of this Agreement. To the extent that this section conflicts with any other section, this section shall govern.

5. Incorporate Section 17.7 Summary of State Ethics Laws Clause:

Summary of State Ethics Laws: Pursuant to the requirements of section 1-101qq of the Connecticut General Statutes, the summary of State ethic laws developed by the State Ethics Commission pursuant to section 1-81b of the Connecticut General Statutes is incorporated by reference into and made a part of the contract as if the summary had been fully set forth in the contract.

6. Incorporate Section 17.8 Entire Agreement Clause:

Entire Agreement: This written contract shall constitute the entire agreement between the parties and no other terms and conditions in any document, acceptance or acknowledgment shall be effective or binding unless expressly agreed to in writing by the University. This contract may not be changed other than by a formal written contract amendment signed by the parties hereto and approved by the Connecticut Attorney General.

**EXHIBIT C**  
**Vend Prices**

The unit vend prices set forth shall remain in effect for Agreement Years 6 and 7. University and Contractor reserve the right to incorporate upon mutual agreement additional products and offerings at mutually agreeable prices.

20-oz. Carbonated Soft Drinks - \$1.50  
20-oz. Aquafina and Aquafina Flavor Splash - \$1.50  
20-oz. Brisk Tea - \$1.50  
20-oz. Lipton Main Street Tea - \$1.50  
20-oz. Tropicana - \$1.50  
20-oz. Hawaiian Punch - \$1.50  
15.2-oz. Dole & Ocean Spray Juice - \$1.75  
16-oz. Lipton Ice Tea - \$1.75  
20-oz. Propel - \$1.75  
20-oz. Sobe Life Water - \$1.75  
20-oz. Gatorade & G2 Sports Drink - \$1.75  
9.5-oz. Starbucks Frappuccino - \$2.50  
16-oz. AMP & Sobe Energy - \$2.50  
15-oz. Double Shot Coffee & Energy: \$2.50

End of Amendment 1. All other terms and conditions of the original agreement shall remain in full force and effect.



IN WITNESS WHEREOF, the undersigned have caused this Agreement to be duly executed.

CGS10a-151b

Bottling Group, LLC dba Pepsi Beverages Company

By: Thomas H. Carter  
Title: Key Account Manager (KAM)  
Date Signed: 3-19-2015

Western Connecticut State University

By: Sean Foye  
Title: AVP, Finance + Administration  
Date Signed: 3/23/15

Office of the Attorney General – State of Connecticut

By: Joseph Rubin  
Title: ASSOCIATE GENERAL  
Date: 4/9/15

Approved As To Form

## SPONSORSHIP AGREEMENT

This agreement (the "Agreement") is made by and between Bottling Group, LLC, dba Pepsi Beverages Company, with offices at 1 Pepsi Way, Somers, NY 10589-2201 a Delaware limited liability company (the "Sponsor" or "Contractor"), and Western Connecticut State University, with offices at 181 White St., Danbury, CT 06810, a constituent unit of higher education of the State of Connecticut and a body of the Connecticut State University System (the "University" or "WCSU"). The parties are entering into this exclusive sponsorship agreement because the University wishes to grant to Sponsor, and Sponsor wishes to obtain, (i) the exclusive rights to offer Products for sale or sampling on the Campus (as defined herein) and (ii) to market and associate Products with the University and to promote their consumption and sale generally and on the Campus. In consideration of the mutual promises contained herein, the parties agree to the following terms regarding their exclusive sponsorship agreement.

1. Term. This Agreement takes effect as of July 1, 2010 (the "Effective Date") and expires on June 30, 2015, unless (i) mutually extended in writing for two (2) separate 24 month renewal extensions containing all the same terms herein or by written agreement between the parties for two (2) separate 24 month renewal extensions that contain changes to this original Agreement or (ii) sooner terminated as provided herein (the "Term").

2. Definitions. All defined terms used in this Agreement and not otherwise defined shall have the meanings set forth on Exhibit A.

3. Beverage Availability Rights:

3.1 Subject to the Permitted Exceptions set forth in Section 5 hereof, University agrees that all Beverages sold, distributed, or sampled (that is, distributed at no cost) at all locations on the Campus will be Products. University agrees that it shall, or shall cause its concessionaires to, purchase its complete requirements of Products for the Campus from Sponsor. Sponsor and University agree that, at a minimum, the following Products shall be available at each refreshment location as appropriate: Pepsi, Diet Pepsi, Sierra Mist, Mountain Dew, Aquafina, Gatorade, Tropicana, Ocean Spray, and such other Products as determined by Sponsor. Subject to the Permitted Exceptions set forth in Section 5 hereof, no Competitive Products shall be made available, advertised, or promoted on Campus.

3.2 If, during the Term of this Agreement, University elects to contract with a third party concessionaire or food service operator that has entered into a separate agreement with Sponsor, the parties acknowledge that there will be no duplication of allowances, funding or benefits to University and/or such third party. Therefore, Sponsor is not obligated to pay any further consideration to University or such third party pursuant to any terms of the pre-existing agreement for Products purchased and/or sold under this Agreement, and the third party concessionaire or food service operator will be required to purchase its requirements for Products to be sold or distributed on Campus.

3.3 University hereby grants to Sponsor the exclusive beverage vending rights on the Campus. Sponsor shall have the right to place or maintain in the existing place a magnitude of twenty three (23) full-service beverage vending machines in mutually agreed upon locations on the Campus. Such beverage vending machines shall be owned, stocked and serviced exclusively by Sponsor.

#### 4. Marketing and Promotional Rights:

4.1 University grants to Sponsor the following exclusive promotional rights, to:

4.1.1 Market and promote the beverages in connection with the University, the campus, and teams, including the right of recognition of its sponsorship on panels.

4.1.2 Market and promote beverages in connection with University promotional activities. The University acknowledges and agrees that such promotional activities may be conducted in conjunction with the Sponsor's customers and as such shall have the right to incorporate its customers' marks, logos, and branded products with the University Marks on any advertising, point-of-sale, packaging, or premium items or materials. University will grant to the Sponsor a license to use the university marks on a royalty-free basis for the purpose of promoting products as provided in the Agreement.

4.1.3 Sample products and survey individuals on the Campus with the University's prior approval, which shall not be unreasonably withheld.

4.1.4 Create and market for retail sale, either at Company retail stores or through its catalog, merchandise incorporating the University Marks and trademarks of products. Sponsor or its licensee shall pay a royalty on each item of merchandise consistent with industry standards for sales of such merchandise.

By terms of the Agreement, the University will grant to the Sponsor the following exclusive merchandising rights:

4.1.5 Materials promoting the products at the point-of-sale on the Campus shall be clearly visible to the purchasing public and shall be displayed in a manner and location acceptable to both University and Sponsor.

4.1.6 Product trademarks shall be prominently displayed on menu boards and menus on the Campus whenever practical.

4.1.7 Only product trademarks shall be displayed on beverage vending machines on the campus.

4.1.8 University shall provide the Sponsor with media and other marketing rights, all of which shall be exclusive with respect to Beverages.

4.1.9 University shall have the right to pre-approve (i) the concept for any promotional activity and (ii) any artwork or other items created by the Sponsor for use in promotional activities or otherwise in accordance with the terms of this Agreement and that incorporate any of the University Marks, provided, however, if the University fails to respond to any submission within a period of twenty (20) working days subsequent to the actual receipt by the University of such submission, then such submission shall be deemed approved by the University.

4.1.10 Market and promote Beverages in connection with the University and the Campus including the use of the University Marks on a royalty-free basis. University shall cooperate with Sponsor's efforts to maximize the sale and distribution of Products. University acknowledges and agrees that such promotional activities may be conducted in conjunction with Sponsor's other customers, and as such, Sponsor shall have the right to incorporate its customers' marks, logos and/or branded products with the University Marks on any advertising, point-of-sale, packaging or premium items or materials. University hereby grants Sponsor a license to use the University Marks on a royalty-free basis for the purposes of promoting Products as provided herein.

4.1.11 Refer to Sponsor in any of Sponsor's marketing materials as a "sponsor" of the Campus, the University, and/or the Teams, and refer to any brand of Products in any of Sponsor's marketing materials as the "official" or "exclusive" soft drink, sports drink, tea, water, energy drink, juice or juice drink, etc. of the Campus, University or the Teams.

4.1.12 Undertake Beverage promotions at or in connection with the Campus and/or the Teams, including offering Products in promotional packaging bearing the University's Marks on a royalty-free basis.

4.1.13 Create and market for retail sale merchandise incorporating the University Marks and trademarks of Products with written approval from the University, such approval not to be unreasonably withheld. Sponsor will pay a royalty on each item of merchandise consistent with industry standards for sales of such merchandise.

4.1.14 Product Promotion: Within the initial year of this Agreement, Sponsor shall conduct a sampling event at a minimum of once per semester. These sampling events shall include product samplings, interactive events, and give-

a-ways. The University's Director for Campus & Student Centers shall act as the liaison for this program.

4.1.15 Retail Promotion: Within the initial year of this Agreement, Sponsor shall create and execute a minimum of two (2) retail promotions and a minimum of one (1) retail promotion each Agreement Year thereafter. Each promotion shall be student incentive based with a specific time frame. The University's Director for Campus & Student Centers shall act as the liaison for this program.

4.1.16 Surveys: Upon reasonable notice to University, Sponsor shall have the right to conduct, at its own expense, consumer surveys on the Campus relating to Sponsor's advertising and Products. Such surveys shall be conducted in such a way as to minimize inconvenience to University attendees.

4.2 University grants to Sponsor the following exclusive merchandising rights:

4.2.1 University agrees that all Beverages served, sold, or dispensed on the Campus in disposable vessels (including Beverages sold, served, or made available in locker rooms and players' benches) shall be served in approved cups.

4.2.2 Materials promoting the Products at the point-of-sale on the Campus, which will include translites and pictorials on dispensing equipment depicting Approved Cups and Sponsor's Products, shall be clearly visible to the purchasing public and shall be displayed in a manner and location acceptable to Sponsor.

4.2.3 Product trademarks shall be prominently displayed on menus and menu boards on the Campus.

4.3 University shall have the right to pre-approve (i) the concept for any promotional activity undertaken hereunder and (ii) any artwork or other items created by Sponsor for use in promotional activities or otherwise in accordance with the terms of this Agreement and to incorporate any of the University Marks. University agrees that failure to respond to any submission within a period of ten (10) working days subsequent to the actual receipt by University of such submission, that such submission shall be deemed approved by University. University agrees that its approval hereunder shall not be unreasonably withheld.

4.4 Subject to the Permitted Exceptions set forth in Section 5, University agrees that it shall not, directly or indirectly, (nor shall University permit anyone to whom University has granted promotional, advertising or other rights) maintain any agreement or relationship pursuant to which any Competitive Products are associated in any manner with University, the Campus, or the Teams in any fashion that creates or tends to create the impression of a relationship or connection between the University, the Campus or the Teams and any

Competitive Product. For further specificity, and not by way of limitation, University agrees that no permanent or temporary advertising, signage, or trademark visibility for Competitive Products will be permitted anywhere on the Campus. Nothing contained herein shall prevent on-Campus consumption (but not resale or re-distribution) by students, faculty or their guests of Competitive Products purchased outside the Campus.

5. Permitted Exceptions:

5.1 For as long as a similar Product is unavailable, as mutually defined by the parties, the University shall have the right to make available for sale on the campus (i) freshly-brewed coffee and freshly brewed specialty coffee, (ii) freshly-brewed tea, (iii) hot chocolate, (iv) milk, and (v) other premium drinks for which Sponsor is not capable of providing a reasonably suitable alternative. This shall not be deemed to allow advertising or promotional rights with respect to such Competitive Products except that trademarks for such Competitive Products may be displayed on menu boards and on dispensing equipment. In the Daily Grind non-competitive drinks may be dispensed and promoted as necessary.

5.2 University will ensure that no permanent or temporary advertising, signage, or trademark visibility for Competitive Products is displayed on Campus except for advertising in the student newspaper and except for ads on the student radio station.

5.3 For certain special private events held by student organizations and for receptions in University's residence halls, Competitive Products may be made available if donated or purchased by attendees of such events; provided, however: (i) such event is not open to the general public; and (ii) any such Competitive Products shall be made available solely for personal consumption by the attendees of the event and not for resale on the Campus. University agrees that this provision shall not be read to allow Campus-wide advertising or promotional rights with respect to any such Competitive Products.

6. Consideration:

6.1 Upfront Fund: For the rights described herein, Sponsor agrees to pay University the "Upfront Fund" totaling Fifty Thousand Dollars (\$50,000). This payment shall be due within thirty (30) days after the full execution of this Agreement.

6.2 Student Fund: Sponsor agrees to pay University the "Student Fund" totaling Fifty Five Thousand Dollars (\$55,000) annually\*\*. The initial payment shall be due within thirty (30) days after the full execution of this Agreement with annual payments due on July 1 of each Agreement year.

\*\*The University acknowledges and agrees that the Student Fund is based on the University achieving an annual volume threshold in its food service operations (main servery and snack bars) or bookstore operations of at least six thousand (6,000) cases (the "Case Volume Threshold"). For the purposes of measuring the "Case Volume Threshold," a "case" configuration shall be as set forth on Exhibit B attached hereto. Therefore, in the event that

University fails to achieve the Case Volume Threshold for any given year during the Term (a "Shortfall"), then the Sponsor shall have the right to reduce the next annual Student Fund payment on a prorated basis based on the percentage Shortfall (i.e., 600 Case or 10% shortfall shall equal a \$5,500 or 10% reduction), except that in the last year of the Agreement, any applicable reduction as a result of a Shortfall shall be in the form of a reimbursement from the University.

6.3 Marketing Support: Sponsor agrees to create a Marketing Support fund (the "On-Campus Marketing Fund") in the annual amount of Three Thousand Dollars (\$3,000) each Agreement Year over the Term of the Agreement. This On-Campus Marketing Fund shall be held and managed by Sponsor and used for Campus-wide marketing and activation activities, including but not limited to, student promotions and giveaways, sampling events, Complimentary Products (of Sponsor's choosing), orientation events, or mutually agreed upon marketing activities to promote the awareness and sale of new product brands and packages. Sponsor shall provide the University with a semi-annual report detailing the Campus Marketing Support expenditures. Use of the Marketing Support fund must be approved by the Director of Campus & Student Centers.

6.4 Complimentary Product: Sponsor agrees to provide Complimentary Products of Sponsor's choosing with an annual retail value of approximately Two Thousand Dollars (\$2,000) during each Agreement Year over the Term of this Agreement, as determined in good faith by Sponsor, for use in connection with both student activities and athletic programs of the University. The University's Director for Campus & Student Centers shall be the appointed liaison to the Sponsor in the distribution of the complimentary product. Sponsor shall provide the University with a semi-annual report detailing the Complimentary Product expenditures. The University must request all available Complimentary Products during the course of each Agreement Year. Any Complimentary Products not used within an Agreement Year will be forfeited.

The University acknowledges and agrees that the annual Marketing Support described in Section 6.3 and the Complimentary Products described in Section 6.4 above do not represent a cash payment to the University. In addition, the University acknowledges and agrees that the Complimentary Products or any signage and Marketing Support not used within an Agreement Year shall not be carried over to subsequent Agreement Years.

6.5 Athletic Hydration Support: Sponsor agrees to provide Two Thousand Five Hundred Dollars (\$2,500) during each Agreement Year for value-in-kind product and support of the Gatorade Sideline Kit. Such athletic support shall consist of Gatorade powdered drink mix, coolers, ice chests, cups, towels, squeeze bottles, and squeeze bottle containers. The University's Director of Athletics shall be the liaison to the Sponsor in the administration of this support. Sponsor shall provide the University with a semi-annual report detailing the Athletic Hydration Support expenditures.

6.6 Recycling and Sustainability Fund: Sponsor agrees to provide Two Thousand Dollars (\$2,000) during each Agreement Year for the Term of the Agreement for the

enhancement of recycling programs and sustainable initiatives on the Campus. This fund shall be applied to the purchase of recycling and communication materials geared to involve students interactively in recycling and sustainability. Sponsor shall provide branded recycling bins and energy efficient “energy star” vending machines. The Sponsor shall also provide recycling containers for outside campus events.

6.7 Vending Commissions: Sponsor agrees to pay University commissions based on actual cash collected (including revenue from debit and credit card sales), after deducting shortages, government-mandated deposits and handling fees, communication charges, debit and credit card fees and recycling fees, if any, from the sale of bottle and can Products sold through Sponsor’s full-service vending machines on Campus, the pricing terms of which are described in Exhibit C. The Commission rate payable to the University for vend sales shall be 38% for the duration of the Agreement. Commission statements provided to WCSU shall contain a list of all fees that were deducted from sales, if any. Commissions shall not be payable on any sales from vending machines not filled or serviced exclusively by Sponsor. Commissions shall be paid periodically, within thirty (30) days of the end of each 4-week accounting period established by the Sponsor, as defined herein as “Period Calendar,” with a written accounting of all sales and monies, and shall become immediate property of University.

6.7.1 Change to Vending Commission Rate: The University acknowledges and agrees that the Sponsor established the Commission rate based on any applicable sales tax associated with the sale of the Products through the vending machines as of the effective date of this Agreement. If, during the Term of this Agreement, sales taxes should increase by more than five percent (5%), the Sponsor shall have the right to automatically reduce the Commission rate by the same percentage amount.

6.8 Debit Card Readers: The awarded contractor will be responsible for the purchase and supply of the card readers and accompanying supplies necessary to facilitate sales through the University’s campus one-card system (referred to as the WestConnect Card). The University uses the C-Bord CS Gold (Version 5) in its campus debit card system. All vending machines shall be outfitted with a card reader (unless otherwise indicated by WCSU) to allow debit sales to be made via the WestConnect Card. The awarded contractor shall be responsible for the supply, repair, installation, and maintenance of such equipment along with the purchase of any required interface software necessary for connection to the debit card system. The installation of the debit card readers shall take place within thirty (30) days after the full execution of this Agreement by Sponsor and University, or other mutually agreed upon schedule. The University shall be responsible for wiring from the building to the wall outlet and Sponsor is responsible for the wiring from the wall to the debit card reader. In addition to the new debit card readers, Sponsor shall maintain a sufficient inventory of debit card readers, to replace any broken, damaged or non-functioning debit card readers. Sponsor shall not be required to pay any amounts with respect to the University’s debit card system (including, without limitation, service fees, transaction fees, wiring, sale percentages, etc.). The debit card readers shall remain the property of Sponsor during and after the Term, and



Sponsor shall be responsible for all maintenance and repair of the debit card readers during the Term. The University shall maintain the network and wiring connection to the debit card readers. All debit card sales shall be reported by the University WestConnect Card Office to the Contractor. The University shall submit a report of debit card sales on a daily basis to the Contractor and shall send payment for these debit card sales within ten (10) days of the end of each fiscal month.

7. Equipment and Service: Sponsor will provide new equipment and service sufficient to meet University's reasonable needs as follows:

7.1 During the Term, Sponsor will provide to University, pursuant to Sponsor's standard equipment placement specifications, at no cost, all Beverage dispensing equipment ("Equipment") which is reasonably required in Sponsor's discretion to dispense Products at the University.

7.2 University agrees: (i) that all Equipment placed by Sponsor shall remain the property of Sponsor during and after the Term of this Agreement; (ii) the Equipment may not be removed from the University without Sponsor's written consent; (iii) University will not encumber the Equipment in any manner or permit any attachment thereto except as authorized by Sponsor for its Equipment; and (iv) University will be responsible to Sponsor for any loss or damage to the Equipment resulting from University's negligence or willful misconduct. University represents and warrants that electrical service on the Campus is proper and adequate for the installation of Equipment. Sponsor will not be held liable for any damages arising out of defective electrical services.

7.3 Equipment service will be provided during normal business hours, except that University and Sponsor may mutually agree upon a schedule for service that may be needed outside of normal business hours. Sponsor will provide a "hotline" number to report service and repair calls 7 days a week. All repair calls will be responded to within a total average response time of 24 hours. Sponsor agrees to inspect each full service Beverage vending machine when supplying or servicing it and to bring each full service Beverage vending machine up to the highest industry standards of cleanliness and repair, including but not limited to cleaning all customer contact surfaces such as selector buttons, knobs and handles. Sponsor will not be obligated to provide service hereunder 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 Sponsor. Sponsor will not be liable for damages of any kind arising out of delays in rendering service.

7.4 If there is an issue with service (i.e. repair, maintenance and/or the stocking of vending machines) from Sponsor, University and Sponsor shall negotiate in good faith for an appropriate in kind remedy such as complimentary cases of Products.

7.5 Equipment placed shall be of a new nature and be current with energy efficient technology.

8. Termination, Loss of Rights, and Legal Remedies:

8.1 In addition to any other legal or equitable remedy, University shall have the right to terminate this Agreement upon forty-five (45) days' written notice to Sponsor at any time if:

8.1.1 Sponsor fails to make any payment due under this Agreement, and if such default continues uncured for the forty-five day period referenced in Section 8.1; or

8.1.2 Sponsor breaches any material term or condition of this Agreement, and if such breach continues uncured for the forty-five day period referenced in Section 8.1; or

8.2 In addition to any other legal or equitable remedy, Sponsor shall have the right to terminate this Agreement upon forty-five (45) days' written notice to University at any time if:

8.2.1 University breaches any material term or condition of this Agreement, and if such breach continues uncured for the forty-five day period referenced in Section 8.2; or

8.2.2 University's right to convey the promotional and Beverage availability rights contained in this Agreement expire or are revoked; or

8.2.3 Any material component of the Campus is closed for a period of one hundred twenty (120) days or more, whether or not such closure is due to a cause beyond the reasonable control of University.

8.3 Upon early termination of this Agreement for any reason, University will refund any prepaid and unearned portions of the Upfront Fee and the Sponsorship Fees (including the Partnership Fund), all of which shall be pro-rated to the date of termination or, if earlier, the date of any default hereunder by University.

8.4 If any material component of the Campus is closed for more than thirty (30) consecutive days, but less than one hundred twenty (120) consecutive days, Sponsor may extend the Term for a corresponding period, whether or not such closure is due to a cause beyond the reasonable control of University.

8.5 If (i) any of the rights granted to Sponsor herein are materially restricted or limited during the Term (including, without limitation, as a result of Ambush Marketing or governmental regulations), or (ii) any material component of the Campus is closed for a period of more than ninety (90) consecutive days, or (iii) the varsity football Team or the men's or women's varsity basketball Team fails to play all of its scheduled home games on the

Campus for a period of more than thirty (30) consecutive days during its scheduled season (whether or not such failure to play is due to a cause beyond the reasonable control of University including a strike or other work stoppage), then in addition to any other remedies available to Sponsor, Sponsor may elect, at its option, to adjust the Sponsorship Fees and/or other amounts to be paid to University for the then remaining portion of the Term (and University shall pay to Sponsor a pro rata refund of any prepaid amounts) to reflect the diminution of the value of rights granted hereunder to Sponsor. In the event Sponsor elects to exercise its right to such adjustment and refund, University may, at its option, within ten (10) days following receipt of notice of any adjustment, notify Sponsor of its disagreement with the amount of the adjustment. The parties shall then attempt in good faith to resolve the disagreement over such adjustment. If the parties cannot, after good faith negotiations, resolve the matter, Sponsor may exercise the right of termination and the right of remedy described above in Section 8.2 and Section 8.3, respectively.

8.6 University recognizes that Sponsor has paid valuable consideration to ensure an exclusive associational relationship with University, the Teams, the University Marks, and the Campus with respect to Beverages and that any dilution or diminution of such exclusivity seriously impairs Sponsor's valuable rights. Accordingly, subject to the Permitted Exceptions set forth in Section 5, University will promptly oppose Ambush Marketing and take all reasonable steps to stop Ambush Marketing and to protect the exclusive associational rights granted to Sponsor by University in this Agreement. If the parties determine that legal action is necessary to stop the Ambush Marketing, Sponsor acknowledges that such legal action may be subject to University obtaining the advice and counsel of the Attorney General of the State of Connecticut. In the event any such Ambush Marketing occurs during the Term, each party shall notify the other parties of such activity immediately upon learning thereof.

8.7 Sponsor shall have the right to withhold and not pay further Sponsorship Fees or any other amounts which may become payable to University pursuant to this Agreement if: (i) University has failed to perform its obligations hereunder, (ii) Sponsor's rights hereunder have been lost, limited or restricted, or (iii) there exists a bona fide dispute between the parties.

8.8 Claims Against the State: The Sponsor agrees that the sole and exclusive means for the presentation of any claim against the State of Connecticut arising from this Agreement shall be in accordance with Chapter 53 of the Connecticut General Statutes (Claims Against the State) and the Sponsor further agrees not to initiate legal proceedings in any state or federal court in addition to, or in lieu of, said Chapter 53 proceedings.

9. Non-Discrimination:

References in this section to "contract" shall mean this Contract and references to "contractor" shall mean the Contractor.

(a) The following subsections are set forth here as required by section 4a-60 of the Connecticut General Statutes:

(1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut. The contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved; (2) the contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the commission; (3) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the commission advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the contractor agrees to comply with each provision of this section and sections 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to sections 46a-56, 46a-68e and 46a-68f; (5) the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor as relate to the provisions of this section and section 46a-56.

(b) If the contract is a public works contract, the contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project.

(c) "Minority business enterprise" means any small contractor or supplier of materials fifty-one per cent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) Who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise and (3) who are members of a minority, as such term is defined in subsection (a) of section 32-9n; and "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. "Good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory

requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements.

- (d) Determination of the contractor's good faith efforts shall include but shall not be limited to the following factors: The contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.
- (e) The contractor shall develop and maintain adequate documentation, in a manner prescribed by the commission, of its good faith efforts.
- (f) The contractor shall include the provisions of sections (a) and (b) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.
- (g) The following subsections are set forth here as required by section 4a-60a of the Connecticut General Statutes:
  - (1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the state of Connecticut, and that employees are treated when employed without regard to their sexual orientation;
  - (2) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;
  - (3) the contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to section 46a-56; and
  - (4) the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment

practices and procedures of the contractor which relate to the provisions of this section and section 46a-56.

- (h) The contractor shall include the provisions of section (g) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may enter.
- (i) For the purposes of this entire Non-Discrimination section, "contract" includes any extension or modification of the contract, "contractor" includes any successors or assigns of the contractor, "marital status" means being single, married as recognized by the state of Connecticut, widowed, separated or divorced, and "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders. For the purposes of this section, "contract" does not include a contract where each contractor is (1) a political subdivision of the state, including, but not limited to, a municipality, (2) a quasi-public agency, as defined in Conn. Gen. Stat. Section 1-120, (3) any other state, including but not limited to any federally recognized Indian tribal governments, as defined in Conn. Gen. Stat. Section 1-267, (4) the federal government, (5) a foreign government, or (6) an agency of a subdivision, agency, state or government described in the immediately preceding enumerated items (1), (2), (3), (4) or (5).

10. Campaign Contribution Restrictions: For all State contracts as defined in P.A. 07-1 having a value in a calendar year of \$50,000 or more or a combination or series of such agreements or contracts having a value of \$100,000 or more, the authorized signatory to this Agreement expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice.

SEEC FORM 11

NOTICE TO EXECUTIVE BRANCH STATE CONTRACTORS  
AND PROSPECTIVE STATE CONTRACTORS OF CAMPAIGN  
CONTRIBUTION AND SOLICITATION BAN

This notice is provided under the authority of Connecticut General Statutes § 9-612(g)(2), as amended by P.A. 07-1, and is for the

purpose of informing state contractors and prospective state contractors of the following law (italicized words are defined below):

Campaign Contribution and Solicitation Ban

No *state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor*, with regard to a *state contract* or *state contract solicitation* with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall make a contribution to, or *solicit* contributions on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee;

In addition, no holder or principal of a holder of a valid prequalification certificate, shall make a contribution to, or solicit contributions on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of State senator or State representative, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

Duty to Inform

State contractors and prospective state contractors are required to inform their principals of the above prohibitions, as applicable, and the possible penalties and other consequences of any violation thereof.

Penalties for Violations

Contributions or solicitations of contributions made in violation of the above prohibitions may result in the following civil and criminal penalties:

Civil penalties—\$2000 or twice the amount of the prohibited contribution, whichever is greater, against a principal or a contractor. Any state contractor or prospective state contractor which fails to make reasonable efforts to comply with the provisions requiring notice to its principals of these prohibitions and the possible consequences of their violations may also be subject to civil penalties of \$2000 or twice the amount of the prohibited contributions made by their principals.

Criminal penalties—Any knowing and willful violation of the prohibition is a Class D felony, which may subject the violator to imprisonment of not more than 5 years, or \$5000 in fines, or both.

Contract Consequences

Contributions made or solicited in violation of the above prohibitions may result, in the case of a state contractor, in the contract being voided.

Contributions made or solicited in violation of the above prohibitions, in the case of a prospective state contractor, shall result in the contract described in the state contract solicitation not being awarded to the prospective state contractor, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

The State will not award any other state contract to anyone found in violation of the above prohibitions for a period of one year after the election for which such contribution is made or solicited, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

Additional information and the entire text of P.A. 07-1 may be found on the website of the State Elections Enforcement Commission, [www.ct.gov/seec](http://www.ct.gov/seec). Click on the link to “State Contractor Contribution Ban.”

Definitions:

“State contractor” means a person, business entity or nonprofit organization that enters into a state contract. Such person, business entity or nonprofit organization shall be deemed to be a state contractor until December thirty-first of the year in which such contract terminates. "State contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

“Prospective state contractor” means a person, business entity or nonprofit organization that (i) submits a response to a state contract solicitation by the state, a state agency or a quasi-public agency, or a proposal in response to a request for proposals by the state, a state



agency or a quasi-public agency, until the contract has been entered into, or (ii) holds a valid prequalification certificate issued by the Commissioner of Administrative Services under section 4a-100.

"Prospective state contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a state contractor or prospective state contractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a state contractor or prospective state contractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a state contractor or prospective state contractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, or if a state contractor or prospective state contractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any state contractor or prospective state contractor who has *managerial or discretionary responsibilities with respect to a state contract*, (v) the spouse or a *dependent child* who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the state contractor or prospective state contractor.

"State contract" means an agreement or contract with the state or any state agency or any quasi-public agency, let through a procurement process or otherwise, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a calendar year, for (i) the rendition of services, (ii) the furnishing of any goods, material, supplies, equipment or any items of any kind, (iii) the construction, alteration or repair of any public building or public work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan guarantee. "State contract" does not include any agreement or contract with the state, any state agency or any quasi-public agency that is exclusively federally

funded, an education loan or a loan to an individual for other than commercial purposes.

"State contract solicitation" means a request by a state agency or quasi-public agency, in whatever form issued, including, but not limited to, an invitation to bid, request for proposals, request for information or request for quotes, inviting bids, quotes or other types of submittals, through a competitive procurement process or another process authorized by law waiving competitive procurement.

"Managerial or discretionary responsibilities with respect to a state contract" means having direct, extensive and substantive responsibilities with respect to the negotiation of the state contract and not peripheral, clerical or ministerial responsibilities.

"Dependent child" means a child residing in an individual's household who may legally be claimed as a dependent on the federal income tax of such individual.

11. Executive Orders Nos. 3, 17, 16, 7C, and 14: The Contract is subject to the provisions of Executive Order No. 7C of Governor M. Jodi Rell, promulgated July 13, 2006, concerning contracting reforms, Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, Executive Order No. Seventeen of Governor Thomas J. Meskill promulgated February 15, 1973, concerning the listing of employment openings, Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, and Executive Order #14 of Governor M. Jodi Rell promulgated on April 17, 2006 pertaining to the use of cleaning and sanitizing supplies, all of which are incorporated into and are made a part of the Contract as if they had been fully set forth in it.

12. Confidentiality: The parties shall maintain the confidentiality of the terms and conditions of this Agreement to the extent permitted by law and the Connecticut Freedom of Information Act. The Sponsor shall be permitted to identify the University as a client to third parties and to disclose the sales volume and related information.

13. Representations, Warranties and Covenants:

13.1 In accordance with Section 10a-151b of the General Statutes of Connecticut, University represents, warrants and covenants to Sponsor as follows:

13.1.1 University has full power and authority to enter into this Agreement and to grant and convey to Sponsor the rights set forth herein.

13.1.2 All necessary approvals for the execution, delivery and performance of this Agreement by University shall be obtained after execution by Sponsor. A fully executed Agreement by all parties shall be sent to Sponsor and constitutes

the legal and binding obligation of Sponsor and University enforceable in accordance with the terms of this Agreement.

13.1.3 The Board of Trustees for Connecticut State University System has the exclusive right to license the University Marks.

13.1.4 University has not entered into, and during the Term of this Agreement, will not enter into, (a) any other agreements (including agreements with any Broadcaster or any other sponsors of the Campus and/or any Team) which would prevent it from fully complying with the provisions of this Agreement or (b) any agreement granting Beverage availability and merchandising or promotional and/or advertising rights that are inconsistent with the rights granted to Sponsor pursuant to this Agreement, including any agreements with concessionaires or third party food service operators, vending companies, and/or other entities which sell or distribute Beverages (including agreements with Broadcasters or other sponsors of the Campus and/or any Team). University further covenants that it will require compliance with the relevant provisions of this Agreement by third party food service operators, vending companies, concessionaires, and/or other entities which sell or distribute beverages on the Campus.

14. Sponsor hereby represents, warrants, and covenants as follows:

14.1. It has full power and authority to enter into and perform this Agreement.

14.2. All necessary approvals for the execution, delivery and performance of this Agreement by Sponsor have been obtained, and this Agreement has been duly executed and delivered by Sponsor, and constitutes the legal and binding obligation of Sponsor, enforceable in accordance with its terms.

14.3. Sponsor has not entered into and during the Term of this Agreement, will not enter into, any other agreements which would prevent it from fully complying with the provisions of this Agreement.

15. Indemnification: The Contractor shall defend, indemnify and hold harmless WCSU and the State of Connecticut, their officers and employees against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, monetary loss, interest, attorneys' fees, costs and expenses of whatsoever kind or nature arising out of the performance of this Agreement, including those arising out of injury to or death of the Contractor's employees or subcontractors, whether arising before, during or after completion of the services hereunder and in any manner directly or indirectly caused, occasioned or contributed to in whole or in part, by reason of any act, omission, fault or negligence of the Contractor or its employees, agents or subcontractors.

16. Construction of this Agreement.

16.1 This Agreement shall be governed by the laws of the State of Connecticut without regard to its principles of conflicts of laws. Sponsor and University shall at all times comply and observe all federal and state laws, local laws, ordinances and regulations which are in effect during the period of this Agreement and which in any manner affect the work or its conduct.

16.2 The captions used in this Agreement are for convenience only and shall not affect in any way the meaning or interpretation of the provisions set forth herein.

16.3 This Agreement, including the Exhibits, which are an integral part of this Agreement and are expressly incorporated herein by this reference, shall constitute the final, complete and exclusive written expression of the intentions of the parties hereto and shall supersede all previous communications, representations, agreements, promises or statements, either oral or written, by or between any party. This provision shall not be read to invalidate or amend any other written agreements between Sponsor and/or any Affiliate of Sponsor and University and/or any Affiliate of University. This Agreement, and each of its terms and conditions, may be amended, modified, or waived only in writing signed by all of the parties hereto. Any such modifications, waivers, or amendments shall not require additional consideration to be effective.

17. Miscellaneous.

17.1 Each party agrees to maintain sufficient insurance to adequately protect the respective interests of the parties hereto. Failure to request evidence of this insurance will in no way be construed as a waiver of each party's obligation to provide the agreed insurance coverage.

17.2 Any notice or other communication hereunder shall be in writing, shall be sent via registered or certified mail, overnight courier, or confirmed facsimile transmission and shall be deemed given when deposited, postage prepaid, in the United States mail, addressed as set forth below, or to such other address as either of the parties shall advise the others in writing:

If to Sponsor:

Tom Cowger  
Account Manager  
Pepsi Beverages Company  
55 International Drive  
Windsor, CT 06095

If to the University:

Mark R. Case  
Director – Administrative Services  
Western Connecticut State University

181 White St.  
Danbury, Connecticut 06810  
Attention:  
Fax: (203)837-8657

17.3 This Agreement or any part hereof shall not be assigned or otherwise transferred by any party without the prior written consent of the other parties.

17.4 The parties are acting herein as independent contractors and independent employers. Nothing herein contained shall create or be construed as creating a partnership, joint venture or agency relationship between the parties and no party shall have the authority to bind the other in any respect.

17.5 No party shall obtain, by this Agreement, any right, title, or interest in the trademarks of the parties, nor, except as provided herein, shall this Agreement give any party the right to use, refer to, or incorporate in marketing or other materials the name, logos, trademarks or copyrights of the other parties.

## EXHIBIT A

### Glossary of Defined Terms

"**Affiliate**" shall mean, as to any entity, any other entity which is controlled by, controls, or is under common control with such entity. The term "control" (including the terms "controlled," "controlled by" and "under common control with") shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity.

"**Agreement Year**" means each twelve-month period beginning with the Effective Date and subsequent anniversaries thereof.

"**Ambush Marketing**" means an attempt by a third party, including any Broadcaster, without Sponsor's consent, to associate Competitive Products with the Campus, the University, the University Marks, or any Team, or to suggest that Competitive Products are endorsed by or associated with University, the Campus, the University Marks, and/or any Team by referring directly or indirectly to University, the Campus, or the University Marks, and/or the Teams.

"**Approved Cups**" means disposable cups the design of which is approved by Sponsor from time-to-time as its standard trademark cups and/or vessels and/or other (disposable and non-disposable) containers approved by Sponsor from time-to-time, all of which shall prominently bear the trademark(s) of PEPSI and/or other Products on one hundred percent (100%) of the cup surface.

"**Beverage**" or "**Beverages**" means all non-alcoholic beverages of any kind, except hot coffees or teas freshly brewed on Campus, tap water or unbranded juice squeezed fresh on the premises.

"**Bona Fide Offer**" shall mean a proposed agreement concerning rights and obligations similar to those contained herein, which agreement, if executed by University and the third party, would be legally binding.

"**Broadcaster**" means any entity which for any business purpose publishes, prints, syndicates, televises or broadcasts any photograph, film, videotape or other recording or rendering of the Campus (or any portion thereof) and/or of any event held on the Campus including without limitation, any Team games.

"**Campus**" means all facilities operated by or in connection with the University during the Term, including the Midtown Campus at 181 White St., Danbury, Connecticut and the Westside Campus at Lake Avenue Extension, Danbury, Connecticut and any existing or future satellite or successor campus locations. References to Campus include all buildings and grounds associated with the University including, without limitation branded or unbranded food service outlets, dining facilities, retail outlets, concession and vending locations, stadium suites, press boxes, and all athletic facilities (including players' benches and locker rooms).

"**Competitive Products**" means all Beverages other than Products (as defined herein).

"**Products**" means shall mean Beverage products manufactured, bottled, sold and/or distributed by the Sponsor or sold through vending machines owned and stocked exclusively by Sponsor.

"**Team**" or "**Team(s)**" means all intercollegiate athletic teams associated with the University.

"**University Marks**" means the University's name, Team's name, colors and uniforms, and emblems, and all trade names, trademarks, service marks, designs, logos, mascots, characters, identifications, symbols and other proprietary designs that are in existence on the Effective

Date or which will be created during the Term and which are owned, licensed or otherwise controlled by the University.

## EXHIBIT B

### Case Configuration

Quantity	Package	Count
1	1 Liter 15L	15
2	9.5oz 12L	24
2	13.8oz 12L	24
2	15.2oz 12L	24
2	16oz 12L	24
2	20oz 12L	24
1	20oz 24L	24
2	Can 16oz 12L	24
1	Can 8oz 6P	24
2	14oz 12L	24
2	Can 16oz 12L	24
1	Can 8oz 6P	24
2	14oz 12L	24
1	2L 8L	8



## EXHIBIT C

### **Vend Prices**

The unit vend prices set forth shall remain in effect for Agreement Years 1 and 2. Vend prices for all Products shall automatically be increased by twenty-five cents (\$0.25) at the beginning of Agreement Year 3. These increased prices shall remain in effect for Agreement Years 3, 4, and 5 inclusive.

- 20-oz. Carbonated Soft Drinks - \$1.25
- 20-oz. Aquafina and Aquafina Flavor Splash - \$1.25
- 20-oz. Brisk Tea - \$1.25
- 20-oz. Lipton Main Street Tea - \$1.25
- 20-oz. Tropicana - \$1.25
- 20-oz. Hawaiian Punch - \$1.25
- 15.2-oz. Dole & Ocean Spray Juice - \$1.50
- 16-oz. Lipton Ice Tea - \$1.50
- 20-oz. Propel - \$1.50
- 20-oz. Sobe Life Water - \$1.50
- 20-oz. Gatorade & G2 Sports Drink - \$1.50
- 9.5-oz. Starbucks Frappuccino - \$2.25
- 16-oz. AMP & Sobe Energy - \$2.25
- 15-oz. Double Shot Coffee & Energy: \$2.25

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be duly executed.

CGS10a-151b

**Bottling Group, LLC dba Pepsi Beverages Company**

By: Thomas Cuzner  
Title: Sr Field Service Sales  
Date Signed: 7-8-10

**Western Connecticut State University**

By: J. W. Hts  
Title: President  
Date Signed: 7/9/10

**Office of the Attorney General - State of Connecticut**

By: [Signature]  
Title: ASSOCIATE GENERAL  
Date: 7/29/10