MODIFICATION NO. 1 TO

2011 LEASE AND USE AGREEMENT NO. 13-0065

SAN FRANCISCO INTERNATIONAL AIRPORT

CHINA EASTERN AIRLINES CORPORATION LIMITED

THIS MODIFICATION NO. 1 TO 2011 LEASE AND USE AGREEMENT NO. 13-0065 (this "**Modification**"), dated as of the Effective Date (as defined below), is entered into by and between City and County of San Francisco, a municipal corporation, acting by and through its Airport Commission ("**City**"), and China Eastern Airlines Corporation Limited ("**Airline**").

Recitals

A. The City and County of San Francisco owns 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 March 19, 2013, by Airport Commission Resolution No. 13-0065, the Commission awarded the 2011 Lease and Use Agreement to Airline, with an effective date of August 1, 2013 (the "**Existing LUA**"). On August 7, 2013, by Resolution No. 283-13, the San Francisco Board of Supervisors ("**Board of Supervisors**") approved the Existing LUA. As provided in the Existing LUA, Airline became a Signatory Airline for a lease term (the "**Original Term**") ending June 30, 2021 (the "**Expiration Date**") with landing rights and rental of certain premises at the Airport (as further described in the Lease, the "**Demised Premises**"). To the extent that the Existing LUA has been modified prior to this Modification, such modifications are listed on the attached Schedule 1 ("**Previous Lease Modifications**"). As used below, the term "**Existing LUA**" shall mean the Existing LUA, as amended and modified by Previous Lease Modifications, if any.

C. Prior to entering into this Modification, Airline and City were negotiating a new lease and use agreement intended to commence immediately following the Expiration Date. However, the outbreak of the COVID-19 pandemic interrupted such negotiations and rendered impractical a comprehensive replacement agreement before the Expiration Date. Accordingly, City and Airline acknowledge that modification of the Existing LUA to: (i) extend the current Term by two (2) years, through June 30, 2023; (ii) provide for a reservation of rights of the parties with respect to any lawsuit of Airline against the 2020 Healthy Airport Amendments (as defined below); and (iii) update certain legal provisions required by applicable local, state, and federal laws, on the terms and conditions set forth below in this Modification, is in its mutual best interests.

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**.

(a) This Modification shall become effective on the first day of the month following the date that all of the following have occurred: (i) the Commission and the Board of Supervisors shall have finally approved this Modification, and (ii) each of the parties shall have executed this Modification (the "**Effective Date**"). Upon the occurrence of the Effective Date, the Airport shall enter the Effective Date below and deliver a fully executed original of this Modification to Airline:

Effective Date: July 1, 2021

(b) All capitalized terms used in this Modification but not otherwise defined shall have the meaning provided in the Existing LUA.

2. **Extension Term.** The Original Term of the Existing LUA is extended for a term of two (2) years (the "**Extension Term**") commencing on July 1, 2021 and expiring on June 30, 2023 (the "**Extended Expiration Date**"). The Summary of Major Terms, Article 1 [Definitions] and all other applicable provisions of the Existing LUA are amended accordingly and as appropriate to reflect the Extension Term. All instances of the "Expiration Date" in the Existing LUA shall mean and be amended to reflect the Extended Expiration Date. All instances of the "Term" in the Existing LUA shall mean and be amended to reflect the Term as extended by the Extension Term.

3. **Revised City Contracting Provisions.** The following sections of Article 18 of the Existing LUA [City Contracting Provisions] are amended as follows:

(a) Section 1806. Pesticide Prohibition. The last sentence of Section 1806 of the Existing LUA is deleted and replaced with the following:

> "Nothing herein shall prevent Airline, through the Director, from seeking a determination from the Commission on the Environment that it is exempt from complying with certain provisions of the Pesticide Ordinance as provided in Section 303 thereof."

(b) Section 1808. No Advertising or Promotion; Prohibition of Tobacco Advertising. The second sentence of Section 1808 of the Existing LUA is deleted and replaced with the following:

> "Airline acknowledges and agrees that no sales or advertising of cigarettes or tobacco products is allowed on the Demised Premises."

(c) Section 1815. Limits on Campaign Contributions. The provisions of Section 1815 of the Existing LUA are deleted and replaced with the following:

"By executing this Agreement, Airline acknowledges its obligations under Section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with, or is seeking a contract with, any department of the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, for a grant, loan or loan guarantee, or for a development agreement, from making any campaign contribution to (i) a City elected official if the contract must be approved by that official, a board on which that official serves, or the board of a state agency on which an appointee of that official serves, (ii) a candidate for that City elective office, or (iii) a committee controlled by such elected official or a candidate for that office, at any time from the submission of a proposal for the contract until the later of either the termination of negotiations for such contract or twelve months after the date the City approves the contract. The prohibition on contributions applies to each prospective party to the contract; each member of Airline's board of directors; Airline's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 10% in Airline; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Airline. Airline certifies that it has informed each such person of the limitation on contributions imposed by Section 1.126 by the time it submitted a proposal for the contract, and has provided the names of the persons required to be informed to the City department with whom it is contracting."

4. **Additional City Contracting Provisions.** The provisions below are added to Article 18 of the Existing LUA [City Contracting Provisions] as follows:

"Section 1821 Vending Machines; Nutritional Standards and Calorie Labeling Requirements. Airline may not install or permit any vending machine on the Demised Premises without the prior written consent of the Director. Any permitted vending machine will comply with applicable 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 (the "**Nutritional Standards Requirements**"). Airline will incorporate the Nutritional Standards Requirements into any contract for the installation of a vending machine on the Demised 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 1821 will be a material breach of this Agreement. Without limiting City's other rights and remedies under this Agreement, City will have the right to require the immediate removal of any vending machine on the Demised Premises that is not permitted or that violates the Nutritional Standards Requirements.

Section 1822 Local Hire. Any undefined, initially-capitalized term used in this Section shall have the meaning given to such term in San Francisco Administrative Code Section 23.62 (the "**Local Hiring Requirements**"). All Alterations under this Agreement are subject to the Local Hiring Requirements unless the cost for such work is (a) estimated to be less than $750,000 per building permit or (b) meets any of the other exemptions in the Local Hiring Requirements. Unless subject to an exemption, Airline agrees that it shall comply with the Local Hiring Requirements to the extent applicable only for all Covered Projects. Before starting any Alteration, Airline shall contact City's Office of Economic Workforce and Development ("**OEWD**") to verify if the Local Hiring Requirements apply to the work (i.e., whether the work is a "**Covered Project**"). Unless subject to an exemption or if the construction work is not a Covered Project, Airline shall include, and shall require its subtenants to include, a requirement to comply with the Local Hiring Requirements in any contract for a Covered Project with specific reference to San Francisco Administrative Code Section 23.62. Each such contract shall name the City and County of San Francisco as a third-party beneficiary for the limited purpose of enforcing the Local Hiring Requirements, including the right to file charges and seek penalties. Airline shall cooperate, and require its subtenants to cooperate, with City in any action or proceeding against a contractor or subcontractor that fails to comply with the Local Hiring Requirements when required. Airline's failure to comply with its obligations under this Section shall constitute a material breach of this Agreement. A contractor's or subcontractor's failure to comply with this Section will enable City to seek the remedies specified in San Francisco Administrative Code Section 23.62 against the breaching party. So long as Airline requires compliance with this Section in the construction contract for the Covered Project and reasonably cooperates with the City in any enforcement action, then it shall not be in breach of this Agreement due to a Contractor's or Subcontractor's failure to comply or to meet the mandatory participation levels.

Section 1823 Prohibition on Alcoholic Beverage Advertising. Airline acknowledges and agrees that no advertising of alcoholic beverages is allowed on the Demised Premises. For purposes of this section, "alcoholic beverage" shall be defined as set forth in California Business and Professions Code Section 23004, and shall 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 shall not apply to areas of the Demised Premises operated by Airline as customer dining or lounge facilities.

Section 1824 Resource-Efficient City Buildings. Airline acknowledges that City has enacted San Francisco Environment Code Chapter 7 ("**Env. Code Chapter 7**") relating to green building requirements. Airline hereby agrees that it shall comply with all provisions of Env. Code Chapter 7 applicable to construction work performed by or on behalf of Airline in the Demised Premises.

Section 1825 All-Gender Toilet Facilities. If applicable, Airline will comply with San Francisco Administrative Code Section 4.1-3 requiring at least one all-gender toilet facility on each floor of the Demised Premises in any building where extensive renovations are made by Airline. An "all-gender toilet facility" means a toilet that is not restricted to use by persons of a specific sex or gender identity by means of signage, design, or the installation of fixtures, and "extensive renovations" means any renovation where the construction cost exceeds 50% of the cost of providing the toilet facilities required by Administrative Code Section 4.1-3. If Airline has any question about applicability or compliance, Airline should contact Building Inspection and Code Enforcement (BICE) for guidance.

Section 1826 List of Pertinent Nondiscrimination Acts and Authorities. During the performance of this Agreement, Airline, for itself, its assignees, and successors-in-interest (hereinafter referred to as the "contractor" in this Section 1826) 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.)."

5. **Revised Miscellaneous Provisions.** The following sections of Article 19 of the Existing LUA [Miscellaneous Provisions] are amended as follows:

(a) The provisions of Section 1906A are deleted and replaced with the following:

"A. Airline for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the

event facilities are constructed, maintained, or otherwise operated on the property described in this Agreement for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, Airline will maintain and operate such facilities and services in compliance with all requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq.*, 78 stat. 252); 49 C.F.R. Part 21; and 28 C.F.R. section 50.3 (collectively, as they may be amended, the "**Acts and Regulations**") such that no person on the ground of race, color or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities."

(b) The provisions of Section 1906B are deleted and replaced with the following:

"B. Airline for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishings of services thereon, no person on the ground of race, color or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that Airline will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance."

(c) The provisions of Section 1906C are deleted and replaced with the following:

"C. With respect to this Agreement, in the event of breach of any of the Non-discrimination covenants, City will have the right to terminate the Lease and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the Lease had never been made or issued."

(d) The provision below is added to Section 1906 as Section 1906M:

"M. All provisions of this Agreement shall be subordinate to the rights of the United States of America to operate the Airport or any part thereof during time of war or national emergency. Such rights shall supersede any provisions of this Agreement inconsistent with the operations of the Airport by the United States of America."

6. **Reservation of Rights.** On November 20, 2020, by Ordinance No. 235-20, the City enacted certain amendments to the Health Care Accountability Ordinance (HCAO) set forth in San Francisco Administrative Code Chapter 12Q, known as the "Healthy Airport Ordinance" (the "**2020 Healthy Airport Amendments**"). Neither the execution of this Modification by Airline or City, nor the performance by either party under the Existing LUA or this Modification, shall in any way prejudice or constitute a waiver of: (a) Airline's right to challenge the 2020 Healthy Airport Amendments or the validity or enforcement thereof, or (b) the rights of either party to fully prosecute or defend, as applicable, any lawsuit by the Airline against the City challenging the 2020 Healthy Airport Amendments, including the validity and enforceability thereof. Each party reserves any and all rights it may have with respect to the 2020 Healthy Airport Amendments.

7. **No Annual Common Use Gates Determination or Annual Preferential Use Gates Allocation for the Extension Term.** Notwithstanding anything to the contrary contained in this Modification or in the Existing LUA, including Section 303 and Section 304 of the Existing LUA, Airline and City agree that: (a) the number of Gates reserved as Common Use Gates for Fiscal Year 2020/2021 shall remain reserved as Common Use Gates for each Fiscal Year in the Extension Term; (b) the number of Preferential Use Gates allocated to each Signatory Airline, including Airline (and in the location assigned to each Signatory Airline, including Airline) for Fiscal Year 2020/2021 shall remain assigned/allocated to the same Signatory Airline (including Airline) until the Extended Expiration Date, and (c) there shall be no further annual determination, allocation, or reallocation of Gates reserved as Common Use Gates or Preferential Use Gates during and for the Extension Term.

8. **No Other Modification.** Except as expressly set forth in this Modification, the Existing LUA (for the avoidance of doubt, as modified by any Previous Lease Modification) remains unmodified and in full force and effect.

9. **Board of Supervisors Approval.** NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS MODIFICATION, AIRLINE 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 DISCRETION. 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 executed this Modification as of the date first written above.

AIRLINE:

CHINA EASTERN AIRLINES CORPORATION LIMITED,
a corporation of the People's Republic of China

By: _____

Name: BEIDOU LI

Title: GENERAL MANAGER, SAN FRANCISCO

CITY:

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

_____
Ivar C. Satero
Airport Director

AUTHORIZED BY AIRPORT COMMISSION

Resolution No. 21-0019

Adopted: 02/09/2021

Attest: _____
Secretary
Airport Commission

APPROVED AS TO FORM:
DENNIS J. HERRERA,
City Attorney

By _____
Deputy City Attorney

SCHEDULE 1

PREVIOUS LEASE MODIFICATIONS

CHINA EASTERN AIRLINES CORPORATION LIMITED
LEASE & USE AGREEMENT NO. 13-0065

Modification No.	Date	Resolutions
N/A		

中國東方航空 CHINA EASTERN SKYTEAM