

**FOURTH AMENDMENT TO LEASE NO. LAA-8388
BETWEEN THE CITY OF LOS ANGELES AND
MERCURY AIR CARGO, INC. AT
LOS ANGELES INTERNATIONAL AIRPORT
(6040 Avion Drive, Los Angeles, California)**

This FOURTH AMENDMENT TO LEASE NO. LAA-8388 ("Fourth Amendment") is made and entered into this _____ day of _____, 2021, by and between the CITY OF LOS ANGELES, a municipal corporation, acting by order of and through its Board of Airport Commissioners of the Department of Airports also known as Los Angeles World Airports or LAWA ("City" or "LAWA"), and MERCURY AIR CARGO, INC., a California corporation ("Lessee").

RECITALS

WHEREAS, City and Lessee entered into Lease No. LAA-8388, dated March 8, 2007, covering approximately 280,311 square feet of Land, 159,201 square feet of Office Warehouse, 46,919 square feet of Hangar, and 100,397 square feet of Auto Paving located at 6040 Avion Drive at Los Angeles Angeles International Airport ("Airport"), as subsequently amended by the First Amendment to Lease No. LAA-8388A dated April 25, 2012 and the Second Amendment to Lease No. LAA-8388B dated January 26, 2018, and the Third Amendment to Lease No. 8388C dated December 10, 2018 (collectively, the "Lease"); and

WHEREAS, the parties desire to amend the Lease further pursuant to the terms herein;

NOW, THEREFORE, the parties hereto, for and in consideration of the terms, covenants and conditions herein contained, do hereby mutually agree that the Lease shall BE AMENDED AS FOLLOWS:

AMENDMENTS

Sec. 1. The following paragraph shall be added to Article 1, Section 1.1 of the Lease:

"Notwithstanding the foregoing, upon execution of the Fourth Amendment to the Lease by the Chief Executive Officer, the Demised Premises shall consist of 171,787 square feet of Office Warehouse space, 259,359 square feet of Land, and 115,142 square feet of Auto Paving located at 6040 Avion Drive at Los Angeles International Airport (hereinafter referred to as "Airport"), as shown and outlined in red on Airport Engineers' Drawing No. 93024-80 marked as Exhibit A and also identified on Payments marked as Exhibit B, both of which are attached hereto and incorporated by reference herein."

Sec. 2. Article 1, Section 2.1 of the Lease shall be amended to read as follows:

"The term of this Lease shall commence on March 1, 2007 ("Commencement Date"), and shall terminate on September 30, 2023, subject to earlier termination as otherwise provided herein. Either party shall have the option to terminate this Lease upon one

hundred eighty (180) days' written notice to the other party. Lessee shall have two (2) options to request to extend the term of this Lease (each request, an "Extension Request") for one (1) year, subject to the Chief Executive Officer's approval in his/her sole discretion (to the extent such Extension Request is submitted by Lessee and approved by the Chief Executive Officer, an "Option Term") if and only if no Default Event (as defined under Article 2, Section 70.1) has occurred and is continuing and ongoing beyond all applicable cure periods. The Extension Request shall be exercisable by Lessee's delivery to the Chief Executive Officer of an irrevocable written notice exercising such Extension Request no later than sixty (60) days prior to the expiration date of the current term, provided that the Chief Executive Officer may accept an Extension Request thereafter at its sole discretion. The Chief Executive Officer shall have thirty (30) days from receipt of the Extension Request to notify Lessee of its determination of whether to approve the Extension Request, or else the Extension Request shall be deemed approved. During the Option Term, the terms and conditions of this Lease shall continue in effect except as to terms and conditions of this Lease which are either expressly or by their operation applicable only during the original term of this Lease. Lessee shall have no further right or option to extend the term of this Lease."

Sec. 3. The following provision shall be added as Article 1, Section 3.5. Parking:

"Lessee shall make an adequate number of parking spaces available for all persons needing access to the Demised Premises, including Lessee's employee, contractors, sublessees, invitees, visitors, and other uses of the leasehold, without infringing upon the rights of City, other tenants, or other third parties, provided that nothing in this Lease shall be construed to provide any third parties with any causes of action against City or Lessee."

Sec. 4. The following provision shall be added as Article 1, Section 3.6. Managing Truck Staging:

"Lessee is responsible for the control and management of trucks servicing the Demised Premises including trucks staging on the surrounding areas, and on Avion Drive."

Sec. 5. The following sentence shall be added to Article 1, Section 4.1 of the Lease:

"Notwithstanding the foregoing, upon execution of the Fourth Amendment to the Lease by the Chief Executive Officer, the Monthly Rent shall be as set forth in Exhibit B, and as adjusted pursuant to the terms of the Lease."

Sec. 6. Article 1, Section 4.2.1 of the Lease shall be amended to read as follows:

Annual Adjustments. Except when adjusted as provided in Article 1, Subsection 4.2.2. Periodic Adjustment to Fair Market Rental, below, the Monthly Rent for the Demised Premises covered under this Lease shall be subject to automatic, annual rental adjustments on July 1 (hereinafter referred to as "Annual Adjustment Date"). The Monthly Rent shall be revised and adjusted on the Annual Adjustment Date to a three percent (3%) increase over the prior year."

Sec. 7. The following provision shall be added as Article 1, Section 5.2:

“If City adopts written requirements for Smart Meters or Advanced Metering Infrastructure for all similarly situated City-owned properties at Airport (“AMI,” as defined more particularly below), then Lessee shall install AMI at its sole cost upon City’s request. For purposes of this Section 6.2, AMI shall mean systems that measure, collect, and analyze energy usage, and communicate with metering devices such as electricity meters, gas meters, and water meters, either on request or on a schedule. These systems include hardware, software, communications, consumer energy displays and controllers, customer associated systems, meter data management software, and supplier business systems. Lessee shall provide utility consumption information to City upon request.”

Sec. 8. Lessee’s address in Article 1, Section 6.2 of the Lease shall be deleted and replaced with the following:

Mercury Air Cargo, Inc.
5456 McConnell Avenue
Los Angeles, CA 90066
Attention: Legal Department

With a copy to:

Mercury Air Cargo, Inc.
6040 Avion Drive
Los Angeles, CA 90045
Attention: John Peery, Chief Operating Officer

Sec. 9. Counterparts; Electronic Signatures. This Fourth Amendment may be executed in counterparts, including counterparts that are manually executed and counterparts that are in the form of electronic records and are electronically executed. An electronic signature means a signature that is executed by symbol attached to or logically associate with a record and adopted by a party with the intent to sign such record, including facsimile or e-mail signatures. All executed counterparts shall constitute one agreement, and each counterpart shall be deemed an original. The parties hereby acknowledge and agree that electronic records and electronic signatures, as well as facsimile signatures, may be used in connection with the execution of this Fourth Amendment and electronic signatures, facsimile signatures or signatures transmitted by electronic mail in so-called PDF format shall be legal and binding and shall have the same full force and effect as if a paper original of this Fourth Amendment had been delivered that had been signed using a handwritten signature. All parties to this Fourth Amendment (i) agree that an electronic signature, whether digital or encrypted, of a party to this Fourth Amendment is intended to authenticate this writing and to have the same force and effect as a manual signature; (ii) intended to be bound by the signatures (whether original, faxed, or electronic) on any document sent or delivered by facsimile or electronic mail or other electronic means; (iii) are aware that the other party(ies) will rely on such signatures; and, (iv) hereby waive any

defenses to the enforcement of the terms of this Fourth Amendment based on the foregoing forms of signature. If this Fourth Amendment has been executed by electronic signature, all parties executing this document are expressly consenting, under the United States Federal Electronic Signatures in Global and National Commerce Act of 2000 (“E-SIGN”) and the California Uniform Electronic Transactions Act (“UETA”) (California Civil Code §1633.1 et seq.), that a signature by fax, e-mail, or other electronic means shall constitute an Electronic Signature to an Electronic Record under both E-SIGN and UETA with respect to this specific transaction.

Sec. 10. Beginning on June 18, 2021, (a) Exhibit A of the Lease shall be deleted and replaced with the attached Exhibit A and (b) Exhibits B-1 and B-2 of the Lease shall be deleted and replaced with the attached Exhibit B.

Sec. 11. It is understood and agreed by and between the parties hereto that, except as specifically provided herein, this Fourth Amendment shall not in any manner alter, change, modify or affect any of the rights, privileges, duties or obligations of either of the parties hereto under or by reason of the Lease, and except as expressly amended herein, all of the terms, covenants, and conditions of the Lease shall remain in full force and effect.

IN WITNESS WHEREOF, as of this ____ day of _____, 2021, City has caused this Third Amendment to be executed by the Chief Executive Officer and Lessee has caused the same to be executed by its duly authorized officers and its corporate seal to be hereunto affixed, all as of the day and year first hereinabove written.

APPROVED AS TO FORM:
MICHAEL N. FEUER,
City Attorney

CITY OF LOS ANGELES

Date: March 12, 2021

By: *Cynthia Alexander*
Deputy/Assistant City Attorney

By _____
Chief Executive Officer
Department of Airports

ATTEST:
By *[Signature]*
Secretary (Signature)
Joshua Floistad
Print Name

[SEAL]

MERCURY AIR CARGO, INC.
By *[Signature]*
Signature
John Leary
Print Name
PRESIDENT
Print Title