



SPONSORSHIP AGREEMENT

This agreement and the RFP 9737 (subject to Section 20 herein) sets forth the agreement (“*Agreement*”) between **Bottling Group, LLC** and its affiliates and/or respective subsidiaries collectively comprising Pepsi Beverages Company, with an office located at 1 Union Seventy Center Drive, St. Louis, Missouri 63120 (“*Pepsi*”) and **University of Central Missouri**, with its principal place of business at 415 E. Clark Street, Suite 116 Warrensburg, Missouri 64093 (the “*Customer*”).

WHEREAS, Pepsi desires the right to be the exclusive supplier of Beverages (as defined below) to the Customer; and

WHEREAS, Pepsi has submitted a bid in response to an invitation to bid issued by the Customer for the exclusive right to develop and carry out a program for the sale of its beverage products in all facilities owned by the Customer; and

WHEREAS, Pepsi is experienced in installing, operating, servicing and maintaining equipment for dispensing beverage products and the Customer has determined that it is in the best interests of the Customer to contract with Pepsi to provide services for the sale of beverage products; and

WHEREAS, Pepsi wishes to identify itself with the Customer and to have its products promoted and sold at the Facilities (as defined below) and further wishes to receive the other promotional benefits provided for by the Customer in this Agreement; and

NOW, THEREFORE, in consideration of the terms, covenants and conditions herein contained, and the other mutual promises set forth herein, the parties agree as follows:

AGREEMENT

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*”), (x) flavor shots (“*Flavor Shots*”), and (ix) any future categories of nonalcoholic beverage products that may be distributed by Pepsi.

“*Cases*” shall mean the number of cases of Packaged Products purchased by the Customer from Pepsi, 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, as communicated to Customer.

“*Competitive Products*” shall mean any and all Beverages other than the Products.

“*Customer Marks*” shall mean (i) the Designations (as defined below) and (ii) the Customer’s characters, colors, emblems, designs, identifications, logos, mascots, name, service marks, symbols,



trademarks, all trade names, uniforms and other proprietary designations which are owned, licensed to or controlled by the Customer and which relate to the Facilities and which are in existence on at the beginning of the Term or which will be created during the Term. For clarity purposes, Customer Marks shall include, without limitation, characters, colors, emblems, designs, identifications, logos, mascots, name, service marks, symbols, trademarks, all trade names, uniforms and other proprietary designations associated with or related to all intercollegiate athletic teams associated with the Customer, at the beginning of the Term or which will be created during the Term, if any.

“Designations” shall include, but not be limited to, the following: “A Proud Sponsor of the University of Central Missouri,” “Official Water and Soft Drink of the University of Central Missouri” and “Official Sponsor of the University of Central Missouri.”

“Equipment” means the following types of equipment owned and operated by Pepsi and used to sell or dispense the Products: (i) full service vending machines (**“Vending Machines”**); (ii) retail single-serve food service equipment and (iii) fountain service equipment. The term “Equipment” will exclude ice makers.

“Facilities” shall mean the entire premises of the Warrensburg, Missouri main campus including every facility owned by the Customer now or in the future including , those facilities managed by its Food Service Provider (except as set forth Section 6 C herein), including all buildings, the grounds, parking lots, dining facilities, snack bars, food carts, book stores, athletic facilities and concession stands, and, for each building, the grounds, parking, lots, dining facilities, unbranded and branded food service outlets and vending areas.

“Food Service Provider” shall mean Sodexo or any food service provider which may serve at the Facilities at any point during the Term. The Customer acknowledges and agrees that this Agreement, including the pricing, funding and other consideration provided for herein is based on the Customer’s current operating model/use of third party Food Service Providers. Thus, in the event that: (i) if the Customer is currently self-operated, the Customer switches to a Food Service Provider, or (ii) if the Customer currently uses a Food Service Provider to operate its concessions, such agreement between the Customer and the current Food Service Provider expires or is terminated, and the Customer enters into a new arrangement with a Food Service Provider; then any such new or subsequent agreement between the Customer and any Food Service Provider (pursuant to either (i) or (ii) above) shall require such Food Service provider to abide by the applicable pricing and other terms set forth in this Agreement to the exclusion of all other benefits, and shall specifically require such Food Service Provider to affirm that it will not be entitled or seek to receive any funding or other benefits/consideration in connection with any agreement such Food Service Provider may separately have with Pepsi or Pepsi’s affiliates. In the event that the Customer fails to adhere to this requirement (or the Food Service Provider refuses to abide accordingly), then Customer hereby authorizes Pepsi, and Pepsi shall be entitled to adjust its pricing, funding or other consideration provided to the Customer by an amount equal to the incremental costs incurred by Pepsi as a result of the Customer’s change in Food Service Providers.

“Gallons” shall mean the number of gallons of the Postmix Products, LCT, FB and Flavor Shots purchased by the Customer from Pepsi.



“**Packaged Products**” shall mean Beverages that are sold and/or distributed by Pepsi in pre-packaged form (*i.e.*, Bottles & Cans). A current list of Pepsi’s Packaged Products is found in attached Exhibit A which may be amended by Pepsi from time to time.

“**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 A which may be amended by Pepsi from time to time.

“**Products**” shall mean Postmix Products and Packaged Products manufactured, bottled, sold and/or distributed by Pepsi.

“**Year**” shall mean 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 July 1, 2016 and expire upon June 30, 2026, (the “**Term**”). When fully executed, this Agreement will constitute a binding obligation of both parties until expiration or termination.

3. GRANT OF BEVERAGE AVAILABILITY AND MERCHANDISING RIGHTS.

During the Term, Customer hereby grants to Pepsi the following exclusive Beverage availability and exclusive Beverage merchandising right as set forth and described below:

A. Beverage Availability at the Facilities.

(1) Grant of Rights.

(a) Except as set forth in Section 6(C) herein, Pepsi shall have the exclusive right to make Beverages available for sale and distribution throughout the Facilities, including the right to provide all Beverages sold at athletic contests (*i.e.*, concession stands, sales in stands (hawking) or other means), booster club activities, and all other special events conducted at or any location on the Facilities (“**Special Events**”). The Products shall be the only Beverages sold, dispensed or served at the Facilities (*i.e.*, at concession stands, sales in stands (hawking) or other means), and the Products shall be sold at all food service concession or vending locations located within the Facilities; and

(b) Except as set forth in Section 6(C) herein, Pepsi shall have the exclusive right to install the Equipment throughout the Facilities. Subject to Customer’s approval, which shall not be unreasonably withheld, Pepsi shall have the further right to install additional Equipment in buildings and facilities acquired and/or constructed and owned by Customer after the date of this Agreement. Pepsi shall install the Equipment at its sole expense; *provided, however*, that the Customer will be responsible for all electrical hook-ups and charges related thereto. 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.



(c) In the event there is a substantial change in the scope of the Facilities (i.e. acquisition, renovation, closure, expansion of the locations where Beverages may be available for sale), then the parties shall meet and confer in good faith to consider whether to make adjustments to the Consideration (as set forth in Section 7 below) as may be equitable under the circumstances.

(2) Purchasing of Postmix Products.

The Postmix Products shall be purchased by Customer or the Food Service Provider from Pepsi at the prices established by Pepsi under its National Account program. Current pricing for Postmix Products is as set forth in Exhibit A attached hereto.

(3) Purchasing of Packaged Products.

The Packaged Products shall be purchased by Customer from Pepsi at prices established by Pepsi; provided annual price increases will not exceed 4%. The Packaged Products shall be purchased by the Food Service Provider at prices established under an agreement between Pepsi and the Food Service Provider. Current pricing for Packaged Products is as set forth in Exhibit A attached hereto.

(4) Food Service.

During the Term, Pepsi shall work directly with, Customer and the Food Service Provider for the Facilities, to provide all of its requirements for the Products. Customer shall cause its Food Service Provider to purchase the Product from Pepsi at prices as determined by Pepsi. The Customer shall cause its Food Service Provider to purchase Products from Pepsi in sufficient quantities to ensure the regular and continuous distribution of the Products at the Facilities. Pepsi shall work directly with Customer and its Food Service Provider to promote sales of the Products through appropriate point-of-sale and other advertising materials bearing the trademarks of the Products at Pepsi's expense.

(5) Vending.

Pepsi shall have the right to place a mutually agreed to number of Vending Machines at the Facilities for dispensing the Products; *provided, however*, that Pepsi shall work with Customer to identify optimal locations for such equipment. Pepsi shall not be assessed common area maintenance fees, taxes or other charges based on its occupation of the space allocated to Vending Machines.

B. Product Merchandising Rights.

During the Term and subject to the terms and conditions contained in this Agreement, Customer grants Pepsi the exclusive right to merchandise Beverages at the Facilities as set forth and described below:



(1) Menu Board Advertising.

Customer agrees that Pepsi's trademarks for products shall be listed on the menu boards at concession locations in which Products are served to customers at the Facilities. All brand identification containing Pepsi trademarks and/or service marks for menu boards set forth herein will be prepared and installed by Customer at Customer's sole expense unless the parties agree to use the funds available under the Conversion Funds as described in Section 7(K).

4. **GRANT OF ADVERTISING AND PROMOTIONAL RIGHTS.**

During the Term, Customer hereby grants to Pepsi the right to advertise and promote Products in and with respect to the Customer and the Customer Marks upon the terms and conditions contained in this Agreement and as set forth and described below.

A. Advertising

(1) Facilities and Print Advertising.

Pepsi shall have the right to Facilities and print advertising as mutually agreed between the parties and as further outlined in Exhibit B.

(2) Design and Installation of Customer Advertising.

Pepsi agrees, at its own cost, to provide Customer with the general design of all Customer Advertising. The Customer Advertising shall be constructed and installed by Customer (or an agent thereof) at Customer's sole cost and expense. All Customer Advertising shall be in conformity with the general scheme and plan of the Customer and the surrounding areas.

(3) Advertising/Signage Changes/Removal.

Customer recognizes Pepsi's right to change, modify, alter or remove its advertising for, or identification of, any of the Products or to discontinue the manufacture of any of the Products. Pepsi shall reimburse Customer for all reasonable costs and expenses incurred by Customer in changing, modifying, altering or removing any Facilities Advertising, menu boards and other Pepsi identification or references to any of the Products necessitated by Pepsi's changes to or removal of the advertising, trademarks or trade names, designations or identification thereof. Pepsi shall have the right to modify, change, alter or remove the promotional messages appearing thereon and all such modifications, changes, alterations and/or removals shall be at Pepsi's sole cost and expense. Customer shall use reasonable efforts to minimize the cost to Pepsi for changing, modifying, altering and/or removing Pepsi's advertising.

(4) Maintenance of Signage.

Customer shall maintain all Facility Advertising and other signs and advertising for Products in good order. Customer shall effect any necessary repairs reasonably



determined by Customer at Customer's sole cost and expense. Where practical, Customer shall consult with Pepsi prior to incurring any material signage or other related maintenance expenses.

B. Promotional Rights.

(1) General Sponsorship Designation.

Customer hereby agrees that Pepsi shall have the right to promote the fact that Pepsi is an official sponsor of the Customer and its intercollegiate athletic teams, if any, and that the Products are available at the Facilities, including the right of Pepsi to refer to itself using the Designations. Such promotion may be conducted through the distribution channels of television, radio and print media, on the packaging of and at the point-of-sale of any and all Products wherever they may be sold or served.

(2) Grant of License to Use the Customer Marks for Promotional Activities.

Customer hereby grants to Pepsi a nonexclusive license to use the name of the Facilities and the Customer Marks for the limited purposes of promoting Products within the context of promotional activities. Pepsi understands and agrees that in order to conduct the promotional activities through its primary distribution channels in which Pepsi sells Products to the ultimate consumer, such as at the retail level, within drug stores and other retail outlets, by and through mass merchandise campaigns and together with Pepsi's food service accounts and customers, that Pepsi must first obtain Customer's written consent or obtain licensing rights through Customer's licensing vendor.

C. Representations, Warranties and Covenants regarding the Ownership and Protection of the Customer Marks and Related Proprietary Rights.

Customer represents and warrants that it is the sole and exclusive owner of all right, title and interests in and to the Customer Marks (including without limitation, all goodwill associated therewith) and Pepsi's use of the Customer Marks pursuant to this Agreement will not infringe the rights of any third parties. Pepsi acknowledges that nothing contained in this Agreement shall provide Pepsi with any right, title or interest to the Customer Marks other than the right to use such Customer Marks granted under this Agreement. Pepsi (on behalf of itself and its affiliates) agrees that it shall not attack the title or any rights of Customer and its affiliates and cooperate with Customer and its affiliates to procure any protection or to protect any of the rights of Customer and its affiliates in and to the Customer Marks. Pepsi shall cause to appear on all materials incorporating the Customer Marks such legends, markings and notices as Customer or its affiliates may request in order to give appropriate notice of any trademarks, service mark, trade name, copyright or other right with respect to the Customer Marks. Pepsi shall not make any alterations or changes to the design or type of the Customer Marks without the prior written consent of Customer.



D. Representations, Warranties and Covenants regarding the Ownership and Protection of Proprietary Rights of Pepsi.

Pepsi represents and warrants that Pepsi is authorized to use certain names, logos, service marks and trademarks of PepsiCo, Inc. (including without limitation, all goodwill associated therewith) (the "*Pepsi Marks*") under a license from PepsiCo, Inc. Customer acknowledges that nothing contained in this Agreement shall provide Customer with any right, title or interest to the names, logos, service marks and trademarks of PepsiCo, Inc. without the prior written approval of PepsiCo, Inc. Customer (on behalf of itself and its affiliates) agrees that it shall not attack the title or any rights of PepsiCo, Inc., Pepsi and its affiliates and cooperate with PepsiCo, Inc., Pepsi and its affiliates to procure any protection or to protect any of the rights of PepsiCo, Inc., Pepsi and its affiliates in and to the Pepsi Marks. Customer shall cause to appear on all materials incorporating the Pepsi Marks such legends, markings and notices as Pepsi or its affiliates may request in order to give appropriate notice of any trademarks, service mark, trade name, copyright or other right with respect to the Pepsi Marks. Customer shall not make any alterations or changes to the design or type of the Pepsi Marks without the prior written consent of PepsiCo, Inc.

5. GRANT OF OTHER RIGHTS.

A. Sampling.

Customer agrees to permit to conduct, at Pepsi's sole cost and expense, limited sampling of Pepsi products at the Facilities in a form and manner as specifically authorized and approved by Customer and in accordance with rules and procedures established by Customer, in its sole discretion, as may be amended or supplemented from time to time by Customer.

B. Additional Rights.

Customer agrees to provide Pepsi with the additional rights set forth on Exhibit B.

6. EXCLUSIVITY.

A. Except as set forth below in Paragraph C, during the Term, Customer, its agents, representatives, intercollegiate athletic teams coaches and players, and staff (i) shall not themselves nor shall they permit a third party to, sell, serve, promote, market, advertise, sponsor or endorse Competitive Products at the Facilities and (ii) shall ensure that the Products are the only Beverages sold, served, promoted, marketed, advertised, merchandised, sponsored or endorsed, at the Facilities.

B. Customer recognizes that Pepsi has paid valuable consideration to ensure an exclusive associational relationship with the Facilities, Customer, and/or Customer Marks with respect to Beverages and that any dilution or diminution of such exclusivity seriously impairs Pepsi's valuable rights. Accordingly, the Customer will promptly oppose Ambush Marketing (as defined below) and take all reasonable steps to stop Ambush Marketing and to protect the exclusive associational rights granted to Pepsi pursuant to this Agreement. In the event any such



Ambush Marketing occurs during the Term, each party will notify the other party of such activity immediately upon learning thereof. As used herein, "*Ambush Marketing*" shall mean an attempt by any third party, without Pepsi's consent, to associate Competitive Products with the Facilities, Customer and/or Customer Marks, or to suggest that Competitive Products are endorsed by or associated with the Facilities, Customer and/or Customer Marks by referring directly or indirectly to the Facilities, Customer and/or Customer Marks.

C. Notwithstanding the foregoing, Customer shall be permitted to sell, dispense and otherwise make available the following beverage products at the Facilities ("*Permitted Products*"):

* Lemonade/Iced Tea Products prepared, dispensed and sold by Chik-Fil-A at the Facilities.

* The current third party food service tenant, and any future tenants, may serve such Competitive Products as - required by pre-existing contract[s] between (i) - such third party tenants and a manufacturer of such Competitive Products. In the event that an existing tenant vacates the Facilities during the Term, and another tenant occupies the premises, the parties agree to meet and confer in good faith to ensure that Pepsi's exclusive rights are not substantially diminished.

* Each of the resident dining halls will have two (2) units of Pepsi fountain dispensing Equipment (in a prime or first position) and, in addition, may have one (1) unit of fountain dispensing equipment pouring beverage products of the Coca-Cola Company; provided, however, such Competitive Products equipment will have no more than 8 valves.

* Convenience stores located at or within the Facilities will be permitted to allocate to 35% of available shelf/cooler space to Competitive Products, which must be limited to 12 oz. can of carbonated soft drinks under the trademarks of another Beverage manufacturer, with the remaining 65% allocated to the Products; provided, however, in no event will Competitive Products be displayed, stored, dispensed or made available through Equipment provided by Pepsi. At all times during the Term the 12 oz. non-carbonated can Beverage products sold and/or dispensed at such convenience stores will be exclusively the Products. At all times throughout the Term, the Packaged Products shall be available through cooler space in a prime or first position.

7. CONSIDERATION.

In consideration for the advertising, merchandising, promotional rights, and the other related rights and benefits provided to Pepsi by Customer as described herein, and provided Customer is not in breach of this Agreement, Pepsi agrees to pay to Customer:

A. Initial Support Funds.

Pepsi will provide Customer with an initial support fund in the amount of One hundred Five Thousand Dollars (\$105,000), payable to the University of Central Missouri Foundation within forty-five (45) days of the signing of this Agreement by both parties but no later than July 24th, 2016 (the "*Initial Support Funds*"). The Initial Support Funds will be used and spent by



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Customer towards the purchase and installation of scoreboards. In the event Pepsi terminates this Agreement due to the Customer's failure to cure a breach for cause hereof, the unearned Annual Sponsorship Fees will be repaid to Pepsi pursuant to the terms of Section 10.D (Sponsorship Fees in the Event of Termination.) herein.

B. Annual Sponsorship Fees.

Pepsi shall provide the University of Central Missouri Foundation with annual sponsorship fees in the amount of One Hundred Thousand Dollars (\$100,000), payable to the University of Central Missouri Foundation within forty-five (45) days after the signing of this Agreement by both parties and, thereafter, within forty-five (45) days following commencement of each Year until the end of the Term of this Agreement not to exceed ten (10) consecutive payments (the "Annual Sponsorship Fees"). The Annual Sponsorship Fees are earned throughout the Year in which they are paid. In the event Pepsi terminates this Agreement due to the Customer's failure to cure a breach for cause hereof, the unearned Annual Sponsorship Fees will be repaid to Pepsi pursuant to the terms of Section 10.D (Sponsorship Fees in the Event of Termination.) herein.

C. Commissions.

Commissions, as a percentage of the actual cash ("cash in bag" or "CIB") collected by Pepsi from the Vending Machines placed at the Facilities, plus actual amounts received by Pepsi in connection with credit card or debit card sales (collectively with CIB, "Revenue"), less any applicable sales tax, fees and/or deposits ("Commissions") with a minimum guarantee commission amount of Fifty Thousand Dollars (\$50,000). Such Commissions shall be at the rate(s) set forth below (the "Commission Rate") and shall be calculated as follows:

(Revenue – sales tax/applicable fees/deposits) * Commission Rate = Commission Due

Product	Minimum Vend Price*	Commission Rate**
12 oz. Cans of Carbonated Soft Drinks	\$1.00	35%
20 oz. Carbonated Soft Drinks; Lipton Brisk Teas; Aquafina and Aquafina FlavorSplash	\$1.50	35%
20 oz. Gatorade/G2 and SoBe Lifewater	\$1.75	35%
16 oz. Mountain Dew Kickstart	\$2.00	35%
16 oz. Rockstar and AMP Energy Drinks; 11 oz. Starbucks Ice Coffee; and 15.2 oz. Ocean Spray Juice Drinks	\$2.25	35%
13.7 oz. Frappuccino; and 15 oz. Starbucks DoubleShot Energy	\$3.00	35%

*Pepsi reserves the right to increase Minimum Vend Prices as follows: a \$0.25 per Product increase at the commencement of Year 2, an additional \$0.25 per Product increase at the commencement of Year 5 and a final \$0.25 per Product increase at the commencement of Year 8. **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. 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.

(2) **Change to Commission Rate.** Customer acknowledges and agrees that Pepsi established the Commission Rate based on any applicable sales tax associated with the sale of the Products through the Vending Machines as of the commencement date of this Agreement.

D. Packaged Products Rebates.

Each Year throughout the Term, Pepsi shall calculate the total applicable Cases of Packaged Products purchased from Pepsi by the Customer and its Food Service Provider pursuant to this Agreement, and shall provide the Customer with rebates calculated at the rate of \$2.00 per Case of Muscle Milk and \$0.60 per Case on all other Packaged Products (the "***Packaged Products Rebates***"). The Packaged Products Rebates shall be paid by Pepsi within forty-five (45) days of the end of each applicable Year during the Term.

E. Annual Scholarship Funds.

Pepsi shall provide Customer with annual scholarship funds in the amount of Two Thousand Dollars (\$2,000), payable to the Customer within forty-five (45) days after the signing of this Agreement by both parties and, thereafter, within forty-five (45) days following commencement of each Year until the end of the Term of this Agreement not to exceed ten (10) consecutive payments (the "***Annual Scholarship Funds***"). The Annual Scholarship Funds are earned throughout the Year in which they are paid. In the event Pepsi terminates this Agreement due to the Customer's failure to cure a breach for cause hereof, the unearned Annual Scholarship Funds will be repaid to Pepsi pursuant to the terms of Section 10.D (Sponsorship Fees in the Event of Termination.) herein.

F. Marketing Support.

Each Year throughout the Term, not to exceed ten (10) Years, Pepsi will provide Customer with marketing support in an amount not to exceed Five Thousand Dollars (\$5,000) per Year to be used and spent by Pepsi on mutually agreed to marketing programs for the benefit of Customer and Pepsi ("***Marketing Support***"). Any Marketing Support remaining unused at the end of a given Year will not carry forward to the subsequent Year and will remain the property of Pepsi.

G. Gatorade Summer Camps Support.

Commencing on July 1st, 2017, and each Year throughout the Term through June 30th, 2026, Pepsi will provide Customer with Gatorade summer camps support with a value not to exceed twenty-five thousand dollars (\$25,000) annually, to be used and spent by Pepsi on mutually agreed to Gatorade summer camps programs for the benefit of Customer and Pepsi ("***Gatorade Summer Campus Support***"). With respect to the Gatorade Summer Camps Support for Summer



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2016, Pepsi will provide Customer with Gatorade support including, but not limited to, Gatorade Product and merchandise. Such summer camp programs shall include, but not be limited to: Gatorade representatives that will educate campers on the importance of proper nutrition; Gatorade products and Gatorade merchandise/premiums.

H. Campus Ambassador Program.

Each Year throughout the Term, not to exceed ten (10) Years, Pepsi will provide Customer with a Campus Ambassador Program whereby Pepsi and Customer will recruit and hire a student to be a Pepsi ambassador at the University of Central Missouri and such student will earn pay not to exceed Three Thousand Dollars (\$3,000) per Year.

I. Year 1 Ice Maker Funds.

Pepsi will provide Customer with a one-time ice maker fund in the amount of Eleven Thousand Four Hundred Dollars (\$11,400), payable to the Customer within forty-five (45) days of the signing of this Agreement by both parties (the "*Year 1 Ice Maker Funds*"). The Year 1 Ice Maker Funds will be used and spent by Customer towards the purchase and service of ice makers/adaptor kits and will be earned by the Customer over the Term. In the event Pepsi terminates this Agreement due to the Customer's failure to cure a breach for cause hereof, the unearned Annual Sponsorship Fees will be repaid to Pepsi pursuant to the terms of Section 10.D (Sponsorship Fees in the Event of Termination.) herein.

J. G Force Support Program.

Each Year throughout the Term, not to exceed ten (10) Years, and providing the G Force Program or any other mutually agreed to similar program is available from Gatorade/Pepsi, Pepsi will provide Customer with the G Force Program where each Year a representative of Gatorade will provide Customer's athletic department with support to educate and promote sports well health and nutrition.

K. Conversion Fund.

Pepsi will provide a one-time conversion fund in an amount not to exceed Twenty-One thousand Six Hundred Dollars (\$21,600) to be used and spent by Pepsi as agreed to by the parties towards the conversion/replacement of signage (including scoreboards) coolers, ice bins, etc. ("*Conversion Fund*"). The parties shall use best commercial efforts to convert/replace all Competitive Products signage by December 31, 2016.

L. Gatorade Sideline Support.

Each Year throughout the Term, Pepsi will provide Customer's athletic department with Gatorade sideline kits with an annual value not to exceed Four Thousand Dollars (\$4,000) in Year 1 and Two Thousand Dollars (\$2,000) for each Year thereafter, not to exceed a total ten (10) Years ("*Gatorade Sideline Kits*"). The Gatorade Sideline Kits may include: towels, coolers, squeeze bottles, Gatorade drink powder, cups and/or other mutually agreed to merchandise. Any



Gatorade Sideline Support remaining unused at the end of a given Year will not carry forward to the subsequent Year and will remain the property of Pepsi.

M. Flex Fund.

Each Year throughout the Term, not to exceed ten (10) Years, Pepsi will provide Customer, flex funds in the amount of Twelve Thousand Dollars (\$12,000) to be used and spent by Pepsi during a given Year on mutually agreed to enhancements to existing programs and the development of new programs for the benefit of Pepsi and Customer and/or the provision of premiums, merchandise and Products for use throughout the Facilities, unless otherwise agreed to by the parties prior to the start of any given Year ("Flex Fund"). Any Flex Funds remaining unused at the end of a given Year will be payable to Customer within 45 days following the end of such Year.

8. ADDITIONAL CONSIDERATION.

In addition to the consideration specified above, and provided Customer is not in breach of this Agreement, each Year throughout the Term, upon request from Customer, Pepsi will provide Product donations not to exceed 1000 cases per year of the following Products: 20 oz. bottles and 12 oz. cans of Carbonated Soft Drinks/Lipton Brisk; 12 oz. Gatorade; and 16.9 oz. Aquafina (provided Aquafina 16.9 oz. and 12 oz. cans of Carbonated Soft Drinks/Lipton Brisk represents at least 55% of the total annual Product donations). Customer will administer all requests through a central contact so that the Customer may prioritize the requests. Customer acknowledges and agrees that donated Product requests not used/made in any Year shall not be carried over to the subsequent Year.

9. EQUIPMENT AND SERVICE.

9.1 Legacy Equipment. As it pertains to standard technology (i.e., "Legacy") equipment, Pepsi will loan Customer, at no charge, appropriate new or "like new" equipment for dispensing the Products during the Term ("Legacy Equipment"). Customer agrees that the Legacy Equipment shall be exclusively used to display and merchandise the Products, and the Customer shall not use the Legacy Equipment to display, stock, advertise, sell or maintain any other products (including on the exterior of the Legacy Equipment). Pepsi will also provide, at no charge to the Customer, service to the Legacy Equipment. For purposes of clarification, all provisions of the RFP 9737 with respect to equipment shall apply to Legacy Equipment as defined herein.

9.2 Innovation Equipment. As it pertains to any equipment (e.g., Spire) that is considered by Pepsi to be innovation or updated technology ("Innovation Equipment"), based on availability Customer will be entitled to receive Innovation Equipment as mutually agreed to by the parties; however, additional Innovation Equipment after the initial installation may not be guaranteed. In connection with the provision of Innovation Equipment to Customer during the Term, Customer shall be responsible for:

(i) all costs and preparation of the applicable locations within the Facilities to accept installation of such Equipment Innovation (including but not limited to providing adequate counter space,



- electric outlets, utilities, etc.); and
- (ii) timely payment of Pepsi program fees in connection with the right to use Innovation Equipment units (“Program Fees”), and sales tax – such Program Fee amounts to be determined by Pepsi based on the type of Innovation Equipment placed at the Facilities and communicated to Customer; and
- (iii) purchase of applicable Flavor Shots necessary for the proper operation of the Innovation Equipment; and
- (iv) the procurement and installation of a manual ice dispensing equipment for use in connection with the Innovation Equipment; *and*
- (v) achieving any minimum volume requirements (“VPO”) required for the continued placement of Innovation Equipment at the Facilities. At the end of each Agreement Year, or at any time upon thirty (30) days’ notice, if Customer fails to, or if Customer purchase trends indicate that Customer will fail to, purchase the average Cases/Gallons as required by Pepsi for the placement of Innovation Equipment, then Pepsi shall have the right to remove Innovation Equipment completely and terminate this Agreement pursuant to Section 7(A), or substitute/adjust equipment placement to Legacy Equipment. The Customer shall return the Innovation Equipment within 20 days after written notice from Pepsi.

In addition to the foregoing, Customer agrees that Pepsi-Cola shall have discretion to select and notify Customer of the exact beverage products that are permitted to be included on the Innovation Equipment. Only Pepsi-Cola beverage products will be permitted on the Innovation Equipment, specifically excluding Customer brands and/or third party brands unless consented to in writing by Pepsi-Cola.

9.3 Title; IP. At all times title to all Equipment shall belong to and remain in Pepsi, and Pepsi shall be entitled to the return of all Equipment upon any expiration or termination of this Agreement. In addition to the foregoing, any intellectual property rights existing in or relating to the Equipment, specifically including but not limited to the Innovation Equipment are and remain the sole property of Pepsi.

9.4 Service. Pepsi will provide, at no charge to the Customer, preventative maintenance and service to all Equipment. Pepsi will also provide Customer with a telephone number to request emergency repairs and receive technical assistance related to the Equipment after business hours. Pepsi will promptly respond to each applicable Customer request, and will use reasonable efforts to remedy the related Equipment problem as soon as possible. Pepsi agrees to respond to service calls within four business hours of receipt (except with respect to service to Vending Machines where service calls will be responded to within 24 hours of receipt-).

9.5 Remodel/Closure. If at any time subsequent to the initial install of any Equipment, Customer requests that Pepsi disconnect/remove/relocate/reinstall Equipment (“Equipment Move”) in connection with a remodel or closure, then Customer will notify Pepsi of such request in writing at least 30 days in advance of the requested move, and will promptly reimburse Pepsi for any and all costs incurred by Pepsi in meeting Customer’s requirements, payable within thirty (30) days of invoice by Pepsi.



9.6 Equipment Updates. The parties agree that the functionality and capabilities of the Innovation Equipment is an evolving process which will no doubt see innovations, technical improvements and operational changes during the Term of this Agreement. In order to provide for maximum innovation and optimal performance of any Innovation Equipment at the Facilities, Pepsi shall notify Customer when any such upgrades/updates are reasonably available for use/deployment and upon Customer's request, Pepsi shall provide such upgrades provided that the parties have first negotiated in good-faith appropriate terms and conditions relating to the timing and costs to permit the Facilities to receive such upgrades/improvements. Nothing herein shall be deemed a guarantee that Customer is entitled to receive any upgrades to Equipment during the Term of the Agreement.

9.7 Vending Equipment. 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. The Customer agrees to provide reasonable assistance to Pepsi in apprehending and prosecuting vandals. Pepsi shall not be obligated to pay commissions as provided in this Agreement on documented revenue losses resulting from vandalism or theft of product with respect to any Vending Machines on the Facilities.

Pepsi-agrees to install magnetic strip credit/debit card and student card readers on Vending Machines placed at the Facilities-

Pepsi reserves the absolute right to remove any glass front Vending Equipment that sells less than eight (8) cases of Product per week or any other Vending Equipment that sells less than two (2) cases of Product per week.

9.8 Service to Equipment. Pepsi or its designated agents shall be responsible for stocking Product and maintaining, repairing and replacing the Equipment. Pepsi shall provide Customer with a telephone number to request emergency repairs and receive technical assistance related to the Equipment. Pepsi shall respond to each Customer request for Equipment repairs within twenty-four (24) hours and use reasonable efforts to remedy the related Equipment problem as soon as possible.

10. REMEDIES FOR LOSS OF RIGHTS - TERMINATION.

A. Customer's Termination Rights.

Without prejudice to any other remedy available to Customer at law or in equity in respect of any event described below, this Agreement may be terminated by Customer at any time effective thirty (30) days following written notice to Pepsi from Customer if:

- (1) Pepsi fails to make any payment due hereunder, and such default shall continue for thirty (30) days after written notice of such default is received by Pepsi; or
- (2) Pepsi breaches or fails to perform any other material term, covenant or condition of this Agreement or any representation or warranty shall prove to have been false or misleading in any material respect and Pepsi fails to cure such breach within forty-five (45) days after written notice of default is delivered to Pepsi. If such cure cannot



reasonably be accomplished within such forty-five (45) day period, this provision shall not apply where Pepsi shall have, in good faith, commenced such cure and thereafter shall diligently proceed to completion; *provided, however*, that such cure is completed to the reasonable satisfaction of Customer within ninety (90) days from the date of Pepsi's receipt of such written notice of default.

B. Pepsi's Termination Rights.

Without prejudice to any other remedy available to Pepsi at law or in equity in respect of any event described below, this Agreement may be terminated in whole or in part by Pepsi at any time, effective thirty (30) days following written notice to the Customer if (i) any of the Products are not made available as required in this Agreement by the Customer, their agents or concessionaires; (ii) any of the rights granted to Pepsi herein are materially restricted or limited during the Term of this Agreement; (iii) a final judicial opinion or governmental regulation prohibits, or materially impacts or impairs (*e.g.*, beverage tax or size restriction) the availability or cost of Beverages, whether or not due to a cause beyond the reasonable control of the Customer; or (iv) Customer breaches any or fails to perform any other material term, covenant or condition of this Agreement or any representation or warranty shall prove to have been false or misleading in any material respect. In connection with the foregoing, Pepsi shall give Customer notice of the event and where applicable (for events within Customer's control), shall provide Customer forty-five (45) days to cure such breach. If the identified breach/event is not remedied with the applicable notice period, then Pepsi may terminate this Agreement and recover from the Customer a reimbursement in accordance with Section D below (Sponsorship Fees in the Event of Termination.).

C. Additional Termination Rights Available to Pepsi and Customer.

Without prejudice to any other right or remedy available to either party at law or in equity of any event described below, this Agreement may be terminated by either party if the other party, or any parent of such other party, shall: (i) have an order for relief entered with respect to it, commence a voluntary case or have an involuntary case filed against it under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect (and such order or case is not stayed, withdrawn or settled within thirty (30) days thereafter) it is the intent of the parties hereto that the provisions of Section 365(e)(2)(A) of Title 11 of the United States Code, as amended, or any successor statute thereto, be applicable to this Agreement; or (ii) file for reorganization, become insolvent or have a receiver or other officer having similar powers over it appointed for its affair in any court of competent jurisdiction, whether or not with its consent (unless dismissed, bonded or discharged within 60 days thereafter); or (iii) admit in writing its inability to pay its debts as such debts become due.

D. Sponsorship Fees in the Event of Termination.

If Pepsi terminates this Agreement pursuant to Section 10 or Customer terminates this Agreement without cause, then Pepsi shall be entitled to from Customer, without prejudice to any other right or remedy available to Pepsi, and Customer shall pay to Pepsi all funding paid by Pepsi to the Customer which remains unearned as of the time of termination. . With regard to the Initial Support Funds and the Year 1 Ice Maker Funds, the amount of such reimbursement shall



be determined by multiplying the Initial Support Funds and the Year 1 Ice Maker Funds each by a fraction, the numerator of which is the number of months remaining in the Term at the time such termination occurs and the denominator of which is the total number of months within the Term (e.g., 10 year term is 120 months) -. With regard to the Annual Sponsorship Fee, the amount of such reimbursement shall be determined by multiplying Annual Sponsorship Fee by a fraction, the numerator of which is the number of months remaining in the Year in which the Agreement is terminated at the time such termination occurs and the denominator of which is twelve (12).

11. **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.

12. **CONFIDENTIALITY.**

A. Except as otherwise required by law or the rules or regulations of any national securities exchange or the rules or regulation 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 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. "*Confidential Information*" shall include, but not be limited to, the terms and conditions of this Agreement. It is expressly understood that the disclosure in or pursuant to this Agreement by Customer, Pepsi or their respective Representatives of Confidential Information is not a public disclosure thereof, nor is a sale or offer for sale of any product, equipment, process or service of Customer or Pepsi.

C. These Confidentiality provisions 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.

13. **REPRESENTATIONS, WARRANTIES AND COVENANTS.**

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



15. **ASSIGNMENT.**

This Agreement or any part hereof or interest herein shall not be assigned or otherwise transferred by either party without the prior written consent of the other party nor shall the same be assignable by operation of law, without the prior written consent of the other party. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective permitted successors and assigns. Customer represents and warrants to Pepsi that any change in the Food Service Provider at the Facilities shall not affect Pepsi's rights or obligations hereunder.

16. **GOVERNING LAW.**

This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri without regard to conflicts of laws principles. Any legal proceeding of any nature whatsoever brought by either party against the other to enforce any right or obligation under this Agreement, or arising out of any matter pertaining to this Agreement, shall be submitted for trial, before the Courts of the State of Missouri, or the United States District Court having jurisdiction in Missouri.

17. **FORCE MAJEURE.**

If the performance by either party hereto of its respective nonmonetary obligations under this Agreement is delayed or prevented in whole or in part by acts of God, fire, floods, storms, explosions, accidents, epidemics, war, civil disorder, strikes or other labor difficulties, or any law, rule, regulation, order or other action adopted or taken by any federal, state or local government authority, or any other cause not reasonably within such party's control, whether or not specifically mentioned herein, such party shall be excused, discharged and released of performance only to the extent such performance or obligation is so delayed or prevented by such occurrence without liability of any kind. Nothing contained herein shall be construed as requiring either party hereto to accede to any demands of, or to settle any disputes with, labor or labor unions, suppliers or other parties that such party considers unreasonable.

18. **RELEASE, DISCHARGE OR WAIVER.**

No release, discharge or waiver of any provision hereof shall be enforceable against or binding upon either party hereto unless in writing and executed by both parties hereto. Neither the failure to insist upon strict performance of any of the agreements, terms, covenants or conditions hereof, nor the acceptance of monies due hereunder with knowledge of a breach of this Agreement, shall be deemed a waiver of any rights or remedies that either party hereto may have or a waiver of any subsequent breach or default in any of such agreements, terms, covenants or conditions.

19. **PRIOR NEGOTIATIONS; ENTIRE AGREEMENT.**

This Agreement, the exhibits attached hereto and the RFP No. 9737, set forth the entire understanding between the parties in connection with respect to the subject matter hereof, and no statement or inducement with respect to the subject matter by either party hereto or by any agent or representative of either party hereto which is not contained in this Agreement shall be valid or binding among the parties. In the event of a conflict between the Agreement and the RFP No. 9737, this Agreement shall govern. This provision shall not be read to invalidate or amend any other written agreements between Pepsi and/or any of its affiliates and any affiliate of Customer.



20. RELATIONSHIP OF THE PARTIES.

The parties are independent contractors with respect to each other. Nothing contained in this Agreement will be deemed or construed as creating a joint venture partnership between the parties.

21. EFFECT OF HEADINGS.

The headings and subheadings of the sections of this Agreement are inserted for convenience of reference only and shall not control or affect the meaning or construction of any of the agreements, terms, covenants and conditions of this Agreement in any manner.

22. CONSTRUCTION.

This Agreement has been fully reviewed and negotiated by the parties hereto and their respective legal counsel. Accordingly, in interpreting this Agreement, no weight shall be placed upon which party hereto or its counsel drafted the provision being interpreted. Wherever this Agreement provides for one party hereto to provide authorization, agreement, approval or consent to another party hereto, or provides for mutual agreement of the parties hereto, such authorization, approval, agreement or consent shall, except as may otherwise be specified herein, be given in such party's reasonable judgment and reasonable discretion, and shall be in writing unless otherwise mutually agreed by the parties.

23. SEVERABILITY.

If any term or provision of this Agreement shall be found to be void or contrary to law, such term or provision shall, but only to the extent necessary to bring this Agreement within the requirements of law, be deemed to be severable from the other terms and provisions hereof, and the remainder of this Agreement shall be given effect as if the parties had not included the severed term herein.

24. AMENDMENTS.

No provision of this Agreement may be modified, waived or amended except by a written instrument duly executed by each of the parties hereto. Any such modifications, waivers or amendments shall not require additional consideration to be effective.

25. COUNTERPARTS.

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.




26. FURTHER ASSURANCES.

Each party hereto shall execute any and all further documents or instruments and take all necessary action that either party hereto may deem reasonably necessary to carry out the proper purposes of this Agreement.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be duly entered into as of the date set forth below.

University of Central Missouri

Bottling Group, LLC

By: 
Name: Charles M. Smith
Title: President
Date: 3/30/16

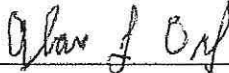
By: 
Name: Alan O'F
Title: SSM
Date: 3/30/2016

Exhibit A

Current description & pricing for Postmix Products and Packaged Products

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 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.

Effective 7/1/2016
CSD Packages
12 oz Core Cans (24 unit case)
20 Ounce Core (24 unit case)
20 Ounce Flavors (24 unit case)
16 oz Mtn Dew Kickstart
Non Carb Packages
16.9 oz Aquafina (24 unit case)
20 oz Aquafina Splash (24 unit case)
20 oz Gatorade & G2 (24 unit case)
20 oz CSDs, Lipton Brisk and Flavors (24 unit case)
20oz Lipton Tea Flavors (24 unit case)
18.5 oz Lipton Pure Leaf (12 unit case)
1 Liter Lipton Brisk (15 unit case)
16 oz Amp Energy (12 unit case)
20 oz Propel (24 unit case)
15 oz Starbucks Energy (12 unit case)
13.7oz Starbuck's Frappuccino (12 unit case)
15.2 oz Orange Spray (12 unit case)
16 oz Rockstar (24 unit case)
14oz Muscle Milk (12 unit case)
5 Gal BIB per gallon Pepsi, Diet Pepsi, Mtw Dew
3 Gal BIB per gallon Gatorade and Lipton Brisk
5 Gal BIB per gallon Dr Pepper
3 Gal BIB per gallon Dr Pepper
3 Gal BIB SoBe LifeWater
3 Gal BIB per gallon Lipton Unsweet
3 Gal BIB Dole
* Fountain Pricing will reflect National Account Pricing Structure



Exhibit B

Facilities & Printing Advertising and Additional Rights to be Provided to Pepsi

A. Facilities and Print Advertising.

(1) Scoreboard Advertising.

Customer grants Pepsi exclusive beverage advertising rights on the following scoreboards:

- South Recreation Athletic Fields scoreboard
- Women's Soccer Team scoreboard
- Multipurpose building Basketball scoreboard
- Crane Stadium Baseball scoreboard
- Walton Stadium Football scoreboard

2) Video Display Messaging.

Pepsi to provide Customer with messaging for Customer to program into display software

3) Other Facility Advertising.

Other Facility advertising as may be mutually agreed upon between the parties

(4) Print Advertising.

Such advertising as may be mutually agreed upon between the parties

B. Additional Rights.

Tickets and Hospitality.

Customer will provide Pepsi each Year during the Term with tickets to athletic events as follows*:

- 90 Football tickets
- 90 Basketball tickets
- 20 All other Athletic Events

*subject to the mutual agreement of the parties based on Customer's marketing budget for retail promotional activities and incentive in a given Year or as otherwise agreed to by the parties.