

**AMENDMENT NO. 2 TO
SPECIALTY COFFEE FACILITIES IN THE DOMESTIC TERMINAL BUILDINGS
LEASE NO. 03-0069
AT SAN FRANCISCO INTERNATIONAL AIRPORT**

THIS AMENDMENT NO. 2 TO SPECIALTY COFFEE FACILITIES LEASE NO. 03-0069 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 GOTHAM ENTERPRISES, LLC (“Tenant”), as tenant.

RECITALS

A. Tenant operates three Peet’s Coffee & Tea facilities in the Domestic Terminals of the San Francisco International Airport (“Airport”) under Lease No. 03-0069, dated November 10, 2003, as amended by Amendment No. 1 dated April 21, 2015 (the “Lease”).

B. As to Tenant’s one Peet’s Coffee & Tea facility in Terminal 1, the Term of the Lease expires in or around September 2019, when Terminal 1 Boarding Area B closes. As to Tenant’s two Peet’s Coffee & Tea facilities in Terminal 3 (collectively, the “Terminal 3 Premises”), the Term of the Lease expired on November 8, 2017, and Tenant has been operating such facilities on a month-to-month holdover tenancy.

C. 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”) and between Gates 84 and 90, replacing the stores and restaurants that are currently located on the departures level. It is anticipated that base building work will commence in these locations sometime between December 2018 and December 2020.

D. To preserve customer service and maintain revenue, and to accommodate the construction schedule of Terminal 3 project, City and Tenant have agreed to extend the term for the Terminal 3 Premises to December 31, 2020, and modify certain other terms of the Lease as set forth below.

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.

AIRPORT COMMISSION

NOV 22 2017

Revenue Develop. & Management

2. **Term.** The Expiration Date applicable to Tenant's Terminal 3 Premises is extended to December 31, 2020. City may terminate the Lease earlier, as to Tenant's Terminal 3 Premises, at its sole and absolute discretion by providing six months' advance written notice to Tenant. The Expiration Date applicable to Tenant's other Peet's Coffee & Tea facility in Terminal 1 is not impacted by this Amendment.

3. **Minimum Annual Guarantee ("MAG")**. From and after the Effective Date, the MAG applicable to Tenant's Terminal 3 Premises shall be reinstated at the then-current MAG, subject to upward adjustment in accordance with the Lease. Tenant shall pay the higher of the MAG and the Percentage Rent, as set forth in the Lease.

4. **Refurbishment.** Within six months of the Effective Date of this Amendment, Tenant, at Tenant's sole cost and expense, shall perform and complete a refurbishment of Tenant's Terminal 3 Premises ("Space Refresh"). The Space Refresh shall be subject to City's prior approval and shall comply with all applicable terms and conditions of the Lease. At minimum, Tenant shall complete the following work as part of the Space Refresh:

- a. Paint.
- b. Steam clean the floors.
- c. Stain the wood cabinets.
- d. Clean wood paneling.
- e. Replace the blade sign cover.
- f. Change out burnt light bulbs and repair broken light fixtures.
- g. Replace stanchions.
- h. Add waste trio receptacles with Airport signage for compost, recycling and landfill bins in the back-of-the-house area.

If Tenant fails to complete the Space Refresh by the six month anniversary of the Effective Date of this Amendment, City may impose fines on Tenant in the amount of \$100 per day until the Space Refresh is completed in addition to pursuing any other remedies available under the Lease.

5. **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.

6. **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.

7. **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: Gotham Enterprises, LLC,
a California limited liability company

By:  _____

Name: Glenn Meyers
(type or print)

Title: CEO 11/20/17

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

Ivar C. Satero
Airport Director

if a

AUTHORIZED BY AIRPORT
COMMISSION

Resolution:
Adopted:

Attest: _____
Secretary
Airport Commission

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

By:  _____
Deputy City Attorney

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a California limited liability company

By: _____

Name: Glen Meyers
(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

cf on

AUTHORIZED BY AIRPORT
COMMISSION

Resolution:
Adopted:

Attest: _____
Secretary
Airport Commission

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

By: Bonnie D. Aloia
Deputy City Attorney

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