

**FOOD AND BEVERAGE MANAGEMENT SERVICE CONCESSION AGREEMENT  
PORTSMOUTH INTERNATIONAL AIRPORT AT PEASE**

THIS AGREEMENT is made and entered into this 1st day of July, 2018, by and between the Pease Development Authority (“PDA”), an agency of the State of New Hampshire having a principal office at 55 International Drive, Portsmouth, New Hampshire, and Great Circle Catering, LLC (“Great Circle”) a New Hampshire limited liability company having a principal office at 104 Grafton Street, Portsmouth, New Hampshire 03801 for the granting and operation of a Food and Beverage Management Service Concession at Portsmouth International Airport at Pease (“PSM” or “Airport Terminal Building”) in accordance with the terms and conditions as provided herein.

The PDA hereby grants to Great Circle the right to operate a Food and Beverage Management Service Concession at PSM, and Great Circle shall provide such Food and Beverage Management Service Concession, all upon and subject to the following express terms and conditions:

1. This Agreement shall be for a period of three (3) years beginning on July 1, 2018 and expiring on June 30, 2021, unless otherwise extended or terminated earlier pursuant to the terms of this Agreement.

PDA shall have two (2) options of one (1) year each to extend this Agreement upon such terms and conditions as PDA and Great Circle shall agree. In no event shall this Agreement extend beyond five (5) years from the commencement date. The options granted in this Agreement may be exercised in the sole discretion of the Executive Director of Pease Development Authority. Great Circle has the right, without penalty, to reject PDA’s renewal terms and conditions and to discontinue providing services at the end of the initial three (3) year term of this Agreement or at the end of the first option period. PDA shall provide Great Circle with proposed renewal terms and conditions ninety (90) days prior to the end of the initial three (3) year term of this Agreement and, if applicable, ninety (90) days before the expiration of the first option period. In either event, Great Circle shall have thirty (30) days thereafter to accept or reject PDA’s renewal proposals. If Great Circle rejects any renewal proposal of PDA, Great Circle will remove its equipment and vacate the Airport Terminal Building at the end of three (3) years or the end of the first option period, whichever is applicable. In the event Great Circle rejects any renewal proposal of PDA, PDA may take such steps to secure Food and Beverage Management Services from an alternate provider in such manner and pursuant to such terms and conditions as it deems appropriate.

2. Great Circle shall provide Food and Beverage Management Services in accordance with the terms and conditions as stated in Exhibit 1 of this Agreement and incorporated herein by reference.

3. Food and Beverage Management Services to be provided by Great Circle shall consist of services meeting the specifications and requirements as provided in Exhibit 1. PDA reserves the right to approve all equipment used by Great Circle and to make changes in the type of equipment provided at PSM under this Agreement.

4. PDA shall permit Great Circle to utilize space on a non-exclusive basis in the Airport Terminal Building, which is situated in the Terminal's basement and as depicted in Exhibit A. With the exception of any PDA owned equipment which may currently be present in the Terminal, Great Circle shall, at its own cost and expense, deliver, install any equipment necessary to fulfill the terms of this Agreement. A list of PDA owned equipment presently on site at PSM is attached hereto as Exhibit 2.

5. As consideration for the privilege of operating the Food and Beverage Management Service Concession hereunder, Great Circle shall pay to PDA each month (during those times PSM is open to the public) and for each of the first three (3) years of this Agreement, a sum of money which represents a percentage fee ("Percentage Fee") of ten percent (10 %) of its gross revenues (excluding any applicable sales tax and gratuities) from all services provided by Great Circle in connection with the Food and Beverage Management Service Concession at PSM. All payments of Percentage Fees shall be paid on a monthly basis in arrears by the fifteenth (15th) day of the month following the month of their accrual and shall be accompanied by documentation of daily gross revenues for each month in which Percentage Fees are due hereunder.

6. Great Circle's records shall contain sufficient documentation in the event that PDA chooses to audit the gross sales data submitted by Great Circle. PDA reserves the right to require receipt of audited statements from Great Circle at the end of each fiscal year.

7. PDA shall retain the right to review Great Circle's sales and business records in connection with its operations at PSM at such times as PDA deems necessary. Great Circle shall make such records available for inspection, examination and audit by the PDA and its agents. Records shall be maintained by Great Circle for a period of three (3) years following the expiration or termination of this Agreement.

8. Great Circle shall at all times maintain its service areas in a neat, clean and working condition and shall make all necessary repairs to the equipment which is damaged but only in the event such damage is caused by the negligence of Great Circle, reasonable wear and tear excepted.

9. Great Circle shall comply with all rules and regulations of the PDA as may be established for the conduct and operation of Great Circle and others at PSM and such future rules and regulations as may, from time to time, be established during the term of this Agreement, including such requirements as may be reasonably imposed for reasons of health, safety, sanitation, good order, security of PSM and prevention of uncontrolled access to the premises.

10. Great Circle shall comply with all applicable license (including food service and liquor licenses), permit, and other regulatory requirements which may be necessary for the conduct of its operations and shall comply with all laws, rules and regulations which may, from time to time, be applicable to Great Circle's operations hereunder.

11. Great Circle covenants and agrees to indemnify and hold harmless PDA, its directors, officers, agents and employees, from and against any and all claims for damages or injuries, including death, to persons or property arising out of or claimed to arise out of or incident to Great Circle's use and occupancy of the facilities at PSM or operation of equipment and services thereon in connection with the Food and Beverage Management Service Concession. This provision shall survive the termination or expiration of this Agreement.

12. Great Circle agrees to provide Commercial General Liability, Automobile and Worker's Compensation insurance coverages in such amounts as are more specifically set forth in Exhibit 1 of this Agreement. Each such policy or certificate therefor issued by the insurer shall, to the extent obtainable, contain: (i) a provision that no act or omission of Great Circle, or any employee, officer or agent of Great Circle, which would otherwise result in forfeiture or reduction of the insurance therein provided shall affect or limit the obligation of the insurance company to pay the amount of any loss sustained; (ii) an agreement by the insurer that such policy shall not be canceled without at least thirty (30) days prior written notice by registered mail to PDA; (iii) provide that the insurer shall have no right of subrogation against the PDA; and (iv) be primary and non-contributing with respect to any coverages carried by PDA.

13. Great Circle shall offer to the public the highest quality products and services at a reasonable cost. Continuing failure by Great Circle to maintain the highest standards of service and quality of product to the satisfaction of PDA shall be a breach of covenant sufficient for termination of this Agreement by PDA at its sole discretion.

14. Great Circle shall have full responsibility for setting prices for the food and beverages it offers to the public. PDA requires that prices reflect prevailing market conditions in the greater Portsmouth area and a good price-value relationship for the products sold.

15. PDA may terminate this Agreement for cause upon providing Great Circle with ten (10) days advance written notice. Otherwise either Party may terminate this Agreement with or without cause by providing the other Party with forty-five (45) days advance written notice.

16. This Agreement shall not be subcontracted, assigned or transferred by Great Circle without the prior written consent and approval by PDA. No subcontract or other transfer entered into by Great Circle shall relieve it of any of its liabilities and obligations hereunder.

17. PDA shall provide without cost utility hookups for Great Circle's use in the installation of equipment hereunder and shall be responsible for all costs of supplying utility service to said equipment. PDA shall not guarantee the uninterrupted provision of utilities to Great Circle's equipment but shall ensure that all reasonable and diligent efforts are undertaken in restoring interrupted service. No failure to furnish or no delay in or interruption of any utility service shall relieve Great Circle of any of its obligations hereunder, or shall constitute grounds for any diminution or abatement in the Percentage Fee payable under this Agreement, or grounds for any claim by Great Circle for damages, consequential or otherwise.

18. All notices provided for in this Agreement shall be in writing and shall be sent by registered or certified mail, return receipt requested, postage prepaid and addressed if to PDA:

Executive Director  
Pease Development Authority  
55 International Drive  
Portsmouth, NH 03801

and, if to Great Circle:

Great Circle Catering, LLC  
104 Grafton Drive  
Portsmouth, NH 03801

Attention: \_\_\_\_\_

or at such other address as may be hereafter provided.

19. NONDISCRIMINATION: Great Circle for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the Agreement that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of or be otherwise subjected to discrimination in the provision of food and beverage services; (2) that in the construction of any improvements on, over, or under such food and beverage concession service areas or the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; (3) that Great Circle shall use the food and beverage service areas in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulation may be amended.

20. Great Circle assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Great Circle assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Great Circle assures that it will require that its covered suborganizations provide assurances to it that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, subpart E, to the same effect.

That in the event of breach of any of the above nondiscrimination covenants, PDA shall have the right to terminate the Agreement and to reenter and repossess said food and beverage concession

service areas and the facilities thereon, and hold the same as if said Agreement had never been made or issued. This provision shall not be effective until the procedures of Title 49, Code of Federal Regulation, Part 21, are followed and completed including exercise or expiration of appeal rights.

21. PDA intends to undertake an expansion to the Airport Terminal Building and expects to create a new food concession area. In the event such new space is created during the term of this Agreement, Great Circle will be responsible for providing its own equipment and build out of bar space and counters. At the time any new space is made available in the expanded Terminal, the Parties agree to negotiate in good faith a longer term agreement taking into consideration the Concessionaire's prospective need to amortize the cost of fitting up for such new space. Any change to the terms of the Agreement are expressly subject to the approval of the Board of Directors of the PDA.

22. Municipal Services Fee. In addition to the fee required to be paid under the terms of this Agreement, Great Circle shall also pay to PDA, as additional rent, a municipal services fee in accordance with the Municipal Services Agreement by and between the City of Portsmouth, the Town of Newington and the PDA effective July 1, 1998. This fee is for fire, police and roadway services provided by or on behalf of PDA at the Airport and will be subject to increases each year only to the extent the cost of providing such services increases. The municipal services fee shall be paid quarterly in advance at the times and in the fashion provided for the payment of the concession fee. To the extent the concession premises are subject to municipal taxation, and provided such municipal taxes include the costs of the provision of fire, police and roadway services, Great Circle may offset against any fee paid to PDA the portion of such municipal taxes as are attributable to fire, police and roadway services, and PDA shall have no further obligation to provide such services. For so long as municipal taxes are imposed against the concession premises, or on Great Circle for all three of fire, police and roadway services, and PDA either has no obligation to provide such services (or ceases to provide such services), the municipal services fee required to be paid under this Agreement shall terminate.

In the event the Concession premises, or any portion thereof, are removed from the Airport District, Great Circle shall make payments in lieu of taxes to the appropriate municipality in accordance with the provisions of RSA 12-G:14, II (or any successor statute) regarding taxation by a municipality of property that is within the boundaries of Pease, but outside the Airport District.

23. Great Circle will be permitted to post signs at the following locations in the Airport Terminal Building for the purpose of identifying its presence in connection with its Food and Beverage Management Service Concession at PSM.

- a. Pre-security Public Area
- b. Post Security Domestic Upper Level
- c. Post Security Domestic Lower Level

24. Great Circle may refer to Portsmouth International Airport at Pease in connection with its operations at PSM for the duration of this Agreement.

IN WITNESS WHEREOF, I have hereunto set my hand this 17<sup>th</sup> day of October, 2018 by authority of the Pease Development Authority.

PEASE DEVELOPMENT AUTHORITY

By:   
David R. Mullen  
Title: Executive Director

This Agreement, together with all terms and conditions thereof, is hereby accepted and executed this 3<sup>rd</sup> day of OCTOBER, 2018

GREAT CIRCLE CATERING, LLC


By:   
Print name: MICHAEL J. MURPHY  
Title: GENERAL MANAGER

EXHIBIT A

Concession Area

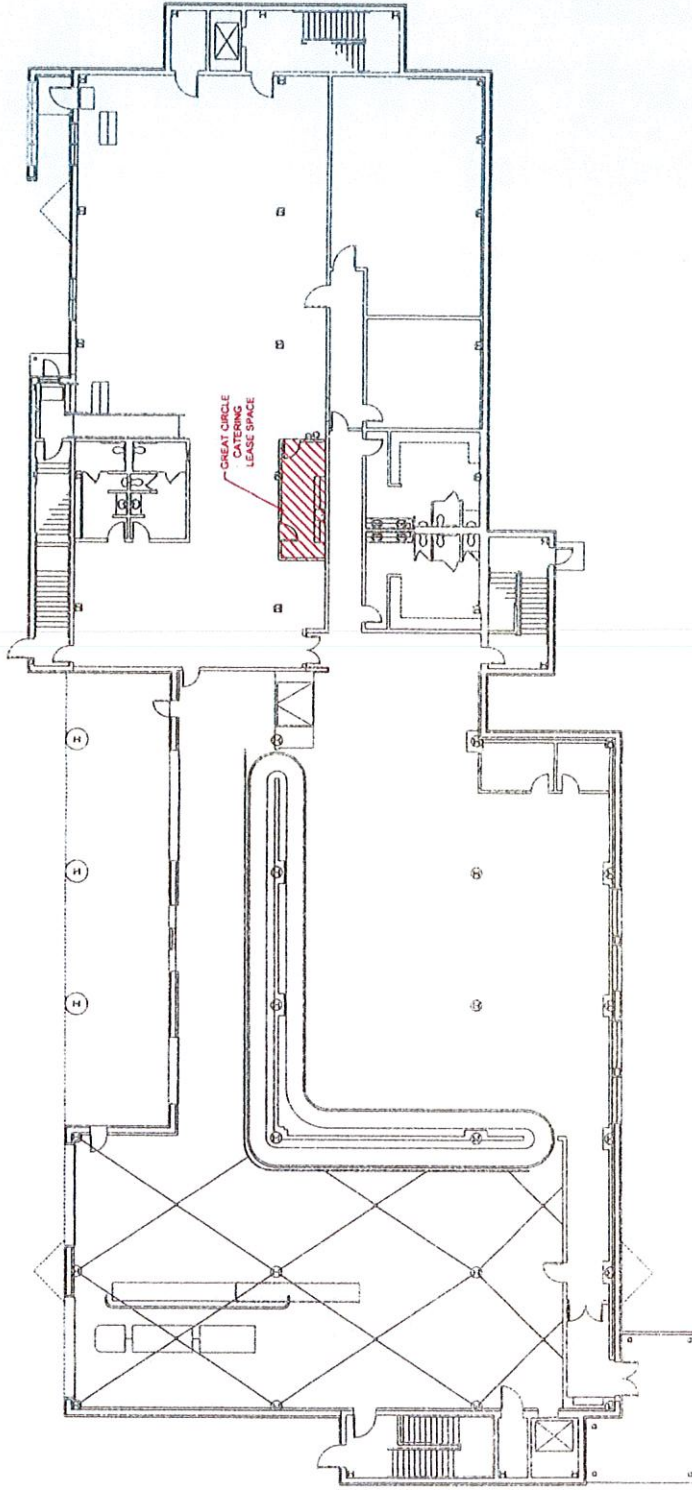


EXHIBIT A

DESIGNED BY: MRM DATE: 9/17/14 SCALE: 3/8"=1'

 PEASE DEVELOPMENT AUTHORITY

55 INTERNATIONAL DRIVE, PORTSMOUTH, NH 03801

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## EXHIBIT 1

The PDA will provide the following to the Concessionaire:

1. A service and counter area with all existing equipment located in the designated area at the Airport Terminal Building at Portsmouth International Airport at Pease.

The Concessionaire must:

1. Provide foods prepared fresh daily (sandwiches, soups, pastries, etc.) and serve alcohol and beverages in the designated area of the Airport Terminal Building for the public when there are scheduled departure and arrival flights at PSM. The PDA Executive Director must specifically approve any exceptions.
2. Provide attendants for the purpose of selling prepared foods and beverages for such periods during each day and on such days during each week as may be necessary to meet reasonable demands for services, or during such minimum hours as may be determined by the PDA. Additionally, Concessionaire agrees to remain open during such times that there are flight delays.
3. Furnish good, prompt, efficient and courteous service.
4. Charge prices in accordance with its usual standards on a basis substantially similar to those charged for similar services at airports of similar size within the same general area. The PDA Executive Director shall have the right to approve all prices and adjustments thereto.
5. Install, service, and maintain the counter(s), carts, tables, chairs (and floor area under and around the tables and chairs), and other equipment necessary to provide prepared food service.
6. Require all employees working in the view of the public and about the golf course to wear clean and neat attire appropriate for their specific job assignments.
7. Secure all permits and licenses required (including, but not limited to, a liquor license) by any ordinance or statute or other government regulation on or before the commencement of the term of this Agreement.
8. Meet all expenses in connection with the use of the premises including, but not limited to, taxes, permit fees and license fees. The concessionaire will not be charged for utilities (heat, air conditioning, water and electricity).

9. Provide detailed plans for all signs, furnishings, and installations to the PDA Executive Director for approval. All signage will be provided and installed by the Concessionaire.
10. Comply with all Federal, State, and Local rules and regulations, safety requirements, and other applicable directives.
11. Indemnify, hold harmless and defend the PDA from and against all claims, and all expenses incidental to the defense thereof, based upon or arising out of damages or injuries to persons or property caused by the fault or negligence of Concessionaire, its employees, guests, patrons, agents, assigns, invitees, contractors, suppliers of materials, and furnishers of services in the performance of services by Concessionaire: provided, however, that Concessionaire shall not be liable for any injury, damage or loss caused by the fault or negligence of the PDA, its employees, guests, patrons, agents, assigns, tenants, invitees, contractors, suppliers of materials, and furnishers of services, and provided further that the PDA shall give Concessionaire prompt and reasonable notice of any such claims and actions and Concessionaire shall have the right to investigate, compromise, and defend the same.
12. Apply the requirements stated in item 12 above to any and all actions and/or claims made by governmental agencies and departments against the PDA based upon or arising out of acts or omissions by Concessionaire, its employees, guests, patrons, agents, assigns, invitees, contractors, suppliers of materials, and furnishers of service.
13. Provide evidence of insurance in a form satisfactory to the PDA throughout the term of the Concession Agreement. Such insurance shall be from a responsible insurance company authorized to do business in the State of New Hampshire. It shall include Workers' Compensation and Employer's Liability Insurance in accordance with the statutory limits: Commercial General Liability Insurance (including products and completed operations coverage) in a minimum amount of Two Million Dollars (\$2,000,000) per occurrence. Concessionaire will also be required to carry Automobile Liability Insurance in the minimum amount of One Million Dollars (\$1,000,000). All liability policies shall name the PDA an additional insured.
14. Waiver of Subrogation. With the exception of workers' compensation coverage, a statement waiver of subrogation is included with respect to applicable coverage.
15. Primary Insurance. A provision that any liability coverage required to be carried shall be primary and noncontributing with respect to any insurance carried by the PDA.