

**MODIFICATION NO. 4 TO
LEASE AGREEMENT FOR A PORTION OF PLOT 40 SUPERBAY HANGAR
AT SAN FRANCISCO INTERNATIONAL AIRPORT**

AMERICAN AIRLINES, INC.

Lease No. 13-0071

THIS MODIFICATION NO. 4 TO LEASE AGREEMENT FOR A PORTION OF PLOT 40 SUPERBAY HANGAR AT SAN FRANCISCO INTERNATIONAL AIRPORT (this **Modification**), dated as of the Effective Date (as defined and set forth below), is entered into by and between City and County of San Francisco, a municipal corporation, acting by and through its Airport Commission, as lessor (**City**), and American Airlines, Inc., a Delaware corporation, as Tenant (**Tenant**).

Recitals

A. The City and County of San Francisco owns the San Francisco International Airport (the **Airport**) located in the County of San Mateo, State of California, and operates the Airport by and through its Airport Commission (the **Commission**), the chief executive officer of which is the Airport Director (the **Director**).

B. On April 2, 2013, by Resolution No. 13-0071, the Commission awarded the Lease to Tenant (**Original Lease**) for a portion of the property commonly referred to as the "SuperBay Hangar" and located at 1060 North Access Road, San Francisco, CA, on Plot 40, which is used for aircraft maintenance, aircraft parking and employee parking (as further described in the Lease, the **Premises**). On October 22, 2013, by Resolution No. 370-13, the Board of Supervisors approved the Original Lease.

C. On September 6, 2016, by Resolution No. 16-0240, the Commission approved Modification No. 1 to the Lease, pursuant to which the Premises was to be reduced to accommodate an Airport project. Due to unforeseen circumstances, full City approval of Modification No. 1 was not obtained and execution of Modification No. 1 was never completed. On January 17, 2017, by Resolution No. 17-0011, Modification No. 1 was rescinded and replaced with Modification No. 2 to the Lease, which recaptured a portion of the Premises to support the expansion of Airport contractor parking and to adjust rent. On February 13, 2018, by Resolution No. 0039-18, the Board of Supervisors approved Modification No. 2 to the Lease (as amended, the **Lease**).

D. On September 18, 2018, by Resolution No. 18-0306, the Commission approved Modification No. 3 to the Lease, pursuant to which the Term of the Lease was extended by four (4) years to June 30, 2023 (the **Current Expiration Date**), and a portion of the Premises was recaptured in support of the City's SuperBay Hangar Fire Suppression System Replacement Project.

E. The Premises currently demised under the Lease is comprised of (i) approximately 127,900 square feet of hangar space on the 1st floor; (ii) 38,900 square feet of hangar space on the 2nd and 4th floors; (iii) 11,500 square feet of general services equipment shop area; (iv) 17.4 acres of land for aircraft parking; (v) 4.99 acres of land for employee parking; and (vi) 1.5 acres of land for an equipment wash rack area, the latter being on a non-exclusive basis, all as more fully described in the Lease.

F. City and Tenant desire to enter into this Modification to, among other things, (i) extend the Term of the Lease for a period of two (2) years; (ii) provide for the adjustment of base rent during the

Extension Term (as defined below); (iii) provide for a holdover of the Lease until Final City Approvals (defined below) are obtained; and (iv) update certain legal provisions required by applicable local, state, and federal laws, each on the terms and conditions set forth below in this Modification.

G. All capitalized terms used in this Modification, but not otherwise defined, will have the meaning provided in the Lease.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants set forth in this Modification, and other good and valuable consideration, receipt of which is hereby acknowledged, the parties do mutually agree as follows:

1. **Effective Date; Defined Terms.** This Modification will become effective upon the last date on which the following shall have occurred (the **Effective Date**): (i) the Commission and the Board of Supervisors have approved this Modification (**Final City Approvals**), and (ii) each of the parties will have executed this Modification. Tenant will submit an executed copy of this Modification in order for City to obtain Final City Approvals. The Effective Date will be evidenced as set forth in Section 2 below. For the avoidance of doubt, this Modification shall not take effect, and the Effective Date shall not occur until receipt of all Final City Approvals.

2. **Extension Term.** Upon the Effective Date, the Term of the Lease is extended for a period of two (2) years (the **Extension Term**), commencing on the first day of the calendar month immediately following later to occur of (i) the Effective Date and (ii) the Current Expiration Date (the **Extension Term Commencement Date**), and expiring on the second anniversary of the Extension Term Commencement Date occurs (the **Extension Term Expiration Date**). Upon the determination of the Effective Date, the Extension Term Commencement Date and the Extension Term Expiration Date, City will enter each date below and deliver a fully executed original copy of this Modification to Tenant:

Effective Date: _____

Extension Term Commencement Date: _____

Extension Term Expiration Date: _____

3. **Annual Rent Adjustment During Extension Term.**

(a) Annual Rent Adjustment Based on Index. Rent through the Current Expiration Date is equal to \$6,946,755.08 (**Annual Rent**). On the Extension Term Commencement Date, the Annual Rent for the first Lease Year of the Extension Term shall adjust to \$7,240,000.00 On the first anniversary of the Extension Term Commencement Date (the **Rent Adjustment Date**), Annual Rent will be adjusted as follows:

If the Comparison Index exceeds the Base Index, then the Annual Rent with respect to the second Lease Year of the Extension Term will be increased to equal the following amount:

$$\text{Annual Rent during first Lease Year of Extension Term} \times \frac{\text{Comparison Index}}{\text{Base Index}}$$

For purposes of such calculation, the foregoing defined terms have the meaning set forth below:

Base Index means the most recent Consumer Price Index published immediately prior to the Extension Term Commencement Date.

Comparison Index means the most recent Consumer Price Index published immediately prior to the Rent Adjustment Date.

Consumer Price Index means that index published by the United States Department of Labor, Bureau of Labor Statistics known as "All Urban Consumers - All Items for the San Francisco/Oakland/San Jose Area (1982-84 = 100)." In the event such index is discontinued, then "Consumer Price Index" will mean an index chosen by Director, which is, in Director's reasonable judgment, comparable to the index specified above.

Lease Year means the period commencing on the Extension Term Commencement Date and expiring on the day before the Rent Adjustment Date, and the subsequent 12-month period, commencing on the Rent Adjustment Date and expiring on the Extension Term Expiration Date.

As the calculation and adjustment of Annual Rent will be made during the Extension Term pursuant to the foregoing provisions, Sections 4.1 and 4.3 of the Original Lease are hereby deleted and of no further force or effect.

(b) No Adjustment Down of Annual Rent. Notwithstanding anything to the contrary herein, in no event will Annual Rent for the second Lease Year of the Extension Term be lower than the Annual Rent for the first year of the Extension Term.

4. **Holdover of Original Lease.** In the event that the City has not obtained Final City Approvals for this Modification, and the Effective Date has not occurred prior to the Current Expiration Date, the Lease will not terminate but Tenant may hold over, on a month-to-month basis at the Annual Rent then in effect, and remain in possession of the Premises pursuant to Section 2.3 of the Lease until such time as either (i) the Final City Approvals are ultimately obtained and the Effective Date occurs, or (ii) City will terminate the holdover tenancy, effective upon thirty (30) days' written notice to Tenant. In the event that the Airport is not able to obtain the Final City Approvals, then this Modification shall be of no further force or effect, and the provisions of Section 2.2 of the Original Lease will control with respect to such holdover tenancy of Tenant.

5. **City and Other Governmental Provisions.**

(a) The provisions of Section 18.23 of the Original Lease are deleted and replaced with the following:

"Section 18.23 **Limits on Campaign Contributions.** By executing this Lease, Tenant acknowledges its obligations under section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who leases, or seeks to lease, to or from any department of the City any land or building from making any campaign contribution to (a) an individual holding a City elective office if the

contract must be approved by that official, the board on which that individual serves, or a state agency on whose board an appointee of that individual serves, (b) a candidate for the office held by such individual, or (c) a committee controlled by such individual or candidate, at any time from the submission of a proposal for the lease until the later of either the termination of negotiations for the lease or twelve (12) months after the date the City approves the lease. Tenant acknowledges that the foregoing restriction applies only if this Lease or a combination or series of leases or other contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of one hundred thousand dollars (\$100,000) or more. Tenant further acknowledges that (i) the prohibition on contributions applies to each prospective party to the lease; any person on Tenant's board of directors, any of Tenant's principal officers (including its chairperson, chief executive officer, chief financial officer, chief operating officer) and any person with an ownership interest of more than 10 percent (10%) in Tenant; any subtenant listed in the lease or any lease proposal; and any committee that is sponsored or controlled by Tenant; and (ii) within thirty (30) days of the submission of a proposal for the lease, the City department with whom Tenant is leasing is obligated to submit to the Ethics Commission the parties to the lease and any subtenant. Additionally, Tenant certifies that it informed any member of its board of directors and any of its principal officers, including its chairperson, chief executive officer, chief financial officer, chief operating officer, any person with an ownership interest of more than 10% in Tenant, and any subtenant listed herein of the limitation on contributions imposed by Section 1.126 by the time it submitted a proposal for this Lease, and has provided the names of the persons required to be informed to the City department with whom it is leasing. Violation of Section 1.126 may result in criminal, civil, or administrative penalties."

(b) The provisions of Section 18.29 of the Original Lease are deleted and replaced with the following:

"Section 18.29 **Prohibition on Alcoholic Beverage Advertising**. Tenant acknowledges and agrees that no advertising of alcoholic beverages is allowed on the Demised Premises. For purposes of this section, "alcoholic beverage" will be defined as set forth in California Business and Professions Code Section 23004, and will not include cleaning solutions, medical supplies and other products and substances not intended for drinking. This advertising prohibition includes the placement of the name of a company producing, selling or distributing alcoholic beverages or the name of any alcoholic beverage in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit or other entity designed to (i) communicate the health hazards of alcoholic beverages, (ii) encourage people not to drink alcohol or to stop drinking alcohol, or (iii) provide or publicize drug or alcohol treatment or rehabilitation services. The foregoing prohibition will not apply to areas of the Demised Premises operated by Tenant as customer dining or lounge facilities.

(c) The following new Sections will be added to Article 18 of the Lease:

Section 18.30 **List of Pertinent Nondiscrimination Acts and Authorities.**

During the performance of this Lease, Tenant, for itself, its assignees, and successors-in-interest (hereinafter referred to as the “contractor” in this section) agrees to comply with the following non-discrimination statutes and authorities, including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC §2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation-Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USC §4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 USC. §794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR §27;
- The Age Discrimination Act of 1975, as amended (42 USC §6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC §471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §12131 - 12189) as implemented by Department of Transportation regulations at 49 CFR §37 and 38 and the Department of Justice regulations at 28 CFR, parts 35 and 36;
- The Federal Aviation Administration’s Non-discrimination statute (49 USC §47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 CFR at 74087 to 74100);

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC §1681 et seq.).

Section 18.31 **Vending Machines; Nutritional Standards and Calorie Labeling Requirements.** Tenant may not install or permit any vending machine on the Premises without the prior written consent of the Airport Director. Any permitted vending machine will comply with the food and beverage nutritional standards and calorie labeling requirements set forth in San Francisco Administrative Code Section 4.9-1(c), as may be amended from time to time (**Nutritional Standards Requirements**). Tenant will incorporate the Nutritional Standards Requirements into any contract for the installation of a vending machine on the Premises or for the supply of food and beverages to that vending machine. Failure to comply with the Nutritional Standards Requirements or to otherwise comply with this Section 18.27 will be a material breach of this Lease. Without limiting City's other rights and remedies under this Lease, City will have the right to require the immediate removal of any vending machine on the Premises that is not permitted or that violates the Nutritional Standards Requirements.

Section 18.32 **Consideration of Salary History.** Tenant shall comply with Administrative Code Chapter 12K (**Chapter 12K**), the Consideration of Salary History Ordinance or "Pay Parity Act." Tenant is prohibited from considering current or past salary of an applicant in determining whether to hire the applicant or what salary to offer the applicant to the extent that such applicant is applying for employment to be performed on this Lease or in furtherance of this Lease, and whose application, in whole or part, will be solicited, received, processed or considered, whether or not through an interview, in the City or on City property. The ordinance also prohibits employers from (1) asking such applicants about their current or past salary or (2) disclosing a current or former employee's salary history without that employee's authorization unless the salary history is publicly available. Tenant is subject to the enforcement and penalty provisions in Chapter 12K. Information about and the text of Chapter 12K is available on the web at <https://sfgov.org/olse/consideration-salary-history>. Tenant shall Tenant is required to comply with all of the applicable provisions of Chapter 12K, irrespective of the listing of obligations in this Section. Tenant shall include this obligation in all subleases, licenses, sublicenses and any other contracts for work performed in furtherance of this Lease (including all amendments of the same), and failure to do so shall constitute a material breach of this Lease.

Section 18.33 **Federal Fair Labor Standards Act.** This Lease incorporates by reference the provisions of 29 USC §201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers. Tenant has full responsibility to monitor compliance to the referenced statute or regulation. Tenant must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

Section 18.34 **OSHA.** This Lease incorporates by reference the requirements of 29 CFR §1910 with the same force and effect as if given in full text. Tenant must provide a work environment that is free from recognized hazards that may cause death or serious physical

harm to the employee. Tenant retains full responsibility to monitor its compliance and their contractor's and subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (29 CFR §1910). Tenant must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.”

6. **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 Demised Premises have not been inspected by a CASp. A CASp can inspect the Premises and determine if they comply with all the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the Demised Premises, City may not prohibit Tenant from obtaining a CASp inspection of the Demised 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 Demised Premises.


7. **No Other Modification.** Except as expressly set forth in this Modification, the Lease remains unmodified and in full force and effect.

8. **Board of Supervisors Approval.** NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS MODIFICATION, TENANT ACKNOWLEDGES AND AGREES THAT NO CITY OFFICER OR EMPLOYEE HAS AUTHORITY TO COMMIT CITY TO THIS MODIFICATION UNLESS AND UNTIL CITY'S BOARD OF SUPERVISORS HAS DULY ADOPTED A RESOLUTION APPROVING THIS MODIFICATION AND AUTHORIZING THE TRANSACTIONS CONTEMPLATED HEREBY. THEREFORE, ANY CITY OBLIGATIONS OR LIABILITIES UNDER THIS MODIFICATION ARE CONTINGENT ON ADOPTION OF A RESOLUTION, AND THIS MODIFICATION WILL BE NULL AND VOID IF CITY'S MAYOR AND THE BOARD OF SUPERVISORS DO NOT APPROVE THIS MODIFICATION, IN THEIR RESPECTIVE SOLE DISCRETIONS. APPROVAL OF THIS MODIFICATION BY ANY CITY DEPARTMENT, COMMISSION, OR AGENCY WILL NOT BE DEEMED TO IMPLY THAT A BOARD RESOLUTION WILL BE ADOPTED, AND NO APPROVAL WILL CREATE ANY BINDING CITY OBLIGATIONS.

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IN WITNESS WHEREOF, the parties hereto have entered into this Modification as of the Effective Date.

TENANT: AMERICAN AIRLINES, INC.,
a Delaware corporation

DocuSigned by:

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Amanda Zhang
Vice President, Corporate Real Estate

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

Ivar C. Satero
Airport Director

APPROVED AS TO FORM:
DAVID CHIU,
City Attorney

By _____
Christopher W. Stuart
Deputy City Attorney