

FIRST AMENDMENT TO LEASE AND CONCESSION AGREEMENT

THIS FIRST AMENDMENT TO LEASE AND CONCESSION AGREEMENT (hereinafter referred to as the “Amendment”) is made as of this ____ day of September 2014, by and between the PORT OF SEATTLE, a Washington municipal corporation (hereinafter referred to as “the Port”), and ANTON AIRFOOD OF SEATTLE, INC. a Washington corporation (hereinafter referred to as “Lessee”).

WHEREAS, the Port and Lessee entered into that certain Lease and Concession Agreement dated March 21, 2003 for operation of a casual dining restaurant in the Central Terminal of Seattle-Tacoma International Airport (“the Lease”); and

WHEREAS, the Port and Lessee have agreed to amend the Lease to extend the initial Lease term by two years and three months, delete the renewal periods, revise the calculation of the Minimum Annual Guarantee to account for the final, partial Agreement Year, revise the rent for the final, additional two years and three months of the Lease term, and up date the non-discrimination provisions;

NOW, THEREFORE, in consideration of their mutual promises, the parties hereto do hereby mutually agree as follows:

1. Revised Initial Lease Term. Section 3.1 of the Lease is deleted and replaced with the following:
 - 3.1 Initial Term. Unless earlier terminated pursuant to any provision of this Agreement, the initial term shall commence on the Occupancy Date and continue until September 30, 2017.
2. Deleted Lease Renewal Term. Section 3.2 of the Lease is deleted in its entirety. Unless the Lease is further amended, there shall be no renewal terms beyond the initial Lease term, as revised by this Amendment.
3. Revision to Calculation of the Minimum Annual Guarantee. The following language is added at the end of Section 4.1.2:

There shall, however, be no Minimum Annual Guarantee for the final, partial Agreement Year that commences on July 1, 2017.

4. Revised Percentage Fees. Section 4.2 of this Lease is deleted and replaced with the following:

4.2 Percentage Fees.

4.2.1 Commencing on the Rent Commencement Date through June 30, 2015, Lessee shall also pay the Port eight percent (8%) of Gross Receipts, to the extent the Percentage Fee is higher than the monthly payment of the Minimum Annual Guarantee paid to the Port pursuant to Section 4.1.

4.2.2 Commencing on July 1, 2015, Lessee shall pay the Port a percentage fee, to the extent the percentage fee is higher than the monthly payment of the Minimum Annual Guarantee paid to the Port pursuant to Section 4.1, according to the following schedule:

<u>Gross Receipts</u>	<u>Percentage of Gross Sales</u>
Gross Receipts ≤ \$5,000,000	8.0%
Gross Receipts > \$5,000,000 but ≤ \$10,000,000	10.0%
Gross Receipts > \$10,000,000	12.0%

4.2.3 On or before the fifteenth (15th) day of each month, Lessee shall submit to the Port a detailed statement showing the Gross Receipts generated from the concession during the preceding month and shall simultaneously pay to the Port the Percentage Fee due for that preceding month less the monthly payment of Minimum Annual Guarantee already paid by the Lessee for that month. The reports shall show such reasonable detail and breakdown as may be required by the Port. To the extent technically feasible, the Port shall have the right to require Lessee to submit such reports electronically.

5. Nondiscrimination. Section 43 (inclusive of Subsections 43.1 through 43.8) of the Lease is hereby deleted and replaced with the following:

This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 and the U.S. Department of Transportation's regulations, 49 CFR Part 21. Lessee agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, subcontract, purchase or lease agreement or other agreement covered by 49 CFR part 21. Furthermore, during the performance of this Agreement, Lessee, for itself, its assignees, and successors in interest (for purposes of this Section and its referenced exhibits only, "contractor") agrees to both (i) comply with the covenants set forth on **Exhibit E** and (ii) comply with the non-discrimination statutes and authorities set forth on **Exhibit F**.

6. Exhibits. Exhibits E and F are attached to this Amendment after the signatures and are expressly incorporated herein.

7. Other Terms Unaffected. Except as expressly set forth in this Amendment, all other provisions of the Lease shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have signed this Amendment as of the day and year first above written.

ANTON AIRFOOD OF SEATTLE, INC.
A Washington corporation

PORT OF SEATTLE
A Washington municipal corporation

By: _____
Its: _____

By: _____
Its: _____

ACKNOWLEDGMENT FOR CONCESSIONAIRE

STATE OF _____)
) ss.
COUNTY OF _____)

On this _____ day of September 2014, before me, personally appeared _____ to me known to be the _____ of ANTON AIRFOOD OF SEATTLE, INC., a Washington corporation, the corporation that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was duly authorized to execute the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

Notary Public in and for the State of _____
Residing at: _____
My commission expires: _____

ACKNOWLEDGMENT FOR THE PORT

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this _____ day of September 2014, before me, personally appeared _____ to me known to be the _____ of the PORT OF SEATTLE, a Washington municipal corporation, the corporation that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was duly authorized to execute the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

Notary Public in and for the State of _____
Residing at: _____
My commission expires: _____

EXHIBIT E

– Additional Non-Discrimination Covenants –

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Aviation Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Aviation Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Nondiscrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as

the Recipient or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

EXHIBIT F

– Pertinent Non-Discrimination Authorities –

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).