



LEASE AGREEMENT
#LMD-2009-1

This **LEASE AGREEMENT** ("Lease"), made and entered onto this 29th day of May, 2009, by and between the **Commonwealth of Pennsylvania**, acting by and through its **Department of General Services**, hereinafter referred to as "Lessor" and the joint venture of **ARAMARK Corporation** 1101 Market Street, Philadelphia Pennsylvania, 19107 and **Acorn Services, Inc.**, 3553 West Chester Pike #401, Newtown Square, Pennsylvania, 19073 hereinafter referred to as "Lessee".

WHEREAS, Act of May 21, 1943, P.L. 595, as amended, 71 P.S. Section 1565.1 authorizes Lessor to secure a tenant for the operation of a restaurant or restaurants in the State Capitol and other State office buildings; and

WHEREAS, Lessor solicited proposals for the lease and operation of the Capitol Restaurant in Harrisburg, PA, through a Solicitation for Proposals, No. 94258; and

WHEREAS, after evaluation of Lessee's Proposal and it Best and Final Offer Response, Lessor selected Lessee as the tenant to operate the restaurant in the East Wing of the Main Capitol.

THEREFORE, in consideration of the following mutual promises, and intending to be legally bound hereby, Lessor and Lessee agree to the following terms and conditions:

1. **DEFINITIONS**. The following words and phrases, when used in this Lease or any amendment hereto, shall have the meanings given to them in this Paragraph:
 - a. "Accounting Periods" means the two (2) Accounting Periods of four (4) weeks each and one (1) Accounting Period of five (5) weeks which occur in each quarter.
 - b. "Charge" means a charge established by Lessee, which is reasonably allocated to the account, for certain services provided by Lessee to client locations.
 - c. "Direct Cost" means a cost incurred by Lessee directly attributable to services provided under this Lease.
 - d. "Food Service Operations" means the Dining Services, Catering Services and coffee kiosk and any other revenue generating activities to be conducted by Lessee at the Premises.
 - e. "Net Revenue" means gross revenue less any applicable sales tax.
 - f. "Premises" is defined below.
 - g. "Profit" means Net Revenue less all Reimbursable Costs, including payroll, and less the lease fee paid to the Lessor.

h. "Reimbursable Costs" means the Direct Costs and Charges to be charged to the account under this Lease.

2. **PREMISES**. Lessor hereby lets unto Lessee the premises known as the Capitol Restaurant consisting of approximately 13,680 square feet of useable space in the East Wing of the Main Capitol, hereinafter called the "Premises" or the "Capitol Restaurant".
3. **DINING SERVICES**. Lessee agrees to operate a traditional cafeteria for use by both employees of the Commonwealth and the general public ("Dining Services") in the Capitol Restaurant, as described in Solicitation for Proposals # 94238 ("SFP"), incorporated herein and made a part of this Lease. At a minimum, Dining Services must include the following:
 - a. Lessee must provide Dining Services each weekday year-round, except the following days of each calendar year: New Year's Day, Dr. Martin Luther King, Jr. Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, Day After Thanksgiving, and Christmas Day.
 - b. Lessee must provide Dining Services at the Premises between the hours of 7:00 AM and 3:00 PM each day. Breakfast must be served between the hours of 7:00 AM and 11:00 AM. Lunch must be served between the hours of 11:00 AM and 3:00 PM.
 - c. During breakfast hours, Lessee must provide hot and cold options in the Capitol Restaurant. Lessee must also provide coffee, milk, and juice.
 - d. During lunch hours, Lessee must provide at grilled and deli foods, salad options, at least one hot entrée, snacks, desserts, and drink options.
 - e. During the time between the service of breakfast and lunch, the restaurant must remain open for drinks and snacks.
 - f. The Lessee must offer high quality food, a reasonable variety of choices, and prices that are competitive with similar establishments in the local area.
 - g. Lessee shall serve Starbucks® coffee on the Premises during the term of this Lease.
 - h. Lessee shall follow the food service strategy outlined in the Work Plan in its Proposal, offering quality products that deliver the highest level of customer satisfaction.
 - i. All items in this paragraph, including hours of operation, points of service and items offered, may be adjusted if an adjustment is warranted by the business climate. All adjustments will be as mutually agreed by the parties.
4. **CATERING SERVICES**. Lessee may prepare food in the Premises for catering to offices in the Capitol Complex or to buildings within the local vicinity ("Catering Services").
5. **LIMITATION ON USE**. Lessee agrees that it will use the Premises only to provide the Dining Services or Catering Services described in this Lease, and for no other purpose.
6. **TERM**. The initial term of the Lease shall commence on June 1, 2009, and extend for a period of three years, ending on May 31, 2012.

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7. **OPTIONS**. Lessor shall have the option, with the mutual consent of Lessee, to renew this Lease for two additional one-year terms. If the Lessor intends to exercise any option under this Paragraph, it must provide notice to Lessee at least ninety days prior to the expiration of the then current Lease term and Lessee should notify Lessor of its concurrence/non-concurrence within thirty days.
8. **FINANCIAL TERMS**.
 - a. All facilities, equipment and services to be provided by Lessor under this Lease shall be provided at Lessor's expense.
 - b. Lessee shall retain all receipts from the Food Service Operations and from which it shall be entitled to reimburse itself for all Reimbursable Costs incurred by Lessee in providing services under this Lease. The total of the Reimbursable Costs shall be referred to as Lessee's "Entitlement." Lessor does not guarantee any Entitlement to Lessee, it being understood that Lessee shall receive its Entitlement only if receipts, from Lessee's operations are sufficient to cover Lessee's Entitlement; provided, however, if receipts from any operating year are insufficient to reimburse Lessee for its full Entitlement, Lessee may reimburse itself for such deficit from receipts in succeeding operation years.
 - c. Lessee agrees to pay Lessor, on an Accounting Period basis, an amount equal to 4.5% of the total Net Revenue from the Food Service Operations. If the annual total Net Revenue exceeds \$1,500,000, Lessee will pay Lessor an amount equal to 5% of the total Net Revenue for that year.
 - d. Lessee shall invest at least \$10,000 in Grand Re-Opening enhancements. Lessee commits to additional investment dollars as follows: Lessee shall retain the first two percent (2%) of the Profit from the Food Service Operations. Fifty percent of the Profit in excess of the first 2% and up to 5%, shall be used by Lessee to invest in enhancements for the Capitol Restaurant.
9. **ACCOUNTING**.
 - a. Within thirty (30) days after the end of each Accounting Period, Lessee will submit to Lessor an operating statement for such period and will pay to Lessor the amount, if any, owed to Lessor under Paragraph 8 (c).
 - b. Within thirty (30) days following the close of each year of operations, Lessee shall provide Lessor with an accounting of the additional investment dollars realized as provided in Paragraph 8 (d).
10. **CAPITAL INVESTMENT**. Lessor and Lessee agree that investments and renovations to the Premises may be performed by the Lessee but only with the express written approval of the Lessor. Prior to the commencement of any renovations, Lessee shall submit renovation drawings and specifications prepared by a Pennsylvania licensed architect and/or engineer to

Lessor for written approval. Lessor reserves the right to specify standards which must be maintained for any renovations to the Premises. All renovations, alterations and repairs performed by Lessee must comply with all statutes and regulations governing the Commonwealth's contracts for the procurement of renovations, alterations and repairs, including, but not limited to, the Prevailing Wage Act, 43 P.S. §165-1 et seq., and the Steel Products Procurement Act, 73 P.S. §1881 et seq. Any and all renovations, alterations and repairs, with the exception of any installed telephone systems, made to the Premises by either Lessee or Lessor, shall become part of the real estate and become the property of Lessor upon termination of this Lease, unless otherwise agreed to in writing.

Lessor will also invest in improvements designed to increase sales and profitability at the Food Service Operations. Lessor and Lessee will mutually decide which investments are to be made by Lessor.

11. **PRICING**. Lessee will establish and maintain prices for the Food Service Operations which are competitive with local retail establishments with similar operations such as quick serve restaurants, casual dining restaurants, catering companies and convenience stores.
12. **PURCHASING**. Lessee shall purchase and pay for, as a Direct Cost, all food, supplies and services utilized in the Food Service Operations. Lessee will credit local trade discounts to the account. Cash discounts or discounts not exclusively related to Lessee's Food Service Operations at the Premises shall not be credited to the account.

In the event an affiliated company or division of Lessee furnishes products or ancillary services necessary for the efficient operation of the Food Service Operations at the Premises, charges to the account for such products or ancillary services shall be competitive with the cost of obtaining such products or ancillary services from an independent source in the open market.

13. **AUDITS**. Lessor shall have the right, at reasonable times and at a site designated by the Lessor, to audit the books, documents and records of the Lessee to the extent that the books, documents and records relate to the revenues, costs and expenses for the Dining Services and Catering Services. Lessee agrees to maintain records that will support the revenues generated, prices charged and costs incurred for the Dining Services and Catering Services. Lessee shall preserve books, documents, and records that relate to revenues, costs and pricing for the Dining Services and Catering Services for a period of three (3) years from date of final payments. Lessee shall give full and free access to all records to Lessor and/or its authorized representatives.
14. **LEASE SERVICES**. At no cost to Lessee, Lessor will provide heat, ventilation, and air condition, all energy used on the Premises, hot and cold water, sewer, window washing (on the outside of the glass), light fixture maintenance, carpet shampooing in dining areas, cleaning services for the atrium dining area at the Capitol Restaurant, and trash removal. Lessee shall be responsible for all other janitorial and cleaning services (including janitorial and cleaning services in public areas where Lessee has provided catering services), surface hood and exhaust cleaning, grease trap maintenance, grease removal and pest control. Telephone access will be provided by Lessor, but will be maintained by Lessee.

15. **MAINTENANCE AND REPAIRS.** Lessor will maintain all of the present furniture, fixtures, equipment, facilities, and utilities for the Premises in serviceable condition during the Lease term. Lessee may, at its cost, install additional or alternative equipment with the written approval of Lessor. Maintenance of such Lessee-installed equipment shall be the sole responsibility of Lessee, unless otherwise agreed to in writing.

At the conclusion of the final lease term, Lessee shall be responsible to remove any Lessee-installed equipment, and to restore the Premises to its prior condition, unless otherwise agreed to in writing.

In all instances, damages to the furniture, fixtures, equipment, facilities, and utilities of the Premises in excess of ordinary wear and tear shall be rectified promptly by Lessee at Lessee's expense.

16. **OTHER EQUIPMENT.** If Lessee so elects, during the Lease term, Lessor shall provide for use by Lessee all glassware, flatware, chinaware, kitchen cutlery, serving trays and kitchenware, and shall replace such items which are obsolete or, through normal service, worn beyond use. Lessee shall have the option to utilize all of these items, or any portion thereof, but shall return to Lessor's possession all such items at the expiration of the then current Lease term.

17. **RIGHT TO KNOW.**

- a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, applies to this Agreement.
- b. Unless the Lessee provides the Lessor, in writing, with the name and contact information of another person, the agency shall notify the Lessee using the Lessee information provided by the Lessee in Paragraph 45] if the the Commonwealth needs the Lessee's assistance in any matter arising out of the Right to Know Law ("RTKL").
- c. Upon notification from the Lessor that the Lessor requires the Lessee's assistance in responding to a RTKL request for records in the Lessee's possession, the Lessee shall provide the Lessor, within fourteen (14) calendar days after receipt of such notification, access to, and copies of, any document or information in the Lessee's possession which arises out of this Agreement that the Lessor requests ("Requested Information") and provide such other assistance as the Lessor may request in order to comply with the RTKL. If the Lessee fails to provide the Requested Information within fourteen (14) calendar days after receipt of such request, the Lessee shall indemnify and hold the Lessor harmless for any damages, penalties, detriment or harm that the Lessor may incur as a result of the Lessee's failure, including any statutory damages assessed against the Lessor.
- d. The Lessor's determination as to whether the Requested Information is a public record is dispositive of the question as between the parties. Lessee agrees not to challenge the Lessor's decision to deem the Requested Information a Public Record. If the Lessee considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, the Lessee will immediately notify the Lessor, and will provide a written statement signed by

a representative of the Lessee explaining why the requested material is exempt from public disclosure under the RTKL within seven (7) calendar days of receiving the request. If, upon review of the Lessee's written statement, the Lessor still decides to provide the Requested Information, Lessee will not challenge or in any way hold the Lessor liable for such a decision.

- e. The Lessor will reimburse the Lessee for any costs associated with complying with this provision only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.
- f. Lessee agrees to abide by any decision to release a record to the public made by the Office of Open Records, or by the Pennsylvania Courts. The Lessee agrees to waive all rights or remedies that may be available to it as a result of the Lessor's disclosure of Requested Information pursuant to the RTKL. Lessee's duties relating to the RTKL are continuing duties that survive the expiration of this Agreement and shall continue as long as the Lessee has Requested Information in its possession.

18. **SOLICITATION FOR PROPOSALS, PROPOSAL AND BEST AND FINAL OFFER.** The SFP, the Proposal submitted by the Lessee, dated January 7, 2009, as well as the Lessee's Best and Final Offer Response, dated March 12, 2009, are expressly incorporated into and made a part of this Lease, and shall be obligations of Lessee. In the event of a conflict between the SFP, the Proposal, the Best and Final Offer Response and these Lease terms, the following order of precedence shall apply:

- a. This Lease
- b. The Best and Final Offer Response
- c. The Proposal
- d. The SFP.

19. **COMPENSATION FOR DAMAGES.** Lessee agrees to keep the Premises in a clean, safe and healthful condition and upon termination of this Lease will ensure that the Premises are left in a clean, safe, and healthful condition. An inspection will be made of the Premises by Lessor on the date of departure by Lessee to determine the condition of the Premises. If the Premises are not left in as good condition as when Lessee took possession, or if there is damage to the Premises, Lessee agrees to restore and otherwise repair the Premises, ordinary wear and tear excepted. A joint inspection of the Premises by Lessor and Lessee will occur before Lessee occupies the Premises to establish a baseline condition.

20. **SIGNS.** Any exterior signs must be approved by Lessor.

21. **NO LESSOR RESPONSIBILITY.** Lessor shall not be responsible for any costs associated with the establishment or operation of the Food Service Operations at the leased Premises, except as specifically set forth in this Lease. Lessor shall in no way be responsible for Lessee's debts and contractual obligations associated with Lessee's use or operation of the Premises.

22. **RIGHT OF ENTRY.** Lessee shall allow Lessor, and any party acting under authority of Lessor, to enter upon the Premises for any purposes. Where practicable, Lessor shall provide the Lessee reasonable notice of such entries.
23. **HOLD HARMLESS.** Lessee shall indemnify and save Lessor, its agents, representatives, and employees, harmless from all claims for damage to property and for illness of, injury to or death of any persons arising from the use and operation of the Premises by Lessee.
24. **EMPLOYEES.** Lessee shall provide and pay a staff of its personnel on duty at the Premises for the efficient management of the Food Service Operations. Subject to the limitations of Paragraph 8, Lessee shall be reimbursed for the Direct Costs incurred by Lessee in connection with personnel on duty at the Premises, including compensation and related payroll costs, and shall charge the account a Charge for fringe benefits and human resource services.

Lessee agrees to interview all employees, presently employed by the current restaurant contractor at the Premises, who are interested in continuing their employment with Lessee. Lessee shall advise Lessor of those current employees who are not retained and the reason for their non-retention.

Lessee shall, at its cost and expense, arrange for a background check for each of its employees, as well as the employees of any of its sub-lessees, suppliers and subcontractors, who will have on-site access or remote electronic access to the Premises for the operation of the restaurants. Such background checks must include, at a minimum, the information contained in Commonwealth's Request for Criminal Record Check form and procedure, a copy of which is attached as Exhibit "E".

The background check must be conducted for each employee prior to access by the employee and semi-annually thereafter. Lessor must submit for each employee either: (1) a certification that there was a positive background check and no known employee propensity to, or connection with, violent or terroristic behavior; or (2) a request to the Lessor for access by an individual who has a negative background check. Such request must be accompanied by: (1) full disclosure of the criminal activity or violent or terroristic propensities; (2) the reasons for the need to employ the individual; and (3) the safeguards, precautions or actions that will be taken by Lessee to ensure no recurrence of the individual's behavior.

No employee of Lessee will be given on-site access or remote electronic access to the Premises until Lessor approves that employee under the terms of this Paragraph. If, at any time, it is discovered that an employee of Lessee, sub-lessee, subcontractor or supplier working as defined above has a criminal record that includes a felony or misdemeanor which raises concerns about building security or is otherwise job-related, or if information comes to the attention of Lessee concerning an employee's propensity to, or connection with, violent or terroristic behavior, Lessee must: (1) not assign that employee to any facilities of Lessor; (2) remove any access privileges already given to the employee; and (3) not permit that employee remote access unless and until Lessor gives written approval. Lessor may withhold its approval in its complete discretion. Failure of Lessee to comply with the terms of this paragraph may result in a default of the Lease.

For the purposes of this Paragraph, a negative background check is one that contains activity classified as a felony or misdemeanor or any report containing information that indicates an employee's propensity to, or connection with, violent or terroristic behavior. A positive background check is one that contains no activity classified as a felony or misdemeanor and no knowledge or report containing information that indicates an employee's propensity to, or connection with, violent or terroristic behavior.

25. **FIRE SAFETY**. Lessor will maintain all fire protection signaling and control systems in the Premises. Lessee is responsible for implementing all other fire/safety practices/policies required by N.F.P.A. 101 pertaining to a C5 occupancy, including the installation, inspections, and maintenance of fire extinguishers. Lessee will notify Lessor of all inspection results/reports as occurring.
26. **RISK OF LOSS OR DAMAGE**. Lessee assumes the risk of loss or damage to the Premises and all equipment located at the Premises, whether Lessor-owned, Lessee-owned, or owned by a subcontractor, supplier or other third party.
27. **INSURANCE**. Lessee shall provide and maintain for the benefit of the Lessor and itself, as their respective interest may appear, adequate insurance in amounts satisfactory to Lessor with responsible insurance companies licensed to do business in the Commonwealth of Pennsylvania insuring:
 - a. Worker's Compensation Insurance sufficient under the laws of Pennsylvania to cover all of its employees working on the Premises.
 - b. Comprehensive General Liability Insurance in combination with excess of \$2,000,000 per occurrence, bodily injury and property damage combined, to include:
 - 1) Products Liability Insurance, and
 - 2) Fire and Extended Coverage on all contents owned by the Lessee related to facilities.
 - c. Lessor agrees to immediately notify Lessee of all losses or claims for which it will seek indemnity under this agreement. Lessor agrees not to incur any cost or expense with respect to any such loss or claim without the approval of Lessee and further agrees to fully cooperate with Lessee and Lessee's authorized representatives in the investigation, defense and settlement of all such claims.

Policies shall be occurrence rather than claims-made policies and shall include the Commonwealth of Pennsylvania as an additional insured except on Workers' Compensation, with respect to the liability arising out of the performance of Lessee's work under this contract. The Lessee or his/her insurance agent or company must forward evidence of the aforementioned liability insurance coverage to the Bureau of Real Estate/Land Management Division, Department of General Services, Room 505 North Office Building, Harrisburg, Pennsylvania, 17125, prior to occupancy.

The Lessee or his/her insurance agent or company shall notify Lessor at least 1 month prior to any transfer or cancellation of the aforementioned insurance coverage.

Lessee shall charge the Food Service Operations account a Charge for providing insurance coverage and related services.

28. **INFORMATION TECHNOLOGY SYSTEM.** Lessee shall develop, implement, operate and maintain an information technology system (which may include, but not be limited to, hardware, owned and licensed software and systems support and training) to support the services provided by Lessee (the "IT System"). The Food Service Operations account will receive a Charge for the development, implementation, operation and maintenance of the IT System. Lessor shall provide a suitable environment, including such heat, air conditioning, phone and utility service as may be reasonably required for the operation of the IT System.

29. **CONFIDENTIAL INFORMATION AND PROPRIETARY MATERIALS.**

a. **Confidential Information:** All financial, statistical, operating and personnel materials and information, including, but not limited to, technical manuals, recipes, menus and meal plans, policy and procedure manuals and computer programs relative to or utilized in Lessee's business or the business of any subsidiary or affiliate to Lessee, shall be the property of Lessee and shall be confidential except to the extent that Lessor is required to disclose any such information by state or federal law or by order of a court of competent jurisdiction in which case Lessor agrees to provide prompt notice to Lessee of such requirement. Lessor shall keep such information confidential and shall so instruct its agents, employees and independent contractors, and the use of such information by Lessor in any manner shall not affect Lessee's ownership or the confidential nature of such information. Lessor shall not photocopy or otherwise duplicate any such materials without the prior written consent of Lessee.

b. **Proprietary Materials:** Lessor agrees that all computer software programs, signage and marketing and promotional literature and material (collectively referred to as "Proprietary Materials") used by Lessee on Lessor's Premises in connection with Food Service Operations provided by Lessee under this Lease shall remain the property of Lessee. Upon termination of this Lease, all use of trademarks, service marks and logos owned by Lessee or licensed to Lessee by third parties shall be discontinued by Lessor, and Lessor shall immediately return to Lessee all Proprietary Materials.

30. **RECEIVING AREA, PARKING AND ACCESS TO THE PREMISES.** All deliveries to the Capitol Restaurant shall be made through the North Office Buildings garage entrance and parking area off of North Street. To access the Capitol Restaurant from this entrance, the Lessee shall have access to the freight elevator marked "Restaurant Only" which leads directly to the Capitol Restaurant kitchen.

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In addition to these delivery/transport accommodations, Lessee shall access the Premises through all public corridors and entrances. Lessee shall have access to the Premises between the hours of 6:00 AM and 5:00 PM. In the event of the Main Capitol and East Wing and/or Keystone Building being closed to the public, Lessee shall not be permitted to access the

Premises. If Lessee is not permitted access to the Premises, Lessee's failure to perform any of the services required under this Lease will not be considered a breach of this Lease. Further, any losses incurred by Lessee as a result of Lessor's unreasonable denying Lessee access to the Premises shall be borne by Lessor.

31. **WILLFUL NEGLIGENCE.** Willful neglect, failure, or refusal by either party to carry out any substantial provisions of this Lease, shall be cause for termination of this Lease of such party has not cured such failure to carry out the substantial provision of this lease within ten (10) days of being notified by the other party of such failure.
32. **ORDINANCES AND REGULATIONS.** Lessee shall have the sole responsibility to comply with all federal, state, and local and municipal laws, ordinances and regulations with respect to the Food Service Operations. Lessee's failure to comply with this requirement shall be cause for termination of this Lease.
33. **CONDITIONS OF OCCUPANCY.** Lessee shall be permitted to occupy the Premises only after the following conditions are satisfied:
 - a. Proof of the required adequate liability and property insurance is provided to Lessor.
 - b. All licensure and occupancy requirements are completed to the satisfaction of Lessor.
34. **HEALTH AND SAFETY.** Lessee will comply with all local, state and federal health and safety standards for food preparation and food service.
35. **LIAISON.** Lessee shall designate a representative to act as its liaison with Lessor, and who shall meet with a representative of Lessor regularly to discuss all issues and problems related to this Lease. Such representative of Lessee shall also act as a point of contact for Lessor regarding all other routine matters regarding this Lease.
36. **DONATION OF EXCESS PREPARED FOOD.** Lessee agrees to make a good-faith effort to donate to a nonprofit organization for ultimate free distribution to needy individuals any apparently wholesome food or grocery products apparently fit for human consumption which are not consumed on the Premises. A good-faith effort includes, but is not limited to, contacting one or more of the entities appearing on the referral listing maintained by the Department of Agriculture. Lessee is hereby put on notice that liability will not attach if the Lessee complies with 42 Pa. C.S.A. Section 8338.
37. **MAIL AND PARCEL SERVICES.** Lessor will not sort, deliver, or accept the Lessee's mail, packages, or deliveries. Lessee may receive mail and packages for the restaurant addressed to:

Capitol Restaurant
Main Capitol Building and East Wing
Harrisburg, Pennsylvania 17125
38. **ALCOHOL AND FIREARMS.** Alcohol and firearms are not permitted on the Premises.

39. **DISADVANTAGED BUSINESS PARTICIPATION COMMITMENT.** Lessee shall meet and maintain its commitment to JDK Catering for a minimum of \$10,000, unless a change in the commitment is approved by the Department of General Services Bureau of Minority and Women Business Opportunities (BMWBO). JDK, as a Small Disadvantaged Business subcontractor, and Acorn Food Services, Inc. as a joint venture partner must perform at least **50%** of the subcontract and 50% of its joint venture portion of the agreement.

Lessee commitments to Disadvantaged Businesses made at the time of proposal submittal or Lease negotiation shall be maintained throughout the term of the Lease and through any renewal or extension of the Lease. Any proposed change must be submitted to BMWBO, which will make a recommendation to the Lessor regarding a course of action.

If the Lease is assigned to another Lessee, the new lessee must maintain the Disadvantaged Business participation of the original Lease.

Lessee shall complete the Prime Contractor's Quarterly Utilization Report (or similar type document containing the same information) and submit it to Lessor and BMWBO within **10** workdays at the end of each quarter the Lease is in force. This information will be used to determine the actual dollar amount paid to Small Disadvantaged Business subcontractors and suppliers and Small Disadvantaged Business participants involved in joint ventures. Also, this information will serve as a record of fulfillment of the commitment the Lessee made and for which it received consideration for Disadvantaged Business participation. If there was no activity during the quarter then the form must be completed by stating "No activity in this quarter."

NOTE: EQUAL EMPLOYMENT OPPORTUNITY AND CONTRACT COMPLIANCE STATEMENTS REFERRING TO COMPANY EQUAL EMPLOYMENT OPPORTUNITY POLICIES OR PAST CONTRACT COMPLIANCE PRACTICES DO NOT CONSTITUTE PROOF OF DISADVANTAGED BUSINESSES STATUS OR DISADVANTAGED BUSINESSES UTILIZATION.

40. **PENNSYLVANIA LOTTERY.** The Tenant will be required, within 90 days of the execution of the lease agreement, to successfully negotiate with the Pennsylvania Department of Revenue, for the acquisition and installation of a PA Lottery sales point. At minimum, the Tenant must have the ability to sell instant tickets, and the ability to make payouts to winners at the point of sale at established legal levels.
41. **CONTRACTOR INTEGRITY PROVISIONS.** Included in and made a part of this Lease is *Exhibit "A"* (attached), a clause regarding Contractor Integrity by Lessee. It shall be understood that the word "Contractor" as used in *Exhibit "A"* shall refer to Lessee.
42. **NON-DISCRIMINATION/SEXUAL HARASSMENT.** Included in and made a part of this Lease is *Exhibit "B"* (attached), a clause regarding non-discrimination/sexual harassment by Lessee. It shall be understood that the word "Contractor" as used in *Exhibit "B"* shall refer to Lessee.
43. **AMERICANS WITH DISABILITIES ACT.** Included and made a part of this Lease is *Exhibit C* (attached), a clause regarding compliance with the Americans With Disabilities Act by

Lessee. It shall be understood that the word "Contractor" as used in *Exhibit "C"* shall refer to Lessee.

44. **CONTRACTOR RESPONSIBILITY PROVISIONS.** Included and made a part of this Lease is *Exhibit "D"* (attached), a clause regarding Contractor Responsibility by the Lessee. It shall be understood that the word "Contractor" as used in *Exhibit "D"* shall refer to Lessee. It shall also be understood the signature of the Lessee on this Lease shall constitute the written certification required by the Contractor Responsibility Provisions.
45. **NOTICE.** Any notice or demand from Lessee to Lessor or from Lessor to Lessee shall be in writing and shall be delivered by hand or by deposit in the United States Mail, postage prepaid, via registered or certified mail.

If Lessor, in an envelope addressed to the attention of:

Department of General Services
Bureau of Real Estate
505 North Office Building
Harrisburg, PA 17125
Attn: Director of Real Estate

If to Lessee:

ARAMARK Business Services
980 Hammond Drive - Suite 1400
Atlanta, GA 30328
Attn: Jean Roberts and Mona Tagliaferro

46. **SURRENDER OF POSSESSION.** Lessee agrees to surrender possession and occupancy of the Premises peaceable at the termination of the Lease. Said surrender shall be consistent with all applicable terms, conditions and covenants of this Lease.
47. [Paragraph 47 is intentionally omitted.]
48. **TERMINATION FOR CAUSE.** If through any cause, Lessee shall fail to fulfill in a timely and proper manner its obligations under this Lease, Lessor shall give Lessee thirty days to correct the deficiency. If Lessee fails to correct the deficiency, Lessor may terminate this Lease by giving written notice to Lessee setting forth the reasons for and the effective date of such termination. If this Lease is terminated as a result of Lessee's nonperformance or unsatisfactory performance, Lessor shall have all rights and remedies available to it under this Lease and the law, including the right to seek damages.

Lessee may terminate this Lease for cause if Lessor fails to fulfill in a timely and proper manner its obligations under this Lease. Lessee shall give Lessor thirty days to correct the deficiency. If Lessor fails to correct the deficiency, Lessee may terminate this Lease by giving written notice to Lessor setting forth the reasons for and the effective date of such termination.

For purposes of this Lease, cause includes the Food Service Operations not being profitable for three or more Accounting Periods during any six-month period or not being profitable on a

cumulative basis during any six-month period, excluding the first three months after the effective date of this Lease. "Profitable" means Lessee recovers its full Entitlement and at least two percent of total Net Revenue from Food Service Operations for such Accounting Periods. If at any time after the first three months from the effective date of this Lease, Lessee's operations are not profitable, Lessee may notify Lessor and shall propose a plan to restore the Food Service Operations to profitability, and the parties agree to negotiate in good faith to adopt such a plan. If after 15 days the parties have not agreed to a plan to restore the Food Service Operations to profitability Lease may terminate this Lease upon 30 days' notice to Lessor. In the event such termination by Lessee, Lessor shall have the sole option to extend this Lease for up to an additional 90 days from the effective date of termination to allow Lessor to obtain a replacement vendor. During this 90-day period, the amount payable to Lessor under paragraph 8(c) shall be eliminated if the Food Service Operations are not profitable. If the Lessor is unable to find a replacement vendor prior to the end of the 90-day period, Lessee may continue to provide the Food Service Operations under renegotiated financial terms.

49. **APPLICABLE LAW.** This Lease shall be interpreted, construed, and enforced in accordance with the laws and regulations promulgated by the Commonwealth of Pennsylvania (without regard to any conflict of laws provisions) and the decisions of the Pennsylvania courts.

50. **DISPUTES.** In the event that any disputes arise between the parties under this Lease, Lessor shall make a determination in writing of its interpretation and shall send the same to Lessee. That interpretation shall be final, conclusive, and binding on Lessee and unreviewable in all respects and Lessee shall thereafter with good faith and diligence render such performance as Lessor has determined is required of it. Lessee's sole option with respect to any such decision shall be either:

- a. to accept said decision as a correct and binding interpretation of the Lease; or
- b. to make such claim as it may desire to the Commonwealth's Board of Claims pursuant to the Act of May 20, 1937, P.L. 728, No. 193, as amended (72 P.S. Section 4651-1 et seq.)

Pending a final judicial resolution of any such claim filed with the Board, Lessee shall proceed diligently and in good faith with the performance of this Lease as interpreted by Lessor. Notwithstanding the foregoing, Lessee may proceed with termination in accordance with Paragraph 48 of this Lease.

51. **CONTACTS WITH THE MEDIA.** Lessee shall not issue any news releases about Dining Services or this Lease to the media without the prior written approval of the Lessor.

52. **SEVERABILITY.** If a Court of competent jurisdiction or governmental regulatory agency determines any portion of the Lease to be invalid, it shall be severed and the remaining portions of this Lease shall control.

53. **ENTIRE AGREEMENT, AMENDMENTS.** This Lease constitutes the entire agreement between the parties. This Lease may be amended, modified or terminated at any time, but an amendment or modification changing the scope or terms of this Lease shall have no force or effect unless it is in writing and signed by all parties to this Lease.

[Remainder of page left intentionally blank]

IN WITNESS WHEREOF the parties hereto have caused this Lease to be duly executed by their respective authorized officers and officials, and their respective seals affixed as of the day and year first above written.

Aramark Corporation
Acorn Services, Inc.

ATTEST:

Lucy Pappas
Signature

Lucy Pappas
Printed Name

Paralegal
Title

LESSEE:
By [Signature]

Name GARY J. CRAMPTON

Title PRESIDENT, Aramark
on behalf of the joint venture Corporation

LESSOR

COMMONWEALTH OF PENNSYLVANIA

Acting Through

DEPARTMENT OF GENERAL SERVICES

By: [Signature]

Name: James P. Creedon

Title: Secretary of General
Services

ATTEST:
[Signature]

APPROVED AS TO FORM AND LEGALITY

OFFICE OF GENERAL COUNSEL

By: [Signature]
Jerry J. Allen

OFFICE OF ATTORNEY GENERAL

By: [Signature]

Exhibit A

CONTRACTOR INTEGRITY PROVISIONS

1. Definitions

A. Confidential information means information that is not public knowledge, or available to the public on request, disclosure of which would give an unfair, unethical, or illegal advantage to another desiring to contract with the Commonwealth.

B. Consent means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by prequalification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this agreement.

C. Contractor means the individual or entity that has entered into this agreement with the Commonwealth, including directors, officers, partners, managers, key employees, and owners of more than a 5 % interest.

D. Financial Interest means:

1. ownership of more than 5 % interest in any business; or
2. holding a position as an officer, director, trustee, partner, employee, or the like, or holding any position of management.

E. Gratuity means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.

2. The contractor shall maintain the highest standards of integrity in the performance of this agreement and shall take no action in violation of state or federal laws, regulations, or other requirements that govern contracting with the Commonwealth.

3. The contractor shall not disclose to others any confidential information gained by virtue of this agreement.

4. The contractor shall not, in connection with this or any other agreement with the Commonwealth, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any officer or employee of the Commonwealth.

5. The contractor shall not, in connection with this or any other agreement with the Commonwealth, directly or indirectly, offer, or agree or promise to give to anyone any gratuity for the benefit of or at the direction or request of any officer or employee of the Commonwealth.

6. Except with the consent of the Commonwealth, neither the contractor nor anyone in privity with him shall accept or agree to accept from, or give or agree to give to, any person, any gratuity from any person in connection with the performance of work under this agreement except as provided therein.

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7. Except with the consent of the Commonwealth, the contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project.
8. The contractor, upon being informed that any violation of these provisions has occurred or may occur, shall immediately notify the Commonwealth in writing.
9. The contractor, by execution of this agreement and by the submission of any bills or invoices for payment pursuant thereto, certifies and represents that he or she has not violated any of these provisions.
10. The contractor, upon the inquiry or request of the Inspector General of the Commonwealth or any of that official's agents or representatives, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Inspector General to the contractor's integrity or responsibility, as those terms are defined by the Commonwealth's statutes, regulations, or management directives. Such information may include, but shall not be limited to, the contractor's business or financial records, documents or files of any type or form which refer to or concern this agreement. Such information shall be retained by the contractor for a period of three years beyond the termination of the contract unless otherwise provided by law.
11. For violation of any of the above provisions, the Commonwealth may terminate this and any other agreement with the contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all expenses incurred in obtaining another contractor to complete performance hereunder, and debar and suspend the contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or nonuse of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.

Exhibit B

NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE

During the terms of this contract, Contractor agrees as follows:

1. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the contractor, subcontractor, or any person acting on behalf of the contractor or subcontractor shall not, by reason of gender, race, creed, or color, discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
2. Neither the contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract on account of gender, race, creed, or color.
3. Contractors and subcontractors shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.
4. Contractors shall not discriminate by reason of gender, race, creed, or color against any subcontractor or supplier who is qualified to perform the work to which the contracts relates.
5. The contractor and each subcontractor shall furnish all necessary employment documents and records to and permit access to their books, records, and accounts by the contracting agency and the Bureau of Contract Administration and Business Development, for purposes of investigation, to ascertain compliance with provisions of this NonDiscrimination/Sexual Harassment Clause. If the contractor or any subcontractor does not possess documents or records reflecting the necessary information requested, the contractor or subcontractor shall furnish such information on reporting forms supplied by the contracting agency or the Bureau of Contract Administration and Business Development.
6. The contractor shall include the provisions of this NonDiscrimination/Sexual Harassment Clause in every subcontract so that such provisions will be binding upon each subcontractor.
7. The Commonwealth may cancel or terminate the contract, and all money due or to become due under the contract may be forfeited for a violation of the terms and conditions of this NonDiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the contractor in the Contractor Responsibility File.

Exhibit C

THE AMERICANS WITH DISABILITIES ACT

During the term of this contract, the Contractor agrees as follows:

1. Pursuant to federal regulations promulgated under the authority of The Americans With Disabilities Act, 28 C.F.R. 35.101 et seq., the Contractor understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this contract or from activities provided for under this contract. As a condition of accepting and executing this contract, the Contractor agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. 35.130, and all other regulations promulgated under Title 11 of The Americans With Disabilities Act which are applicable to the benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.
2. The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth of Pennsylvania from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth of Pennsylvania as a result of the Contractor's failure to comply with the provisions of paragraph 1 above.

Exhibit D

CONTRACTOR RESPONSIBILITY PROVISIONS

For the purpose of these provisions, the term contractor is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, lessee/sublessee, grantee, or subgrantee, who has furnished or seeks to furnish goods, supplies, services, or leased spaced, or who has performed or seeks to perform construction activity under contract, subcontract, grant, or subgrant with the Commonwealth, or with a person under contract, subcontract, grant, or subgrant with the Commonwealth or its state-affiliated entities, and state-related institutions. The term contractor may include a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other entity of the Commonwealth.

1. The contractor must certify, in writing, for itself and all its subcontractors, that as of the date of its execution of any Commonwealth contract, that neither the contractor, nor any subcontractors, nor any sup-pliers are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the contractor cannot so certify, then it agrees to submit, along with the bid/proposal, a written explanation of why such certification cannot be made.

2. The contractor must also certify, in writing, that as of the date of its execution, of any Common-wealth contract it has no tax liabilities or other Commonwealth obligations.

3. The contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the contractor shall have an obligation to inform the contracting agency if, at any time during the term of the contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.

4. The failure of the contractor to notify the contracting agency of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the con- tract with the Commonwealth.

5. The contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the contractor's compliance with the terms of this or any other agreement between the contractor and the Commonwealth, which results in the suspension or debarment of the contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The contractor shall not be responsible for investigative costs for investigations that do not result in the contractor's suspension or debarment.

6. The contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the internet at <http://www.dgs.state.pa.us/debarment.htm> or contacting the:

Department of General Services
Office of Chief Counsel
603 North Office Building
Harrisburg, PA 17125
Telephone No: (717) 783-6472
FAX No: (717) 787-9138