

**AMENDMENT NO. 1 TO
INTERNATIONAL TERMINAL FOOD AND BEVERAGE CONCESSION LEASE 5
NO. 16-0016
AT SAN FRANCISCO INTERNATIONAL AIRPORT**

THIS AMENDMENT NO. 1 TO INTERNATIONAL TERMINAL FOOD AND BEVERAGE CONCESSION LEASE 5 NO. AT THE SAN FRANCISCO INTERNATIONAL AIRPORT (this "Amendment"), dated as of _____ (the "Effective Date"), is entered by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, acting by and through its AIRPORT COMMISSION, as landlord ("City"), and Elevated Tastes SFO Inc. ("Tenant").

RECITALS

A. City and Tomokazu Japanese Cuisine (SFO), Inc. ("Original Tenant") entered into Lease No. 16-0016, effective August 10, 2016 (the "Lease"), for that certain food and beverage facility located at the San Francisco International Airport (the "Airport") in International Terminal, Boarding Area G (as further described in the Lease, the "Premises"). On January 19, 2016, by Resolution No. 16-0016, Airport Commission (the "Commission") awarded the Lease.

B. On April 4, 2017, by Resolution No. 17-0075, the Airport Commission approved an Assignment of Lease from Original Tenant, as assignor, to Tenant, as assignee.

C. Staff has determined that the development costs exceeded supportable standards related to sales projections, rent structure and the term of the Lease.

D. To improve the financial health of the Lease by allowing for a longer development cost amortization period, City and Tenant have agreed to extend the Operating Term of the Lease by two years for a new expiration date of May 31, 2029.

E. All capitalized terms not otherwise defined herein shall have the same meaning given to them in the Lease.

NOW, THEREFORE, in consideration of the foregoing and for valuable consideration the sufficiency of which is hereby acknowledged, City and Tenant hereby agree to amend the Lease as follows:

AGREEMENT

1. **Recitals.** The foregoing recitals are true and correct and are incorporated herein by this reference as if fully set forth herein.

2. **Term.** The Expiration Date of the Lease, as defined and as set forth in the Major Lease Term Summary, is modified from May 31, 2027 to May 31, 2029. Nothing in this Amendment shall modify or otherwise affect the options of the Airport Commission to further extend the

Term of the Lease, as set forth in Section 2.5 of the Lease, which such options remain in full force and effect.

3. **Entire Agreement.** This Amendment contains all of the representations and the entire agreement between the parties with respect to the subject matter of this Amendment. Any prior correspondence, memoranda, agreements, warranties, or written or oral representations relating to the subject matter of this Amendment are superseded in their entirety by this Amendment. No prior drafts of this Amendment or changes between those drafts and the executed version of this Amendment shall be introduced as evidence in any litigation or other dispute resolution proceeding by any party or other person, and no court or other body should consider such drafts in interpreting this Amendment.

4. **Miscellaneous.** This Amendment shall bind, and shall inure to the benefit of, the successors and assigns of the parties hereto. This Amendment is made for the purpose of setting forth certain rights and obligations of Tenant and City, and no other person shall have any rights hereunder or by reason hereof as a third party beneficiary of otherwise. Each party hereto shall execute, acknowledge and deliver to each other party all documents, and shall take all actions, reasonably requested by such other party from time to time to confirm or effect the matters set forth herein, or otherwise to carry out the purposes of this Amendment. This Amendment may be executed in counterparts with the same force and effect as if the parties had executed one instrument, and each such counterpart shall constitute an original hereof. No provision of this Amendment that is held to be inoperative, unenforceable or invalid shall affect the remaining provisions, and to this end all provisions hereof are hereby declared to be severable. Time is of the essence of this Amendment. This Amendment shall be governed by the laws of the State of California. Neither this Amendment nor any of the terms hereof may be amended or modified except by a written instrument signed by all the parties hereto.

5. **Full Force and Effect.** Except as specifically amended herein, the terms and conditions of the Lease shall remain in full force and effect.

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IN WITNESS WHEREOF, the parties have executed this Amendment as of the Effective Date.

TENANT: Elevated Tastes SFO Inc.
By: Ringo Wong
Name: RINGO WONG
Title: VICE PRESIDENT

CITY: CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation,
acting by and through its Airport Commission

Ivar C. Satero
Airport Director

AUTHORIZED BY AIRPORT
COMMISSION

Resolution: 19-0221
Adopted: September 10, 2019

Attest: _____
Secretary
Airport Commission

APPROVED AS TO FORM:
DENNIS J. HERRERA,
City Attorney

By: _____
Deputy City Attorney