

**ASSET PURCHASE AND SALE AGREEMENT
AND ASSIGNMENT OF LEASE**

This Asset Purchase and Sale Agreement and Assignment of Lease (this “**Agreement**”) is entered into as of September 5, 2023 (the “**Effective Date**”), by and between the City of San Leandro, a California municipal corporation (“**City**”), and Super 5 Kitchen, Inc., a California corporation (the “**Seller**”). Seller and City are individually referred to herein as a “**Party**,” and collectively referred to herein as the “**Parties**.”

RECITALS

A. Seller is the owner of the Super 5 Kitchen restaurant located within the Nimitz Motel at 555 Lewelling Boulevard, San Leandro, California (the “**Restaurant**”). Seller leases the Restaurant premises from Parshotam, Inc. (“**Landlord**”), pursuant to a Lease dated May 1, 2013, as extended by that Lease Extension dated December 20, 2019 (as extended, the “**Lease**”). A copy of the Lease is attached hereto as Exhibit A and incorporated herein.

B. City has entered into an agreement to purchase the Nimitz Motel from Landlord.

C. In connection with City’s purchase of the Nimitz Motel, the City desires to acquire from Seller the furniture, fixture, equipment and other personal property used for the operation of the Restaurant (the “**Restaurant FF&E**”), which is described in Exhibit “B” hereto and incorporated herein. The City further desires to obtain an assignment of the Lease from Seller.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged by the Parties, Seller and City hereby agree as follows:

1. **INCORPORATION OF RECITALS AND EXHIBITS.** The Recitals set forth above and the Exhibits attached to this Agreement are each incorporated into the body of this Agreement.

2. **PURCHASE AND SALE.**

2.1 **Agreement to Buy and Sell.** Subject to the terms and conditions set forth herein, Seller hereby agrees to sell the Restaurant FF&E to City, and City hereby agrees to purchase the Restaurant FF&E from Seller. The Restaurant FF&E shall include all of Seller’s interests in and to all personal property, tangible or intangible (including, without limitation, trade names, trademarks or intellectual property, warranties, guarantees, licenses, and all governmental approvals obtained or applied for as of the date of this Agreement relating to the Restaurant and the Restaurant FF&E), as described in the Description of Restaurant FF&E attached hereto as Exhibit “B” and incorporated herein. It is expressly acknowledged and agreed that City will not assume and shall not be liable, either expressly or impliedly, for any obligations or liabilities relating to, or arising out of, the Seller’s operation of the Restaurant, any loans obtained by Seller, any amounts owed to employees or vendors of the Restaurant, or any taxes imposed upon the Restaurant or Seller.

2.2 **Purchase Price.** The purchase price for the Property to be paid by City to Seller (the “**Purchase Price**”) is One Hundred Forty-Seven Thousand Two Hundred Seventy Dollars (\$147,270). The Purchase Price will be paid in full in immediately available funds to Seller on the Closing Date (defined below).

3. **DUE DILIGENCE AND PRE-CLOSING REQUIREMENTS.**

3.1 **Due Diligence Contingency Period.** City will have thirty (30) days from the Effective Date (the “**Due Diligence Contingency Period**”) to complete physical inspections of the Restaurant FF&E and due diligence related to the purchase of the Restaurant FF&E.

3.2 **Inspection of Restaurant FF&E.** During the Due Diligence Contingency Period, City, its agents, contractors and employees shall have the right to enter the Restaurant for the purpose of making inspections of the Restaurant FF&E. All of such entries of the Restaurant shall be at reasonable times during normal business hours and after at least twenty-four (24) hours’ prior notice to Seller, and Seller or Seller’s agent shall have the right to accompany City during any activities performed by City in the Restaurant. City shall defend, indemnify and hold Seller harmless from and against any and all losses, costs, damages, claims or liabilities, including but not limited to, mechanic’s and materialmen’s liens, arising out of or in connection with City’s inspection of the Restaurant and Restaurant FF&E as allowed pursuant to this Section 3.2. The provisions of this Section 3.2 shall survive the Closing or any earlier termination of this Agreement.

3.3 **Satisfaction of Due Diligence Contingency.** City shall have the right, in its sole discretion, to terminate this Agreement for any reason, or no reason, until the expiration of the Due Diligence Contingency Period. City hereby agrees to provide written notice to Seller prior to the expiration of the Due Diligence Contingency Period of City’s election to terminate the Agreement. Upon provision of such notice to Seller, this Agreement will terminate, and neither Party will have any further rights or obligations hereunder except those which expressly survive the termination of this Agreement.

3.4 **No Additional Compensation for Relocation.** Seller agrees that the Purchase Price payment to be paid to Seller pursuant to Section 2.2 above constitutes full satisfaction of any and all City obligations to Seller, including without limitation any obligations for relocation assistance, relocation benefits, goodwill, compensation for personal property, furniture, fixtures and equipment, leasehold bonus value or damages of any nature.

3.5 **Removal of Debris.** Seller shall remove from the Restaurant all waste and debris, if any, prior to the Closing.

4. **CLOSING AND PAYMENT OF PURCHASE PRICE.**

4.1 **Closing.** The closing (“**Closing**”) will occur no later than October 30, 2023 (“**Outside Closing Date**”). City shall have the right to extend the Outside Closing Date by thirty (30) days (the “**Extension Period**”) by payment to Seller of a nonrefundable extension closing payment of Twenty-Five Thousand Dollars (\$25,000). City shall provide Seller not less than thirty

(30) days' notice of the anticipated Closing Date. In the event that the Closing has not occurred on or prior to the Outside Closing Date, either Party not then in default may, upon five (5) days' advance written notice to the other Party, terminate this Agreement. Upon any such termination of this Agreement, neither Party shall have any further rights or obligations hereunder, except for the rights and obligations expressly provided to survive termination of this Agreement.

4.2 **City's Conditions to Closing.** City's obligation to purchase the Restaurant FF&E and assume the Lease is subject to the satisfaction of all of the following conditions or City's written waiver (in City's sole discretion) of such conditions on or before the Outside Closing Date:

(a) Expiration of the Due Diligence Contingency Period with no exercise by City of its rights under this Agreement to terminate this Agreement.

(b) Seller has delivered to City a fully executed "Bill of Sale" (as defined in Section 4.4 below) and a fully executed "Assignment of Lease" (as defined in Section 4.5 below).

(c) Seller's representations and warranties herein are true and correct in all material respects as of the Closing Date.

(d) Seller has performed all obligations to be performed by Seller pursuant to this Agreement, and Seller is not in Default as of the Closing Date.

(e) Possession of the Restaurant FF&E will be delivered to City immediately upon the Closing, free and clear of all liens and financial obligations.

(f) Seller shall have removed from the Restaurant all waste and debris, if any.

(g) There shall be no litigation or administrative proceeding pending with respect to the Restaurant or Restaurant FF&E as of the Closing which would adversely impact the use or value of the Restaurant FF&E.

4.3 **Seller's Conditions to Closing.** The Closing and Seller's obligation to sell and convey the Restaurant FF&E to City and assign the Lease to Seller are subject to the satisfaction of the following conditions or Seller's written waiver (in Seller's sole discretion) of such conditions on or before the Outside Closing Date:

(a) City has delivered the full amount of the Purchase Price to Seller, and all other costs required by this Agreement to be paid by City.

(b) City's representations and warranties set forth herein are true and correct in all material respects as of the Closing Date.

(c) City has performed all obligations to be performed by City pursuant to this Agreement on or before the Closing Date.

4.4 **Bill of Sale.** Seller shall deliver title to the Restaurant FF&E to City through the execution and delivery of a Bill of Sale, in the form attached hereto as Exhibit “C” and incorporated herein. Title to the Restaurant FF&E shall be conveyed by Seller to City in an “as is” condition, with no warranty, express or implied, by Seller as to the physical condition of the Restaurant FF&E.

4.5 **Assignment of Lease.** At the Closing, Seller shall assign to City its right, title and interest in the Lease by execution of the Assignment of Lease in the form attached hereto as Exhibit “D” and incorporated herein. Seller shall obtain Landlord’s approval of the Assignment of Lease by Landlord’s execution thereof. At the Closing, City shall assume Seller’s right, title and interest in the Lease through its execution of the Assignment of Lease.

5. REPRESENTATIONS, WARRANTIES AND COVENANTS.

5.1 **Seller’s Representations, Warranties and Covenants.** In addition to the representations, warranties and covenants of Seller contained in other sections of this Agreement, Seller hereby represents, warrants and covenants to City that the statements below in this Section 5.1 are each true and correct as of the Closing Date provided however, if to Seller’s actual knowledge any such statement becomes untrue prior to Closing, Seller will notify City in writing and City will have ten (10) days thereafter to determine if City wishes to proceed with Closing.

(a) Authority. Seller has the full right, capacity, power and authority to enter into and carry out the terms of this Agreement. This Agreement has been duly executed by Seller, and upon delivery to and execution by City is a valid and binding agreement of Seller. All the instruments, agreements and other documents executed by Seller that are to be delivered to City at Closing are and at the time of Closing will be duly authorized, executed and delivered by Seller, and will be the valid and binding agreements and obligations of Seller enforceable in accordance with their respective terms. Seller agrees to obtain and provide any consents or approvals from Seller’s spouse as may be necessary for the Closing.

(b) Encumbrances. Seller has not alienated, encumbered, transferred, assigned, pledged, or otherwise conveyed its interest in the Restaurant FF&E or any portion thereof, nor entered into any agreement to do so. Seller will not, directly or indirectly, alienate, encumber, transfer, assign, pledge, or otherwise convey its interest in the Restaurant FF&E or any portion thereof prior to the Closing, as long as this Agreement is in force.

(c) Other Agreements. There are no agreements affecting the Restaurant FF&E except those which have been disclosed by Seller to City. There are no agreements which will be binding on the City or the Restaurant after the Closing which cannot be terminated on thirty (30) days prior written notice.

(d) No New Leases. Between the Effective Date and the earlier of the Closing or the termination of this Agreement, Seller shall not enter into any new leases or extend the term of any existing leases of the Restaurant.

(e) Litigation. There is no pending, or, to Seller's actual knowledge, threatened litigation, administrative proceeding or other legal or governmental action with respect to the Restaurant or the Restaurant FF&E.

(f) Disclosure. Seller has disclosed all material facts with respect to the Restaurant and Restaurant FF&E of which Seller has actual knowledge.

The truth and accuracy of each of the representations and warranties, and the performance of all covenants of Seller contained in this Agreement are conditions precedent to City's obligation to proceed with the Closing hereunder. The foregoing representations and warranties shall survive the expiration, termination, or Closing of this Agreement and shall not be deemed merged into the deed upon closing.

5.2 City's Representations and Warranties. In addition to the representations, warranties and covenants of City contained in other sections of this Agreement, City hereby represents, warrants and covenants to Seller that the statements below in this Section 5.2 are each true as of the Effective Date, and, if to City's actual knowledge any such statement becomes untrue prior to Closing, City shall so notify Seller in writing and Seller shall have ten (10) days thereafter to determine if Seller wishes to proceed with Closing.

(a) City is a California municipal corporation, in good standing under the laws of the State of California. City has the full right, capacity, power and authority to enter into and carry out the terms of this Agreement. This Agreement has been duly executed by City, and upon delivery to and execution by Seller shall be a valid and binding agreement of City.

(b) City is not bankrupt or insolvent under any applicable federal or state standard, has not filed for protection or relief under any applicable bankruptcy or creditor protection statute, and has not been threatened by creditors with an involuntary application of any applicable bankruptcy or creditor protection statute.

The truth and accuracy of each of the representations and warranties, and the performance of all covenants of City contained in this Agreement are conditions precedent to Seller's obligation to proceed with the Closing hereunder.

6. REMEDIES. An event of default ("Event of Default") shall arise hereunder if either Party defaults in the performance of any term, provision, covenant or agreement set forth in this Agreement, and (unless such provision specifies a shorter cure period for such default) the default continues for thirty (30) days after the date upon which the other Party shall have given written notice of the default to Party in default. If the defaulting Party fails to cure the default within the foregoing time period, or if a cure is not possible, the other Party may proceed with any of the following remedies:

(a) Terminate this Agreement;

(b) Bring an action for equitable relief seeking the specific performance of the terms and conditions of this Agreement, and/or enjoining, abating, or preventing any violation of such terms and conditions, and/or seeking declaratory relief; or

- (c) Pursue any other remedy allowed at law or in equity.

Each of the remedies provided herein is cumulative and not exclusive of, and shall not prejudice any other remedy provided herein or under applicable law. No officer, employee or agent of City shall be personally liable to Seller, or any successor in interest, in the event of any default or breach by City, or for any amount of money which may become due to Seller or for any obligation of City under this Agreement.

7. **BROKERS.** Seller represents that no real estate broker has been retained by Seller in the sale of the Restaurant FF&E or the negotiation of this Agreement. City represents that no real estate broker has been retained by City in the procurement of the Restaurant FF&E or negotiation of this Agreement. Each Party shall indemnify, hold harmless and defend the other Party from any and all claims, actions and liability for any breach of the preceding sentence, and any commission, finder's fee, or similar charges arising out of the indemnifying Party's conduct.

8. **MISCELLANEOUS.**

8.1 **Attorneys' Fees.** If any Party employs counsel to enforce or interpret this Agreement, including the commencement of any legal proceeding whatsoever (including insolvency, bankruptcy, arbitration, mediation, declaratory relief or other litigation), the prevailing Party shall be entitled to recover its reasonable attorneys' fees and court costs (including service of process costs, filing fees, court and court reporter costs, investigative fees, expert witness fees, and the costs of any bonds, whether taxable or not) and shall include the right to recover such fees and costs incurred in any appeal or efforts to collect or otherwise enforce any judgment in its favor in addition to any other remedy it may obtain or be awarded. Any judgment or final order issued in any legal proceeding shall include reimbursement for all such attorneys' fees and costs.

8.2 **Indemnification.** Each Party hereby agrees to indemnify, defend (by counsel of the other Party's choosing), and hold harmless the other Party from and against any claims, demands, suits, liability, damages, costs, losses, and expenses, including without limitation court costs and reasonable attorneys' fees, arising out of or in connection with such Party's covenants and/or obligations contained in this Agreement, or any untrue representation, breach of warranty or breach of any covenant or agreement by such Party contained herein or in any document or instrument delivered to the other Party; or in connection with or arising out of any liabilities or such Party to any third party.

8.3 **Survival.** All indemnities, covenants, representations and warranties contained in this Agreement shall survive Closing.

8.4 **Assignment.** Absent an express signed written agreement between the Parties to the contrary, neither Seller nor City may assign its rights or delegate its duties under this Agreement without the express written consent of the other, which consent may be withheld for any reason. No permitted assignment of any of the rights or obligations under this Agreement shall result in a novation or in any other way release the assignor from its obligations under this Agreement.

8.5 **Successors.** Except as provided to the contrary in this Agreement, this Agreement shall be binding on and inure to the benefit of the Parties and their successors and assigns.

8.6 **Governing Law.** This Agreement shall be construed and interpreted in accordance with the laws of the State of California. Venue for any dispute arising hereunder shall be in the Superior Court of Alameda County for state law actions or the Northern District of California for federal law actions.

8.7 **Integrated Agreement; Modifications.** This Agreement contains all the agreements of the Parties concerning the subject hereof and cannot be amended or modified except by a written instrument executed and delivered by the Parties. There are no representations, agreements, arrangements or understandings, either oral or written, between or among the Parties hereto relating to the subject matter of this Agreement that are not fully expressed herein. In addition there are no representations, agreements, arrangements or understandings, either oral or written, between or among the Parties upon which any Party is relying upon in entering this Agreement that are not fully expressed herein. Any modifications to this Agreement must be in writing and signed by Seller and City.

8.8 **Severability.** If any term or provision of this Agreement is determined to be illegal, unenforceable, or invalid in whole or in part for any reason, such illegal, unenforceable, or invalid provisions or part thereof shall be stricken from this Agreement, and the remainder of this Agreement shall remain in full force and effect unless the invalidated provision materially alters the consideration being exchanged between Seller and the City. However, if any provision or part thereof of this Agreement is stricken in accordance with the provisions of this Section, but the stricken provision can be replaced with a legal, enforceable and valid provision in keeping with the intent of the Parties as expressed herein and which fairly restores the consideration lost as a result of the stricken provision or stricken part thereof, then this Agreement shall remain in full force and effect.

8.9 **Notices.** Any delivery of this Agreement, notice, modification of this Agreement, collateral or additional agreement, demand, disclosure, request, consent, approval, waiver, declaration or other communication that either Party desires or is required to give to the other Party or any other person shall be in writing. Any such communication may be served personally, or by nationally recognized overnight delivery service (i.e., FedEx) which provides a receipt of delivery, or sent by prepaid, first class mail, return receipt requested to the Party's address as set forth below:

To City: City of San Leandro
835 East 14th Street
San Leandro, CA 94577-3767
Attn: City Manager (with copies to City Attorney and City
Community Development Director)

To Seller: Super 5 Kitchen, Inc.
393 Elsie Avenue
San Leandro, CA 94577
Attn: He Hao Huang and Guo Cheng Lin

Any such communication shall be deemed effective upon personal delivery or on the date of first refusal to accept delivery as reflected on the receipt of delivery or return receipt, as applicable. Any Party may change its address by notice to the other Party. Each Party shall make an ordinary, good faith effort to ensure that it will accept or receive notices that are given in accordance with this section and that any person to be given notice actually receives such notice.

8.10 **Time.** Time is of the essence to the performance of each and every obligation under this Agreement.

8.11 **Days of Week.** If any date for exercise of any right, giving of any notice, or performance of any provision of this Agreement falls on a Saturday, Sunday or legal holiday, the time for performance will be extended to 5:00 p.m. on the next business day.

8.12 **Reasonable Consent and Approval.** Except as otherwise provided in this Agreement, whenever a Party is required or permitted to give its consent or approval under this Agreement, such consent or approval shall not be unreasonably withheld or delayed. If a Party is required or permitted to give its consent or approval in its sole and absolute discretion or if such consent or approval may be unreasonably withheld, such consent or approval may be unreasonably withheld but shall not be unreasonably delayed.

8.13 **Further Assurances.** The Parties shall at their own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to carry out the intent and purposes of this Agreement.

8.14 **Waivers.** Any waiver by any Party shall be in writing and shall not be construed as a continuing waiver. No waiver will be implied from any delay or failure to take action on account of any default by any Party. Consent by any Party to any act or omission by another Party shall not be construed to be a consent to any other subsequent act or omission or to waive the requirement for consent to be obtained in any future or other instance.

8.15 **Signatures/Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any one of such completely executed counterparts shall be sufficient proof of this Agreement.

8.16 **Date and Delivery of Agreement.** Notwithstanding anything to the contrary contained in this Agreement, the Parties intend that this Agreement shall be deemed effective, and delivered for all purposes under this Agreement, and for the calculation of any statutory time periods based on the date an agreement between Parties is effective, executed, or delivered, as of the Effective Date.

8.17 **Representation on Authority of Parties.** Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each Party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such Party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such Party and enforceable in accordance with its terms.

8.18 **Approvals.** Whenever this Agreement calls for City approval, consent, extension or waiver, the written approval, consent, or waiver of the City Manager or his or her designee(s) shall constitute the approval, consent, extension or waiver of the City, without further authorization required from the City Council. The City hereby authorizes the City Manager and his or her designee(s) to sign documents, to deliver any such approvals, consents, or extensions or waivers as are required by this Agreement, and to waive requirements under this Agreement, on behalf of the City.

IN WITNESS WHEREOF, this Agreement is executed by City and Seller as of the Effective Date.

[Signatures on following page]

City:

CITY OF SAN LEANDRO,
a California municipal corporation

Frances M. Robustelli, City Manager

Attest:

Kelly B. Clancy, City Clerk

Reviewed as to Form:

Richard D. Pio Roda, City Attorney

Seller:

SUPER 5 KITCHEN, INC.,
a California corporation

By: _____
He Hao Huang, Chief Executive
Officer/
Chief Financial Officer

By: _____
Guo Cheng Lin, Secretary

EXHIBIT A
RESTAURANT LEASE AND AMENDMENTS
[Attached]

DRAFT

EXHIBIT B

DESCRIPTION OF RESTAURANT FF&E

27 DHC WOOD CAFE CHAIRS
8 GRANITE 42"X30" TABLES W/BAMBOO BASE
5 GRANITE 24"X30" TABLES W/SINGLE-PEDESTAL BASE
4 WOODEN TABLES W/SINGLE-PEDESTAL BASE
2 BLONDE WOOD HIGH-CHAIRS
1 LAMINATE 30"X30" HIGH TOP TABLE
1 NEON 'OPEN' SIGN
3 CEILING 5-BLADE FANS W/LIGHT
1 LAMINATE LIBRARY TABLE W/METAL BASE
1 BEVERAGE AIR WHITE 2-GLASS DOOR COOLER
1 GE 10CUFT CHEST FREEZER
1 VIZIO 42" FLAT-PANEL LCD TELEVISION
1 S/S TOP 24"X24" ENCLOSED UTILITY STAND
1 S/S 30"X30"WORKTABLE W/UNDERSHELF
1 S/S 36"X30"WORKTABLE W/UNDERSHELF S/S 70"X30" WORKTABLE W/UNDERSHELF
2 AROMA RICE COOKERS
1 PROCTOR-SILEX COMMERCIAL RICE COOKER/WARMER
1 TRUE S/S 2-DOOR REFRIGERATOR W/CASTERS
1 TURBO AIR S/S 72" MEGATOP PREP TABLES W/CASTERS
1 EMERSON MICROWAVE OVEN
1 S/S 48"X30" WORKTABLE W/UNDERSHELF
3 S/S 27"/44"/48" WALL SHELVES
2 S/S RICE WARMERS
1 S/S 3-TIER BUS CART
1 CUSTOM CHINESE S/S 3-HOLE WOK RANGE
1 PITCO S/S FRYER
1 U.S. RANGE S/S 4-BURNER RANGE BUCKEYE

1 S/S FIRE EXTINGUISHER
1 MAGIC CHEF WHITE 10CUFT CHEST FREEZER
1 COLD TECH S/S 4-HALF DOOR FREEZER W/CASTERS
1 S/S 60"X30" WORKTABLE W/BACKSPLASH, S/S DRAWER & UNDER SHELF
COUNTERTOP
1 HOBART 20QT MIXER W/S/S BOWL, GRINDING ATTACHMENT, & (3)TOOLS
1 BEIGE METAL EMPLOYEE LOCKER W/(10)12"X12" DOORS
1 S/S 48"X24" WORKTABLE W/UNDER SHELF WIRE RACKS
1 SET RESTAURANT SMALLWARES
5 ASIAN WALL ARTWORKS
1 SHARP ELECTRONIC CASH REGISTER
2 CASIO MINI-DESKTOP PRINTING CALCULATORS
1 CUSTOM NEON EXTERIOR SIGN
1 LAMINATE 12 CURVED COUNTER W/STORAGE BELOW
1 S/S 46"X23" RACK

EXHIBIT C

BILL OF SALE

THIS BILL OF SALE is executed as of _____, 2023, by and between Super 5 Kitchen, Inc., a California corporation (“**Seller**”), and the City of San Leandro, a California municipal corporation (“**City**”), with reference to the following facts:

A. Seller is the owner of the furniture, fixtures, equipment and other personal property used in the Super 5 restaurant located at 555 Lewelling Boulevard, San Leandro, California (the "Restaurant FF& E").

B. Concurrently herewith, Seller is selling to City and City is purchasing from Seller all of Seller's right, title, and interest in and to the Property pursuant to that certain Asset Purchase and Sale Agreement and Assignment of Lease between Seller and City dated as of September 5, 2023 (“Purchase Agreement”).

C. Seller desires to assign, transfer and convey to City all of Seller's interests in the personal property listed in Exhibit 1 attached hereto ("Assigned Property").

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration in hand paid by City to Seller, the receipt and sufficiency of which are hereby acknowledged, Seller does hereby assign, transfer, and deliver and grant, sell and convey to City all of the Assigned Property.

1. All of the Assigned Property is used and is conveyed and accepted “As Is” without any warranties or representations of whatsoever kind or nature, including, without limitation, as to merchantability or fitness for a particular purpose, whether express or implied, whether written or oral, concerning any and all defects of a physical nature, whether in material or workmanship and whether or not such defect would be visible or apparent upon City’s full inspection and examination of the Assigned Property.

2. This Bill of Sale shall be governed by the laws of the State of California.

3. This Bill of Sale shall be effective as of the Closing for Seller’s conveyance of the Restaurant FF&E to City.

4. This Bill of Sale may be executed in one (1) or more counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one (1) agreement.

IN WITNESS WHEREOF, the undersigned have executed this Bill of Sale as of the date set forth above.

Seller:

SUPER 5 KITCHEN, INC.,
a California corporation

By: _____
He Hao Huang, Chief Executive
Officer/
Chief Financial Officer

By: _____
Guo Cheng Lin, Secretary

City:

CITY OF SAN LEANDRO,
a California municipal corporation

Frances M. Robustelli, City Manager

Attest:

Kelly B. Clancy, Acting City Clerk

Reviewed as to Form:

Richard D. Pio Roda, City Attorney

EXHIBIT 1

DESCRIPTION OF ASSIGNED PROPERTY

27 DHC WOOD CAFE CHAIRS
8 GRANITE 42"X30" TABLES W/BAMBOO BASE
5 GRANITE 24"X30" TABLES W/SINGLE-PEDESTAL BASE
4 WOODEN TABLES W/SINGLE-PEDESTAL BASE
2 BLONDE WOOD HIGH-CHAIRS
1 LAMINATE 30"X30" HIGH TOP TABLE
1 NEON 'OPEN' SIGN
3 CEILING 5-BLADE FANS W/LIGHT
1 LAMINATE LIBRARY TABLE W/METAL BASE
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1 S/S TOP 24"X24" ENCLOSED UTILITY STAND
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1 S/S 36"X30"WORKTABLE W/UNDERSHELF S/S 70"X30" WORKTABLE W/UNDERSHELF
2 AROMA RICE COOKERS
1 PROCTOR-SILEX COMMERCIAL RICE COOKER/WARMER
1 TRUE S/S 2-DOOR REFRIGERATOR W/CASTERS
1 TURBO AIR S/S 72" MEGATOP PREP TABLES W/CASTERS
1 EMERSON MICROWAVE OVEN
1 S/S 48"X30" WORKTABLE W/UNDERSHELF
3 S/S 27"/44"/48" WALL SHELVES
2 S/S RICE WARMERS
1 S/S 3-TIER BUS CART
1 CUSTOM CHINESE S/S 3-HOLE WOK RANGE
1 PITCO S/S FRYER
1 U.S. RANGE S/S 4-BURNER RANGE BUCKEYE

1 S/S FIRE EXTINGUISHER
1 MAGIC CHEF WHITE 10CUFT CHEST FREEZER
1 COLD TECH S/S 4-HALF DOOR FREEZER W/CASTERS
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COUNTERTOP
1 HOBART 20QT MIXER W/S/S BOWL, GRINDING ATTACHMENT, & (3)TOOLS
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1 SET RESTAURANT SMALLWARES
5 ASIAN WALL ARTWORKS
1 SHARP ELECTRONIC CASH REGISTER
2 CASIO MINI-DESKTOP PRINTING CALCULATORS
1 CUSTOM NEON EXTERIOR SIGN
1 LAMINATE 12 CURVED COUNTER W/STORAGE BELOW
1 S/S 46"X23" RACK

EXHIBIT D
ASSIGNMENT OF LEASE

THIS ASSIGNMENT OF LEASE ("Assignment") is made as of _____, 2023 (the "Effective Date"), by and between Super 5 Kitchen, Inc., a California corporation ("Assignor"), and the City of San Leandro, a California municipal corporation ("Assignee").

RECITALS

A. Assignor is the owner of the Super 5 Kitchen restaurant located within the Nimitz Motel at 555 Lewelling Boulevard, San Leandro, California (the "**Restaurant**"). Assignor leases the Restaurant premises (the "Premises") from Parshotam, Inc., a California corporation ("**Landlord**"), pursuant to a Lease dated May 1, 2013, as extended by that Lease Extension dated December 20, 2019 (as amended and extended, the "**Lease**"). A copy of the Lease, including all amendments thereto, is attached hereto as Attachment No. 1 and incorporated herein.

B. Assignor and Assignee have entered into an Asset Purchase and Sale Agreement and Assignment of Lease, dated as of September 5, 2023, which provides for Assignor to assign all of its rights and obligations under the Lease to Assignee.

C. Section 4(c) of the Lease permits the assignment of the Tenant's rights and obligations under the Lease, provided that that Landlord consents to the assignment.

D. In connection with the Asset Purchase and Sale Agreement and Assignment of Lease, Assignor desires to assign to Assignee, and Assignee desires to accept the assignment of, all of Assignor's right, title, and interest in and to the Lease, all on the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants and conditions contained in them, the Parties agree as follows:

1. **Assignment.** Effective as of the Effective Date, Assignor assigns, transfers, and conveys to Assignee all of Assignor's right, title, and interest in and to the Lease, together with any and all rights that Assignor may have against Landlord under the Lease.

2. **Assumption.** Effective as of the Effective Date, Assignee assumes all of Assignor's right, title, and interest in and to the Lease, and all of Assignor's obligations under the Lease. Assignee agrees to comply with all of the provisions of the Lease, and Landlord may enforce the Lease provisions directly against Assignee.

3. **Landlord's Consent.** This Assignment shall not be effective until Landlord has consented thereto and there has been delivered to Landlord a fully executed counterpart of Landlord's consent to this Assignment.

4. **Indemnity.** Assignor shall indemnify and defend Assignee against and hold Assignee harmless from any and all losses, costs, damages, liabilities, and expenses, including, without limitation, reasonable attorneys' fees, incurred by Assignee as a result of any claim arising under the Lease and based on events occurring before the Effective Date. Assignee shall indemnify and defend Assignor against and hold Assignor harmless from any and all losses, costs, damages, liabilities, and expenses, including, without limitation, reasonable attorney fees, incurred by Assignor as a result of any claim arising under the Lease and based on events occurring on or after the Effective Date.

5. **Warranties of Assignor.** Assignor warrants, represents, and covenants to Assignee, to the best of Assignor's knowledge, as to the Lease, as follows:

a. Assignor is not in default under the Lease, nor has any event or omission occurred that with the giving of notice and the expiration of any applicable cure period would constitute a default of Assignor under the Lease.

b. Landlord is not in default under the Lease, nor has any event or omission occurred that with the giving of notice and the expiration of any applicable cure period would constitute a default of Landlord under the Lease.

IN WITNESS WHEREOF, the Parties hereto have executed this Assignment on the date first above written.

ASSIGNOR:

SUPER 5 KITCHEN, INC.,
a California corporation

By: _____
He Hao Huang, Chief Executive Officer/
Chief Financial Officer

By: _____
Guo Cheng Lin, Secretary

ASSIGNEE:

By: _____
Name: _____
Title: _____

Landlord hereby consents to the above
Assignment:

PARSHOTAM, INC., a California
corporation

By: _____

Name: _____

Title: _____

Date: _____, 2023

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**ATTACHMENT NO. 1 TO ASSIGNMENT OF LEASE
LEASE AND LEASE AMENDMENTS**

[Attached]

5371893.3

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