

FIFTH AMENDMENT AND EXTENSION TO ALAMODOME ADVERTISING LICENSE AGREEMENT

FOR VALUE RECEIVED, the receipt and sufficiency of which is hereby acknowledged, this Fifth Amendment and Extension to the Alamodome Advertising License Agreement ("Fifth Amendment") is entered into by the CITY OF SAN ANTONIO, a Texas Municipal corporation ("City"), acting by and through its City Manager pursuant to and duly authorized by Ordinance No. 2015-____-____-_____, passed and approved on November __, 2015, and Bottling Group, LLC on behalf of its affiliates and/or their respective subsidiaries collectively comprising Pepsi Beverages Company, successor-in-interest to The Pepsi Bottling Group ("Licensee") acting by and through its duly authorized designated officer.

A. City and Licensee entered into the Alamodome Advertising License Agreement ("Agreement") pursuant to City of San Antonio Ordinance No. 98468, dated November 13, 2003, as amended.

B. Prior to the effectiveness of this Fifth Amendment, the Agreement, in accordance with the Fourth Amendment and Extension, terminates on November 22, 2015.

C. **City and Licensee desire to amend and extend the Agreement in accordance with the terms and conditions of this Fifth Amendment as described in below.**

1. **Section 3.2 is amended to extend the Agreement for up to eight (8) additional ninety (90) day periods, not to extend beyond November 22, 2017, without further City Council approval. Any such extension shall automatically terminate upon the execution of a contract for the same or similar services.**

The Parties desire to exercise the first extension added above and extend the Agreement through February 22, 2016.

2. **Section 4.1 is deleted in its entirety and replaced with the following:**

- a. In consideration for the license to use the Alamodome as provided for in this Agreement, Licensee shall pay City an annual fee as set forth below:
 - i. November 23, 2003 – November 22, 2004 – \$100,000
 - ii. November 23, 2004 – November 22, 2005 – \$100,000
 - iii. November 23, 2005 – November 22, 2006 – \$100,000
 - iv. November 23, 2006 – November 22, 2007 – \$100,000
 - v. November 23, 2007 – November 22, 2008 – \$100,000
 - vi. November 23, 2008 – November 22, 2009 – \$40,000
 - vii. November 23, 2009 – November 22, 2010 – \$40,000
 - viii. November 23, 2010 – November 22, 2011 – \$40,000
 - ix. November 23, 2011 – November 22, 2012 – \$40,000
 - x. November 23, 2012 – November 22, 2013 – \$40,000
 - xi. November 23, 2013 – February 22, 2014 (and each quarter thereafter through November 22, 2014) – \$10,000
 - xii. November 23, 2014 – February 22, 2015 (and each quarter thereafter through November 22, 2015) – \$10,000

- xiii. November 23, 2015 – February 22, 2016 (and each quarter thereafter through November 22, 2017) – \$10,000
- b. Contingent upon City concessionaires at the Convention Center and Lila Cockrell Theatre purchase of products from Licensee, Licensee agrees to and shall pay City an annual fee as set forth below:
 - i. July 1, 2011 – June 30, 2012 – \$30,000 – up to 10,000 total cases
 - ii. July 1, 2012 – June 30, 2013 – \$30,000 – up to 10,000 total cases
 - iii. July 1, 2013 – November 22, 2013 – \$11,918 – up to 3,973 total cases
 - iv. November 23, 2013 – February 22, 2014 (and each quarter thereafter through November 22, 2014) – \$7,500 – up to 2,500 total cases
 - v. November 23, 2014 – February 22, 2015 (and each quarter thereafter through November 22, 2015, if applicable) – \$7,500 – up to 2,500 total cases
 - vi. November 23, 2015 – February 22, 2016 (and each quarter thereafter through November 22, 2017, if applicable) – \$7,500 – up to 2,500 total cases

If City concessionaires at the Convention Center or Lila Cockrell Theatre purchase a majority of Pepsi beverages from a source other than Licensee during any calendar month of the term of this Agreement, City shall not be entitled to receive the corresponding part of the annual fee for that calendar month and City shall reimburse to Licensee, within thirty (30) days of the end of such calendar month, the pro rata portion of the annual fee.

3. Section 4.2 is deleted in its entirety and replaced with the following:

Licensee shall pay to City the fee stipulated in Section 4.1(a) as follows:

- i. 4.1(a)i by January 5, 2004
- ii. 4.1(a)ii by January 5, 2005
- iii. 4.1(a)iii by January 5, 2006
- iv. 4.1(a)iv by January 5, 2007
- v. 4.1(a)v by January 5, 2008
- vi. 4.1(a)vi by January 5, 2009
- vii. 4.1(a)vii by January 5, 2010
- viii. 4.1(a)viii by January 5, 2011
- ix. 4.1(a)ix by January 5, 2012
- x. 4.1(a)x by January 5, 2013
- xi. 4.1(a)xi by December 23, 2013, March 23, 2014 (if applicable), June 23, 2014 (if applicable), and September 23, 2014 (if applicable)
- xii. 4.1(a)xii by December 23, 2014, March 23, 2015 (if applicable), June 23, 2015 (if applicable), and September 23, 2015 (if applicable)
- xiii. 4.1(a)xiii by December 23, 2015, March 23, 2016 (if applicable), June 23, 2016 (if applicable), September 23, 2016 (if applicable), December 23, 2016, March 23, 2017 (if applicable), June 23, 2017 (if applicable), and September 23, 2017 (if applicable)

Licensee shall pay to City the fee stipulated in Section 4.1(b) as follows:

- i. 4.1(b)i by August 1, 2011
- ii. 4.1(b)ii by August 1, 2012
- iii. 4.1(b)iii by August 1, 2013
- iv. 4.1(b)iv by December 23, 2013, March 23, 2014 (if applicable), June 23, 2014 (if applicable), and September 23, 2014 (if applicable)
- v. 4.1(b)v by December 23, 2014, March 23, 2015 (if applicable), June 23, 2015 (if applicable), and September 23, 2015 (if applicable)
- vi. 4.1(b)vi by December 23, 2015, March 23, 2016 (if applicable), June 23, 2016 (if applicable), September 23, 2016 (if applicable), December 23, 2016, March 23, 2017 (if applicable), June 23, 2017 (if applicable), and September 23, 2017 (if applicable)

4. Section 4.3 is deleted in its entirety and replaced with the following:

Licensee shall pay City rebates of \$2.00 per case of product regardless of the package ounce size and \$1.00 per gallon of BIB product that City concessionaires at the Convention Center and Lila Cockrell Theatre purchase directly from Licensee as follows:

- i. in excess of 10,000 cases for the period July 1, 2011 – June 30, 2012
- ii. in excess of 10,000 cases for the period July 1, 2012 – June 30, 2013
- iii. in excess of 3,973 cases for the period July 1, 2013 – November 22, 2013
- iv. in excess of 2,500 cases for the period November 23, 2013 – February 22, 2014, and each quarter thereafter through November 22, 2014 (if applicable)
- v. in excess of 2,500 cases for the period November 23, 2014 – February 22, 2015, and each quarter thereafter through November 22, 2015 (if applicable)
- vi. in excess of 2,500 cases for the period November 23, 2015 – February 22, 2016, and each quarter thereafter through November 22, 2017 (if applicable)

Such rebate shall be paid by Licensee as follows for each prior period:

- i. for the period July 1, 2011 – June 30, 2012, by August 1, 2012
- ii. for the period July 1, 2012 – June 30, 2013, by August 1, 2013
- iii. for the period July 1, 2013 – November 22, 2013, by December 23, 2013
- iv. for November 23, 2013 – February 22, 2014, and each quarter thereafter through November 22, 2014 (if applicable) by: March 23, 2014; June 23, 2014 (if applicable); September 23, 2014 (if applicable), and; December 23, 2014 (if applicable)
- v. for November 23, 2014 – February 22, 2015, and each quarter thereafter through November 22, 2015 (if applicable) by: March 23, 2015; June 23, 2015 (if applicable); September 23, 2015 (if applicable), and; December 23, 2015 (if applicable)
- vi. for November 23, 2015 – February 22, 2016, and each quarter thereafter through November 22, 2017 (if applicable) by: March 23, 2015; June 23, 2016 (if applicable); September 23, 2016 (if applicable); December 23, 2016 (if applicable); March 23, 2017 (if applicable); June 23, 2017 (if applicable); September 23, 2017 (if applicable), and; December 23, 2017 (if applicable)

In the event the Agreement terminates prior to current expiration date, the rebate shall be pro-rated and paid by Licensee to City within thirty (30) days of the termination date.

5. **Attachment F** is attached to this Fifth Amendment and Extension and incorporated herein.

Except as otherwise expressly modified hereby, all terms and provisions of the Agreement are ratified and confirmed and shall remain in full force and effect, enforceable in accordance with their terms.

EXECUTED AND SIGNED this _____ day of _____, 2015.

CITY:
City of San Antonio
a Texas municipal corporation

LICENSEE:
Bottling Group, LLC

Sheryl L. Sculley
City Manager



Name: IVAN ESTRADA
Title: SR. MANAGER
PEPSICO FOODSERVICE

APPROVED AS TO FORM:

City Attorney

ATTEST:

Leticia M. Vacek
City Clerk

Attachment F

MARKETING SUPPORT

1. *LICENSEE* shall provide 2 retail marketing promotions in convenience store and gas station (C&G) and/or grocery store accounts annually in support of various events at the Alamodome. These programs to include retail presence in accounts in San Antonio, Austin and Rio Grande Valley markets. Promotions must include a discount offer or promotion for an Alamodome event. *CITY* shall be responsible for redeeming discount offer. In-store promotions to also include “point-of-purchase (point-of-sale)” signage. Minimum 10-week lead time required prior to event start date, and promotion details must be mutually agreed to between *LICENSEE* and *CITY*. Estimated value (cost) is approximately \$3,500 per promotion, for a total annual value (cost) of approximately \$7,000. Actual value is based on event promotion offered and promotion redemption rate and can be calculated after each promotion. *LICENSEE* shall provide the following:
 - a. November 23, 2013 – November 22, 2014
 - i. For the 1st period November 23, 2013 – February 22, 2014, and every other quarter thereafter through November 22, 2014 (if applicable), *LICENSEE* shall provide 1 retail marketing promotion as detailed herein.
 - ii. If this Agreement is extended for a 2nd 90-day period February 23, 2014 – May 22, 2014, and this 1 retail marketing promotion is not utilized during the 1st period, it shall carry over to this 2nd period only.
 - iii. If this Agreement is extended for a 3rd 90-day period May 23, 2014 – August 22, 2014, *LICENSEE* shall provide 1 retail marketing promotion as detailed herein.
 - iv. If this Agreement is extended for a 4th 90-day period August 23, 2014 – November 22, 2014, and this 1 retail marketing promotion is not utilized during the 3rd period, it shall carry over to this 4th period only.
 - b. November 23, 2014 – November 22, 2015
 - i. For the 1st period November 23, 2014 – February 22, 2015, and every other quarter thereafter through November 22, 2015 (if applicable), *LICENSEE* shall provide 1 retail marketing promotion as detailed herein.
 - ii. If this Agreement is extended for a 2nd 90-day period February 23, 2015 – May 22, 2015, and this 1 retail marketing promotion is not utilized during the 1st period, it shall carry over to this 2nd period only.
 - iii. If this Agreement is extended for a 3rd 90-day period May 23, 2015 – August 22, 2015, *LICENSEE* shall provide 1 retail marketing promotion as detailed herein.
 - iv. If this Agreement is extended for a 4th 90-day period August 23, 2015 – November 22, 2015, and this 1 retail marketing promotion is not utilized during the 3rd period, it shall carry over to this 4th period only.
 - c. November 23, 2015 – November 22, 2017
 - i. For the 1st period November 23, 2015 – February 22, 2016, and every other quarter thereafter through November 22, 2017 (if applicable), *LICENSEE* shall provide 1 retail marketing promotion as detailed herein.
 - ii. If this Agreement is extended for a 2nd 90-day period February 23, 2016 – May 22, 2016, and the 1 retail marketing promotion is not utilized during the 1st period, it shall carry over to this 2nd period only.
 - iii. If this Agreement is extended for a 3rd 90-day period May 23, 2016 – August 22, 2016, *LICENSEE* shall provide 1 retail marketing promotion as detailed herein.
 - iv. If this Agreement is extended for a 4th 90-day period August 23, 2016 – November 22, 2016, and the 1 retail marketing promotion is not utilized during the 3rd period, it shall carry over to this 4th extension period only.
 - v. If this Agreement is extended for a 5th 90-day period November 23, 2016 – February 22, 2017, *LICENSEE* shall provide 1 retail marketing promotion as detailed herein.
 - vi. If this Agreement is extended for a 6th 90-day period February 23, 2017 – May 22, 2017, and the 1 retail marketing promotion is not utilized during the 5th period, it shall carry over to this 6th extension period only.

- vii. If this Agreement is extended for a 7th 90-day period May 23, 2017 – August 22, 2017, *LICENSEE* shall provide 1 retail marketing promotion as detailed herein.
 - viii. If this Agreement is extended for an 8th 90-day period August 23, 2017 – November 22, 2017, and this 1 retail marketing promotion is not utilized during the 7th period, it shall carry over to this 8th period only.
2. *LICENSEE* shall provide 3 can panel advertisements annually in support of various events at the Alamodome. 2 can panels to be placed on core flavors (i.e. Pepsi, Diet Pepsi) and 1 can panel to be placed on Sierra Mist brand, or alternative flavors/brands mutually agreed between *LICENSEE* and *CITY*. Promotions must include a discount offer or promotion for an Alamodome event. *CITY* shall be responsible for redeeming discount offer or promotion. Minimum 10-week lead time required prior to start date of featured event. Can panels to be distributed in San Antonio, Austin and Rio Grande Valley markets. Estimated value is approximately \$705,600 per can panel, for a total annual value of \$2,116,800. *LICENSEE* shall provide the following:
- a. *LICENSEE* agrees that it shall provide 1 additional can panel advertisement to offset 1 can panel advertisement that was not utilized in the 2004 agreement year.
 - b. November 23, 2013 – November 22, 2014
 - i. For the 1st period November 23, 2013 – February 22, 2014, and every quarter thereafter through November 22, 2014 (if applicable), *LICENSEE* shall provide 1 can panel advertisement as detailed herein.
 - ii. If this Agreement is extended for a 2nd 90-day period February 23, 2014 – May 22, 2014, *LICENSEE* shall provide 1 can panel advertisement as detailed herein.
 - iii. If this Agreement is extended for a 3rd 90-day period May 23, 2014 – August 22, 2014, *LICENSEE* shall provide 1 can panel advertisement as detailed herein.
 - iv. If this Agreement is extended for a 4th 90-day period August 23, 2014 – November 22, 2014, *LICENSEE* shall provide 1 can panel advertisement as detailed herein.
 - c. November 23, 2014 – November 22, 2015
 - i. For the 1st period November 23, 2014 – February 22, 2015, and every quarter thereafter through November 22, 2015 (if applicable), *LICENSEE* shall provide 1 can panel advertisement as detailed herein.
 - ii. If this Agreement is extended for a 2nd 90-day period February 23, 2015 – May 22, 2015, *LICENSEE* shall provide 1 can panel advertisement as detailed herein.
 - iii. If this Agreement is extended for a 3rd 90-day period May 23, 2015 – August 22, 2015, *LICENSEE* shall provide 1 can panel advertisement as detailed herein.
 - iv. If this Agreement is extended for a 4th 90-day period August 23, 2015 – November 22, 2015, *LICENSEE* shall provide 1 can panel advertisement as detailed herein.
 - d. November 23, 2015 – November 22, 2017
 - i. For the 1st period November 23, 2015 – February 22, 2016, and every quarter thereafter through November 22, 2017 (if applicable), *LICENSEE* shall provide 1 can panel advertisement as detailed herein.
 - ii. If this Agreement is extended for a 2nd 90-day period February 23, 2016 – May 22, 2016, *LICENSEE* shall provide 1 can panel advertisement as detailed herein.
 - iii. If this Agreement is extended for a 3rd 90-day period from May 23, 2016 – August 22, 2016, *LICENSEE* shall provide 1 can panel advertisement as detailed herein.
 - iv. If this Agreement is extended for a 4th 90-day period August 23, 2016 – November 22, 2016, *LICENSEE* shall provide 1 can panel advertisement as detailed herein.
 - v. If this Agreement is extended for a 5th 90-day period November 23, 2016 – February 22, 2017, *LICENSEE* shall provide 1 can panel advertisement as detailed herein.
 - vi. If this Agreement is extended for a 6th 90-day period February 23, 2017 – May 22, 2017, *LICENSEE* shall provide 1 can panel advertisement as detailed herein.
 - vii. If this Agreement is extended for a 7th 90-day period May 23, 2017 – August 22, 2017, *LICENSEE* shall provide 1 can panel advertisement as detailed herein.
 - viii. If this Agreement is extended for an 8th 90-day period August 23, 2017 – November 22, 2017, *LICENSEE* shall provide 1 can panel advertisement as detailed herein.

3. *LICENSEE* shall provide a minimum of 4 weeks and up to 6 weeks of a single brand of general market or Latino market radio tagging annually in support of various events at the Alamodome in San Antonio, Austin and Rio Grande Valley markets. Estimated value is approximately \$6,500 per week, for a total annual value of approximately \$26,000 to \$39,000, depending on the actual number of weeks provided. *LICENSEE* shall provide the following:
 - a. November 23, 2013 – November 22, 2014
 - i. For the 1st period November 23, 2013 – February 22, 2014, and every quarter thereafter through November 22, 2014 (if applicable), *LICENSEE* shall provide 4 – 6 weeks of radio tagging as detailed herein.
 - ii. If the Agreement is extended for subsequent 90-day periods, and this radio tagging is not entirely utilized, or only partially utilized, during this 1st period, the balance of this radio tagging remaining shall carry over to any subsequent 90-day extension periods.
 - b. November 23, 2014 – November 22, 2015
 - i. For the 1st period November 23, 2014 – February 22, 2015, and every quarter thereafter through November 22, 2015 (if applicable), *LICENSEE* shall provide 4 – 6 weeks of radio tagging as detailed herein.
 - ii. If the Agreement is extended for subsequent 90-day periods, and this radio tagging is not entirely utilized, or only partially utilized, during this 1st period, the balance of this radio tagging remaining shall carry over to any subsequent 90-day extension periods.
 - c. November 23, 2015 – November 22, 2017
 - i. For the 1st period November 23, 2015 – February 22, 2016, and every quarter thereafter through November 22, 2017 (if applicable), *LICENSEE* shall provide 4 – 6 weeks of radio tagging as detailed herein.
 - ii. If the Agreement is extended for subsequent 90-day periods, and this radio tagging is not entirely utilized, or only partially utilized, during this 1st period, the balance of this radio tagging remaining shall carry over to any subsequent 90-day extension periods.

4. *LICENSEE* shall provide 2 on-site remote radio broadcasts annually in general or Latino market in support of various events at the Alamodome in San Antonio, Austin and Rio Grande Valley markets. Minimum 8-week lead time required prior to event start date to coordinate with radio stations. Estimated value is approximately \$3,500 per remote, for a total annual value of approximately \$7,000. *LICENSEE* shall provide the following:
 - a. November 23, 2013 – November 22, 2014
 - i. For the 1st period November 23, 2013 – February 22, 2014, and every other quarter thereafter through November 22, 2014 (if applicable), *LICENSEE* shall provide 1 on-site radio broadcast as detailed herein.
 - ii. If this Agreement is extended for a 2nd 90-day period from February 23, 2014 – May 22, 2014, and this 1 on-site radio broadcast is not utilized during the 1st period, it shall carry over to this 2nd period only.
 - iii. If this Agreement is extended for a 3rd 90-day period from May 23, 2014 – August 22, 2014, *LICENSEE* shall provide 1 on-site radio broadcast as detailed herein.
 - iv. If Agreement is extended for a 4th 90-day period from August 23, 2014 – November 22, 2014, and this 1 on-site radio broadcast is not utilized during the 3rd period, it shall carry over to this 4th period only.
 - b. November 23, 2014 – November 22, 2015
 - i. For the 1st period November 23, 2014 – February 22, 2015, and every other quarter thereafter through November 22, 2015 (if applicable), *LICENSEE* shall provide 1 on-site radio broadcast as detailed herein.
 - ii. If this Agreement is extended for a 2nd 90-day period from February 23, 2015 – May 22, 2015, and this 1 on-site radio broadcast is not utilized during the 1st period, it shall carry over to this 2nd period only.
 - iii. If this Agreement is extended for a 3rd 90-day period from May 23, 2015 – August 22, 2015, *LICENSEE* shall provide 1 on-site radio broadcast as detailed herein.
 - iv. If this Agreement is extended for a 4th 90-day period from August 23, 2015 – November 22, 2015, and this 1 on-site radio broadcast is not utilized during the 3rd period, it shall carry over to this 4th period only.

- c. November 23, 2015 – November 22, 2017
 - i. For the 1st extension period November 23, 2015 – February 22, 2016, and every other quarter thereafter through November 22, 2017 (if applicable), *LICENSEE* shall provide 1 on-site radio broadcast as detailed herein.
 - ii. If this Agreement is extended for a 2nd 90-day period from February 23, 2016 – May 22, 2016, and this 1 on-site radio broadcast is not utilized during the 1st period, it shall carry over to this 2nd period only.
 - iii. If this Agreement is extended for a 3rd 90-day period from May 23, 2016 – August 22, 2016, *LICENSEE* shall provide 1 on-site radio broadcast as detailed herein.
 - iv. If this Agreement is extended for a 4th 90-day period from August 23, 2016 – November 22, 2016, and this 1 on-site radio broadcast is not utilized during the 3rd period, it shall carry over to this 4th period only.
 - v. If this Agreement is extended for a 5th 90-day period from November 23, 2016 – February 22, 2017, *LICENSEE* shall provide 1 on-site radio broadcast as detailed herein.
 - vi. If this Agreement is extended for a 6th 90-day period from February 23, 2017 – May 22, 2017, and this 1 on-site radio broadcast is not utilized during the 5th period, it shall carry over to this 6th period only.
 - vii. If this Agreement is extended for a 7th 90-day period from May 23, 2017 – August 22, 2017, *LICENSEE* shall provide 1 on-site radio broadcast as detailed herein.
 - viii. If this Agreement is extended for an 8th 90-day period from August 23, 2017 – November 22, 2017, and this 1 on-site radio broadcast is not utilized during the 7th period, it shall carry over to this 8th period only.
- 5. *LICENSEE* shall provide additional consideration and marketing support annually, including from *LICENSEE*'S other properties in which *LICENSEE* has pouring, marketing and/or promotional support agreements or relationships. *LICENSEE* and CITY to agree annually on specific additional consideration and marketing opportunities. Such additional consideration shall be used in marketing and promotional efforts in support of various events at the Alamodome. Estimated value is approximately \$2,000 annually, depending on the details of the additional consideration/marketing support.

Total Estimated Annual Marketing Support Value – up to \$2,171,800

Other than as specifically provided for herein, Marketing Support which is not executed during any Agreement Year may be carried over to a subsequent Agreement Year, provided that (i) unutilized Marketing Support in any Agreement Year may only be carried over to the next Agreement Year; and (ii) any incremental Marketing Support carry-over will be applied by *LICENSEE* to marketing programs that are available in accordance with *LICENSEE*'s marketing calendar for such Agreement Year. In no event may Marketing Support be redeemed for cash.