

BEVERAGE SCHOOL AGREEMENT

This Agreement (“*Agreement*”) is between **Bottling Group, LLC** and its affiliates and/or respective subsidiaries collectively comprising Pepsi Beverages Company, with an office located at 3388 W 1987 S, Salt Lake City, UT 84104 (“*Pepsi*”) and Granite School District having its principal place of business at 2500 S State St, South Salt Lake, UT 84115 (“*Customer*”). When fully executed, this Agreement will constitute a binding obligation of both parties until expiration or termination.

1. Definitions.

“*Beverage*” or “*Beverages*” means all carbonated and non-carbonated, non-alcoholic drinks, however dispensed during the Term of the Agreement. Beverages do not include non shelf-stable, non-flavored fluid milk as currently defined by the USDA (i.e., milk beverages containing at least 6.5% non-fat milk solids).

“*Cases*” means the number of cases of Packaged Products (as defined herein) purchased by the Customer from Pepsi during the Term, initially delivered in quantities of 24 plastic bottles, aluminum cans, glass bottles (or equalized 24 pack cases, e.g., two 12-pack cases), eight 2-liter plastic bottles, or such other size, quantity and type of containers as Pepsi may make available from time to time during the Term.

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

“*Equipment*” means equipment loaned by Pepsi to Customer to dispense, store or cool Products (as defined below), including full-service vending machines (“*Vending Machines*”), as more fully described in Section 4 herein

“*Facilities*” means the entire premises of every school and facility owned or operated by the Customer, now or in the future, including with respect to each school, all academic buildings, athletic facilities, convenience stores, book stores, student operated stores, and concession stands, parking lots, dining facilities, unbranded and branded food service outlets and vending areas. Teachers’ lounges are excluded from this definition and are not covered by this agreement. A list of current schools owned and operated by the Customer is set forth on **Exhibit A** attached hereto.

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

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

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

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

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

“**Products**” means Postmix Products and Packaged Products.

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

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

2. **Term.** The term of this Agreement shall commence on July 1, 2020 and expire on June 30, 2025. When fully executed, this Agreement will constitute a binding obligation of both parties until expiration or termination.

3. **Exclusive Beverage Availability Rights.** The Customer hereby grants to Pepsi the following exclusive Beverage availability rights:

(A) Pepsi shall have the exclusive right to make the Beverages available for sale and distribution at the Facilities, including the right to provide all Beverages sold at Special Events. Subject to the terms and conditions set forth in this Agreement, the Customer agrees that Products shall be the exclusive Beverages sold, dispensed, served or made available at the Facilities.

(B) The Customer shall purchase, and shall require that all concessionaires, Food Service Operators, booster clubs or other third parties selling Beverages at the Facilities purchase all Products, cups, lids and carbon dioxide directly from Pepsi.

(C) The Customer agrees to comply with Pepsi’s School Policy, attached hereto as **Exhibit C** (“**School Policy**”) as may be updated from time to time during the Term. A copy of the Policy in effect as of the beginning of the Term is attached hereto as **Exhibit C**. The Customer agrees that it shall at all times during the Term comply with the School Policy and shall cause any designated Food Service Operator to comply with the School Policy, including applicable Beverage type, size and timing requirements/restrictions. The Customer’s or Food Service Operator’s failure to comply with the School Policy shall be a material breach of this Agreement.

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

4. **Pricing.**

(A) **Products sold through Vending Machines.** The price for Products sold from Pepsi’s Vending Machines shall be determined as set forth in Section 5 herein.

(B) **Products purchased by the Customer.** Pricing for Products purchased by the Customer, its designated Food Service Operator or any other party from Pepsi for sale at the Facilities are listed on **Exhibit B**. The Customer recognizes that such pricing is available for the first Year of this Agreement, thereafter, the pricing may increase at Pepsi’s sole discretion and Pepsi shall provide the Customer with notice of any increases. 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.

(C) **Account Terms.** Customer agrees to comply with Account Terms. See **Exhibit D**

(D) The Consideration (as set forth in Section 5) was calculated based on the Customer and its purchasing representatives (including any designated Food Service Operator(s)) purchasing Products directly from Pepsi at the pricing structure established by this Agreement during the entire Term. Therefore, if the Customer or Food Service Operator demands or requires the purchase of Products from Pepsi at prices other than those established by this Agreement or purchases Products from sources other than Pepsi, then such action shall constitute a material breach of this Agreement.

5. Consideration. Provided Customer is not in breach of this Agreement, Pepsi agrees to provide Customer with the funding described below:

(A) **Annual Sponsorship Fees.** In each of Years One through Five), Pepsi agrees to provide Customer with annual sponsorship fees in the amounts as described below (the “*Annual Sponsorship Fees*”). The Annual Sponsorship Fees will be paid to Customer within sixty (60) days after the commencement of each applicable Year, except that in the event an Annual Sponsorship Fee is payable for Year One, such payment will be made within sixty (60) days of the later of (i) the first day of the Term or (ii) the signing of this Agreement by both parties. 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 hereof, the unearned Annual Sponsorship Fees will be repaid to Pepsi pursuant to the terms of Section 8(C) herein.

<i>Years</i>	<i>Annual Sponsorship Fees</i>
Year 1*	\$5,000
Year 2	\$20,000
Year 3	\$35,000
Year 4	\$45,000
Year 5	\$45,000

*In Year One of the Term, on a quarterly basis, in addition to the Annual Sponsorship Fees, Pepsi shall calculate the Customer’s collective purchases of Products purchased by the Customer and its Food Service Provider pursuant to this Agreement, and shall provide the Customer with rebates at the rate of \$0.92 per unit of all Packaged and Postmix Products, not to exceed Fifteen Thousand US Dollars (\$15,000) in rebates. The rebates shall be paid to Customer within sixty (60) days on a quarterly basis throughout Year One of the Term.

(B) **Commissions.** Pepsi agrees to provide Customer with commissions, as a percentage of the actual cash (“cash in bag” or “CIB”) collected by Pepsi from the Vending Machines placed at the Facilities, applicable (“Commissions”). Such Commissions shall be at the rate(s) set forth below (the “Commission Rate”) and shall be calculated as follows:

(CIB) * Commission Rate = Commission due

Product	Initial Vend Price	Pkg/Drink Size	Commission % Rate
Aquafina	\$ 1.50	20 oz.	45%
Gatorade	\$ 1.75	20 oz.	45%
Sobe Water	\$ 1.75	20 oz.	45%
Regular and Diet Soda	\$ 1.50	20 oz.	45%
Mountain Dew Kickstart	\$ 1.50	12 oz.	45%
Mountain Dew Game Fuel Zero	\$ 1.50	16 oz.	45%
Bubly	\$ 1.00	12 oz.	45%
Lipton Pure leaf	\$ 1.75	18.5 oz.	45%
Bang Caffeine Free	\$ 2.75	16 oz.	45%

Pepsi and Customer acknowledge and agree that in the teacher's lounge all 12oz cans of regular and diet soda are excluded from commissions.

*Pepsi shall have the right to increase vend prices by \$0.25 in each of Years 3 and 4 of the Term.

** Commission Rates and Vend Prices for new Product will be mutually agreed upon by Pepsi and Customer.

(1) **Commissions Payment.** Pepsi shall pay Commissions 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. Customer further acknowledges and agrees that it shall not receive any Commissions payment from Pepsi if Commissions fail to reach a certain threshold amount per period or quarter. The current threshold amounts are \$50 per four-week period or \$75 per quarter. The threshold may be revised by Pepsi from time to time.

(2) **Change to Commission Rate/Formula.** Customer agrees that Pepsi shall have the right to change the Commission Rate and/or its formula/method for calculating Commissions as may be required by applicable laws or as reasonably necessary to respond to legislative acts in order that the Commission Rate remains cost neutral.

(3) **Vend Price.** The initial vend prices and minimum scheduled increases that are necessary for Customer to qualify for any Commissions are set forth in the Commission chart above. Customer acknowledges that Pepsi has the right to pass through any incremental fees, deposits, taxes or other governmentally imposed charges (whether local, state, federal or judicially imposed on manufacturers, distributors, consumers or otherwise). The pass-through of any such governmentally imposed fees, deposits, taxes or charges on the Products will be in addition to any scheduled Vend Prices increases set forth herein or notification restrictions that may be specified in this Agreement.

(A) **Gatorade Sideline Kit(s).** Each Year throughout the Term, Pepsi will provide Gatorade Sideline Kit(s) to Customer locations (See **Exhibit A**) upon Customer's request, with a value not to exceed \$5,500 US Dollars (Five Thousand Five Hundred US Dollars). Customer acknowledges and agrees that any unused portion of the value of the Gatorade Sideline Kit(s) in any Year shall not be carried over to the subsequent Year or be redeemed for cash.

(B) **Product Free of Charge.** Upon request from Customer, Pepsi will provide up to a total of 125 Cases to each High School as listed in **Exhibit A**, attached hereto, of a combination of 12 oz. cans of carbonated soft drinks and 16.9 oz. Aquafina per Year at no additional charge to Customer, provided, however, that the Customer will administer all requests through a central contact so that the Customer may prioritize the requests. Customer acknowledges and agrees that unrequested Product in any Year shall not be carried over to the subsequent Year or be redeemable for cash payment.

(C) Each Year during the Term, Pepsi shall provide the Customer with 120 day passes to Boondocks. It is anticipated that the Customer will use these passes to recognize and reward scholastic and/or athletic achievement by its students. One contact person will request all passes. Passes will be delivered to Customer's address. Customer will distribute all passes to locations (see **Exhibit A**). In the event that Pepsi's contractual relationship with Boondocks ends, Pepsi shall have the right to substitute awards of similar and like value.

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

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

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

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

7. **Equipment and Service.**

(A) Pepsi shall have the exclusive right to install Equipment throughout the Facilities. Pepsi shall have the further right to install additional Equipment in buildings and facilities acquired and/or constructed by the Customer after the date of this Agreement. Pepsi shall place Equipment at mutually agreed upon locations throughout the Facilities. Pepsi reserves the absolute right to remove any glass front Vending Machines that sells less than eight (8) cases of Product per week or any other Vending Machines that sells less than two (2) cases of Product per week. Pepsi shall install Equipment at its sole expense, except where otherwise prescribed by law. Pepsi shall have the right to place full trademark panels on all sides of its Equipment. The Customer shall not permit the operation of any other equipment used for the sale of Beverages at the Facilities without the prior written consent of Pepsi. Customer agrees that the Equipment shall be exclusively used to display and merchandise the Products, and the Customer shall not use the Equipment to display, stock, advertise, sell or maintain any other products (including on the exterior of the Equipment).

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

(C) The Equipment may not be removed from the Facilities without Pepsi's written consent, and the Customer agrees not to encumber the Equipment in any manner or permit other equipment to be attached thereto except as authorized by Pepsi in writing. Upon expiration or termination of this Agreement, Customer shall allow Pepsi to pick up all Equipment and the parties shall work together to coordinate a pick-up schedule.

(D) Pepsi will provide, at no charge to the Customer, preventative maintenance and service to the Equipment. Pepsi's service of the Equipment will be provided during normal school hours, and Pepsi will not be obligated to provide service during periods in which it is prevented from doing so due to strikes, civil disturbances, unavailability of parts or other causes beyond the control of Pepsi, and shall not be liable for damages of any nature arising out of delays in rendering service. Pepsi shall respond to service inquiries within 24 hours. Pepsi shall provide a customer service phone number on each piece of Equipment for service request.

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

(F) All Pepsi Vending Machines will allow both cash and credit / debit card transaction unless otherwise specified by Customer or Pepsi.

(G) Pepsi can customize vending selections with consultation with the decision maker at each location based on Pepsi's current offerings.

8. Breach of Contract and Termination.

(A) Either party may terminate this Agreement for any breach of this Agreement's material terms by the other party, provided that the non-breaching party shall first provide the breaching party with written notice of the breach and a thirty (30) day opportunity to cure such breach. If the breaching party fails to cure the breach within the thirty (30) day period, the non-breaching party may terminate the Agreement upon written notice to the breaching party.

(B) If any of the material terms of this Agreement, including but not limited to the exclusive rights to sell any one or more of the Products, are prohibited or limited during the Term of this Agreement as a result of a final judicial opinion or governmental regulation for any other reason (including but not limited to beverage tax, package size or product restriction), then Pepsi and Customer will negotiate in good faith to reduce Pepsi's ongoing financial support under the Agreement to neutralize any negative impact such change has on the economics of the original Agreement. If Customer and Pepsi are not able, within sixty (60) days of such prohibition or restriction, to agree on an equitable amendment to the Agreement, Pepsi shall have the right to terminate the Agreement upon thirty (30) days' notice to the Customer.

(C) If the Agreement is terminated by Pepsi pursuant to Section 8(A) or (B) herein, Pepsi shall, without prejudice to any other right or remedy available to Pepsi, obtain a reimbursement from the Customer of any unearned funding paid by Pepsi to the Customer which remains unearned as of the time of termination. With regard to the Annual Sponsorship Fees, if any, the amount of such reimbursement shall be determined by multiplying the Annual Sponsorship Fees 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 higher of total number of months within the Term (e.g., 5 year term is 60 months) or, if

applicable, the number of months expected to comprise the Term based on volume trends as of the time of termination of the Volume Threshold.

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

10. **Representations and Warranties**

(A) Each party represents and warrants to the other: (1) it has full power and authority to enter into this Agreement and to grant and convey to the other the rights set forth herein; and (2) all necessary approvals for the execution, delivery and performance of this Agreement have been obtained and this Agreement has been duly executed and delivered by the parties and constitutes the legal, valid and binding obligation, enforceable in accordance with its terms, and nothing contained in this Agreement violates, interferes with or infringes upon the rights of any third party; (3) the respective signatory of this Agreement is duly authorized and empowered to bind the party to the terms and conditions of this Agreement for the duration of the Term; and (4) the parties have complied with all applicable laws, ordinances, codes, rules and regulations relating to its entering into this Agreement and its performance hereunder.

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

11. **Indemnification.**

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

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

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

12. **Force Majeure.** Pepsi will not be responsible for any delay or lack of delivery resulting directly or indirectly from any foreign or domestic embargo, product detention, seizure, act of God, insurrection, war and/or continuance of war, the passage or enactment of any law ordinance, regulation, ruling, or order interfering directly or indirectly with or rendering more burdensome the purchase, pandemic, epidemic, production, delivery or payment hereunder, including the lack of the usual means of transportation due to

fire, flood, explosion, riot, strike or other acts of nature or man that are beyond the control of Pepsi or that of the suppliers to Pepsi unless such contingency is specifically excluded in another part of this Agreement. This Agreement will be suspended as to both Product and delivery during any of the above force majeure contingencies. Any and all suspended deliveries will resume after such contingencies cease to exist, if possible, and this Agreement will resume in accordance with its terms, unless otherwise provided for herein.

13. Relationship of 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 or partnership between the parties.

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

15. Non-Disclosure. Except as may otherwise be required by law or legal process, neither party shall disclose to unrelated third parties the terms and conditions of this Agreement without the consent of the other.

16. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of regulations of the State of Utah.

17. Insurance.

(A) Each party hereto maintains and agrees to maintain, at all times during the Term a comprehensive program of risk retention and insurance with such insurance carriers and in such amounts of insurance coverage reasonably acceptable to the other party. Each party agrees to include the other, and each of its Affiliates, and their respective officers, directors, employees, agents, representatives and successors and assigns, as additional insureds on such insurance during the Term. Such insurance will contain a waiver of subrogation with respect to the additional insureds.

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

18. Entire Agreement. This Agreement contains the entire agreement between the parties hereto regarding the subject matter hereof and supersedes all other agreements between the parties. This Agreement may be amended or modified only by a writing signed by each of the parties. See **Exhibit E** for Standard Terms and Conditions of Granite School District to which Pepsi agrees.

19. Waiver. No failure or delay of either party to exercise any rights or remedies under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any rights or remedies preclude any further or other exercise of the same or any other rights or remedies. Any waiver must be in writing and signed by the party waiving the rights.

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

21. **Severability.** If any provision of this Agreement shall be deemed or declared unenforceable, invalid or void, the same shall not impair any of the other provisions contained herein which shall continue to be enforceable in accordance with their respective terms, except that this clause shall not deprive any party of any remedy afforded under this Agreement.
22. **Construction.** Customer and Pepsi acknowledge that both parties participated equally in the negotiation of this Agreement and that, accordingly, in interpreting this Agreement, no weight shall be placed upon which party hereto or its counsel drafted the provision being interpreted.
23. **Right of Offset.** Pepsi reserves the right to withhold payments due hereunder as an offset against amounts not paid by Customer for Products ordered from and delivered by Pepsi and any and all balances due and payable to Pepsi pursuant to this Agreement.
24. **Notices.** Any notice which either party is required or permitted to give hereunder will be in writing, signed by the notifying party and will be either delivery by hand or nationally-recognized overnight courier service or deposited in the United States mail, certified or registered mail, return receipt requested, postage paid, addressed as follows: If to Customer, to the name and address set forth in the preamble herein. If to Pepsi, to the name and address set forth in the preamble herein, with a copy thereof to: Pepsi Beverages Company, 1111 Westchester Avenue, White Plains, NY 10604, Attention: Law Department or to such addresses as the parties may subsequently provide in writing. Notice will be deemed to have been given when delivered by hand or nationally recognized overnight courier service, or when received as evidenced by the return receipt, or the date such notice is first refused, if that be the case.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be duly executed on the dates set forth below.

Bottling Group, LLC

By: Matt Brown

Name: Matt Brown

Title: Key Account Manager

Date: 7/14/2020

Granite School District

By: Jared Gardner

Name: Jared Gardner

Title: Director of Purchasing

Date: 07/14/2020

Exhibit A**List of High Schools**

Cottonwood	5715 South 1300 East	Murray, UT 84121-1099
Cyprus	8623 West 3000 South	Magna, UT 84044-1209
Cyprus: Brockbank Campus	2935 S 8560 W	Magna, UT 84044 West Valley, UT 84119- 2569
Granger	3580 South 3600 West	Salt Lake City, UT 84107- 1801
Granite Connection	501 East 3900 South	West Valley, UT 84120- 4634
Hunter	4200 South 5600 West	
Kearns	5525 S Cougar Lane (4800 W)	Kearns, UT 84118-5517
Olympus	4055 South 2300 East	Holladay, UT 84124-1831 Salt Lake City, UT 84109- 3735
Skyline	3251 East 3760 South	
Taylorsville	5225 S Redwood Road (1700 W)	Taylorsville, UT 84123- 4213
GTI	2500 South State Street (100 E)	Salt Lake City, UT 84117

Exhibit B

Products & Pricing.

All products delivered will be before Six Week of Expiration date as displayed on product.



PEPSICO FS ED GRANITE SCHOOL DISTRICT DEC 1231 - SLC

foodservice 

PRODUCT GROUP	PACKAGE	# UNITS / GALLONS	PER UNIT / BIB PRICING	INVOICE PRICING	EFFECTIVE THROUGH
AQUAFINA	1 Liter 12L	12	\$1.43	\$17.18	12/31/2020
CSD	1 Liter 12L	12	\$1.70	\$20.41	12/31/2020
LIFEWTR	1 Liter 12L	12	\$1.62	\$19.41	12/31/2020
LIPTON	1 Liter 12L	12	\$1.70	\$20.41	12/31/2020
AQUAFINA	1 Liter 15L	15	\$1.43	\$21.48	12/31/2020
CSD	1 Liter 15L	15	\$1.70	\$25.51	12/31/2020
LIPTON	1 Liter 15L	15	\$1.70	\$25.51	12/31/2020
FRUIT SHOOT	10.1oz 24L	24	\$0.81	\$19.38	12/31/2020
STARBUCKS DS SMOOTHIE	10oz 12L	12	\$2.22	\$26.59	12/31/2020
STARBUCKS COLD BREW	11oz 12L	12	\$2.70	\$32.39	12/31/2020
STARBUCKS	13.7oz 12L	12	\$2.39	\$28.70	12/31/2020
LIPTON PURE LEAF TEAHOUSE	14oz 12L	12	\$1.85	\$22.25	12/31/2020
MUSCLE MILK	14oz 12L	12	\$3.08	\$37.00	12/31/2020
MUSCLE MILK PRO	14oz 12L	12	\$3.65	\$43.79	12/31/2020
DOLE	15.2oz 12L	12	\$1.38	\$16.61	12/31/2020
OCEAN SPRAY	15.2oz 12L	12	\$1.36	\$16.37	12/31/2020
TROPICANA	15.2oz 12L	12	\$1.36	\$16.29	12/31/2020
AQUAFINA	16.9oz 24P	24	\$0.42	\$9.97	12/31/2020
LIPTON	18.5oz 12L	12	\$1.36	\$16.37	12/31/2020
SOBE JUICE	20oz 12L	12	\$1.70	\$20.41	12/31/2020
SOBE WATER	20oz 12L	12	\$1.47	\$17.68	12/31/2020
AQUAFINA BASE	20oz 24L	24	\$0.65	\$15.57	12/31/2020
CSD	20oz 24L	24	\$0.95	\$22.72	12/31/2020
DOLE	20oz 24L	24	\$0.95	\$22.72	12/31/2020
GATORADE	20oz 24L	24	\$1.01	\$24.21	12/31/2020
GATORADE PROPEL	20oz 24L	24	\$1.36	\$32.73	12/31/2020
LIFEWTR	20oz 24L	24	\$1.04	\$24.96	12/31/2020
LIPTON	20oz 24L	24	\$0.95	\$22.72	12/31/2020
LIFEWTR	700ml 12L	12	\$1.33	\$15.99	12/31/2020
REDLINE	8oz 24L	24	\$2.22	\$53.18	12/31/2020
STARBUCKS	9.5oz 12L	12	\$1.74	\$20.87	12/31/2020
STARBUCKS	9.5oz 15L	15	\$1.74	\$26.16	12/31/2020
STARBUCKS	9.5oz 15P	15	\$1.74	\$26.16	12/31/2020


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 foodservice 

PRODUCT GROUP	PACKAGE	# UNITS / GALLONS	PER UNIT / BIB PRICING	INVOICE PRICING	EFFECTIVE THROUGH
CITRUS SPRINGS	BIB 1.5G	1.5	\$25.75	\$38.63	12/31/2020
COOL ATTITUDES	BIB 1.5G	1.5	\$25.75	\$38.63	12/31/2020
FLAVORWORKS	BIB 1G	1	\$22.67	\$22.67	12/31/2020
COOL ATTITUDES	BIB 2G	2	\$25.75	\$51.50	12/31/2020
BUBLY	BIB 3G	3	\$17.78	\$53.34	12/31/2020
EL NINO	BIB 3G	3	\$22.66	\$67.98	12/31/2020
GATORADE	BIB 3G	3	\$23.05	\$69.15	12/31/2020
LIFTON ICED TEA	BIB 3G	3	\$22.14	\$66.42	12/31/2020
MT DEW	BIB 3G	3	\$17.78	\$53.34	12/31/2020
SCHWEPPES	BIB 3G	3	\$17.78	\$53.34	12/31/2020
SUNNY SKY	BIB 3G	3	\$22.66	\$67.98	12/31/2020
TROPICANA	BIB 3G	3	\$17.78	\$53.34	12/31/2020
CSD	BIB 5G	5	\$17.78	\$88.90	12/31/2020
TROPICANA	BIB 5G	5	\$17.78	\$88.90	12/31/2020
SUPPLY	CO2 20LB Full			\$29.17	12/31/2020
	CO2 20LB Full			\$63.30	12/31/2020
SUPPLY	CO2 50LB Full			\$52.23	12/31/2020
	CO2 50LB Full			\$63.30	12/31/2020
STARBUCKS COLD BREW	Can 11oz 12L	12	\$2.51	\$30.17	12/31/2020
BUBLY	Can 12oz 12P	24	\$0.46	\$11.08	12/31/2020
CSD	Can 12oz 12P FM	24	\$0.53	\$12.68	12/31/2020
MT DEW KICKSTART	Can 12oz 6/3P	18	\$1.30	\$23.35	12/31/2020
YACHAK	Can 15.5oz 12L	12	\$1.66	\$19.94	12/31/2020
BANG	Can 15oz 12L	12	\$2.33	\$28.00	12/31/2020
STARBUCKS	Can 15oz 12L	12	\$2.25	\$26.97	12/31/2020
BANG	Can 16oz 12L	12	\$1.67	\$20.00	12/31/2020
BANG NATURALS	Can 16oz 12L	12	\$2.08	\$25.00	12/31/2020
BUBLY	Can 16oz 12L	12	\$0.79	\$9.50	12/31/2020
MT DEW KICKSTART	Can 16oz 12L	12	\$1.21	\$14.54	12/31/2020
MT DEW AMP	Can 16oz 12L	12	\$1.58	\$19.00	12/31/2020
YACHAK	Can 16oz 12L	12	\$1.66	\$19.94	12/31/2020
MT DEW AMP	Can 16oz 12L RCN	12	\$1.67	\$20.00	12/31/2020
ROCKSTAR	Can 16oz 24L	24	\$1.42	\$34.00	12/31/2020
STARBUCKS COLD BREW	Can 9.6oz 12L	12	\$2.33	\$28.00	12/31/2020
STARBUCKS COLD BREW	Can 9.6oz 12P	12	\$2.33	\$28.00	12/31/2020
SUPPLY	Cups: 12oz			\$79.80	12/31/2020
SUPPLY	Cups: 16oz			\$52.23	12/31/2020
	Cups: 16oz			\$62.62	12/31/2020
SUPPLY	Cups: 21oz			\$57.99	12/31/2020
	Cups: 21oz			\$69.51	12/31/2020
SUPPLY	Cups: 22oz			\$108.39	12/31/2020
SUPPLY	Cups: 32oz			\$50.87	12/31/2020
SUPPLY	Cups: 44oz			\$55.05	12/31/2020
	Cups: 44oz			\$83.99	12/31/2020
SUPPLY	Cups: 64oz			\$81.16	12/31/2020
	Cups: 64oz			\$112.91	12/31/2020
SUPPLY	Cups: All Other			\$72.34	12/31/2020
SUPPLY	Lids: 12oz			\$66.12	12/31/2020
SUPPLY	Lids: 16oz			\$55.05	12/31/2020
SUPPLY	Lids: 22oz			\$57.99	12/31/2020
SUPPLY	Lids: 32oz			\$42.17	12/31/2020
SUPPLY	Lids: 44oz			\$27.70	12/31/2020
SUPPLY	Msc Supplies			\$10.41	12/31/2020
SUPPLY	Straw s 10.25"			\$10.41	12/31/2020
SUPPLY	Straw s 7.75"			\$10.41	12/31/2020

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

SUMMARY

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

PERMITTED PRODUCTS

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

Elementary School

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

Middle School

- Same as elementary school except that juice and milk meeting elementary school criteria may be up to 12-ounce
- If a middle school and high school are in the same building and students of all ages have access to the areas where beverages are sold, beverages must meet the middle school standards. If, in the above situation, the middle school students do not have access to the area where beverages are sold to high school students, high school beverage standards may be implemented for that area.

High School

Same as middle school except that the following beverages are also permitted:

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

APPLICATION OF POLICY

Schools: This school beverage policy applies to all elementary, middle and high schools in the United States, whether public or private and whether or not such schools participate in the reimbursable school breakfast or lunch plan run by the Federal government.

Time of Day: This policy applies to beverages sold to students on school grounds during the school day as well as the extended school day. The “extended school day” is the time before and after school when students are involved in events (e.g., clubs, yearbook, band and choir practice, student government, drama and childcare programs) that are primarily under the control of the school or third parties on behalf of the school.

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

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

Providing Choice and Information

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

Promoting Wellness and Education

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

Independent Bottlers and Third-Party Distributors

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

Notes:

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

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Exhibit D**Account Terms within Credit Application**

("Purchaser") hereby agrees that all purchases shall be subject to terms and conditions as follows:

1. The Purchaser shall comply with and satisfy all payment terms and conditions of (i) Bottling Group, LLC and its affiliates and/or their respective subsidiaries collectively comprising Pepsi Beverages Company ("PBC") and/or (ii) PepsiCo Sales, Inc. and any of its subsidiaries or affiliates collectively comprising PepsiCo Beverages Americas ("PBA") (PBC and PBA are hereinafter collectively referred to as "Pepsi"). Pepsi credit terms require receipt of funds in bank within thirty (30) days from the date of product delivery. Should the Purchaser elect to pay from the Pepsi monthly customer statement, it is the Purchaser's responsibility to insure receipt of funds in the bank by the 15th of the month. From time to time, as determined in the sole discretion of Pepsi, in connection with the sale of goods and/or services to the Purchaser, Pepsi retains and reserves the right to amend these terms and conditions with or without notice to Purchaser.
2. If payment is not received by the due date, the Purchaser shall be subject to a late payment charge of 1.5% per month (or the maximum rate allowable by state law if 1.5% per month is in excess of the maximum rate allowable by state law) on the outstanding balance until paid in full.
3. The Purchaser shall promptly notify Pepsi, by certified mail, of any change of ownership and/or billing information of the Purchaser, or if the Purchaser files for bankruptcy.
4. Payment for the goods shall be made by the Purchaser pursuant to Pepsi's policies, terms and conditions regarding payment of invoices and shall be subject to the terms of such invoices from time to time in effect. If the Purchaser does not comply with Pepsi's payment terms and inadvertently makes deductions from amounts due, Pepsi reserves the right to withhold payments otherwise due to Purchaser as an offset against amounts not paid by the Purchaser. Checks in payment for goods that are not honored by the bank upon which drawn shall be subject to a minimum of \$25.00 service charge payable to Pepsi.
5. Any price or other discrepancy claim must be submitted to Pepsi within 365 days of the date of the invoice in question. If the Purchaser makes a price or other discrepancy claim within 90 days of the invoice date, the Purchaser must submit a written request specifying the particular promotion, product, amount in dispute and reason for the dispute. All discrepancy claims must be addressed to: Accounts Receivable, The Pepsi-Cola Customer Service Center, P.O. Box 10, Winston-Salem, North Carolina 27102. If the Purchaser makes a price or other discrepancy claim from 91 to 365 days after the date of invoice, in addition to the written request as specified above, the Purchaser must submit to Pepsi a copy of the invoice in question, copies of any check remittances pursuant to the invoice in question and any additional supporting documentation, including, without limitation a copy of the deal sheet in question, if applicable. If the Purchaser withholds payment due to a claimed discrepancy and Pepsi disputes this claim, Pepsi reserves the right to withhold payments otherwise due Purchaser.
6. If Purchaser's account becomes past due and Pepsi or its collection agency seeks to collect such past due amounts, then in addition to the amount past due and applicable late payment charges, Purchaser shall pay to Pepsi collection costs equal to twenty-five percent of the amount past due (or the maximum rate allowable by state law if 25% is in excess of the maximum rate allowable by state law), plus any attorney's fees, repossession fees, court costs, and any other costs or fees incurred by Pepsi in order to recover past due amounts owed by the Purchaser, together with interest at the maximum rate allowed by law.
7. If Purchaser or any of its affiliates or subsidiaries, now or in the future, owns/operates in whole or in part additional locations which purchase Pepsi's goods, then the Purchaser agrees to comply with all the terms and conditions of this credit application for each additional location.

8. In the event that the credit application is executed by more than one person or entity, the term "Purchaser" shall be deemed to include all such persons and entities and their obligations and liabilities to Pepsi in connection with the goods shall be joint and several.

9. Purchaser hereby authorizes the financial or banking institution identified in the credit application to release to Pepsi credit information relating to the accounts listed. The extension by Pepsi of credit to the Purchaser and the amount, terms and conditions of such credit will be in the sole, absolute and exclusive discretion of Pepsi. Pepsi reserves the right to terminate the extension of credit to the Purchaser at any time with or without notice and to change any of the credit terms upon notice to the Purchaser. Purchaser acknowledges that Pepsi will rely upon the representations made in the credit application for the purpose of extending credit to Purchaser.

The Purchaser hereby certifies that all information contained in the credit application is complete, accurate and truthful.

Exhibit E

GRANITE SCHOOL DISTRICT STANDARD TERMS AND CONDITIONS FOR SERVICES

This is for a contract for services (including professional services) meaning the furnishing of labor, time, or effort by a contractor.

1. **DEFINITIONS:** The following terms shall have the meanings set forth below:
 - a) "**Confidential Information**" means information that is deemed as confidential under, or protected by applicable state and federal laws, including personal information, student data, and all related metadata. The District reserves the right to identify, during and after this Contract, additional reasonable types of categories of information that must be kept confidential under federal and state laws.
 - b) "**Contract**" means the Contract Signature Page(s), including all referenced attachments and documents incorporated by reference. The term "Contract" may include any purchase orders that result from this Contract.
 - c) "**Contract Signature Page(s)**" means the cover page(s) that the District and Contractor sign.
 - d) "**Contractor**" means the individual or entity delivering the Services identified in this Contract. The term "Contractor" shall include Contractor's agents, officers, employees, and partners.
 - e) "**District**" means the Granite School District, in its entirety, including its schools, divisions, departments, authorities, instrumentalities, boards, elected or appointed officers, employees, agents, and authorized volunteers.
 - f) "**Proposal**" means Contractor's response to the District's Solicitation.
 - g) "**Services**" means the furnishing of labor, time, or effort by Contractor pursuant to this Contract. Services include, but are not limited to, all of the deliverable(s) (including supplies, equipment, or commodities) that result from Contractor performing the Services pursuant to this Contract. Services include those professional services identified in Section 63G-6a-103 of the Utah Procurement Code.
 - h) "**Solicitation**" means the documents used by the District to obtain Contractor's Proposal.
 - i) "**Subcontractors**" means subcontractors or subconsultants at any tier that are under the direct or indirect control or responsibility of the Contractor, and includes all independent contractors, agents, employees, authorized resellers, or anyone else for whom the Contractor may be liable at any tier, including a person or entity that is, or will be, providing or performing an essential aspect of this Contract, including Contractor's manufacturers, distributors, and suppliers.
2. **GOVERNING LAW AND VENUE:** This Contract shall be governed by the laws, rules, and regulations of the State of Utah. Any action or proceeding arising from this Contract shall be brought in a court of competent jurisdiction in the State of Utah. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **LAWS AND REGULATIONS:** At all times during this Contract, Contractor and all Services performed under this Contract will comply with all applicable federal and state constitutions, laws, rules, codes, orders, and regulations, including applicable licensure and certification requirements. If this Contract is funded by federal funds, either in whole or in part, then any federal regulation related to the federal funding, including CFR Appendix II to Part 200, will supersede this Attachment A. Additionally terms 43-48 within this document will also apply.
4. **RECORDS ADMINISTRATION:** Contractor shall maintain or supervise the maintenance of all records necessary to properly account for Contractor's performance and the payments made by the District to Contractor under this Contract. These records shall be retained by Contractor for at least six (6) years after final payment, or until all audits initiated within the six (6) years have been completed, whichever is later. Contractor agrees to allow, at no additional cost, the District, state

and federal auditors, and District staff, access to all such records.

5. **CERTIFY REGISTRATION AND USE OF EMPLOYMENT "STATUS VERIFICATION SYSTEM":** The Status Verification System, also referred to as "E-verify", only applies to contracts issued through a Request for Proposal process and to sole sources that are included within a Request for Proposal.
 1. Contractor certifies as to its own entity, under penalty of perjury, that Contractor has registered and is participating in the Status Verification System to verify the work eligibility status of Contractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws.
 2. Contractor shall require that each of its Subcontractors certify by affidavit, as to their own entity, under penalty of perjury, that each Subcontractor has registered and is participating in the Status Verification System to verify the work eligibility status of Subcontractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws.
 3. Contractor's failure to comply with this section will be considered a material breach of this Contract.
6. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the District, unless disclosure has been made to the District.
7. **INDEPENDENT CONTRACTOR:** Contractor and Subcontractors, in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of the District.
8. **INDEMNITY:** Contractor shall be fully liable for the actions of its agents, employees, officers, partners, and Subcontractors, and shall fully indemnify, defend, and save harmless the District from all claims, losses, suits, actions, damages, and costs of every name and description arising out of Contractor's performance of this Contract caused by any intentional act or negligence of Contractor, its agents, employees, officers, partners, or Subcontractors, without limitation; provided, however, that the Contractor shall not indemnify for that portion of any claim, loss, or damage arising hereunder due to the sole fault of the District. The parties agree that if there are any limitations of the Contractor's liability, including a limitation of liability clause for anyone for whom the Contractor is responsible, such limitations of liability will not apply to injuries to persons, including death, or to damages to property. Nothing in this Agreement shall be deemed as a waiver by any party of the defenses, rights or protections provided by the Utah Governmental Immunity Act (Utah Code Ann. 63G-7-101 et. seq.) nor shall this Agreement be construed with respect to third parties as a waiver of any governmental immunity to which the District is otherwise entitled. This Indemnity Section shall be applicable only to the extent of Contractor's negligence or willful misconduct. Contractor will not indemnify the District from losses arising out of acts or omissions of the District or third- parties not acting on behalf of Contractor.
9. **EMPLOYMENT PRACTICES:** Contractor agrees to abide by federal and state employment laws, including: (i) Title VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e), which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; (ii) Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; (iii) 45 CFR 90, which prohibits discrimination on the basis of age; (iv) Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disabilities; and (v) Utah's Executive Order, dated December 13, 2006, which prohibits unlawful harassment in the workplace. Contractor further agrees to abide by any other laws, regulations, or orders that prohibit the discrimination of any kind by any of Contractor's employees.
10. **AMENDMENTS:** This Contract may only be amended by the mutual written agreement of the parties, which amendment will be attached to this Contract. Automatic renewals will not apply to this Contract, even if listed elsewhere in this Contract.
11. **DEBARMENT:** Contractor certifies that it is not presently nor has ever been debarred, suspended, or proposed for debarment by any governmental department or agency, whether international, national, state, or local. Contractor must notify the District within thirty (30) days if debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any contract by any governmental entity during this Contract.
12. **TERMINATION:** The right to terminate the Agreement for cause/default shall be provided to each party. Written notice of default will be provided to the breaching party with a cure period of not less than 30 days. If Contractor terminates the Agreement as a result of breach by the District, Contractor, if applicable, will be entitled to reimbursement of any unearned portion of funds advanced to the District. Contractor is offering consideration in reliance upon Contractor's products being sold or otherwise made available at the District during the entire term of the Agreement. Therefore, Contractor does not accept the right for the District to terminate the Agreement without cause.

As set forth in the Proposal, Contractor is investing in the District through the provision of funds and/or equipment that might otherwise be offered to other customers. Installing equipment and advancing funds to District is a significant investment, on which Contractor expects to realize a return over the entire term of the contract. If the contract is terminated early, Contractor will lose the opportunity to recover a return on its investment and will thus suffer substantial financial harm. Thus, Contractor does not agree to termination for convenience without consequences to District.

13. **NONAPPROPRIATION OF FUNDS, REDUCTION OF FUNDS, OR CHANGES IN LAW:** Upon thirty (30) days written notice delivered to the Contractor, this Contract may be terminated in whole or in part at the sole discretion of the District, if the District reasonably determines that: (i) a change in Federal or State legislation or applicable laws materially affects the ability of either party to perform under the terms of this Contract; or (ii) that a change in available funds affects the District's ability to pay under this Contract. A change of available funds as used in this paragraph includes, but is not limited to, a change in Federal or State funding, whether as a result of a legislative act or by order of the President or the Governor.

If a written notice is delivered under this section, the District will reimburse Contractor for the Services properly ordered until the effective date of said notice. The District will not be liable for any performance, commitments, penalties, or liquidated damages that accrue after the effective date of said written notice.

14. **SUSPENSION OF WORK:** Should circumstances arise which would cause the District to suspend Contractor's responsibilities under this Contract, but not terminate this Contract, this will be done by written notice. Contractor's responsibilities may be reinstated upon advance formal written notice from the District.
15. **SALES TAX EXEMPTION:** The Services under this Contract will be paid for from the District's funds and used in the exercise of the District's essential functions as a State of Utah entity. Upon request, the District will provide Contractor with its sales tax exemption number. It is Contractor's responsibility to request the District's sales tax exemption number. It also is Contractor's sole responsibility to ascertain whether any tax deduction or benefits apply to any aspect of this Contract.
16. **CONTRACTOR'S INSURANCE RESPONSIBILITY.** The Contractor shall maintain the following insurance coverage:
- Workers' compensation insurance during the term of this Contract for all its employees and any Subcontractor employees related to this Contract. Workers' compensation insurance shall cover full liability under the workers' compensation laws of the jurisdiction in which the work is performed at the statutory limits required by said jurisdiction.
 - Commercial general liability [CGL] insurance from an insurance company authorized to do business in the State of Utah. The limits of the CGL insurance policy will be no less than one million dollars (\$1,000,000.00) per person per occurrence and two million (\$2,000,000.00) aggregate per occurrence.
 - Commercial automobile liability [CAL] insurance from an insurance company authorized to do business in the State of Utah. The CAL insurance policy must cover bodily injury and property damage liability and be applicable to all vehicles used in your performance of Services under this Agreement whether owned, non-owned, leased, or hired. The minimum liability limit must be \$1 million per occurrence, combined single limit. The CAL insurance policy is required if Contractor will use a vehicle in the performance of this Contract.
 - Other insurance policies required in the Solicitation.

Certificate of Insurance, showing up-to-date coverage, shall be on file with the District before the Contract may commence. The District reserves the right to require higher or lower insurance limits where warranted. Failure to provide proof of insurance as required will be deemed a material breach of this Contract. Contractor's failure to maintain this insurance requirement for the term of this Contract will be grounds for immediate termination of this Contract.

17. **WORKERS' COMPENSATION INSURANCE:** Contractor shall maintain during the term of this Contract, workers' compensation insurance for all its employees as well as any Subcontractor employees related to this Contract. Workers' compensation insurance shall cover full liability under the workers' compensation laws of the jurisdiction in which the service is performed at the statutory limits required by said jurisdiction. Contractor acknowledges that within thirty (30) days of contract award, Contractor must submit proof of certificate of insurance that meets the above requirements.
18. **PUBLIC INFORMATION:** Contractor agrees that this Contract, related purchase orders, related pricing documents, and invoices will be public documents and may be available for public and private distribution in accordance with the State of Utah's Government Records Access and Management Act (GRAMA). Contractor gives the District express permission to make copies of this Contract, related sales orders, related pricing documents, and invoices in accordance with GRAMA. Except for sections identified in writing by Contractor and expressly approved by the Granite School District Purchasing Department, Contractor also agrees that the Contractor's Proposal to the Solicitation will be a public document, and copies may be given to the public as permitted under GRAMA. The District is not obligated to inform Contractor of any GRAMA requests for disclosure of this Contract, related purchase orders, related pricing documents, or invoices.
19. **DELIVERY:** All deliveries under this Contract will be F.O.B. destination with all transportation and handling charges paid for by Contractor. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to the District, except as to latent defects or fraud. Contractor shall strictly adhere to the delivery and completion schedules specified in this Contract.
20. **ACCEPTANCE AND REJECTION:** The District shall have thirty (30) days after the performance of the Services to perform an inspection of the Services to determine whether the Services conform to the standards specified in the Solicitation and this Contract prior to acceptance of the Services by the District.

If Contractor delivers nonconforming Services, the District may, at its option and at Contractor's expense: (i) return the Services for a full refund; (ii) require Contractor to promptly correct or reperform the nonconforming Services subject to the terms of this Contract; or (iii) obtain replacement Services from another source, subject to Contractor being responsible for any cover costs.

21. **INVOICING:** Contractor will submit invoices within thirty (30) days of Contractor's performance of the Services to the District. The contract number shall be listed on all invoices, freight tickets, and correspondence relating to this Contract. The prices paid by the District will be those prices listed in this Contract, unless Contractor offers a prompt payment discount within its Proposal or on its invoice. The District has the right to adjust or return any invoice reflecting incorrect pricing.
22. **PAYMENT:** See Exhibit D.
23. **TIME IS OF THE ESSENCE:** Time is of the essence and Contractor shall perform the Services required by this Agreement in an expeditious and timely manner so as not to unreasonably delay the purpose of this Agreement.
24. **CHANGES IN SCOPE:** Any changes in the scope of the Services to be performed under this Contract shall be in the form of a written amendment to this Contract, mutually agreed to and signed by both parties, specifying any such changes, fee adjustments, any adjustment in time of performance, or any other significant factors arising from the changes in the scope of Services.
25. **PERFORMANCE EVALUATION:** The District may conduct a performance evaluation of Contractor's Services, including Contractor's Subcontractors. Results of any evaluation may be made available to Contractor upon request.
26. **STANDARD OF CARE:** The Services of Contractor and its Subcontractors shall be performed in accordance with the standard of care exercised by licensed members of their respective professions having substantial experience providing similar services which similarities include the type, magnitude, and complexity of the Services that are the subject of this Contract. Contractor shall be liable to the District for claims, liabilities, additional burdens, penalties, damages, or third party claims (e.g., another Contractor's claim against the District), to the extent caused by wrongful acts, errors, or omissions that do not meet this standard of care.
27. **REVIEWS:** The District reserves the right to perform plan checks, plan reviews, other reviews, and/or comment upon the Services of Contractor. Such reviews do not waive the requirement of Contractor to meet all of the terms and conditions of this Contract.
28. **ASSIGNMENT:** Contractor may not assign, sell, transfer, subcontract or sublet rights, or delegate any right or obligation under this Contract, in whole or in part, without the prior written approval of the District.
29. **REMEDIES:** If Contractor terminates this Agreement as a result of default by District, or if District terminates this Agreement other than due to Contractor's failure to cure a breach hereof, then District shall forfeit all funding not paid as of the date of termination.

The right to terminate the Agreement for cause/default shall be provided to each party. Written notice of default will be provided to the breaching party with a cure period of not less than 30 days. If Contractor terminates the Agreement as a result of breach by the District, Contractor, if applicable, will be entitled to reimbursement of any unearned portion of funds advanced to the District. Contractor is offering consideration in reliance upon Contractor's products being sold or otherwise made available at the District during the entire term of the Agreement. Therefore, Contractor does not accept the right for the District to terminate the Agreement without cause.

30. **FORCE MAJEURE:** See Section 12.
31. **CONFIDENTIALITY:** If Confidential Information is disclosed to Contractor, Contractor shall: (i) advise its agents, officers, employees, partners, and Subcontractors of the obligations set forth in this Contract; (ii) keep all Confidential Information strictly confidential; and (iii) not disclose any Confidential Information received by it to any third parties. Contractor will promptly notify the District of any potential or actual misuse or misappropriation of Confidential Information.

Contractor shall be responsible for any breach of this duty of confidentiality, including any required remedies and/or notifications under applicable law. Contractor shall indemnify, hold harmless, and defend the District, including anyone for whom the District is liable, from claims related to a breach of this duty of confidentiality, including any notification requirements, by Contractor or anyone for whom the Contractor is liable.

Upon termination or expiration of this Contract, Contractor will return all copies of Confidential Information to the District or certify, in writing, that the Confidential Information has been destroyed. This duty of confidentiality shall be ongoing and survive the termination or expiration of this Contract.

32. **PUBLICITY:** Contractor shall submit to the District for written approval all advertising and publicity matters relating to this Contract. It is within the District's sole discretion whether to provide approval, which must be done in writing.
33. **INDEMNIFICATION RELATING TO INTELLECTUAL PROPERTY:** Contractor will indemnify and hold the District harmless from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities, and costs in any action or claim brought against the District for infringement of a third party's copyright, trademark, trade secret, or other proprietary right. The parties agree that if there are any limitations of Contractor's liability, such limitations of liability will not apply to this section.
34. **OWNERSHIP IN INTELLECTUAL PROPERTY:** The District and Contractor agree that each has no right, title, interest, proprietary or otherwise in the intellectual property owned or licensed by the other, unless otherwise agreed upon by the parties in writing. All deliverables, documents, records, programs, data, articles, memoranda, and other materials not developed or licensed by Contractor prior to the execution of this Contract, but specifically created or manufactured under this Contract shall be considered work made for hire, and Contractor shall transfer any ownership claim to the District.
35. **WAIVER:** A waiver of any right, power, or privilege shall not be construed as a waiver of any subsequent right, power, or privilege.
36. **ATTORNEY'S FEES:** In the event of any judicial action to enforce rights under this Contract, the prevailing party shall be entitled its costs and expenses, including reasonable attorney's fees incurred in connection with such action.
37. **PROCUREMENT ETHICS:** Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to the District is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan, reward, or any promise thereof to any person acting as a procurement officer on behalf of the District, or to any person in any official capacity participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization.
38. **DISPUTE RESOLUTION:** Prior to either party filing a judicial proceeding, the parties agree to participate in the mediation of any dispute. The District, after consultation with the Contractor, may appoint an expert or panel of experts to assist in the resolution of a dispute. If the District appoints such an expert or panel, District and Contractor agree to cooperate in good faith in providing information and documents to the expert or panel in an effort to resolve the dispute.
39. **ORDER OF PRECEDENCE:** In the event of any conflict in the terms and conditions in this Contract, the order of precedence shall be: (i) this Attachment A; (ii) Contract Signature Page(s); (iii) the District's additional terms and conditions, if any; (iv) any other attachment listed on the Contract Signature Page(s); and (v) Contractor's terms and conditions that are attached to this Contract, if any. Any provision attempting to limit the liability of Contractor or limit the rights of the District must be in writing and attached to this Contract or it is rendered null and void. Contractor will request that an event of conflict shall be resolved according to the following order of priorities (1) the contract document; this (2) the successful Contractor's proposal, including this Legal Conditions Applicable to Contractor's Response to RFP; and (3) the RFP.
40. **SURVIVAL OF TERMS:** Termination or expiration of this Contract shall not extinguish or prejudice the District's right to enforce this Contract with respect to any default or defect in the Services that has not been cured.
41. **SEVERABILITY:** The invalidity or unenforceability of any provision, term, or condition of this Contract shall not affect the validity or enforceability of any other provision, term, or condition of this Contract, which shall remain in full force and effect.
42. **PRICE GUARANTEE, ADJUSTMENTS:** The contract pricing will be guaranteed for the period specified in the original solicitation document. Following the guarantee period, any request for price adjustment must be for an equal guarantee period and must be made at least 30 days prior to the effective date. Requests for price adjustment must include documentation supporting the request and demonstrating a logical mathematical link between the current price and the proposed price. District acknowledges and agrees (and shall require that any third parties or Food Service Providers purchasing Products through this Agreement agree) that Contractor 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.
43. **EQUAL EMPLOYMENT OPPORTUNITY:** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p.339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity.
44. **COPELAND "ANTI-KICKBACK" ACT:** (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by

any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

45. **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT:** (40 U.S.C.3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
46. **CLEAN AIR ACT:** (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
47. **Byrd Anti-Lobbying Amendment:** (31 U.S.C. 1352)—Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
48. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the energy Policy and Conservation Act (42 U.S.C. 6201).
49. **ENTIRE AGREEMENT:** This Contract constitutes the entire agreement between the parties and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written.

(Revision date: 21 August 2017)