

LEASE TERMINATION AND ASSET PURCHASE AGREEMENT

The City of Hudson, Ohio, an Ohio charter municipality (“**City**”) and Destination Hudson, Inc., an Ohio non-profit corporation (“**DH**”) (each a “**Party**” and collectively the “**Parties**”) execute this Lease Termination and Asset Purchase Agreement (“**Agreement**”) as of February ____, 2025 (the “**Execution Date**”).

RECITALS

A. DH is the current tenant of the City pursuant to a lease dated April 16, 2015 (the “**Lease**”), and the Lease’s current term ends April 30, 2025. Pursuant to the Lease, DH leases premises consisting of a certain portion of the first floor of Hudson Town Hall at 27 East Main Street, Hudson, Ohio, consisting of approximately 750 square feet which is currently being utilized primarily as a Visitor Center and Gift Shop (the “**Premises**”).

B. DH currently operates a Visitor Center and Gift Shop at the Premises.

C. DH and City agree to terminate the Lease early pursuant to this Agreement.

D. As part of the termination of the Lease, DH desires and agrees to sell to City and City desires and agrees to purchase from DH, certain physical assets of DH, consisting exclusively of certain of the retail inventory and furniture from the Visitor Center and Gift Shop operated by DH.

TERMS AND CONDITIONS

In consideration of the representations, warranties, covenants, and mutual promises in this Agreement, the parties agree:

ARTICLE 1

Purchase of only Inventory and Physical Assets

Section 1.1 Acquired Assets Description This is a sale exclusively of certain designated physical assets and inventory located in the Premises. No name, mark, logo, intellectual property or intangible property of any type, nature, kind or description is subject to or part of the inventory, goods and tangible property sold pursuant to this Agreement. On the Closing Date, DH agrees to sell, convey, and assign to City and City agrees to purchase from DH, all of DH’s right, title, and interest in and to certain of the following physical and tangible assets of DH (collectively, the **Acquired Assets**):

- (a) Supplies, product inventory, finished goods, and other materials DH holds for sale to customers of the Gift Shop in the ordinary course of business, identified by type and quantity and agreed upon in writing between the Parties as of the Closing Date;
- (b) Certain tangible items such as furniture, shelving, display racks, cabinets and tables listed and identified by type and quantity and agreed upon in writing between the Parties as of the Closing Date;

- (c) Existing inventory sales history, training materials, vendor contact information, and supplier contact information for the Visitor Center and Gift Shop as of the Closing Date.

Section 1.2. Assets Specifically Excluded from Purchase. Without limiting the generality of the exclusion contained in the first sentence of Section 1.1, all DH's intellectual property, business and entity names, logos, goodwill, lists and identities of event participants and patrons, volunteer lists, books, records, donor and email lists and addresses, websites and domain names, business telephone listings, point of sale accounts and terminals, names of events conducted by DH, marks and all intellectual property of any and all type, nature, kind and description are specifically excluded from the sale and City agrees all of said intellectual and intangible property shall remain the sole, absolute and undisputed property of DH. City acknowledges that money damages alone would be an inadequate remedy for a breach of this provision and that, in addition to such money damages, DH shall be entitled to injunctive relief.

Section 1.3 Liabilities. City will not assume any of DH's liabilities, including any related to the sale of goods or the operation of the Visitor Center and/or the Gift Shop at the Premises.

Section 1.4 Conveyance of Title. DH must convey title to the Acquired Assets to City by executing and delivering a bill of sale reasonably satisfactory to DH and City, and any other certificates of title, assignments, endorsements, and other conveyance documents reasonably necessary to convey good title to the Acquired Assets to City. The title documents DH delivers to City must covenant that title to the Acquired Assets are being conveyed to City at the Closing free and clear of all liens and encumbrances.

Section 1.5 Additional Inventory. DH agrees that City may, at its sole discretion, exclude from the goods and inventory being purchased any supplies, product inventory, finished goods, and other materials purchased after the effective date of this Agreement.

Section 1.6 Due Diligence. No later than five (5) days after the effective date of this Agreement, DH shall provide to City a draft inventory of supplies, product inventory, finished goods, and other materials DH holds for sale to customers in the ordinary course of business, as referenced in Section 1.1, that it desires to convey to the City under this Agreement, together with a specific list of items of furniture, shelving, display racks, cabinets and tables that DH desires to include.

ARTICLE 2

Purchase Price

Section 2.1 Amount. City shall pay to DH the **Purchase Price**, as defined herein, at Closing for the Acquired Assets. The Parties agree to the listed price for each category, type or item of Acquired Assets and the unit price for each as specified in Exhibit A. No later than March 31, 2025, the City and DH shall take a joint inventory of all remaining supplies, product inventory, work in process, finished goods, furniture, shelving, racking, displays, and other materials at the Premises which are to be purchased. This inventory shall then be approved in writing by both the City Manager of Hudson and an authorized representative of DH by 5:00 pm that day (the "**Final Inventory**"). The sum of the prices in Exhibit A applied to the Final Inventory shall constitute the Purchase Price.

ARTICLE 3
DH's Representations and Warranties

DH represents that the following are true as of Execution Date and will be true as of the Closing:

Section 3.1 Organization. DH is a duly organized and validly existing Ohio non-profit company in good standing. DH has the power and authority to own its properties and to conduct its business as now being conducted, to use the properties and assets that it purports to own, lease or otherwise has the right to use, and to perform its obligations under any contracts to which it is a party.

Section 3.2 Authority; No Conflicts. DH has the absolute and unrestricted right, power, authority, and capacity to execute and deliver this Agreement and all documents required to be executed and delivered by them and to perform all of their obligations.

Section 3.3 Conduct of Business. After executing this Agreement and until Closing or other termination, DH will make no material change in the operation of the Visitor Center and Gift Shop without City's consent.

Section 3.4 Liabilities. DH warrants that, as of the Execution Date, it has no knowledge of pending or threatened claims against DH and, to the best of DH's knowledge, there is no basis for any claim against DH nor are there proceedings pending or threatened against or affecting DH, and, to the best of DH's knowledge, no orders have been issued against DH that would prohibit, interfere with or invalidate its execution and completion of this Agreement.

Section 3.5 Title to Acquired Assets. Except as specifically disclosed, DH has good and marketable title, or will be able to apply the Closing funds to acquire good and marketable title at Closing, to the Acquired Assets free and clear of all liens and encumbrances. Further, at Closing, DH will convey good and marketable title to the Acquired Assets to City free and clear of all security interests, mortgages, claims, liens, options, charges, encroachments, or other encumbrances.

Section 3.6 Covenant Against Operation of a Competing Visitor Center. For a period of two years after the Closing Date, DH shall not operate or compete against City in the operation of a Visitor Center. Further, for the same time period, DH shall not encourage or facilitate another person or entity to start a Visitor Center or to compete with the City's operation of the Visitor Center. DH acknowledges that money damages would be an inadequate remedy for a breach of this covenant, in addition to such money damages, City shall be entitled to seek injunctive relief. Further, DH expressly agrees that the City may market and operate a Visitor Center at the Premises after Closing provided that City does not use the Destination Hudson name or any other name that is substantially similar. City agrees to the foregoing and agrees that any violation of this restriction shall also constitute a violation of other provisions of this Agreement, including without limitation those in Sections 1.1, 1.2 and 4.6.

Section 3.8 Transfer Taxes. DH must pay all sales, use or other taxes incurred or resulting from the sale of the Acquired Assets.

ARTICLE 4
City's Representations and Warranties

City represents and warrants to DH that:

Section 4.1 Organizational Status. City is a duly organized and validly existing Ohio chartered municipality. City has the power and authority to conduct its business and to perform its obligations under any contracts to which it is a party.

Section 4.2 Authorization. The City Council has approved and authorized the City Manager's execution and delivery of this Agreement, any associated agreements and the payment of all sums owed under this Agreement.

Section 4.3 Consent of Third Parties. City's execution and delivery of this Agreement does not require the consent of any third party and will not result in a violation of, or default under, any contract, legal requirement, or order by which City is bound.

Section 4.4 Liabilities. City warrants that it has no knowledge of pending claims against it and, to the best of City's knowledge, there is no basis for any claim against City nor are there proceedings pending or threatened against or affecting City, and, to the best of City's knowledge, no orders have been issued against City that would prohibit, interfere with or invalidate its execution and completion of this Agreement.

Section 4.5 Agreement to Continuing Operation. City acknowledges and agrees that DH will continue to create and hold events in its name within the City of Hudson, that DH will, in its name, promote Hudson as a place to visit, shop, dine and explore, that DH may from time to time offer items, including any items of Gift Shop inventory not acquired by City pursuant to this Agreement, for sale either online or at "pop-up" stands, markets and events and may offer such items as promotional items or give-aways in connection with fund raising and other efforts.

Section 4.6 Non-infringement Agreement. City acknowledges and agrees that DH has owned and continually used the name "Destination Hudson" without interruption since February 19, 2014, that DH has owned and continually used the current DH logo without interruption since at least June of 2016, that DH owns substantial legal rights in its name, logo, event names and intellectual property, and that substantial goodwill of significant value is associated with the name "Destination Hudson", the DH logo, DH event names and other DH intellectual property. City agrees, promises, covenants and warrants that it will not make any statement and will not engage in any act, activity, conduct, effort, enterprise or undertaking of any type, kind or nature, either solely or in concert, cooperation or partnership with any third party, that infringes upon, takes, appropriates or uses the name "Destination Hudson", the DH logo, DH event names "Chocolate Walk" and "HUSDONmART," other DH intellectual property or any property subject to the exclusionary provisions of Section 1.2. City acknowledges that money damages alone would be an inadequate remedy for a breach of this covenant and that in addition to such money damages, DH shall be entitled to seek injunctive relief.

ARTICLE 5
Early Termination of Lease and Vacation of the Premises

Section 5.1 Early Termination. The parties agree that the Lease shall be deemed terminated as of 5:00 p.m. on the Closing Date. Neither City nor DH shall have any further obligations thereunder as of 5:00 pm on the Closing Date.

Section 5.2 Vacation of the Premises and Residual Personal Property. DH shall surrender and vacate the Premises no later than 5:00 pm on the Closing Date. Any remaining personal or intangible property not otherwise already acquired by the City under this Agreement at the Premises as of that date and time shall be deemed abandoned by DH, and City may use or dispose of such property as it may deem best.

ARTICLE 6
Conditions Precedent

Section 6.1 Representations True and Accurate as of Closing. The Parties each warrant that their representations and statements herein are true and correct to the best of their knowledge and belief and either Party may satisfy itself of such prior to closing.

Section 6.2 Performance of Obligations of DH and City. The Parties each shall completely perform their covenants and other obligations at or before Closing.

ARTICLE 7
Closing

Section 7.1 Closing Date. Closing (Closing) will take place on April 18, 2025, at a time and location to which the parties mutually agree.

ARTICLE 8
Miscellaneous Provisions

Section 8.1 Survival of Representations and Warranties. The Parties' representations and covenants in this Agreement will survive Closing.

Section 8.2 Notices. All notices and other communications under this Agreement must be in writing. Notices shall be to the addresses and/or emails indicated in this Agreement unless a party provides written notice of a change to the other party.

DH:

Destination Hudson, Inc.
Attn. David A. Basil
752 Norbury Drive
Hudson, Ohio 44326
dabasilhud@aol.com

with a copy to via email only:
Liz Murphy
lizmdestinationhudson@gmail.com

City:

City of Hudson, Ohio
Attn. City Manager
1140 Terex Road
Hudson, Ohio 44236
tsheridan@hudson.oh.us

with a copy to via email only:
Marshal Pitchford, City Solicitor
mpitchford@dpylaw.com

Section 8.3 Successors and Assigns; Third Party Beneficiaries. A Party may not assign its rights or delegate its duties and obligations to a third party unless the other Party agrees in writing. This Agreement is personal and binding upon and will inure to the benefit of the Parties' successors, heirs, personal representatives, and permitted assigns. Except as provided in this **Section 8.3** and in **Article 8**, this Agreement does not confer upon or give to any person, other than the Parties, any rights, or benefits.

Section 8.4 Integration and Amendment. This Agreement constitutes the entire agreement of the Parties with respect to its subject matter and supersedes all prior and contemporaneous discussions and agreements among the Parties with respect to its subject matter. This Agreement may be amended only by a writing signed by the Party against whom the amendment is to be enforced.

Section 8.5 Governing Law and Forum. Ohio law governs the Parties' rights and obligations and the interpretation of this Agreement. All disputes arising under this Agreement must be resolved exclusively in the state or federal courts located in Summit County, Ohio and the Parties waive any objection to jurisdiction and/or venue. The Parties consent to and submit themselves to the exclusive jurisdiction of such courts.

Section 8.6 Interpretation. The Parties have participated equally in the preparation and drafting of this Agreement. Therefore, the terms and provisions of this Agreement shall not be construed more strongly for or against either Party. Terms and language not otherwise defined herein shall be construed according to their normal use and meaning.

Section 8.7 Counterparts and Facsimiles. This Agreement may be executed in separate or duplicate counterparts but shall constitute one Agreement. A Party's execution of this Agreement may be evidenced by facsimile or other manner of electronic transmission. A Party's delivery of this Agreement may be by facsimile or other electronic transmission.

Section 8.8 Waivers. A waiver of any provision of this Agreement is ineffective unless in writing. A party's failure to enforce a right or seek a remedy for a breach of this Agreement does not constitute a waiver. The waiver by a party a breach of any provision of this Agreement is not a waiver of a breach of any other provision or a waiver of a subsequent breach of the same provision.

Section 8.9 Public Announcement. City and DH shall make only one joint public announcement of this Agreement before Closing. A copy of the agreed statement is attached as Exhibit B.

Section 8.10 Collaboration. City and DH each acknowledge their mutual desire and intent, as independent entities and as allowed by law, to reasonably support and to reasonably collaborate in the promotion of Hudson as a place to visit, shop, dine, explore and enjoy, as well as in the promotion of local public events, community organizations, community institutions and community efforts.

Section 8.11 Expenses. Each party to this Agreement will bear its own expenses incurred in the Agreement's preparation, execution, and performance including all fees and expenses of agents, representatives, counsel, and accountants.

Section 8.12 Severability. If a court holds any provision of this Agreement to be invalid or unenforceable, the terms and provisions of this Agreement shall be deemed severable and the other provisions of this Agreement will remain in full force and effect to the extent possible. Any provision of this Agreement held partially invalid or unenforceable, shall remain in full force and effect, to the extent possible, as to that part not held invalid or unenforceable. The Parties consent to the reformation of any invalid or unenforceable provision so that it is enforceable in accordance with the Parties' intent to the maximum extent permitted by law.

ARTICLE 9

Termination

Section 9.1 Termination Events. This Agreement may, by notice given prior to or at Closing, be terminated:

- (a) by City, if DH materially breaches a provision of this Agreement and City does not waive the breach;
- (b) by City if there is any material damage or destruction to the Acquired Assets before Closing;
- (c) by DH, if City materially breaches a provision of this Agreement and DH does not waive the breach;
- (d) by City and DH's mutual consent; or
- (e) by either City or DH if Closing has not occurred (other than through the failure of any Party seeking to terminate this Agreement to comply fully with its obligations under this Agreement) on or before April 18, 2025, or such later date as the Parties may agree upon in writing.

Section 9.2 Effect of Termination. If a party terminates this Agreement pursuant to **Section 9.1**, all further obligations of the Parties under this Agreement will terminate.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the date stated above.

DESTINATION HUDSON, INC.

By: _____
Authorized Agent

Print Name, Title

Date: _____

CITY OF HUDSON, OHIO

By: _____
Thomas J. Sheridan, City Manager

Date: _____

Approved as to form:

Marshal Pitchford, City Solicitor

EXHIBIT A
Asset Category and Unit Pricing

EXHIBIT B
Joint Public Statement