

**AMENDMENT NO. 2 TO
DOMESTIC TERMINAL FOOD AND BEVERAGE LEASE NO. 03-0203
AT SAN FRANCISCO INTERNATIONAL AIRPORT**

THIS AMENDMENT NO. 2 TO DOMESTIC TERMINAL FOOD AND BEVERAGE PROGRAM LEASE NO. 03-0203 AT THE SAN FRANCISCO INTERNATIONAL AIRPORT (“Amendment”), dated as of _____ (“Effective Date”), is entered by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, acting by and through its AIRPORT COMMISSION (“City”), as landlord, and D-LEW ENTERPRISES, LLC (“Tenant”), as tenant.

RECITALS

A. City and Tenant entered into Lease No. 03-0203, dated May 12, 2004 (the “Lease”), for that certain food and beverage facility located at the San Francisco International Airport (the “Airport”) in Terminal 3, Boarding Area F (the “Premises”). The Airport Commission awarded the Lease by Resolution No. 03-0203, and the Board of Supervisors approved the Lease by Resolution No. 775-03. Pursuant to the First Amendment to Lease dated September 1, 2018, the Term was extended through December 31, 2020.

B. As part of the Airport’s ongoing facilities improvement efforts, the next planned Terminal 3 renovation will include a new concessions program in Terminal 3 West (“T3 West Project”) between Gates F1 and F4, replacing the stores and restaurants that are currently located on the departures level. The Airport anticipated that base building work for the T3 West Project would have commenced in these locations at the beginning of 2021. Due to the COVID-19 pandemic, the T3 West Project is currently on hold.

C. To preserve customer service and maintain revenue, and to accommodate the construction schedule of T3 West Project, City and Tenant have agreed to further extend the Term to December 31, 2023, and modify certain other terms of the Lease as set forth below.

D. 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 is extended to December 31, 2023. City may terminate the Lease earlier at its sole and absolute discretion by providing six months’ advance written notice to Tenant.

3. **Minimum Annual Guarantee (“MAG”)**. Subject to Section [] of the Lease [Severe Decline in Enplanements], from and after the Effective Date, the MAG shall continue to be payable and subject to upward adjustment in accordance with the Lease.

4. **Entire Agreement**. This Amendment contains all of the representations and the entire agreement between the parties with respect to the subject matter of this agreement. Any prior correspondence, memoranda, agreements, warranties, or written or oral representations relating to the subject matter of the 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.

5. **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.


6. **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: D-Lew Enterprises, LLC

By:  _____

Name: Michael Levine
(type or print)

Title: CEO

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: _____

Adopted: _____

Attest: _____

Secretary
Airport Commission

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

By: _____
Deputy City Attorney