

**AMENDMENT NO. 1 TO
TERMINAL 3 BOARDING AREA F GOURMET FOOD AND GIFT STORE
LEASE NO. 10-0309
AT SAN FRANCISCO INTERNATIONAL AIRPORT**

THIS AMENDMENT NO. 1 TO TERMINAL 3 BOARDING AREA F GOURMET FOOD AND GIFT STORE LEASE NO. 10-0309 AT THE SAN FRANCISCO INTERNATIONAL AIRPORT ("Amendment"), dated as of MAR 13 2019 ("Effective Date"), is entered by and between the CITY AND COUNTY OF SAN FRANCISCO, acting by and through its AIRPORT COMMISSION ("City"), as landlord, and MARILLA CHOCOLATE COMPANY, INC. ("Tenant"), as tenant.

RECITALS

A. City and Tenant entered into Lease No. 10-0309, dated December 17, 2010, for that certain specialty store located at the San Francisco International Airport ("Airport") in Terminal 3, Boarding Area F, post-security ("Premises"). The Airport Commission awarded the Lease by Resolution No. 10-0309. The Lease expired on April 30, 2018, and Tenant has been operating on a month-to-month holdover tenancy. During the holdover period, Tenant has been paying the Percentage Rent pursuant to the Lease.

B. To preserve customer service and maintain revenue until a determination is made as to the best use of space in consideration of the project schedule for the Terminal 3 Redevelopment, City and Tenant have agreed to extend the Term of the Lease as set forth below.

C. 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 is extended to December 31, 2019. City may terminate the Lease earlier, at its sole and absolute discretion by providing 60 days' advance written notice to Tenant.
3. **Base Rent.** From and after the Effective Date and through the extended Expiration Date, the Base Rent shall remain the same as during the holdover period in effect prior to the Effective Date, as follows: 12% of gross revenues up to \$500,000.00, plus 14% of gross revenues from \$500,000.01 to \$1,000,000.00, plus 16% of gross revenues achieved over \$1,000,000.00.

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: Marilla Chocolate Company, Inc.
a California corporation

By: _____

Name: Rilla Ginsberg
Title: President

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

Ivar C. Satero
Airport Director

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AUTHORIZED BY AIRPORT
COMMISSION

Resolution: 19-0044
Adopted: March 5, 2019

Attest: _____

Secretary
Airport Commission

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

By: _____

Deputy City Attorney

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AUTHORIZED BY AIRPORT
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Resolution: 19-0044
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Attest: _____

Secretary
Airport Commission

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

By: _____

Deputy City Attorney

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