

**SECOND AMENDMENT TO
CONCESSIONS AND CATERING SERVICES AGREEMENT**

THIS SECOND AMENDMENT TO CONCESSIONS AND CATERING SERVICES AGREEMENT (this "**Amendment**") is entered into effective as of October 15, 2021, by and between Louisville Arena Authority (the "**Authority**") and Service America Corporation, d/b/a Centerplate ("**Centerplate**") and amends the certain Concessions and Catering Services Agreement by and between the Authority and Centerplate, dated June 16, 2008, as amended by a First Amendment to Concessions and Catering Services Agreement dated February 2, 2021 (as amended, the "**Original Agreement**"). The Authority and Centerplate are sometimes herein referred to individually as a "**Party**" and collectively as the "**Parties**".

RECITALS

A. WHEREAS, the Parties previously amended the Agreement by that certain a First Amendment to Concessions and Catering Services Agreement dated February 2, 2021 (the "**First Amendment**") in recognition of the effects that the global pandemic caused by the Covid-19 virus has on business at the Arena, located in downtown Louisville, Kentucky.

B. WHEREAS, the Parties now desire to further amend the Original Agreement to extend the Term and to modify certain other terms and conditions therein, all as set forth in this Amendment.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth in this Amendment, the Authority and Centerplate hereby agree as follows:

- 1) Definitions (Section 1 of the Original Agreement): For purposes of this Amendment and the Agreement, the following terms shall have the specified meaning:
 - a. "**Agreement**" shall mean the Original Agreement, as amended by the First Amendment to Concessions and Catering Services Agreement dated February 2, 2021 ("**First Amendment**"), and this Second Amendment to Concessions and Catering Services Agreement dated on the first date written above ("**Second Amendment**").
 - b. "**Contract Year**" shall mean beginning on July 1, 2022 and for the period through June 30, 2027, each twelve (12) month period that begins on a July 1 and ends on the next succeeding June 30. The period from January 1, 2022 through June 30, 2022 shall be treated as a stub period (the "**Stub Period**").
- 2) Term (Section 3 of the Original Agreement): Under Section 2 of the First Amendment, the Term is set to expire December 31, 2021. The Term (as defined in Section 3 of the Agreement) is hereby extended for five (5) years and six (6) months (beginning on January 1, 2022, the "**Extension Period**") and shall now expire on June 30, 2027 (the "**Extension Expiration Date**"). The Term of the Agreement may be further extended upon mutual agreement of the Parties.
- 3) Commissions (Section 5.1 of the Original Agreement):

a. The Parties agree that for the Stub Period (as defined in Section 1.a of this Amendment), commissions payable to the Authority by Centerplate shall be calculated on a retroactive basis for the Stub Period from dollar one, based upon the Percentage Commissions set forth below, for the categories of Concessions, Club Level, Club Alcoholic Beverages and Third Party Subs-Merchandise.

Adjusted Gross Receipts						
To	From	Concessions	Club	Club Alcoholic Beverages	Third Party Subs-Merchandise	
Zero	\$ 2,756,250	33.5%	27.0%	32.0%	65.0%	
\$ 2,756,251	\$ 4,134,375	35.5%	29.0%	34.0%	65.0%	
\$ 4,134,376	\$ 6,890,625	41.0%	35.0%	40.0%	65.0%	
\$ 6,890,626	\$ 8,268,750	41.5%	35.0%	40.0%	65.0%	
\$ 8,268,751	and greater	42.5%	35.0%	40.0%	65.0%	

b. The Parties agree, commencing July 1, 2022 that for each Contract Year during the Extension Period, commissions payable to the Authority by Centerplate shall be calculated on a retroactive basis for such Contract Year from dollar one, based upon the Percentage Commissions set forth below, for the categories of Concessions, Club Level, Club Alcoholic Beverages and Third-Party Subs-Merchandise.

Adjusted Gross Receipts						
To	From	Concessions	Club	Club Alcoholic Beverages	Third Party Subs-Merchandise	
Zero	\$ 5,512,500	33.5%	27.0%	32.0%	65.0%	
\$ 5,512,501	\$ 8,268,750	35.5%	29.0%	34.0%	65.0%	
\$ 8,268,751	\$ 13,781,250	41.0%	35.0%	40.0%	65.0%	
\$ 13,781,251	\$ 16,537,500	41.5%	35.0%	40.0%	65.0%	
\$ 16,537,501	and greater	42.5%	35.0%	40.0%	65.0%	

c. The Parties agree that (i) all other existing Percentage Commissions for the categories other than Concessions, Club Level, Club Alcoholic Beverages and Third-Party Subs-Merchandise shall remain in effect as stated in Section 5.1 of the Original Agreement, and (ii) the other conditions of Section 5.1 shall remain as currently stated in the Original Agreement.

- 4) Reserve Fund (Section 5.2 of the Original Agreement): Centerplate will pre-fund the Reserve Fund with the addition of \$100,000 to existing balance of the Reserve Fund as of the start of the Extension Period.

- 5) Guaranteed Minimum Payment (Section 5.4 of the Original Agreement): The parties agree that the provisions of Section 5.4 of the Original Agreement requiring Centerplate to pay a “guaranteed minimum amount” of Two Million Five Hundred Thousand Dollars (\$2,500,000) were waived during the twelve (12) month period beginning on January 1, 2021 and ending on December 31, 2021, pursuant to the First Amendment.

Section 5.4 of the Original Agreement is hereby amended and restated in its entirety as follows:

For each Contract Year after the Stub Period (as defined in the Second Amendment), Centerplate covenants and agrees to pay to the Authority, without setoff or demand, the greater of (i) the aggregate commissions based on the respective percentages of Adjusted Gross Receipts as set forth in Section 5.1(a) of the Agreement or (ii) a guaranteed minimum amount of Two Million Five Hundred Thousand Dollars (\$2,500,000) less the remaining 2020 GMP Balance (as defined in the First Amendment) as of June 30, 2022, if any. The guaranteed minimum amount shall be due and payable to the Authority on July 1 of each Contract Year. The balance in excess of the guaranteed minimum amount, if any, shall be calculated and shall be due and payable as set forth in Section 5.1(b) of the Agreement.

Nothing contained in this Section 5.4 shall modify or reduce the obligation of Centerplate to pay the Authority the full amount required to be paid to the Authority based on the percentages of Adjusted Gross Receipts set forth in Section 5 of the Agreement. The guaranteed minimum amount shall be paid in lawful money of the United States to the Authority or its designee, including the bond trustee.

For the avoidance of doubt, the Parties agree that the Recovery Phase (as defined in the First Amendment) shall end no later than June 30, 2022.

- 6) Accounting Systems (Section 6.2 of the Original Agreement):

The title of Section 6.2 of the Original Agreement is changed to “Accounting Systems, Data and Metrics” and the following is added to the end of Section 6.2:

“Data and Metrics: In addition to the industry-standard reporting procedures, Centerplate will provide all data at the time of collection, to the Authority or its designee, including without limitation: sales by location, personnel staffing (if collected at the point-of-sale), menu mix, per capita spending, and KFC Yum! Center customer survey information. Authority acknowledges that all transaction information and data gathered at the point-of-sale, including, without limitation sales by location, personnel staffing by location (if collected at the point-of-sale), menu, customer per capita spending data (collectively, the “POS Data”), is proprietary to Centerplate. Centerplate agrees to and shall provide the Authority with timely access to POS Data and its customer survey information during the Term of the Agreement, provided that the Authority agrees that all such proprietary data is confidential and exempted from public disclosure absent an order from a court of competent jurisdiction, as each such disclosure meets the provisions of KRS 61.878(1)(c).”

- 7) Quality Assurance (Section 7.3 of the Original Agreement):

The following sentence is added at the end of Section 7.3 as follows:

“Centerplate shall respond to all food and beverage-related customer service issues collected by the Authority at the Arena and communicated to Centerplate in a reasonably timely manner. “

8) Operating Standards (A new Section 7.6):

A new Section 7.6 is added to Original Agreement as follows:

“Measurement of Performance. Centerplate’s performance under this Agreement shall be measured in good faith by Arena Authority (or designee) based on the Key Performance Indicators (“KPIs”) to monitor service and satisfaction related to the food service operation which shall be determined and mutually agreed upon. The KPIs shall be subject to annual review by Arena Authority (or designee) and Centerplate at the conclusion of each basketball season no later than June 30th for immediate implementation. The annual KPI plan shall be reduced to writing by the Parties. KPIs shall be subject to periodic updates by mutual agreement of each Party to account for industry trends and technological developments and shall take into account the impact of Covid-19 on the food service operation.”

9) Centerplate Funding (Section 11.1(b) of the Original Agreement):

Section 11.1(b) of the Original Agreement is hereby amended and restated in its entirety as follows:

“The unamortized balance of the Seven Million Five Hundred Thousand Dollar (\$7,500,000) Loan from Centerplate to the Authority is \$2,495,833.33 as of October 14, 2021. Centerplate will amortize the balance of the Loan monthly, on a straight-line basis, over 60 months, with such period to commence on November 14, 2021, and to conclude on October 14, 2026. For further clarity, for each monthly period this Agreement remains effective, Centerplate shall forgive one sixtieth (1/60th) of such Loan in favor of the Authority. A schedule of the amortization amounts is set forth as an exhibit to the Second Amendment

10) Centerplate Capital Investment (A new Section 11.3):

A new Section 11.3 is added to Original Agreement as follows:

“During the Extension Period, Centerplate shall invest up to One Million Two Hundred Thousand and 00/100 Dollars (\$1,200,000.00) toward point-of-sale related expenses, checkout-less shopping location related expenses, and / or other food service capital projects, as mutually determined by the Parties (the “Investment”). The Investment shall be amortized and/or depreciated on a straight-line schedule beginning on the date of expenditure and ending on the Extension Expiration Date. If the Agreement terminates for any reason whatsoever prior to Centerplate’s complete amortization of the Investment, the unamortized portion of the Investment shall be reimbursed to Centerplate by the Authority (or the Authority shall so cause the successor concessionaire) before Centerplate shall be required to vacate the Arena.”

11) Staffing (Section 13.1 of the Original Agreement):

The following is added to the end of Section 13.1:

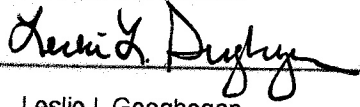
“Centerplate shall ensure that all service employees engaged by Centerplate at the Arena, including all member of any Not-For-Profit Organizations, receive its customer service and skills training. Centerplate shall provide the Authority with the results of any compensation analysis it conducts on the local Louisville, Kentucky labor market.”

12) Miscellaneous:

- a. Original Agreement in Full Force and Effect, Except as Specifically Modified Hereby. All capitalized terms used in this Amendment and not otherwise defined herein, shall have the same meaning ascribed to such terms in the Original Agreement. Except and to the extent expressly modified by this Amendment all other terms and conditions of the Original Agreement shall remain in full force and effect.
- b. Effectiveness of this Amendment. Pursuant to Section 18.7 of the Agreement, this Amendment requires the written approval and consent of the Bond Insurer.

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AGREED AND ACCEPTED:
LOUISVILLE ARENA AUTHORITY

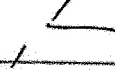
By: 

Name: Leslie L Geoghegan

Title: Chair

Date: 11/15/21

AGREED AND ACCEPTED:
CENTERPLATE



Hadi Monavar

EVP & CFO

11/11/21

ACKNOWLEDGED AND AGREED TO BY THE BOND INSURER:

ASSURED GUARANTY MUNICIPAL CORP., a New York stock insurance company

By: 

Name: Geoffrey Durno

Title: Managing Director

Exhibit A
Loan to the Arena Authority

Loan

Date	Balance Outstanding
10/14/2021	\$ 2,495,833.33
11/14/2021	\$ 2,454,166.67
12/14/2021	\$ 2,412,500.00
1/14/2022	\$ 2,370,833.33
2/14/2022	\$ 2,329,166.67
3/14/2022	\$ 2,287,500.00
4/14/2022	\$ 2,245,833.33
5/14/2022	\$ 2,204,166.67
6/14/2022	\$ 2,162,500.00
7/14/2022	\$ 2,120,833.33
8/14/2022	\$ 2,079,166.67
9/14/2022	\$ 2,037,500.00
10/14/2022	\$ 1,995,833.33
11/14/2022	\$ 1,954,166.67
12/14/2022	\$ 1,912,500.00
1/14/2023	\$ 1,870,833.33
2/14/2023	\$ 1,829,166.67
3/14/2023	\$ 1,787,500.00
4/14/2023	\$ 1,745,833.33
5/14/2023	\$ 1,704,166.67
6/14/2023	\$ 1,662,500.00
7/14/2023	\$ 1,620,833.33
8/14/2023	\$ 1,579,166.67
9/14/2023	\$ 1,537,500.00
10/14/2023	\$ 1,495,833.33
11/14/2023	\$ 1,454,166.67
12/14/2023	\$ 1,412,500.00
1/14/2024	\$ 1,370,833.33
2/14/2024	\$ 1,329,166.67
3/14/2024	\$ 1,287,500.00
4/14/2024	\$ 1,245,833.33
5/14/2024	\$ 1,204,166.67
6/14/2024	\$ 1,162,500.00
7/14/2024	\$ 1,120,833.33
8/14/2024	\$ 1,079,166.67
9/14/2024	\$ 1,037,500.00
10/14/2024	\$ 995,833.33
11/14/2024	\$ 954,166.67
12/14/2024	\$ 912,500.00
1/14/2025	\$ 870,833.33
2/14/2025	\$ 829,166.67
3/14/2025	\$ 787,500.00
4/14/2025	\$ 745,833.33
5/14/2025	\$ 704,166.67
6/14/2025	\$ 662,500.00
7/14/2025	\$ 620,833.33
8/14/2025	\$ 579,166.67
9/14/2025	\$ 537,500.00
10/14/2025	\$ 495,833.33
11/14/2025	\$ 454,166.67
12/14/2025	\$ 412,500.00
1/14/2026	\$ 370,833.33
2/14/2026	\$ 329,166.67
3/14/2026	\$ 287,500.00
4/14/2026	\$ 245,833.33
5/14/2026	\$ 204,166.67
6/14/2026	\$ 162,500.00
7/14/2026	\$ 120,833.33
8/14/2026	\$ 79,166.67
9/14/2026	\$ 37,500.00
10/11/2026	\$ -