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**AMENDMENT NO. 4 TO  
LEASE AGREEMENT FOR THE INTERNATIONAL TERMINAL  
DUTY FREE AND LUXURY STORES LEASE  
AT SAN FRANCISCO INTERNATIONAL AIRPORT  
LEASE NO. 17-0303**

THIS AMENDMENT NO. 4 TO LEASE AGREEMENT FOR THE INTERNATIONAL TERMINAL DUTY FREE AND LUXURY STORES LEASE AT SAN FRANCISCO INTERNATIONAL AIRPORT LEASE NO. 17-0303 (**Amendment**), dated as of the Effective Date (as defined below), is entered by and between the CITY AND COUNTY OF SAN FRANCISCO, acting by and through its AIRPORT COMMISSION, as Landlord (**City**) and DFS Group, L.P., as Tenant (**Tenant**).

**RECITALS**

A. On December 5, 2017, by Resolution No. 17-0303, the Airport Commission (Commission) awarded to Tenant that certain Lease Agreement for the International Terminal Duty Free and Luxury Stores Lease at San Francisco International Airport Lease No. 17-0303 (**Original Lease**, and as amended, the **Lease**), for certain duty free and luxury stores at the Airport (as further described in the Lease, the **Premises**). On March 20, 2018, by Resolution No. 66-18, the San Francisco Board of Supervisors approved the Lease under Charter §9.118.

B. On March 17, 2020, by Resolution No. 20-0051, the Commission authorized Amendment No. 1 to the Lease, lowering the Base Rent to 33% of Gross Revenues for Lease Year 1, which was the period from April 1, 2020 through December 31, 2020 (**Amendment No. 1**). On June 23, 2020, by Resolution No. 280-20, the San Francisco Board of Supervisors approved Amendment No. 1.

C. On December 1, 2020, by Resolution No. 20-0222, the Commission authorized Amendment No. 2 to the Lease which continued the lower Percentage Rent structure implemented in Amendment No. 1 until the earlier to occur of (i) the reinstatement of the Minimum Annual Guarantee (**MAG**) under the Lease and (ii) December 31, 2023 (**Amendment No. 2**). On February 12, 2021, by Resolution No. 35-21, the San Francisco Board of Supervisors approved Amendment No. 2.

D. On October 6, 2020, by Resolution No. 20-0180, the Commission authorized Amendment No. 3 to the Lease when it adopted the COVID-19 Emergency Rent Relief Program (**Amendment No. 3**). On January 5, 2021, by Ordinance No. 5-21, the San Francisco Board of Supervisors approved the COVID-19 Emergency Rent Relief Program.

E. Sales under the Lease continue to be severely impacted as a result of the COVID-19 pandemic and the negative impact it has had on international travel, particularly from China, which prior to the pandemic, accounted for more than 50% of total duty-free sales. The MAG continues to be suspended in accordance with Severe Decline in Enplanement provisions of the Lease. In order to provide additional relief to Tenant during this period of continued severe traffic decline, City and Tenant desire to amend the Lease to provide for a continued, but temporary lower Base Rent structure, on the terms and conditions contained below.

F. 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. **Effective Date.** The “**Effective Date**” shall be the date upon which this Amendment shall be fully approved pursuant to §9.118 of the Charter of the City:

Effective Date (to be inserted by City): 5/28/2024

3. **Temporary Base Rent Reduction for Lease Years 5, 6 and 7 (2024 through 2026).**

Subject to Section 4 below, and notwithstanding any prior amendments of the Lease, commencing on the first day of Lease Year 5 (January 1, 2024) and ending the last day of Lease Year 7 (December 31, 2026), Base Rent will equal the greater of (i) Percentage Rent in the amount of thirty-six percent (36%) of Gross Revenues and (ii) a Minimum Annual Guarantee of \$30,000,000.00 (as adjusted annually for Lease Years 6 and 7 as specified in Article 4.3 of the Lease) (collectively, the **Base Rent Reductions**). On January 1, 2027, the original Base Rent set forth in the Lease shall be reinstated, which for the avoidance of doubt is the higher of (i) the Minimum Annual Guarantee of \$42,000,000.00 (as adjusted annually from Lease Year 1 through the current Lease Year) and (ii) Percentage Rent in the amount of 45.8% of Gross Revenues achieved up to \$100,000,000.00; plus 41.8% for Gross Revenues achieved from \$100,000,000.01 up to and including \$160,000,000.00; plus 30% for Gross Revenues achieved over \$160,000,000.00 (**Original Base Rent Structure**).

4. **Completion of Duty-Free Renovation in Harvey Milk Terminal 1.** The Base Rent Reductions are made expressly contingent upon the completion of Tenant’s completion of its two facilities in Harvey Milk Terminal 1 by December 31, 2024. In the event Tenant shall fail to complete such construction by such date, subject to any construction delay caused solely by City, in the sole and absolute discretion of Director, the Base Rent Reductions shall be void and of no further force or effect, and Tenant shall pay to City payments of Base Rent equal to the Original Base Rent Structure retroactive to January 1, 2024, inclusive of any Minimum Annual Guarantee for periods when it would have been applicable under the terms of the Lease.

5. **Labor Peace Card Check Rule Provision.** Section 19.20 of the Lease is hereby deleted and replaced with the following:

“19.20 **Labor Peace/Card Check Rule.** Without limiting the generality of other provisions herein requiring Tenant to comply with all Airport Rules, Tenant shall comply with the Airport’s Labor Peace/Card Check Rule, adopted by the Airport Commission on February 7, 2023 by Resolution No. 23-0018 (as amended, the **Labor Peace/Card Check Rule**). All capitalized terms not otherwise defined in this provision shall have the meaning in the Labor Peace Card Check Rule. To comply with the Labor Peace/Card Check Rule, Tenant shall, among other actions, enter into a Labor Peace/Card Check Agreement with any Registered Labor Organization which requests such an agreement, within thirty (30) days after request. In the event that any such Registered Labor Organization and the Tenant are unable to

negotiate a Labor Peace/Card Check Agreement within the 30-day period, the parties shall then be deemed to be bound by the Model Labor Peace/Card Check Agreement attached as Appendix C to the Airport Rules, automatically and without any further action required by the parties. Tenant represents and warrants that it has fully reviewed the Labor Peace/Card Check Rule and agrees to be bound by all of its terms and conditions. Tenant acknowledges and agrees that Tenant's compliance with the Labor Peace/Card Check Rule is a material condition of this Lease, and if the Director determines that Tenant shall have violated the Labor Peace/Card Check Rule, the Director shall have the right to terminate this Lease, in addition to exercising all other remedies available to him/her."

A copy of the Labor Peace/Card Check Rule, including the Model Labor Peace/Card Check Agreement, is attached to this Amendment as Exhibit A.

6. **Prevailing Rates of Wage for Tenant Initial Improvements and Alterations.** On November 1, 2022, by Resolution No. 22-0167, the Commission adopted amendments to the Rules and Regulations, which incorporated new Rule 12.3, Prevailing Wages Requirements – Covered Tenant Construction (Rule 12.3). Tenant covenants and agrees that it has reviewed Rule 12.3, and that it shall fully comply with Rule 12.3 in connection with the construction of any Initial Improvements and Alterations in the Premises which are Covered Tenant Construction (as defined in Rule 12.3). Rule 12.3 is incorporated into the Lease as if fully set forth in this Amendment.

7. **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.

8. **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.

9. **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:** DFS GROUP, L.P.  
a Delaware limited partnership

DocuSigned by:  
By: Martin Matthews  
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Name: Martin Matthews  
Title: Managing Director DFS US Division

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

Board of Supervisors  
Resolution No. 180-24,  
approved on April 16, 2024.

DocuSigned by:  
Ivar C. Satero  
Ivar C. Satero 9126544B...  
Airport Director

AUTHORIZED BY AIRPORT  
COMMISSION

Resolution: 23-0256  
Adopted: October 17, 2023

Attest: Secretary  
Secretary 341D...  
Airport Commission

APPROVED AS TO FORM:  
DAVID CHIU,  
City Attorney

DocuSigned by:  
By: Chris Stuart  
Deputy City Attorney

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**EXHIBIT A**  
**LABOR PEACE/CARD CHECK RULE**

**12.1 LABOR PEACE/CARD CHECK RULE**

**(A) Findings**

Rule 12.1 incorporates the findings in Airport Commission Resolution No. 23-0018, adopted on February 7, 2023, which find that to avoid disruption to the smooth operation of the Airport and adverse impacts to the Airport's economic viability, this Rule 12.1 requiring Covered Employers and Labor Organizations to enter into and abide by Labor Peace/Card Check Agreements through recognition in the circumstances specified below is essential for the protection of the Commission's proprietary and financial interests. Resolution No. 23-0018 is hereby incorporated by reference as though fully set forth in this Rule 12.1.

**(B) Definitions**

The following terms in bold font shall for the purpose of this Rule have the meaning indicated following the colon (:). All other capitalized terms have the meaning otherwise defined in Rule 1.0.

**Covered Contract:** a lease, sublease, or permit of Airport property at the Airport or any property owned by the Airport. Covered Contract also means a contract, subcontract, license, sublicense, operating permit, or similar agreement pursuant to which a Contractor is to provide services to the Airport or to a Contractor or subcontractor whose services are integral to the operations of the Airport or to sell goods or services in public areas of the Airport, including but not limited to: janitorial and maintenance, security, baggage and passenger screening, wheelchair assistance, baggage handling, parking lot services, shuttle vans, rental cars, ticketing agents, gate attendants, aircraft maintenance workers, ramp service workers, electricians, plumbers, airline sales personnel, baggage claim services, cart driving services, refueling, personnel, and clerical services.

**Covered Employer:** any person or business entity, including, without limitation, any Contractor or Tenant, as such terms are defined in Rule 1.0, that enters into a Covered Contract and which has a defined complement of employees at the Airport. For the avoidance of doubt, references to Contractor shall also refer to subcontractors.

**Labor Organization:** any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with Covered Employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

**Labor Peace/Card Check Agreement:** a written agreement within the meaning of the Labor Management Relations Act, 29 U.S.C. § 185(a) (or a written agreement that would qualify as such an agreement but for the fact that the Covered Employer does not meet that statute's definition of an "Employer"), between a Covered Employer and a Labor Organization providing a procedure for determining employee preference on the subject of whether to be represented by a Labor Organization for collective bargaining, and if so, by which Labor Organization to be represented, which provides, at a minimum, the following:

- (1) Determining employee preference regarding Labor Organization representation shall be by a card check procedure conducted by a neutral third party in lieu of a formal election;
- (2) All disputes over interpretation or application of the parties' Labor Peace/Card Check Agreement and over issues regarding how to carry out the card check process or specific card check procedures shall be submitted to expedited binding arbitration. For purposes of any Labor Peace/Card Check Agreement, absent other agreement between the parties, "expedited binding arbitration" shall be conducted in accordance with the procedural arbitration standards set forth in the American Arbitration Association Labor Arbitration Rules, as amended from time to time, except that the procedural standards to select an arbitrator shall not apply. The applicable procedural standards shall include that arbitration be scheduled within 14 days of the request for arbitration, and that (a) there shall be no stenographic record of the proceedings; (b) there shall be no post-hearing briefs; and (c) the arbitrator's award shall be rendered promptly by the arbitrator, no later than seven days from the date of the closing of the hearing; and
- (3) Forbearance by any Labor Organization from economic action including strikes, picketing, boycotts, or other such interference with the business of the Covered Employer at the work site of an organizing drive covered by this Labor Peace/Card Check Rule in relation to an organizing campaign only (not as to the terms of a collective bargaining agreement), so long as the Covered Employer complies with the terms of the Labor Peace/Card Check Agreement.

**Labor Peace/Card Check Rule or Rule:** this Rule 12.1.

**Model Labor Peace/Card Check Agreement:** the model form of Labor Peace/Card Check Agreement attached to these Rules and Regulations as Appendix C.

**Registered Labor Organization:** any Labor Organization that has met the requirements set forth in Section 12.1(E)(1) of this Rule.

**(C) Covered Employer Duties**

- (1) A Covered Employer shall enter into a Labor Peace/Card Check Agreement with any Registered Labor Organization which requests such an agreement in writing not later than 30 days from the written request. A Registered Labor Organization may make such request at any time after award of a Covered Contract by the Airport Commission, notwithstanding any further required approvals, including but not limited to by the San Francisco Board of Supervisors. Even if effective beforehand, performance under any Labor Peace/Card Check Agreement will not be required until the Covered Contract is fully approved and executed.
- (2) In the event that a Registered Labor Organization and the Covered Employer are unable to negotiate an agreement within the 30-day period, the parties shall then be deemed to be bound by the Model Labor Peace/Card Check Agreement, automatically and without any further action required by the parties. Upon the written

request by the Director, the Covered Employer and the Registered Labor Organization shall jointly or separately deliver a written statement to Director confirming their agreement to (a) be bound by the Model Labor Peace/Card Check Agreement and (b) promptly perform all obligations under such agreement.

- (3) If a Covered Employer enters into a Labor Peace/Card Check Agreement with a Labor Organization, it must offer that same agreement to any other Labor Organization seeking to represent the employees of the Covered Employer. Any Labor Organization that was not a party to the initial Labor Peace/Card Check Agreement may, at its discretion, reject the terms of a prior negotiated agreement with another Labor Organization and negotiate for a different Labor Peace/Card Check Agreement. Upon the execution of any Labor Peace Card Check Agreement, the Covered Employer shall promptly deliver a copy to Director.
- (4) At the election of the Director, not later than 30 days from the final execution and delivery of a Covered Contract, the Covered Employer shall meet with the Director and any Registered Labor Organization representing the classifications of employees anticipated to be regularly employed under the Covered Contract will be provided and any multi-employer bargaining representative for the Covered Employer, for the purposes of orienting the Covered Employer to their obligations under this Rule.
- (5) Not later than five days from written request, a Covered Employer shall provide confirmation in writing to the Director whether the Covered Employer is a party to a collective bargaining agreement with any Labor Organization, and if so, list each collective bargaining agreement to which it is a party.
- (6) Not later than five days from written request, a Covered Employer shall confirm in writing to the Director the following: (a) each Labor Organization with which the Employer/Contractor has entered into a Labor Peace/Card Check Agreement, and include a copy of all such agreements, and (b) if applicable, each Labor Organization that has requested a Labor Peace/Card Check Agreement, but where no agreement has been executed.
- (7) Not less than 30 days prior to the modification or extension of any Covered Contract, the Covered Employer shall provide written notice, with a copy to the Director, to any Registered Labor Organization or federation of labor organizations which have registered with the Director that the Covered Employer is seeking to modify or extend such Covered Contract.
- (8) A Covered Employer shall provide written notice not less than 30 days prior to entering into any subcontract, with a copy to the Director, to any Registered Labor Organization or federation of labor organizations which has registered with the Director that the Covered Employer is seeking to enter into such subcontract.
- (9) A Covered Employer shall include in any subcontract to any Covered Contract a provision requiring the subcontractor to comply with the requirements of this Labor Peace/Card Check Rule. Upon request, Covered Employer shall provide a copy of such subcontract to the Director.

- (10) If the Director requests a meeting to discuss matters of concern to the Commission arising from compliance with this Labor Peace/Card Check Rule or any Labor Peace Card Check Agreement (including, but not limited to, any memorandum, letter agreement, or settlement in lieu thereof), Covered Employer and/or any Registered Labor Organization shall meet within five days of the request or as soon as practicable.
- (11) A Covered Employer shall undertake all further acts and efforts reasonably requested by the Director in furtherance of meeting the requirements of this Labor Peace/Card Check Rule and the Airport's goal of maintaining labor peace and harmony at the Airport, which shall include, without limitation, submitting to the Director in writing Covered Employer's plan for complying with the requirements of this Rule, as well as any regular progress updates as requested from time to time by the Director.
- (12) Notwithstanding the requirements provided in (1)–(11), any Covered Employer which has in good faith fully complied with those requirements, in the reasonable discretion of the Director, will be excused from further compliance as to a Labor Organization which has been found by an arbitrator to have violated the forbearance provisions in the applicable Labor Peace/Card Check Agreement, until and unless such finding has been vacated by any reviewing court.
- (13) Nothing in this Labor Peace/Card Check Rule shall be construed as requiring any Covered Employer, through arbitration or otherwise, to change terms and conditions of employment for its employees, or to enter into or modify a collective bargaining agreement with a Labor Organization.

**(D) Director Duties**

The Director shall:

- (1) Include in any Covered Contract a provision requiring the Covered Employer to abide by the requirements of this Labor Peace/Card Check Rule as a condition of entering into or modifying any Covered Contract.
- (2) Include a summary description of and reference to the requirements of this Labor Peace/Card Check Rule in requests for proposals, invitations to bid, or other types of solicitation documents regarding Covered Contracts, and require any proposer to submit with its proposal (a) a signed certification stating that it acknowledges, understands, and will comply with all requirements of this Rule if awarded the Covered Contract; and (b) at the election of the Director, proposer's plan for maintaining labor peace for its operations at the Airport. Failure of the Director to include the description of and reference to the requirements of this Labor Peace/Card Check Rule in any such document shall not exempt any Covered Employer otherwise subject to its requirements.
- (3) Upon issuance of any request for proposal, invitation to bid, or other type of solicitation document distributed in anticipation of entering into a Covered Contract, provide written notice to any Registered Labor Organization, or federation of labor



organizations which has registered with the Director, that the Airport is seeking to enter into such Covered Contract.

- (4) Not enter into or recommend to the Commission any Covered Contract with an Covered Employer without an express finding that the Covered Employer has agreed to comply with the provisions of this Labor Peace/Card Check Rule.
- (5) Consider and issue or deny exemptions from this Labor Peace/Card Check Rule as set forth in Section 12.1(F) below.

**(E) Labor Organization's Duties**

- (1) Any Labor Organization seeking to invoke the provisions of this Labor Peace/Card Check Rule, and to receive notifications as provided in this Rule, must register with the Director, on a form designated by the Director for that purpose, or by sending a letter signed by an agent of the Labor Organization, indicating which types of Covered Contracts the Labor Organization would like notification of, and certifying that the Labor Organization will comply with the terms of this Rule relative to such designated Covered Contract.
- (2) A federation of labor organizations wishing to receive notifications as provided in this Labor Peace/Card Check Rule shall register with the Director, on a form designated by Director for that purpose, or by sending a letter to the Director signed by an agent of the federation, indicating which types of Covered Contracts the federation of labor organizations would like notification of, and certifying that the federation of labor organizations will comply with the terms of this Rule relative to such designated Covered Contract.
- (3) Any Labor Organization or federation of Labor Organizations seeking to invoke the provisions of this Labor Peace/Card Check Rule shall agree not to undertake economic action including strikes, picketing, boycotts, or other such interference with the business of the Covered Employer in connection with an organizing drive covered by this Rule, and in relation to an organizing campaign only (not to the terms of a collective bargaining agreement), so long as the Covered Employer complies with the terms of the applicable Labor Peace/Card Check Agreement.

**(F) Exemptions**

The provisions of this Labor Peace/Card Check Rule shall not apply to any of the following:

- (1) A bargaining unit of any Covered Employer which has already recognized a Labor Organization for that bargaining unit;
- (2) New construction or any work covered by an Airport project labor agreement;
- (3) A Covered Employer which is obligated to enter into a card check agreement with a Labor Organization by San Francisco Administrative Code Chapter 23, Article VII, "Labor Representation Procedures in Hotel and Restaurant

Development," and/or Airport Commission Policy No. 99-0198, as such procedures may be modified from time to time;

- (4) A Labor Organization that is not a Registered Labor Organization, nor any Labor Organization which does not request a Labor Peace/Card Check Agreement;
- (5) A Covered Employer's operations at the Airport which are subject to the Railway Labor Act either by a final decision by a court or agency of competent jurisdiction, or by mutual agreement between the Covered Employer and a Labor Organization, which is the exclusive bargaining representative of its employees. In such cases, the obligation to enter into a Labor Peace/Card Check Agreement shall be voluntary.
- (6) A Covered Contract to provide or sell goods, services, materials or equipment where the Covered Employer does not operate on a regular basis with a defined complement of employees at the Airport;
- (7) An agreement between the Airport and a public agency; or
- (8) A Covered Contract where the Director determines that the risk to the Airport's financial or other nonregulatory interest resulting from labor/management conflict is so minimal or speculative so as not to warrant concern for the Airport's proprietary, investment or other nonregulatory interest.

**(G) Model Labor Peace/Card Check Agreement**

To facilitate the requirements imposed by this Labor Peace/Card Check Rule, the Commission adopted a Model Labor Peace/Card Check Agreement attached to these Rules and Regulations as Appendix C that includes the mandatory terms and which provides protection against labor/management conflict arising out of an organizing drive, and makes such agreement available to parties required to enter into such agreement. The Director is authorized to prepare guidelines establishing standards and procedures related to this Rule. Notwithstanding this provision regarding the Model Labor Peace/Card Check Agreement or related guidelines, this Labor Peace/Card Check Rule shall be self-executing and shall apply in the absence of or regardless of such model agreement or guidelines.

**(H) Enforcement**

- (1) The Director shall investigate complaints that this Labor Peace/Card Check Rule has been violated or that a Labor Peace/Card Check Agreement provision included in a Covered Contract has been breached, and may take any action necessary to enforce compliance, including but not limited to instituting a civil action.
- (2) The Director may, in the Director's sole and absolute discretion and in addition to any other remedies available to the Airport, terminate the Covered Contract upon 30-days written notice to the Covered Employer and opportunity to cure its breach where the Covered Employer has failed: (a) to give notice to Registered Labor Organizations as required by this Labor Peace/Card Check Rule, (b) to enter into a

Labor Peace/Card Check Agreement as required by this Labor Peace/Card Check Rule, or refused to be bound by the Model Labor Peace/Card Check Agreement, as applicable, (c) to include in any subcontract the provision requiring compliance with this Labor Peace/Card Check Rule, (d) to abide by the terms of an arbitration award enforcing a Labor Peace/Card Check Agreement, or (e) to comply with any other requirement set forth in this Rule, including, without limitation, the Covered Employer's Duties pursuant to Section 12.1(C), and such failure continues for a period of five days from written notice of such failure from the Director.

- (3) Any challenge to the applicability of this Labor Peace/Card Check Rule to a particular Covered Employer or Labor Organization shall be brought to the Commission only after first seeking an exemption from the Director as provided for in this Rule. Any such challenge must be commenced with the Commission within 15 days after notification that such exemption has been denied by the Director.

**(I) Severability**

If any part or provision of this Labor Peace/Card Check Rule, or the application thereof to any person, business entity, particular facts or circumstances, is held invalid or unenforceable by any court of competent jurisdiction, the remainder of this Rule, including the application of such part or provisions to other persons, business entities, facts, or circumstances, shall not be affected or impaired thereby and shall continue in full force and effect and be enforced to the maximum extent possible so as to effect the intent of this Labor Peace/Card Check Rule, and be reformed to the extent necessary to make such part or provisions valid and enforceable. To this end, the provisions of this Rule are severable.

## APPENDIX C TO AIRPORT RULES AND REGULATIONS

### MODEL CARD CHECK AGREEMENT

1. Reference is made to Rule 12.1 of the Rules and Regulations of the San Francisco International Airport (**Airport Rules**) that requires Covered Employers and Registered Labor Organizations to enter into Labor Peace/Card Check Agreements under the circumstances set forth in Rule 12.1 (**Labor Peace Card Check Rule**). All capitalized terms not otherwise defined in this Model Card Check Agreement (this **Agreement**) shall have the meaning provided in Rule 12.1 or in Rule 1.0 of the Airport Rules.
  
2. The parties mutually recognize that national labor law guarantees employees the right to form or select any labor organization to act as their exclusive representative for the purposes of collective bargaining with their employer, or to refrain from such activity. To accommodate a decision of the employees of \_\_\_\_\_, a Covered Employer operating at or on behalf of the Airport (**Employer**), as to whether or not they wish to be represented by \_\_\_\_\_, the Registered Labor Organization seeking to represent them (**Labor Organization**), in order to avoid costly labor disputes and/or economic action that might arise, and to avoid disruption to the smooth operation of the Airport and adverse impacts to the economic viability of the Airport and/or the Airport Commission's proprietary and economic interests in the Airport, Employer shall upon request of the Labor Organization:
  - (a) provide Labor Organization with a complete and accurate list of the names, job titles, complete addresses and phone numbers of all employees of Employer, whether part time or full time, working at the facility where the employees will work, if applicable (**Facility**) no later than five days after the request;
  - (b) immediately comply with its obligation under the foregoing subsection (a) even if the Employer has not yet commenced business operations. The Employer shall not withhold names pending the actual opening for business of any or all of the Facility. Employer shall regularly update the employee lists sent to Labor Organization as hiring continues until the employee list is complete;
  - (c) allow such Labor Organization to refer applicants for employment consistent with any applicable Airport policies; and
  - (d) at such time as the Employer begins seeking, accepting, or interviewing applicants for employment, provide to such Labor Organization's members and representatives timely and reasonable access to the Facility for the purpose of providing employees with information about the Labor Organization.
  
3. Upon reasonable advance written notice from the Labor Organization, Employer shall allow
  - (a) employees of the Facility, if applicable, to have reasonable access during non-working time to the Facility and information made available pursuant to Section 2 of this Agreement and
  - (b) Labor Organization to engage in organizing at the Facility during employees' non-working times (before work, after work, and during meals and breaks) and/or during such other periods as the parties may agree upon. For purposes of this Agreement, "organizing" includes communicating with employees before and after recognition of the Labor

Organization as provided in Section 6. These provisions are sometimes referred to elsewhere in this Agreement as the **Access Provisions**.

4. Employer agrees to take an approach of strict neutrality with respect to the unionization of employees of Employer, and to not take any action, nor make any statement that will directly or indirectly state or imply any opposition by the Employer to the selection or de-selection by such employees of a collective bargaining agent, or preference for or opposition to any particular labor organization as a bargaining agent. Likewise, Labor Organization will not coerce or threaten any employee in any aspect of an organizing campaign, including, without limitation, any efforts to obtain authorization cards from employees. These provisions are sometimes referred to elsewhere in this Agreement as the **Neutrality Provisions**.
5. During the term of this Agreement, Employer agrees not to engage in a lock-out of employees, and Labor Organization agrees not to undertake Economic Action at any Facilities of Employer covered by this Agreement. **Economic Action** means any concerted action initiated or conducted by Labor Organization and/or employees acting in concert therewith to bring economic pressure to bear against Employer as part of a campaign to organize employees or prospective employees of Employer, including such activities as striking, picketing, or boycotting at the Airport, and in relation to an organizing campaign only.
6. Employer agrees to voluntarily recognize for the purpose of exclusive collective bargaining one or more Labor Organizations demonstrating that it or they represent a majority of the employees in the bargaining unit determined in a "Card Check," as set forth in this Section 6. Employer agrees that the Card Check shall take place in the bargaining unit requested by a Labor Organization provided it is an appropriate bargaining unit as that phrase has meaning under federal labor laws. Disputes over whether the requested unit is an appropriate unit and/or whether certain employees properly are included in a requested unit shall be submitted to final and binding arbitration as provided for in Section 7 below. Said Card Check shall be conducted by (a) a commissioner/mediator from the Federal Mediation and Conciliation Service (FMCS), or if FMCS is unable to do so, by a commissioner/mediator from the California State Mediation and Conciliation Service; or (b) a neutral third party mutually acceptable to the parties, provided that such neutral third party is qualified to conduct the Card Check. If the parties agree, the same arbitrator selected to settle disputes pursuant to Section 7 below may also conduct the Card Check.
7. In the event a dispute arises over the interpretation or application of the terms of the Card Check procedure, or if the parties cannot agree on specific procedures to be used in the Card Check or any other substantive or procedural issue(s) pertaining to the Card Check, including, without limitation, the eligibility standard for employees working less than a full-time schedule, the contents of authorization cards, potential disputes over the validity and/or authentication of authorization cards, etc., they shall submit such "interests" or "rights" for expedited binding arbitration, as defined in Airport Rule 12.1(B).
  - a. The parties may mutually agree on the selection of a neutral third party arbitrator. If the parties are unable to do so within seven days of the request for arbitration, either party may invoke the following procedure to select an arbitrator: either party may request a list of seven names from FMCS, from which the parties will strike. The party who strikes first will be determined by coin toss. The parties will alternative

strikes until only one arbitrator remains. The remaining arbitrator will arbitrate the dispute.

- b. The arbitrator shall have broad powers to determine the procedures and other substantive terms of the Card Check process for the parties as well as to resolve any and all disputes over the interpretation and application of this Agreement, provided the arbitrator shall have no authority to add to, subtract from, or modify the terms of this Agreement. The arbitrator shall apply principles of federal labor laws developed by the National Labor Relations Board (**NLRB**). Any such arbitration shall be concluded within 30 days of the demand for arbitration.
8. Employer shall abide by the results of the Card Check procedure, and hereby irrevocably waives the filing of a representation petition before the NLRB in lieu of the Card Check procedure.
9. Employer further agrees that an interest demonstrated by employees in joining a Labor Organization, membership in a Labor Organization, and/or signing or circulating authorization cards or supporting a union organizing drive, (or not doing so) pursuant to this Agreement, shall not constitute grounds for discriminatory or disparate treatment or disciplinary action, and shall not adversely impact a potential employee's ability to be hired or promoted. The Employer and Labor Organization shall agree to submit to final and binding arbitration, as provided for in Section 7 above, grievances filed by employees or Labor Organizations seeking to organize employees concerning alleged violations of this Section of the card check agreement and procedure.
10. If the Labor Organization is recognized as the exclusive collective bargaining representative pursuant to Section 6 of this Agreement, the Employer shall join a multi-employer bargaining association representing employers at the Airport which have recognized the Labor Organization as the exclusive collective bargaining representative of the applicable unit of employees. The Employer shall assign all of its bargaining rights, duties, and obligations to the association and the assignment shall be irrevocable for the duration of the Employer's contract with the Airport, including any assignment to a new employer during the contract term.
11. Employer and Labor Organization further agree that this Agreement and these mandated procedures shall be in effect and last for a term of not less than three years from the date of execution, or from the date of the effective date of the Covered Contract, whichever is longer.
12. If the Employer has complied with the terms of this Agreement, and a Labor Organization, as part of a campaign to organize the employees of Employer, engages in Economic Action against Employer at Facilities covered by this Agreement, Employer shall be excused from further compliance with the Card Check procedures required in this Agreement with respect to the organizing campaign of that Labor Organization.
13. In the event that the Employer sells, transfers, or assigns all or any part of its right, title, or interest in the Covered Contract or Facility or the operations therein, as applicable, including in the event there is a change in the form of ownership of the Employer partially within the control of the Employer, the Employer shall give the Labor Organization reasonable advance written notice thereof. The Employer further agrees that as a condition to any such sale,

assignment, or transfer, the Employer will obtain from its successor or successors in interest, a written assumption of this Agreement and furnish a copy of such assumption agreement to the Labor Organization prior to or shortly after execution of the transaction.

14. This Agreement applies only to the procedures for determining employee preference regarding whether to be represented by a Labor Organization for purposes of collective bargaining and/or by which Labor Organization to be represented. This Agreement does not apply to the procedures governing the process of collective bargaining itself, once a Labor Organization has been recognized as the bargaining representative for employees of Employers subject to this Agreement.
15. Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the Parties, and shall be reformed without further action by the Parties to the extent necessary to make such provision valid and enforceable. To this end, the provisions of this Agreement are severable. In such event, the parties shall attempt to agree on substitute provisions providing the parties with as much of the benefit of their bargain as possible. If the parties cannot agree on substitute provisions, the Labor Organization may either elect to submit such unresolved dispute(s) to the arbitrator provided for in Section 7 for establishment of substitute procedures, or, at the discretion of the Labor Organization, elect to require the Employer to enter into a consent election agreement containing as many of the substantive terms of this Agreement, including but not limited to the Access Provisions and the Neutrality Provisions.