

**SECOND AMENDMENT TO  
LEASE AGREEMENT  
BETWEEN  
THE CITY OF SAN JOSE  
AND  
MAC CARGO HANDLING SJC, LLC**

This SECOND AMENDMENT AGREEMENT TO LEASE OF AIRPORT PREMISES is entered into this \_\_\_\_ day of \_\_\_\_\_, 2019, by the CITY OF SAN JOSE, a municipal corporation of the State of California ("City"), and MAC CARGO HANDLING SJC, LLC, a California limited liability company ("Tenant").

**RECITALS**

**WHEREAS**, on April 13, 2016, City and Mercury Air Cargo, Inc. entered into an agreement entitled "LEASE OF AIRPORT PREMISES BETWEEN THE CITY OF SAN JOSE AND MERCURY AIR CARGO, Inc." ("Lease"); and

**WHEREAS**, on September 28, 2018, City and Tenant entered into a First Amendment to the Lease Agreement to memorialize the assignment of the Lease from Mercury Air Cargo, Inc. to Tenant, and add provisions required under San José Municipal Code and federal regulations; and

**WHEREAS**, City and Tenant desire to further amend the amended Lease to extend the term for three (3) years from April 18, 2019 through April 17, 2022, to reduce the Leased Premises from 9,600 square feet of hangar space to 5,388 square feet of hangar space, and to add provisions required by federal regulations;

**NOW, THEREFORE**, effective upon execution of this Second Amendment, the parties agree to further amend the amended Lease as follows:

**SECTION 1.** SECTION 1, "DEFINITIONS AND SUMMARY OF LEASE TERMS", the following term is amended to read as follows:

**"Expiration Date" (§2 TERM)** means the date April 17, 2022, subject to earlier termination as provided in this Lease."

**SECTION 2.** SECTION 45, "TITLE VI CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM", is hereby added as follows:

- "A. The Tenant for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that:
1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this Lease for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the Tenant will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent List of Nondiscrimination Authorities (as may be amended) such that no person on the grounds 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. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination 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."

**SECTION 3.** SECTION 46, "TITLE VI CLAUSES FOR CONSTRUCTION / USE / ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM" is hereby added as follows:

- “A. The Tenant for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a 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 furnishing 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 the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the List of discrimination Acts And Authorities.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above nondiscrimination covenants, City will have the right to terminate the Lease and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said Lease had never been made or issued.”

**SECTION 4.** Exhibit A, “Description of Premises”, is hereby amended and replaced with Revised Exhibit A, attached and incorporated into this Second Amendment.

**SECTION 5.** All of the terms and conditions of the amended Lease not modified by this Second Amendment shall remain in full force and effect.

[remainder of page intentionally left blank]

WITNESS THE EXECUTION HEREOF on the day and year first written above.

“CITY”

APPROVED AS TO FORM:

CITY OF SAN JOSE, a municipal  
corporation of the State of California

\_\_\_\_\_  
KEVIN FISHER  
Chief Deputy City Attorney

\_\_\_\_\_  
Toni Taber, CMC  
City Clerk

Date: \_\_\_\_\_

“TENANT”

MAC CARGO HANDLING SJC, LLC,  
a California limited liability company

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## CERTIFICATE OF LLC AUTHORITY

This Certificate of LLC Authority shall be executed by the manager of the limited liability company.

I, \_\_\_\_\_, certify that I am the manager of the  
Name of Manager  
limited liability company named in the attached agreement;

that \_\_\_\_\_ signed the agreement on behalf of the limited  
Name of Person that Signed Agreement

liability company as the \_\_\_\_\_ of the limited liability  
Title of Person that Signed Agreement  
company; and that the agreement was duly signed for and on behalf of the limited liability company by authority of its members, and is within the scope of its limited liability company powers.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

## REVISED EXHIBIT A

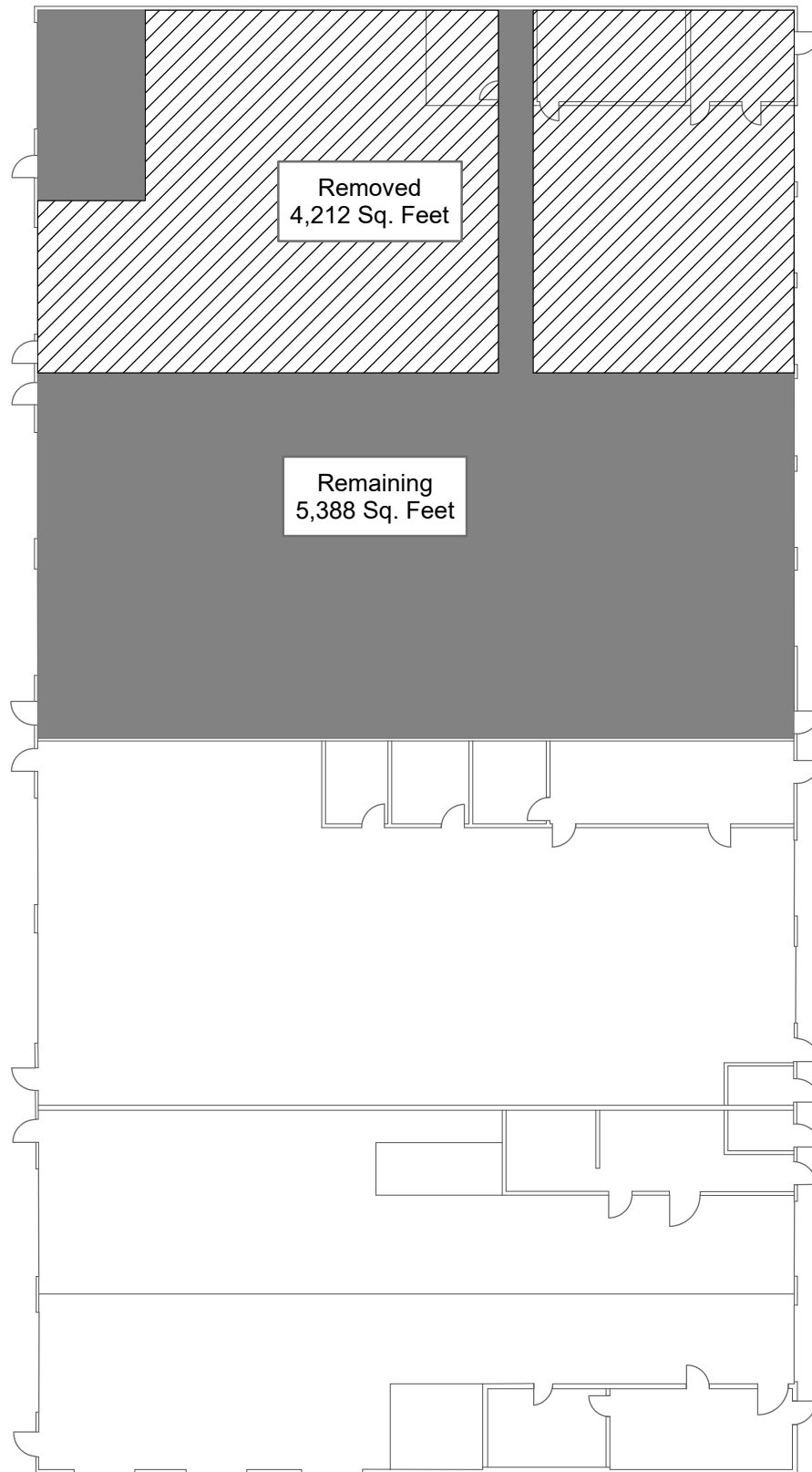
Approximately 5,388 square feet of Hangar Space located at 1521 Airport Blvd., San José, CA 95110, as shown on Revised Exhibit A.

Revised Exhibit A-1

MAC Cargo Handling SJC, LLC  
Second Amendment to Lease of Airport Premises  
Document No. 10564-LE-16-2

**DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or [CityClerk@sanjoseca.gov](mailto:CityClerk@sanjoseca.gov) for final document.**

## REVISED EXHIBIT A



Date: 2/13/2019

Mercury Air Cargo  
1521 Airport Blvd  
Air Freight Building



DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or [CityClerk@sanjoseca.gov](mailto:CityClerk@sanjoseca.gov) for final document.