

**AMENDMENT NO. 2 TO SFO CONCESSION LEASE (FOOD & BEVERAGE)
[COVID-19 Emergency Rent Relief Program]**

This LEASE AMENDMENT NO. 2 (this “**Amendment**”) is dated as of the Effective Date (as defined below) and entered into by and between Green Beans Coffee Osteria - SFO Group (“**Tenant**”) and City and County of San Francisco, acting by and through its Airport Commission (“**City**” or “**Airport**”).

RECITALS:

A. Tenant and City are parties to Boarding Area C Coffee Shop Lease - Lease No. 14-0046 (as amended, the “**Lease**”). The Lease was previously amended as follows:

(i) Amendment No. 1 dated January 19, 2021, authorized by Commission Resolution No. 21-0006 and Board of Supervisors Resolution No. 122-21.

B. The parties desire to modify the Lease to address the devastating financial impacts of the COVID-19 pandemic and the dramatic and rapid reduction in enplanements at the Airport, resulting in the shutdown of many of the Airport concessions. Modifying the Lease to forgive certain payments due under the Lease will improve the financial feasibility of the Lease and preserve Tenant’s ability to continue operations at the Airport, which is of considerable value to both parties. Providing such rent relief is also consistent with the written guidance provided all airport sponsors by the Federal Aviation Administration encouraging temporary rent abatements and minimum annual guarantee waivers.

C. On October 6, 2020, by Resolution No. 20-0180 (the “**Commission Resolution**”), the Airport Commission (“**Commission**”) adopted the COVID-19 Emergency Rent Relief Program (the “**COVID-19 Rent Relief Program**”), which provides for the rent relief set forth in this Amendment. On January 5, 2021, by Ordinance No. 5-21, the San Francisco Board of Supervisors authorized the Airport to implement the COVID-19 Rent Relief Program (the “**Rent Relief Ordinance**”). The Rent Relief Ordinance authorizes the Airport Director to enter into this Amendment without further approval by the Board of Supervisors under Charter Section 9.118 and without modifying the Lease to include Administrative Code and Environmental Code Requirements that were enacted since the most recent modification to the Lease.

D. This Amendment also provides the State of California accessibility disclosures required by California Civil Code Section 1938.

E. All capitalized terms used in this Amendment and not otherwise defined have the meaning provided 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 enter into this Amendment as follows:

AGREEMENT:

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

2. **Effective Date.** This Amendment shall be deemed effective upon the date of execution by the Airport as set forth below (the “**Effective Date**”).

3. **COVID-19 Rent Relief Amounts.** Upon the satisfaction of the COVID-19 Rent Relief Program Requirements (as defined below) no later than August 31, 2021 (the “**COVID-19 Rent Relief Program Deadline**”) or such later date as determined by the Airport Director in his reasonable discretion in accordance with Section 8 of this Amendment, Tenant’s obligation to pay the following amounts under the Lease will be entirely waived and forgiven (such amounts, “**COVID-19 Rent Relief Amounts**”):

(a) for the month of March 2020, payments of Minimum Annual Guarantee only, and Percentage Rent shall remain due and payable (and if such Percentage Rent remains unpaid as of the Effective Date, then such amount shall be paid no later thirty (30) days from the Effective Date);

(b) for the months of April and May 2020, all payments of Minimum Annual Guarantee and Percentage Rent, all payments for fees and utilities (including electricity, water/sewage, gas and ITT charges), whether under the Lease or separate permit;

(c) for the period commencing April 1, 2020 through December 31, 2020, all payments for Promotional Fees, F&B Infrastructure Fees, F&B Food Court Infrastructure Fees, Tenant Infrastructure Fees, Food Court Cleaning Fees, Storage Space Fees, and refuse/garbage fees, to the extent such fees are applicable to Tenant, whether under the Lease or separate permit.

4. **COVID-19 Rent Relief Program Requirements.**

(a) In order to receive the benefit of the COVID-19 Rent Relief Amounts under this Amendment, Tenant must have satisfied each of the following conditions (the “**COVID-19 Rent Relief Program Requirements**”) and satisfy the Rent Relief Reporting Requirements (as set forth in Section 5(b) below) no later than the COVID-19 Rent Relief Program Deadline:

(i) if Tenant ceased operation due to the COVID-19 pandemic, then Tenant must reopen and recommence operations and continue to operate at the Airport in conformance with the schedule provided by the Airport, as the

schedule may be modified by the Airport Director from time to time, in his sole and absolute discretion;

(ii) Tenant must remain in good standing under the Lease and not in default of any obligations under the Lease or any other agreements between Tenant and City (including the payment of all rent and other obligations, other than the COVID-19 Rent Relief Amounts), beyond any applicable notice and cure periods, and not be in any unresolved dispute with the City, in each case at all times prior to and upon the COVID-19 Rent Relief Program Deadline, as determined by the Airport Director in his sole and absolute discretion;

(iii) Tenant must expend at least 33% of the total aggregate amount of Minimum Annual Guarantee waived under this Amendment on payroll costs, as defined in the Coronavirus Aid, Relief and Economic Security Act of 2020, or the "CARES Act" (the "**Rent Relief Payroll Requirement**"); and

(iv) Tenant must participate in the SFO employee rehiring program, which provides priority to rehiring of Tenant's employees laid off as a result of the COVID-19 pandemic (the "**Tenant Employee Rehiring Requirement**").

(b) In order to satisfy the Rent Relief Payroll Requirement and the Tenant Employee Rehiring Requirement, Tenant must comply with the requirements and complete the documentation as and when required (including, for the avoidance of doubt, monthly reporting on payroll and rehiring efforts), as set forth on **Exhibit A** attached hereto (the "**Rent Relief Requirement Reporting**").

5. Failure to Satisfy Requirements of COVID-19 Rent Relief Program. In the event Tenant shall fail to satisfy any of the COVID-19 Rent Relief Requirements as of the COVID-19 Rent Relief Program Deadline (or such earlier date that it is evident that Tenant will be unable to satisfy such requirements even with the passage of time (i.e. Tenant fails to reopen for business when required)), Tenant shall remit to City all amounts of COVID-19 Rent Relief Amounts that would have otherwise been waived and forgiven under the COVID-19 Rent Relief Program, as set forth in this Amendment, no later than thirty (30) days of written demand from Airport.

6. Credit for Rent Relief Amounts Already Paid; Credit Date. To the extent any waived and forgiven amounts under this Amendment have already been paid by Tenant, such amounts shall only be credited towards future obligations of Rent and related fees due from Tenant (for the avoidance of doubt, only upon satisfaction of the COVID-19 Rent Relief Requirements, as set forth below). Upon satisfaction of the COVID-19 Rent Relief Program Requirements, all Rent and other fees waived under this Amendment will be credited towards Tenant's account, contemplated to occur on or after the COVID-19 Rent Relief Program Deadline.

7. Replacement of COVID-19 Rent Deferral Program. The COVID-19 Rent Relief Program set forth in this Amendment replaces the terms of all rent deferral and/or forbearance previously offered to Tenant, including the forbearance of rent and

other fees set forth in the letter from the Airport Director to all concession tenants dated March 18, 2020 (the “**COVID-19 Rent Forbearance Letter**”). In the event that Tenant shall execute this Amendment and enter into the COVID-19 Rent Relief Program but shall subsequently fail to meet the COVID-19 Rent Relief Program Requirements by the COVID-19 Rent Relief Program Deadline, then the terms of the COVID-19 Rent Forbearance Letter shall remain in effect, and Tenant shall remit the COVID-19 Rent Relief Amounts in accordance with Section 5 of this Amendment.

8. Adjustments to COVID-19 Rent Relief Program. Tenant acknowledges and agrees that, in accordance with Commission Resolution and the Rent Relief Ordinance, the Director may make necessary and appropriate adjustments to the COVID-19 Rent Relief Program to ensure that it: (i) is implemented in a consistent manner and fairly applied to all Airport concessionaires; and (ii) continues to meet the operational requirements of the Airport and the goals of the Commission set forth in establishing the COVID-19 Rent Relief Program. Further, the Director may implement, in his discretion, modifications to the COVID-19 Rent Relief Program necessitated by changes in applicable law, regulation or guidance (including, without limitation, FAA guidance), as the same may be amended from time to time. Notwithstanding the foregoing, consistent with the Commission Resolution and the Rent Relief Ordinance, the Director must seek further approval of the Commission for any material change to the terms and conditions of the COVID-19 Rent Relief Program or the financial relief being offered.

9. Accessibility Disclosures. California Civil Code Section 1938 requires commercial landlords to disclose to tenants whether the property being leased has undergone inspection by a Certified Access Specialist (“CASp”) to determine whether the property meets all applicable construction-related accessibility requirements. The law does not require landlords to have the inspections performed. Tenant is advised that the Premises have not been inspected by a CASp. A CASp may inspect the Premises and determine if it complies with all the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the Premises, City may not prohibit Tenant from obtaining a CASp inspection of the Premises for the occupancy or potential occupancy of Tenant, if requested by Tenant. City and Tenant will mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the CASp inspection fee, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the Premises.

10. No Other Modifications. Except as otherwise expressly set forth above, the Lease remains unmodified and in full force and effect.


11. Counterparts and Electronic Signatures. This Amendment may be executed in multiple counterparts, each of which shall be deemed an original agreement and both of which shall constitute one and the same agreement. The counterparts of this Amendment may be executed and delivered by facsimile or other electronic signature (including portable document format) by either of the parties and the receiving party may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received.

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


TENANT:

Green Beans Coffee Osteria - SFO Group,
a N/A

By: 
Name: Brian Laliberte
Title: COO

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
acting by and through its Airport Commission

By: 
Name: Ivar C. Satero *KEB*
Title: Airport Director

Effective Date (to be inserted by Airport only):


4/28/21

Authorized by Commission Resolution
No. 20-0180 on October 6, 2020 and
Ordinance No. 5-21 finally passed by the
San Francisco Board of Supervisors on
January 5, 2021.

Attest:


Secretary
Airport Commission

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

By: 
Christopher W. Stuart
Deputy City Attorney