

**MODIFICATION NO. 3 TO LEASE OF PLOT 6
AT SAN FRANCISCO INTERNATIONAL AIRPORT**

UNITED AIRLINES, INC.

THIS MODIFICATION NO. 3 TO LEASE OF PLOT 6 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 United Airlines, Inc., a Delaware corporation, as lessee (**Lessee**).

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 December 19, 2000, by Resolution No. 00-0464, the Commission awarded to Lessee the Lease for Plot 6 at San Francisco International Airport for a term that commenced retroactively to June 1, 1999 (the **Original Lease**). On June 1, 2001, by Resolution No. 403-01, the San Francisco Board of Supervisors (the **Board of Supervisors**) approved the Original Lease.
- C. Pursuant to Commission Resolution No. 11-0135, adopted June 6, 2011, and Board of Supervisors Resolution No. 001-12, adopted January 12, 2012, City and Lessee entered into that certain Modification No. 1 to the Original Lease, which among other things, amended the Original Lease to (i) extend the original term of the Original Lease for ten (10) years, commencing on July 1, 2011 and terminating June 30, 2021; (ii) adjust the Demised Premises; and (iii) adjust amounts of Annual Rent payable under the Original Lease (**Modification No. 1**).
- D. Pursuant to Commission Resolution No. 19-0303, adopted December 3, 2019, and Board of Supervisors Resolution No. 353-20, adopted August 7, 2020, City and Lessee entered into that certain Modification No. 2 to the Original Lease, which among other things, amended the Original Lease (as amended by Modification No. 1) to adjust the Demised Premises to provide for the Plot 6 Reconfiguration Project (**Modification No. 2**, and together with the Original Lease, Modification No. 1 and this Modification, collectively, the **Lease**). The Demised Premises under the Lease, as adjusted in accordance with the Plot 6 Reconfiguration Project under Modification No. 2, is referred to in this Modification as the **Demised Premises**.
- E. The current term of the Lease (the **Term**) expires on June 30, 2021 (the **Current Expiration Date**). City and Lessee desire to enter into this Modification to, among other things; (i) extend the Term of the Lease for a period of three (3) 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 the Airport obtains Final City Approvals (defined below); 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.
- F. 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 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. Lessee 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 three (3) 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 last day of the calendar month during which the third 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 Lessee:

Effective Date: _____

Extension Term Commencement Date: _____

Extension Term Expiration Date: _____

3. **Intentionally Omitted.**

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

(a) **Annual Rent Adjustments Based on Index.** Rent through the Current Expiration Date is equal to \$188,931.56 per acre of the Demised Premises (**Annual Rent**). On the later to occur of (i) July 1, 2021; and (ii) the Extension Term Commencement Date (the **First Rent Adjustment Date**), and then again thereafter on each anniversary of the First Rent Adjustment Date during the Extension Term (together with the First Rent Adjustment Date, each a **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 upcoming Lease Year will be increased to equal the following amount:

$$\text{Annual Rent as of June 30, 2021} \quad \times \quad \frac{\text{Comparison Index}}{\text{Base Index}}$$

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 date that is exactly one (1) year prior to the Extension Term Commencement Date.

Comparison Index means the most recent Consumer Price Index published three (3) months prior to each Rent Adjustment Date, including the First 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 First Rent Adjustment Date and expiring on the day before the next Rent Adjustment Date, and each subsequent 12-month period, commencing on each Rent Adjustment Date and expiring on the day before the subsequent Rent Adjustments Date, or expiring on the Extension Term Expiration Date.

As the calculation and adjustment of Annual Rent will be made on each Rent Adjustment Date pursuant to the foregoing provisions, Sections 4.1, 4.3 and 4.4 of Modification No. 1 are accordingly hereby deleted and of no further force or effect. Notwithstanding anything in this Modification to the contrary, in no event will the Annual Rent for any Lease Year of the Term (including, for the avoidance of doubt, the Extension Term) be lower than the Annual Rent with respect to the prior Lease Year.

(b) Intentionally Omitted.

5. Intentionally Omitted.

6. **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 Lessee may hold over, on a month-to-month basis, and remain in possession of the Demised Premises pursuant to Section 2.2 of the Original Lease until such time as either (i) the Final City Approvals are ultimately obtained and the Effective Date will occur; or (ii) City will terminate the holdover tenancy upon thirty (30) days written notice to Lessee. In the event that the Airport is not able to obtain the Final City Approvals, then this Modification 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 Lessee.

7. **References to Tenant Improvement Guide.** References throughout the Original Lease to the "Tenant Improvement Guide" will be amended to refer to the "Tenant Improvement Guide or any other successor tenant improvement guide, instrument, applicable building code, rule and regulation or statutory authority, as the context of the Lease requires."

8. **City and Other Governmental Provisions.**

(a) The provisions of Section 8.3 of the Lease (as set forth in Modification No. 1) are deleted and replaced with the following:

“Section 8.3 **Limits on Campaign Contributions.** By executing this Lease, Lessee 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 Lessee’s board of directors; Lessee’s chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 10% in Lessee; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Lessee. Lessee 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.”

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

Section 18.28 Local Hire. Any undefined, initially-capitalized term used in this Section will 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 will comply with the Local Hiring Requirements to the extent applicable only for all Covered Projects. Before starting any Alteration, Lessee will 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, Lessee will include, and will 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 will 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. Lessee will 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 will 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 will 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 18.29 **Prohibition on Alcoholic Beverage Advertising.** Lessee 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 Lessee as customer dining or lounge facilities.

Section 18.30 **List of Pertinent Nondiscrimination Acts and Authorities.** During the performance of this Lease, Lessee, 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.).

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. Lessee 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 Lessee from obtaining a CASp inspection of the Demised Premises for the occupancy or potential occupancy of Lessee if requested by Lessee. City and Lessee 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.

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

11. **Board of Supervisors Approval.** NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS MODIFICATION, LESSEE 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.

LESSEE: UNITED AIRLINES, INC.,
a Delaware corporation

DocuSigned by:
By: Michael Yost
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Name: Michael Yost

Title: Managing Director Airport Affairs

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:
DENNIS J. HERRERA,
City Attorney

By _____
Christopher W. Stuart
Deputy City Attorney