

UNIVERSITY OF HAWAII	MODIFICATION OF CONTRACT	PAGE 1 of 1
1. MODIFICATION NO.  2	2. CONTRACT NO. <u>C210048</u> Dated <u>01/01/21</u> / PROJECT TITLE  Provide, Operate and Maintain a Beverage Vending Concession at the University of Hawaii at Hilo, Hilo, Hawaii	
3. ISSUED BY Director, Office of Procurement Management 1400 Lower Campus Road, Room 15 Honolulu, Hawaii'i 96822 Procurement Specialist: <u>K. Minato</u>		4. CONTRACTOR (NAME AND ADDRESS) Bottling Group, LLC dba Pepsi Bottling Group 99-1325 Halawa Valley Street Aiea, Hawaii 96701 Email: <u>jordan.chernesky@pepsico.com</u>

5. (a) ☐ This Change Order is issued pursuant to \_\_\_\_\_  
The changes set forth in block 6 are made to the above numbered contract.  
(b) ☐ The above numbered contract is modified to reflect administrative change.  
(c) ☒ This Supplemental Agreement is entered into to modify the contract as set forth in block 6

6. DESCRIPTION OF MODIFICATION

- a. Pursuant to paragraph 20, MODIFICATION OF CONTRACT, paragraph 2, TERM, is hereby deleted in its entirety and shall be replaced with the following:

2. TERM

CONTRACTOR agrees to enter into an agreement with the UNIVERSITY for the period of January 1, 2021 through December 31, 2027.

- b. All other terms and conditions shall remain the unchanged.

EXCEPT AS PROVIDED HEREIN, ALL TERMS AND CONDITIONS OF THE DOCUMENT REFERENCED IN BLOCK 2 UNLESS HERETOFORE AMENDED, REMAIN UNCHANGED.

7. APPROPRIATION/FUNDING/ACCOUNTING DATA (IF REQUIRED)

8. ☐ CONTRACTOR IS NOT REQUIRED TO SIGN THIS DOCUMENT. ☒ CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN ORIGINAL AND ALL COPIES TO THE DIRECTOR, OFFICE OF PROCUREMENT MANAGEMENT

9. BOTTLING GROUP, LLC DBA PEPSI BOTTLING GROUP	11. UNIVERSITY OF HAWAII
BY <u>Jordan Chernesky</u> / 1/20/2023 (authorized signature) DATE	BY <u>Karlee Hisashima</u> / JAN 23 2023 DATE
10. NAME & TITLE OF SIGNER (TYPE OR PRINT) Account Manager, Big Island & Maui	12. NAME & TITLE OF SIGNER (TYPE OR PRINT) Karlee Hisashima, Interim Director Office of Procurement Management

UNIVERSITY OF HAWAII	MODIFICATION OF CONTRACT	PAGE 1 of 1
1. MODIFICATION NO.  1	2. CONTRACT NO. <u>C210048</u> Dated <u>01/01/21</u> / PROJECT TITLE  Provide, Operate and Maintain a Beverage Vending Concession at the University of Hawaii at Hilo, Hilo, Hawaii	
3. ISSUED BY  Director, Office of Procurement Management 1400 Lower Campus Road, Room 15 Honolulu Hawaii 96822 Procurement Specialist: <u>John Vedder</u>		4. CONTRACTOR (NAME AND ADDRESS)  Bottling Group, LLC, dba Pepsi Bottling Group 99-1325 Halawa Valley Street Aiea, Hawaii 96701 Attention: Jordan Chernesky Food Service Representative Email: <u>jordan.chernesky@pepsico.com</u>

5. (a) ☐ This Change Order is issued pursuant to \_\_\_\_\_  
The changes set forth in block 6 are made to the above numbered contract.  
(b) ☐ The above numbered contract is modified to reflect administrative change.  
(c) ☒ This Supplemental Agreement is entered into to modify the contract as set forth in block 6

6. DESCRIPTION OF MODIFICATION

Pursuant to Section 2, TERM, both parties mutually agree to the renewal of the subject contract for the period of January 1, 2022 through December 31, 2022.

All other terms, conditions and prices remain unchanged.

EXCEPT AS PROVIDED HEREIN, ALL TERMS AND CONDITIONS OF THE DOCUMENT REFERENCED IN BLOCK 2 UNLESS HERETOFORE AMENDED, REMAIN UNCHANGED.

7. APPROPRIATION/FUNDING/ACCOUNTING DATA (IF REQUIRED)

8. ☐ CONTRACTOR IS NOT REQUIRED TO SIGN THIS DOCUMENT. ☒ CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN ORIGINAL AND ALL COPIES TO THE DIRECTOR, OFFICE OF PROCUREMENT MANAGEMENT

9. BOTTLING GROUP, LLC, DBA PEPSI BOTTLING GROUP  BY <u>[Signature]</u> / <u>12/16/21</u> (authorized signature) DATE	11. UNIVERSITY OF HAWAII  BY <u>[Signature]</u> / <u>DEC 21 2021</u> DATE
10. NAME & TITLE OF SIGNER (TYPE OR PRINT)  <u>Jordan Chernesky</u> <u>FSR - PepsiCo</u>	12. NAME & TITLE OF SIGNER (TYPE OR PRINT)  Karee Hisashima, Interim Director Office of Procurement Management



April 29, 2021

Date emailed : 05/10/2021  
Date mailed : 05/10/2021

Mr. Jordan Chernesky  
Bottling Group, LLC dba Pepsi Bottling Group  
99-1325 Halawa Valley Street  
Aiea, HI 96701

Dear Mr. Chernesky:

Subject: Contract No. C210048

Enclosed herewith is your fully executed copy of the subject contract.

Very truly yours,

Karlee Hisashima  
Interim Director

KH:JV:dt

Enclosure

c: Brenda Hamane, Carrie Masanda

C210048

CONCESSION AGREEMENT

THIS AGREEMENT, made as of the 1st of January, 2021 by and between BOTTLING GROUP, LLC dba PEPSI BOTTLING GROUP, located at 99-1325 Halawa Valley Street, Aiea, Hawaii 96701, hereinafter called "CONTRACTOR", and the University of Hawai'i at Hilo, 200 W. Kawili Street, Hilo, Hawaii 96720, hereinafter referred to as "UNIVERSITY".

WITNESSETH THAT:

CONTRACTOR hereby agrees to provide, operate, and maintain beverage vending concession at the UNIVERSITY, its University of Hawai'i at Hilo campus, meeting the following terms and conditions:

1. SCOPE

- A. CONTRACTOR agrees to provide, operate, and maintain beverage vending concession at the UNIVERSITY, its University of Hawai'i at Hilo campus in accordance with applicable rules and regulations, policies, codes, and ordinances of the UNIVERSITY, State of Hawai'i, and the County of Hawai'i.
- B. The UNIVERSITY grants to the CONTRACTOR the exclusive right to operate beverage vending concession at the UNIVERSITY, which shall include, but not be limited to bottle and can beverages. This agreement shall not include beverage vending machines located off the University of Hawai'i at Hilo's campus.
- C. The number of vending machines, location, and items to be sold at the vending locations shall be subject to approval by the UNIVERSITY. The UNIVERSITY may at its discretion require the temporary or permanent relocation of vending machines to a new location. Current designated locations are identified in Attachment B.
- D. CONTRACTOR shall, by and through its representatives, agents, and subcontractors, be responsible for all product, equipment, service, and revenue capture for the beverage vending concession covered under this agreement.

2. TERM

CONTRACTOR agrees to enter into an agreement with the UNIVERSITY for an initial period commencing on January 1, 2021 through December 31, 2021. Thereafter, the contract may be renewed for successive FOUR (4) additional ONE (1) year periods, upon mutual agreement in writing, NINETY (90) days prior to the renewal date.

3. PAYMENT

- A. Payment for commissions earned in the amount of TWENTY-FIVE PERCENT (25%) of net sales for all bottle dispensing vending machines; and FORTY-FIVE PERCENT (45%) of net sales for all can (aluminum) dispensing vending machines shall be paid to the UNIVERSITY within 30 days after the end of each of CONTRACTOR'S four-week accounting cycle. Net sales shall be calculated as gross sales collected ("cash in bag" or "CIB") minus the Hawai'i

redemption value and taxes ("Commissions"). All payments shall be made out to the 'University of Hawai'i at Hilo' no later than the thirtieth (30<sup>th</sup>) day after the end of each of CONTRACTOR'S four-week accounting cycle, and submitted to the Director of Special Projects, University of Hawai'i at Hilo, Administrative Affairs, 640 North Aohoku Place, #134, Hilo, Hawai'i 96720. CONTRACTOR shall make all pertinent revenue and sales records respecting the BEVERAGE vending machines available to the UNIVERSITY. UNIVERSITY agrees that it is responsible for reviewing such records and that any claim or dispute relating to the commissions must be brought by the UNIVERSITY in writing within one year of the date such commission payment is due.

- B. Losses incurred from the operation of vending equipment due to theft, fire, vandalism, damage, etc. shall be absorbed by the CONTRACTOR and shall not be factors in the computation of the UNIVERSITY's commissions.
- C. The termination of this agreement by default or otherwise shall not relieve the CONTRACTOR of any obligation under this agreement for payments owed while the agreement was in effect, but remaining unpaid at the time of termination.

#### 4. CONTRACTOR RESPONSIBILITIES

- A. CONTRACTOR shall furnish deliver, and install all beverage vending machines and other such equipment at no charge to the UNIVERSITY. All equipment placements shall be subject to approval by the UNIVERSITY and shall meet current industry standards at the time of placement.
- B. CONTRACTOR shall at its own expense, obtain all necessary permits, provide all necessary notices, pay all license fees, and comply with all laws, rules, ordinances, and regulations applicable to the business carried on under this contract.
- C. CONTRACTOR shall provide its own employees to stock and service the beverage vending concession, and shall be responsible for all personnel costs, benefits, and wages at industry standard rates that comply with all federal, state, and county rules, regulations, and laws.
- D. CONTRACTOR is responsible for the on-campus behavior for all of its employees. If in the opinion of the UNIVERSITY, an agent or employee of the CONTRACTOR displays uncooperative or objectionable conduct, the CONTRACTOR shall, at the UNIVERSITY's request, remove the agent or employee from service at the UNIVERSITY.
  - 1) CONTRACTOR's employees shall maintain the proper employer/employee and business/customer relationships when performing work under this agreement.
  - 2) CONTRACTOR's employees shall not loiter in areas outside their assigned work areas.
- E. CONTRACTOR's employees shall comply with established UNIVERSITY policies in regards to Sexual Harassment and Related Conduct, Workplace Non-Violence, and Illegal Drugs and Alcohol Abuse. The UNIVERSITY will not tolerate objectionable or inappropriate behavior, and reserves the right to require the CONTRACTOR to remove employees providing services

under this agreement who do not comply with the aforementioned policies. Refer to <http://www.hawaii.edu/policy> for the following UNIVERSITY policies:

Sexual Harassment (Executive Policy EP 1.204)

Workplace Non-Violence (Executive Policy EP 9.210)

Illegal Drugs, Alcohol and Substance Abuse (Executive Policy EP 11.201)

- F. CONTRACTOR shall be responsible for immediately reporting to the UNIVERSITY, any break-ins or unauthorized entries into the vending concession areas machines, and all property losses associated therewith. The CONTRACTOR shall be responsible for reporting to the UNIVERSITY all accidents involving its staff or customers and all disputes or behavioral incidents involving staff, students or patrons that occur in or around the beverage vending concessions. The UNIVERSITY shall not be responsible for any damages to the CONTRACTOR's vending concession machines.
- G. CONTRACTOR shall immediately report fires, unsafe conditions, and security hazards to the UNIVERSITY. The CONTRACTOR shall immediately fix and report to the UNIVERSITY any conditions cited in any citations by local, state, or federal agencies or those identified by the UNIVERSITY as unsafe conditions related to the vending concession under this agreement.
- H. CONTRACTOR shall be allowed to use electricity for the beverage vending concession without charge, and shall work with the UNIVERSITY to determine the connection method, and to support maximum utility/energy conservation, and to vigorously manage the cost of energy use.
- I. All signage installed by the CONTRACTOR shall be approved in advance by the UNIVERSITY.
- J. CONTRACTOR shall keep all beverage vending concession machines/equipment in good working order and condition, and take proper measures to protect its machines/equipment against loss, pilferage or destruction.
- K. CONTRACTOR shall respond to UNIVERSITY'S request for repair and restocking within SEVENTY-TWO (72) hours after notification. In the event that the beverage vending machine cannot be repaired within THIRY (30) calendar days after notification by the UNIVERSITY, the CONTRACTOR shall provide an equivalent replacement vending machine at no cost to the UNIVERSITY.
  - 1) In the event parts to repair malfunctioning equipment is not available on island, the CONTRACTOR shall notify the UNIVERSITY and provide an expected timeframe for the repairs. The CONTRACTOR shall provide signage to inform customers when equipment is out of service.
  - 2) The requirement to provide necessary equipment for the UNIVERSITY shall continue throughout the term of the contract, including mutually agreed upon upgrading, additional sites, or needs that may occur.

- L. CONTRACTOR shall provide its own vehicles as needed for restocking and servicing the beverage vending machines. All of the CONTRACTOR's vehicles shall be identified with the CONTRACTOR's logo, and maintained in accordance with State of Hawai'i Department of Health standards for transporting food and beverages. All of the CONTRACTOR's vehicles parked on campus shall have current vehicle safety inspection stickers, and insurance coverage for stated use.

5. UNIVERSITY'S RESPONSIBILITIES

- A. Provide sufficient space for the beverage vending machines.
- B. Provide an electrical connection necessary for the operation of the beverage vending machines at no cost to the CONTRACTOR. The UNIVERSITY does not guarantee an uninterrupted supply of electrical service, however, the UNIVERSITY shall be diligent in restoring electrical service following an interruption. The UNIVERSITY shall not be liable for any damages or losses, including without limitation, product loss that may result from the interruption or failure of any such utility service, including any loss of use or lost profit.

6. GENERAL PERFORMANCE STANDARDS

- A. Pricing for products offered in the beverage vending machines shall be clearly marked and publicly displayed and reflect levels and products comparable to other similar type customers within Hawai'i.
- B. CONTRACTOR shall work with the UNIVERSITY (with the UNIVERSITY having the final authority) to determine location, pricing and type of beverages to be dispensed at each vending location on campus.
- C. Prices for items (as approved by the UNIVERSITY) in the beverage vending machines shall remain fixed for the first year of this agreement. This does not preclude lowering of prices downward during this period. Current UNIVERSITY approved prices are shown in Attachment A.
  - 1) Any requests for price adjustments in subsequent years of the agreement, shall be made in writing to the UNIVERSITY at the time of renewal, which shall be subject to the UNIVERSITY's review and approval.
- D. The UNIVERSITY shall be the sole judge of quality and equivalency of products offered in the beverage vending machines.

7. GENERAL OPERATING CONDITIONS

- A. CONTRACTOR shall supply, install, fill, service and maintain all beverage vending machines provided under this agreement.
  - 1) CONTRACTOR shall keep all beverage vending machines (provided under this agreement) stocked at appropriate serving temperature so as to provide, under normal

conditions, sufficient amounts of products, dispensed in accordance with all applicable Federal, State, and local laws.

- 2) All cartons or packaging material left over from stocking the machines shall be removed from the premises.
- B. CONTRACTOR shall install all beverage vending machines in strict compliance with applicable building, electrical and mechanical regulations and codes of the UNIVERSITY, State of Hawai'i and County of Hawai'i.
- 1) Any damage to the assigned space, building, or surrounding area which is the result of improper installation, maintenance, or negligence on the CONTRACTOR's part shall be the CONTRACTOR's financial responsibility.
- C. Subject to approval by the UNIVERSITY, each beverage vending machine shall be clearly labeled near eye level in the vicinity of the coin/bill acceptor with the CONTRACTOR's phone number to report malfunctions, and a beverage vending machine number so that reports of malfunctions can be identified by that particular machine number.
- D. CONTRACTOR shall manage refunds to the customer for money lost in the beverage vending machines. Each machine shall clearly identify the CONTRACTOR'S phone number to request and receive refunds when money is accepted and no product or an unsatisfactory product is vended.
- E. Beverage vending machines provided under this agreement shall be able to operate on 110 - 115 volts, and be UL listed.
- F. Beverage vending machines provided under this agreement shall include at minimum, coin mechanisms and bill acceptors that accept current U.S. coins and currency.
- G. Beverage vending machines provided under this agreement shall be equipped with non-resettable cash metering devices. The required capacity of each machine shall depend on the needs and requirements of each location.
- H. Beverage vending machines provided under this agreement shall meet current Americans with Disabilities Act (ADA) standards. All selection buttons, credit card readers, coin mechanisms, and bill acceptors shall be no higher than 54 inches.
- I. All beverage vending machines shall be kept clean and in a sanitary condition. Any parts of the machine that are broken, scratched, or dented shall be repaired or replaced to maintain a clean appearance, and prevent vandalism.
- J. At the end or earlier termination of this agreement, the CONTRACTOR shall, at its own expense, remove all of its beverage vending machines, including any other equipment and furnishings, and restore the premises to its original condition.



8. CHANGES IN NUMBER AND LOCATIONS OF BEVERAGE VENDING MACHINES

Upon request by the UNIVERSITY, and upon mutual agreement between the parties, the CONTRACTOR shall provide additional beverage vending machines, and furnish, deliver, and set-up the machines at locations designated by the UNIVERSITY. In addition, the CONTRACTOR shall remove or relocate beverage vending machines upon request by the UNIVERSITY.

9. CONTRACT INVALIDATION

If any provision of this contract is found to be invalid, such invalidation will not be construed to invalidate the entire agreement.

10. PROHIBITIONS

A. CONTRACTOR shall not permit anyone to:

- 1) Use the premises for illegal acts and purposes;
- 2) Stack boxes, crates, cartons, etc., in an unsightly manner on or about the premises;
- 3) Use the premises by a third party without the written approval of the UNIVERSITY;
- 4) Use the premises in any manner found objectionable by the UNIVERSITY;
- 5) Use the premises for purposes other than as specified herein.

11. RISK OF LOSS

Any and all goods, merchandise, equipment and personal property of any kind or description which may be on the premises at any time during the term of the agreement, regardless of ownership of such property, shall be at the sole risk and hazard of the CONTRACTOR, and the CONTRACTOR shall not hold the UNIVERSITY liable or responsible for any loss thereof or damage thereto caused by water, gas, defective electrical wiring, fire, or by or for any other cause whatsoever unless the same shall be due to any act or omission of the UNIVERSITY, its officers, or employees.

12. LIABILITY AND INDEMNITY

It is expressly understood that the CONTRACTOR shall be an independent contractor engaged in transacting its own business on premises furnished by the UNIVERSITY. CONTRACTOR shall expressly agree to pay for the costs of all labor, material, supplies, and other expenses in connection with the operation of its business and to defend, indemnify, and hold harmless the UNIVERSITY, its officers, employees and agents, from any and all claims or demands for damages and liability for anything and everything whatsoever arising from any acts or omissions of, or out of the services provided by, the CONTRACTOR or the CONTRACTOR's officers, employees, agents, and subcontractors.

13. INSURANCE

CONTRACTOR shall maintain insurance acceptable to the UNIVERSITY in full force and effect throughout the term of this contract. The policy or policies of insurance maintained by the CONTRACTOR shall provide Combined Single Limit Coverage (Bodily injury and property damage) in the amount of \$1,000,000.00 per occurrence.

Insurance shall be in force the first day of the term of this contract.

Each insurance policy required by this contract shall not be canceled, limited in scope of coverage or non-renewed until after THIRTY (30) days' written notice has been given to the University of Hawai'i, Director of the Office Procurement and Real Property Management.

CONTRACTOR agrees to deposit with the UNIVERSITY, on or before the effective date of this contract, certificates of insurance necessary to satisfy the UNIVERSITY that the insurance provisions of this contract have been complied with and to keep such insurance in effect and the certificates therefore on deposit with the UNIVERSITY during the entire term of this contract.

The UNIVERSITY shall retain the right at any time to review the coverage, form, and amount of the insurance required. If, in the opinion of the UNIVERSITY, the insurance provisions in this contract do not provide adequate protection for the UNIVERSITY, the UNIVERSITY may require the CONTRACTOR to obtain insurance sufficient in coverage, form, and amount to provide adequate protection. The UNIVERSITY's requirements shall be reasonable but shall be designed to assure protection from and against the kind and extent of the risks which exist at the time a change in insurance is required.

The UNIVERSITY shall notify CONTRACTOR in writing of changes in the insurance requirement; and if CONTRACTOR does not deposit copies of acceptable insurance policies with the UNIVERSITY incorporating such changes within SIXTY (60) days of receipt of such notice, this agreement shall be in default without further notice to CONTRACTOR, and the UNIVERSITY shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit CONTRACTOR'S liability hereunder nor to fulfill the indemnification provisions and requirements of this agreement. Notwithstanding said policy or policies of insurance, CONTRACTOR shall be obligated for the full and total amount of any damage, injury, or loss caused by negligence or neglect connected with this contract.

14. TERMINATION OF AGREEMENT

A. UNIVERSITY's Termination Rights. Without prejudice to any other remedy available to the UNIVERSITY at law or in equity in respect of any event described below, this Agreement may be terminated by the UNIVERSITY at any time effective THIRTY (30) days following written notice to CONTRACTOR from UNIVERSITY if:

- 1) CONTRACTOR 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 CONTRACTOR; or

- 2) CONTRACTOR breaches or fails to perform any other material term, covenant or condition of this Agreement or any representations or warranty shall provide to have been false or misleading in any material respect and CONTRACTOR fails to cure such breach within FORTY-FIVE (45) days after written notice of default is delivered to CONTRACTOR. If such cure cannot reasonably be accomplished within such FORTY-FIVE (45) day period, this provision shall not apply where CONTRACTOR shall have, in good faith, commenced such cure and thereafter shall diligently proceed to completion; provided, however, that such cure is completed to the satisfaction of the UNIVERSITY within NINETY (90) days from the date of CONTRACTOR's receipt of such written notice of default.
- B. CONTRACTOR's Termination Rights. Without prejudice to any other remedy available to the CONTRACTOR at law or in equity in respect of any event described below, this Agreement may be terminated by CONTRACTOR at any time effective THIRTY (30) days following written notice to the UNIVERSITY if:
- 1) Any of the beverage products are not made available as required in this Agreement by the UNIVERSITY, their agents or concessionaires; or
  - 2) Any of the rights granted to CONTRACTOR herein are materially restricted or limited during the TERM of this Agreement; or
  - 3) A final judicial opinion or governmental regulation prohibits the availability of beverage products, whether or not due to a cause beyond the reasonable control of the UNIVERSITY, the CONTRACTOR may give the UNIVERSITY written notice of such event and the UNIVERSITY shall have a THIRTY (30) day period within which to cure such breach. If the UNIVERSITY fails to cure such breach within a THIRTY (30) day period, the CONTRACTOR may terminate this CONTRACT.
- C. Additional Termination Rights Available to CONTRACTOR and UNIVERSITY. 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:
- 1) 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 SIXTY (60) 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 CONTRACT; or
  - 2) 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 SIXTY (60) days thereafter; or

3) Admit, in writing, an inability to pay its debts as such debts become due.

D. Premises/Property Upon Termination – Upon expiration or termination of the Agreement, the CONTRACTOR shall remove non-UNIVERSITY equipment from the premises and restore the premises to as good a condition as at the commencement of the operations, alterations to the premises which had been previously approved by the UNIVERSITY, ordinary wear and tear excepted. CONTRACTOR and the UNIVERSITY shall jointly conduct a closing inspection. Surrendered premises shall be left in a clean and orderly state satisfactory to the UNIVERSITY. To accomplish this, the CONTRACTOR and the UNIVERSITY shall establish a checklist of the work that shall be done to restore the premises in a clean and orderly condition at least ONE (1) month prior to termination.

15. PERSONAL LIABILITY OF PUBLIC OFFICIALS

In carrying out any of the provisions of the agreement or in exercising any power of or authority granted to them by the agreement, there shall be no liability upon UNIVERSITY's officers, authorized representatives, either personally or as officials of the UNIVERSITY, it being understood that in such matters, they act solely as agents and representatives of the UNIVERSITY.

16. INDEPENDENT CONTRACTOR

The CONTRACTOR and CONTRACTOR's employees and agents shall act as an independent contractor, and not an agent of the UNIVERSITY, in all aspects of any management and operational duties and responsibilities. Furthermore, the CONTRACTOR intentionally, voluntarily, and knowingly assumes the sole and entire liability for the CONTRACTOR's employees and agents in the course of their employment, and to any individual not a party to the contract, for all loss, damage, or injury caused by the CONTRACTOR, or the CONTRACTOR's employees or agents in the course of their employment.

17. SUBCONTRACTING AND ASSIGNING

The CONTRACTOR shall not subcontract, convey, transfer or assign any of the work to be performed under its agreement with the UNIVERSITY, nor shall the CONTRACTOR assign the agreement to any other person or firm without prior written permission from the UNIVERSITY, and no subcontract or assignment made without such permission will be recognized. No subcontract shall, under any circumstances, relieve the CONTRACTOR of its obligation and liability under its contract with the UNIVERSITY, and all persons engaged in performing the work covered by the agreement shall be considered employees of the CONTRACTOR.

18. DISPUTES

For any controversy of claim arising out of or relating to this Agreement, the parties agree that they will attempt to reach a negotiated resolution by each designating a representative to resolve the dispute.

19. GOVERNING LAW

This agreement and any litigation arising there from shall be governed and determined by the laws of the State of Hawai'i. The CONTRACTOR acknowledges, by execution of the CONTRACT, that the CONTRACTOR is transacting business within the State of Hawai'i and hereby submits to the jurisdiction of the courts of the State of Hawai'i as to any cause of action arising out of the performance and/or breach of the CONTRACT.

20. MODIFICATION OF CONTRACT

This agreement may be modified upon mutual agreement in writing between the CONTRACTOR and the UNIVERSITY.

IN WITNESS WHEREOF, the CONTRACTOR agrees to the TERMS and CONDITIONS set forth above. No work or financial commitments for product or service shall take place until CONTRACTOR receives written NOTICE TO PROCEED from the Office of Procurement Management (OPM) whom shall issue a formal CONTRACT on behalf of the UNIVERSITY

CONTRACTOR:

BOTTLING GROUP, LLC, dba  
Pepsi Bottling Group  
99-1325 Halawa Valley Street  
Aiea, Hawai'i 96701

By  
(Signature)

Jordan Chernsky  
Printed Name

FSR  
Title

UNIVERSITY:

University of Hawai'i  
Office of Procurement Management  
1400 Lower Campus Road, Room 15  
Honolulu, Hawai'i 96822

By

Karlee Hisashima  
Karlee Hisashima  
Interim Director

## ATTACHMENT A

## PRICE LIST

BEVERAGES, Bottle (approx. 20 fl. oz.)	\$2.00
Mountain Dew	
Diet Pepsi	
Pepsi	
Sobe Life Water	
Pepsi Max	
Crush Orange	
Aquafina Water	
Gatorade	
Diet Mountain Dew	
BEVERAGES, Can (approx. 16 fl. oz.)	\$2.50
AMP Energy Drink	
Rock Star Recovery	
Starbucks Mocha Double Shot	
BEVERAGES, Can (approx. 12 fl. oz.)	\$1.00

## ATTACHMENT B

### UH HILO BEVERAGE VENDING LOCATIONS

<u>Make/Model</u>	<u>Asset #</u>	<u>Location</u>
V Max 720 HVV	10718074	Student Services
V Max 840 Robo Door	745012	EKH Anthropology
V Max 840	5334791	Theater CSD
VN511	5348229	EKH Energy
V Max 840	5393220	Career Center
V21 821 HVV	2366106	College of Pharmacy
V21 821 HVV	10179897	Computer Science 345A
V Max 840	10233871	Hale Ikene Gatorade
V Max 720	10234135	Hale Kehau Btl
V Max 840	10234039	Hale Ikene #1
V Max 840	10234010	Hale Ikene Can
V Max 840	10302636	CAFNRM Can
V Max 720 Expanded Upgrade	10349137	Hale Alahonua CSD
V21 721 HVV	10560357	UCB 5
V Max 720 HVV	10560254	UCB 3
V Max 720 HVV	10560272	UCB 1
V Max 720 HVV	10560256	UCB 2
V Max 720 HVV	10560273	UCB 4
VN601MC	5347742	Hale Ikene Sobe
V Max 840	5379781	Theater Lifewater
V21 821 HVV	5057557	CAFNRM Btl
V Max 840 Expanded Upgrade	5354820	EKH Gatorade
V Max 720	2781310	Science & Tech Bldg
V Max 840 Expanded Upgrade	10234007	Life Science
V Max 720 Basic Upgrade	10404778	Hale Alahonua Energy

Total Vending Machines: 25



ATTACHMENT B

