AMENDMENT NO. 3 TO SFO CONCESSION LEASE (RETAIL)
[COVID-19 Emergency Rent Relief Program]

This LEASE AMENDMENT NO. 3 (this "**Amendment**") is dated as of the Effective Date (as defined below) and entered into by and between DFS Group, L.P. ("**Tenant**") and City and County of San Francisco, acting by and through its Airport Commission ("**City**" or "**Airport**").

RECITALS:

A. Tenant and City are parties to International Terminal Duty Free and Luxury Stores Lease – Lease No. 17-0303 (as amended, the "**Lease**"). The Lease was previously amended as follows:

(i) Amendment No. 1 dated March 17, 2020, authorized by Commission Resolution No. 20-0051 and Board of Supervisors Resolution No. 280-20; and

(ii) Amendment No. 2 dated December 1, 2020 authorized by Commission Resolution No. 20-0222.

B. The parties desire to modify the Lease to address the devastating financial impacts of the COVID-19 pandemic and the dramatic and rapid reduction in enplanements at the Airport, resulting in the shutdown of many of the Airport concessions. Modifying the Lease to forgive certain payments due under the Lease will improve the financial feasibility of the Lease and preserve Tenant's ability to continue operations at the Airport, which is of considerable value to both parties. Providing such rent relief is also consistent with the written guidance provided all airport sponsors by the Federal Aviation Administration encouraging temporary rent abatements and minimum annual guarantee waivers.

C. On October 6, 2020, by Resolution No. 20-~~1080~~ 0180 (the "**Commission Resolution**"), the Airport Commission ("**Commission**") adopted the COVID-19 Emergency Rent Relief Program (the "**COVID-19 Rent Relief Program**") which provides for the rent relief set forth in this Amendment. On January 5, 2021, by Ordinance No. 5-21, the San Francisco Board of Supervisors authorized the Airport to implement the COVID-19 Rent Relief Program (the "**Rent Relief Ordinance**"). The Rent Relief Ordinance authorizes the Airport Director to enter into this Amendment without further approval by the Board of Supervisors under Charter Section 9.118 and without modifying the Lease to include Administrative Code and Environmental Code Requirements that were enacted since the most recent modification to the Lease.

D. This Amendment also provides the State of California accessibility disclosures required by California Civil Code Section 1938.

E. All capitalized terms used in this Amendment and not otherwise defined have the meaning provided 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 enter into this Amendment as follows:

AGREEMENT:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference as if fully set forth in this Amendment.

2. Effective Date. This Amendment shall be deemed effective upon the date of execution by the Airport as set forth below (the "**Effective Date**").

3. COVID-19 Rent Relief Amounts. Upon the satisfaction of the COVID-19 Rent Relief Program Requirements (as defined below) no later than August 31, 2021 (the "**COVID-19 Rent Relief Program Deadline**") or such later date as determined by the Airport Director in his reasonable discretion in accordance with Section 8 of this Amendment, Tenant's obligation to pay the following amounts under the Lease will be entirely waived and forgiven (such amounts, "**COVID-19 Rent Relief Amounts**"):

(a) for the month of March 2020, payments of Minimum Annual Guarantee only, and Percentage Rent shall remain due and payable (and if such Percentage Rent remains unpaid as of the Effective Date, then such amount shall be paid no later thirty (30) days from the Effective Date);

(b) for the months of April and May 2020, all payments of Minimum Annual Guarantee and Percentage Rent, all payments for fees and utilities (including electricity, water/sewage, gas and ITT charges), whether under the Lease or separate permit;

(c) for the period commencing April 1, 2020 through December 31, 2020, all payments for Promotional Fees, F&B Infrastructure Fees, F&B Food Court Infrastructure Fees, Tenant Infrastructure Fees, Food Court Cleaning Fees, Storage Space Fees, and refuse/garbage fees, to the extent such fees are applicable to Tenant, whether under the Lease or separate permit.

4. COVID-19 Rent Relief Program Requirements.

(a) In order to receive the benefit of the COVID-19 Rent Relief Amounts under this Amendment, Tenant must have satisfied each of the following conditions (the "**COVID-19 Rent Relief Program Requirements**") and satisfy the Rent Relief Reporting Requirements (as set forth in Section 5(b) below) no later than the COVID-19 Rent Relief Program Deadline:

(i) if Tenant ceased operation due to the COVID-19 pandemic, then Tenant must reopen and recommence operations and continue to operate at the Airport in conformance with the schedule provided by the Airport, as the schedule may be modified by the Airport Director from time to time, in his sole and absolute discretion;

(ii) Tenant must remain in good standing under the Lease and not in default of any obligations under the Lease or any other agreements between Tenant and City (including the payment of all rent and other obligations, other than the COVID-19 Rent Relief Amounts), beyond any applicable notice and cure periods, and not be in any unresolved dispute with the City, in each case at all times prior to and upon the COVID-19 Rent Relief Program Deadline, as determined by the Airport Director in his sole and absolute discretion;

(iii) Tenant must expend at least 18% of the total aggregate amount of Minimum Annual Guarantee waived under this Amendment on payroll costs, as defined in the Coronavirus Aid, Relief and Economic Security Act of 2020, or the "CARES Act" (the "**Rent Relief Payroll Requirement**"); and

(iv) Tenant must participate in the SFO employee rehiring program, which provides priority to rehiring of Tenant's employees laid off as a result of the COVID-19 pandemic (the "**Tenant Employee Rehiring Requirement**").

(b) In order to satisfy the Rent Relief Payroll Requirement and the Tenant Employee Rehiring Requirement, Tenant must comply with the requirements and complete the documentation as and when required (including, for the avoidance of doubt, monthly reporting on payroll and rehiring efforts), as set forth on **Exhibit A** attached hereto (the "**Rent Relief Requirement Reporting**").

5. **Failure to Satisfy Requirements of COVID-19 Rent Relief Program.** In the event Tenant shall fail to satisfy any of the COVID-19 Rent Relief Requirements as of the COVID-19 Rent Relief Program Deadline (or such earlier date that it is evident that Tenant will be unable to satisfy such requirements even with the passage of time (i.e. Tenant fails to reopen for business when required)), Tenant shall remit to City all amounts of COVID-19 Rent Relief Amounts that would have otherwise been waived and forgiven under the COVID-19 Rent Relief Program as set forth in this Amendment, no later than thirty (30) days of written demand from Airport.

6. **Credit for Rent Relief Amounts Already Paid; Credit Date.** To the extent any waived and forgiven amounts under this Amendment have already been paid by Tenant, such amounts shall only be credited towards future obligations of Rent and related fees due from Tenant (for the avoidance of doubt, only upon satisfaction of the COVID-19 Rent Relief Requirements, as set forth below). Upon satisfaction of the COVID-19 Rent Relief Program Requirements, all Rent and other fees waived under this Amendment will be credited towards Tenant's account, contemplated to occur on or after the COVID-19 Rent Relief Program Deadline.

7. **Replacement of COVID-19 Rent Deferral Program.** The COVID-19 Rent Relief Program set forth in this Amendment replaces the terms of all rent deferral and/or forbearance previously offered to Tenant, including the forbearance of rent and other fees set forth in the letter from the Airport Director to all concession tenants dated March 18, 2020 (the "**COVID-19 Rent Forbearance Letter**"). In the event that Tenant shall execute this Amendment and enter into the COVID-19 Rent Relief Program, but shall subsequently fail to

meet the COVID-19 Rent Relief Program Requirements by the COVID-19 Rent Relief Program Deadline, then the terms of the COVID-19 Rent Forbearance Letter shall remain in effect, and Tenant shall remit the COVID-19 Rent Relief Amounts in accordance with Section 5 of this Amendment.

8. Adjustments to COVID-19 Rent Relief Program. Tenant acknowledges and agrees that in accordance with Commission Resolution and the Rent Relief Ordinance, the Director may make necessary and appropriate adjustments to the COVID-19 Rent Relief Program to ensure that it: (i) is implemented in a consistent manner and fairly applied to all Airport concessionaires; and (ii) continues to meet the operational requirements of the Airport and the goals of the Commission set forth in establishing the COVID-19 Rent Relief Program. Further, the Director may implement in his discretion modifications to the COVID-19 Rent Relief Program necessitated by changes in applicable law, regulation or guidance (including, without limitation, FAA guidance), as the same may be amended from time to time. Notwithstanding the foregoing, consistent with the Commission Resolution and the Rent Relief Ordinance, the Director must seek further approval of the Commission for any material change to the terms and conditions of the COVID-19 Rent Relief Program or the financial relief being offered.

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

10. No Other Modifications. Except as otherwise expressly set forth above, the Lease remains unmodified and in full force and effect.

11. Counterparts and Electronic Signatures. This Amendment may be executed in multiple counterparts, each of which shall be deemed an original agreement and both of which shall constitute one and the same agreement. The counterparts of this Amendment may be executed and delivered by facsimile or other electronic signature (including portable document format) by either of the parties and the receiving party may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have executed this Amendment as of the Effective Date set forth below.

TENANT:

DFS Group, L.P.,
a Delaware Limited Partnership

By: _____

Name: MARTIN MATTHEWS

Title: MANAGING DIRECTOR
DFS W DIVISION

CITY:

CITY AND COUNTY OF SAN FRANCISCO, acting by and through its Airport Commission

By: _____
Name: Ivar C. Satero
Title: Airport Director

KRB CW

Effective Date (to be inserted by Airport only): 3/9/21

Authorized by Commission Resolution No. 20-0180 on October 6, 2020 and Ordinance No. 5-21 finally passed by the San Francisco Board of Supervisors on January 5, 2021.

Attest:

_____
Secretary
Airport Commission

APPROVED AS TO FORM:

DENNIS J. HERRERA,
City Attorney

By: _____
Christopher W. Stuart
Deputy City Attorney

COVID-19 Emergency Rent Relief Program for Airport Concession Operators Payroll and Rehiring Program Requirements (*SFO Priority Rehire Program*)

SFO's Rent Relief Program supports the viability of concessionaires and addresses their employees' economic insecurity.

To be eligible for the rent relief, each concessionaire is required to comply with the following payroll and rehiring requirements (known as the SFO Priority Rehire Program):

☐ **1. Baseline Staffing and Payroll Information:** Within **five (5) business days** of a concessionaire's lease amendment execution, a baseline staffing and payroll report reflecting the period of December 2019 through the end of March 2020 must be submitted. This report will list employees on payroll during this period, employee contact information, date of hire, date of lay-off/furlough/separation, and employment occupation classification for each employee. **This needs to be submitted only once.**

☐ **2. Payroll Reports:** On a **monthly** basis, a complete record of payroll costs paid to every employee, including those in the baseline staffing information, must be submitted. *Payroll reports are to include salary, wages, commissions, or similar compensation; cash tips or the equivalent (based on employer records of past tips or, in the absence of such records, a reasonable, good-faith employer estimate of such tips); payment for vacation, parental, family, medical, or sick leave; allowance for separation or dismissal; payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums, and retirement; payment of state and local taxes assessed on compensation of employees; and for an independent contractor or sole proprietor, wage, commissions, income, or net earnings from self-employment or similar compensation. These reports are to be accompanied by a signed certifying statement (see attached). **Please submit your monthly payroll by the 15th of every month for the previous month.**

☐ **3. Summary of Hiring Activities and Expenditures:** On a **monthly** basis, submit the "SFO Priority Rehire Program Monthly Submittal Form" with answers to the re-hiring effort and payroll costs table and a signature certifying the submission of all supporting documentation. **Please submit the SFO Priority Rehire Program Monthly Questionnaire by the 15th of every month for the previous month.**

For assistance with hiring employees, please contact community@flysfo.com.

If any concessionaire that elects to participate in the Rent Relief Program fails to satisfy the requirements by August 31, 2021, then any amounts deferred under the Airport's COVID-19 Rent Deferral Program will become immediately due and payable and the concessionaire will be ineligible for all other benefits associated with the Rent Relief Program.

Baseline Staffing and Payroll Report

CONCESSION/STOREFRONT	(ENTER HERE)
FILLED OUT BY	
E-MAIL	
PHONE NUMBER	

Baseline Payroll					
Name	**Job Classification**	**Phone**	**Email**	**Date of Hire**	**Date of Layoff/ Furlough/ Separation**

Monthly Payroll Report

Requirements:

1. Report format is at the discretion of the Tenant.
2. Report to include, on a monthly basis, a complete record of payroll costs paid to every employee, including those in the baseline staffing information, must be submitted. *Payroll reports are to include salary, wages, commissions, or similar compensation; cash tips or the equivalent (based on employer records of past tips or, in the absence of such records, a reasonable, good-faith employer estimate of such tips); payment for vacation, parental, family, medical, or sick leave; allowance for separation or dismissal; payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums, and retirement; payment of state and local taxes assessed on compensation of employees; and for an independent contractor or sole proprietor, wage, commissions, income, or net earnings.
3. These reports are to be accompanied by a signed certifying statement:

   The foregoing is certified to be true and correct to the best of our knowledge and belief.

   _____ _____

   Tenant Signature Date

   _____

   Concession Storefront

4. Tenant shall submit your monthly payroll by the 15th of every month for the previous month.

DATE: _____
CONCESSION/STOREFRONT: _____

SFO Priority Rehire Program Monthly Questionnaire

☐ Answer the following questions:

1.	a. How many employees did you have on payroll this month?	
	b. How many of these employees are from your baseline payroll?	
2.	a. How many employees did you recall or hire this month?	
	b. How many employees brought on this month are from your baseline payroll?	
3.	If you hired any new employees this month who were not part of your staffing from December 2019 to March 2020, how did you recruit those employees?	☐ SFO Priority Hiring Program ☐ Other Recruitment Method: _____ _____
4.	How much have you paid in payroll costs for this month?	
5.	How much have you paid in payroll costs since April 2020?	

☐ Attach your monthly payroll records to your e-mail to community@flysfo.com.

☐ Sign the following statement:

I, _____ (name), _____ (title) of _____ (leaseholder and "Tenant") hereby certify that the payroll statements and any other supporting documentation submitted for the month of _____ in connection with the consideration received by Tenant under the COVID-19 Emergency Rent Relief Program are true, correct and complete. I further hereby certify that I am an authorized representative of Tenant with all right, power and authority to deliver this certification on behalf of Tenant.

Tenant: _____

Signature: _____

Name: _____

Phone: _____

E-mail: _____

Submit this form and your monthly payroll statement to community@flysfo.com
by the 15th of every month for the previous month.

Contact Jerrica Hau via e-mail jerrica.hau@flysfo.com or via phone 650.821.1004 with any questions.