

CONTRACT: L08-0335-AP
EMERALD COAST AVIATION
BSAP FBO
EXPIRES: 01/01/2054

CONSENT TO SUBLEASE AGREEMENT

This Consent to Sublease Agreement is made and entered into this 1st day of November, 2022, by and between Okaloosa County, Florida through its Board of County Commissioners (hereinafter the "County"); in favor of AERO FX, Inc. d/b/a Emerald Coast Aviation and Kachemak Bay Flying Services, Inc., hereinafter referred to as ("Sub-Tenant").

WITNESSETH:

WHEREAS, on January 1, 2009, Lessee entered into a Lease Agreement, L08-0335-AP, with the County for Commercial Fixed Base Operation at the Bob Sikes Airport (CEW) with current expiration date of January 1, 2054; and

WHEREAS, Emerald Coast Aviation intends to enter into a Sub-Lease Agreement with Kachemak Bay Flying Services, Inc., a copy of which was delivered to County; and

WHEREAS, Article 33 A of L08-0335-AP, states "County shall retain total control and sole discretion over any assignment or subletting of the function to be performed by Company hereunder and such assignment or subletting must have prior written approval by County."

NOW THEREFORE, in consideration of the mutual covenants herein and other good and valuable consideration, the executing parties consent to and agree to the following:

1. The above captioned recitals are true and correct.
2. County consents to Emerald Coast Aviation's sublease with Kachemak Bay Flying Services, Inc.
3. Emerald Coast Aviation and with Kachemak Bay Flying Services, Inc. do hereby agree that County's consent to the execution and delivery of the Sublease shall in no way constitute a modification of the Lease; and, further, that said Sublease is and shall remain inferior to the Lease.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first written.

LESSEE:

By: Juan Carlos Duran
Title: President
Signature: [Signature]
Date: October 19, 2022

SUBLESSEE:

By: JOHN PAEK

Title: GENERAL MANAGER

Signature: John Paek

Date: 18 Oct 2022

OKALOOSA COUNTY, FLORIDA

Mel Ponder

Mel Ponder

Chairman, Board of County Commissioners

Date: NOV 01 2022



ATTEST:

For J.D. Peacock, II
J.D. Peacock, II
Clerk of Circuit Court



month without demand or set off whatsoever. If the commencement date is not the first day of the month, then the rent for the first partial month shall be prorated accordingly.

- 1.06 **Late Charge and Returned Check Charge:** A late charge of \$100 will be assessed on all rent not received on or before the 5th day of each month. If funds are insufficient for any payments made by check, note or similar instrument, payment will be subject to a \$35.00 reprocessing fee in addition to the above stated late fees if funds fail to post on or before the 5th day of the month. All sums of money required to be paid by the TENANT to the LANDLORD under this Lease shall bear interest at the highest rate permitted by law from the date same was due until the date same is paid in full. Payments shall be applied first to fees, costs and attorney fees, then to interest, then to late charges, then to additional rent, and then to rent.

ALL LATE CHARGES SHALL BE DEEMED ADDITIONAL RENT and tenant shall remit an amount sufficient to pay the additional sales tax thereon.

- 1.07 **Security Deposit:** None.
- 1.08 **Extension/Renewal Terms:** None.
- 1.09 **Utilities:** TENANT is responsible for arranging and paying for all utilities that service the TENANT's Office/Classroom Space.
- 1.10 **Permitted Uses (Subject to Paragraphs 27-29):** TENANT shall occupy the PREMISES solely for the United States Government and/or any Partner Nation aircrew training on the Aircraft, or other such aircraft as needed by the United States Government and associated simulators/training devices as agreed to between the LANDLORD and TENANT. TENANT shall not compete against ECA in any way, directly or indirectly, in Commercial Part 135, Part 61 or Part 141 operations during the term of this Lease or as set forth in Paragraph 29 below on Bob Sikes Airport or other aerodrome in what is typically referred to as the Florida panhandle which corresponds to ECA's customer base region. These provisions do not preclude the tenant from performing Part 91 (Public Use) or Part 133 (External Load Operations) contracts with rotary wing aircraft for private industry or for the state of Florida at any location.
- 1.11 **Condition of Premises:** LANDLORD leases to TENANT, and TENANT hereby leases from LANDLORD the PREMISES described in Paragraph 1.03 in an "AS IS WHERE IS" condition. TENANT has inspected the PREMISES, the fixtures, the grounds, building and improvements and acknowledges that the PREMISES are in good and acceptable condition. TENANT is taking the PREMISES and accepting the condition of the PREMISES "AS IS WHERE IS" and LANDLORD is under no obligation to make


any structural or other alterations, decoration, additions or improvements. BY TENANT'S EXECUTION OF THIS LEASE AGREEMENT, TENANT IS WAIVING ANY AND ALL CLAIMS ARISING FROM THE CONDITION OF THE PREMISES.

- 1.12 **Maintenance Requirement:** As partial consideration for this Lease, during the entire Lease Term, TENANT shall have all necessary and/or requested repair and/or maintenance on the Aircraft performed by LANDLORD's FAA Part 145 Repair Station located at the Airport, at LANDLORD's published and/or usual and customary rates, as long as LANDLORD documents future rate increases as competitively reasonable within the Panhandle region. LANDLORD may use third-party vendors to perform certain functions necessary to properly maintain the Aircraft, which shall be paid by TENANT. LANDLORD retains the right to decline TENANT's request for repair/maintenance, in which case TENANT shall have the right to have the Aircraft repaired and/or maintained by someone other than LANDLORD for that particular issue and for that one time only.
- 1.13 **Other Charges:** Disposition of any other ancillary Tenant use fees or product charges, i.e., for GPU and/or facility use, will be handled in accordance with Paragraph 29.02.
- 1.14 **Option for Additional Leased Space:** If requested by Tenant at least 90 days prior to intended occupancy date and said occupancy is contracted for at least one full year, Landlord agrees to provide up to 1,200 square feet of additional classroom, simulator, and/or office space to Tenant in close proximity (i.e., same or adjacent building(s)) to Tenant's original space defined by this lease. If these conditions are met, Landlord further agrees to lease the additional requested space to Tenant at the rates stated in this lease (i.e., \$13.00 per square foot per year for hangar space and \$24.00 per square foot for office/classroom/simulator space), plus all related taxes. The footprint of any future aircraft that may go into Landlord's hangar pursuant to this section is measured by its length multiplied by its width, including all propellers and/or blades.

2. **INSURANCE**

- 2.1 **Minimum Insurance Coverage Limits.** During the term of this lease TENANT shall keep in force at its expense the following policies: (i) Worker's Compensation Insurance - per statutory coverage as prescribed by the State of Florida; (ii) Employer's Liability Insurance to a limit of \$1,000,000; (iii) All Risk Hull Insurance on the Aircraft in an amount satisfactory to the LANDLORD; (iv) All Risk Property Insurance coverage commensurate with the value of TENANT'S property located on LANDLOR'S PREMISES; (v) Comprehensive Aircraft Hull and General Liability Insurance with a combined single limit of not less than \$5,000,000, or as otherwise agreed to by LANDLORD in writing, insuring TENANT'S liability against bodily injury

3.

Initials: 

to persons, guests, including passengers, or damage to property; and (vi) Automobile Liability Insurance, to a minimum limit of \$1,000,000. Such determination shall be made by LANDLORD. LANDLORD and Okaloosa County (the "COUNTY") shall be named as additional insureds on all such insurance, excepting only the Worker's Compensation policy, and such insurance shall provide that same may not be cancelled or the coverage reduced without at least thirty (30) days written notice to LANDLORD and with LANDLORD's written consent. TENANT shall provide certificates of such insurance prior to the commencement date of this Lease, and subsequently prior to the expiration of the succeeding certificate and at any time upon request by LANDLORD. All policies shall contain waivers of subrogation against the LANDLORD, its agents or employees.

- 2.02 **Primary Insurance.** Consistent with the indemnification provisions of this Lease, TENANT'S insurance policies will respond on a primary basis, with any insurance carried by LANDLORD to be construed as secondary or excess insurance.
3. **LIMITATIONS ON TENANT'S LIABILITY.** Notwithstanding provisions stated in Sections 2.1 and 2.02, the extent of the Tenant's liability will be subject to the applicable laws of the state of Florida.
4. **DISCLAIMER OF LIABILITY.** LANDLORD AND COUNTY HEREBY DISCLAIM, AND TENANT HEREBY RELEASES LANDLORD AND COUNTY FROM, ANY AND ALL LIABILITY, WHETHER IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY AND NEGLIGENCE), FOR ANY LOSS, DAMAGE OR INJURY OF ANY NATURE WHATSOEVER SUSTAINED BY TENANTS, ITS EMPLOYEES, AGENTS OR INVITEES OR ITS INVITEES' INVITEES DURING THE TERM OF THIS LEASE, INCLUDING BUT NOT LIMITED TO LOSS, DAMAGE OR INJURY TO AIRCRAFT OR OTHER PROPERTY OF TENANT THAT MAY BE LOCATED OR STORED IN THE PREMISES, UNLESS SUCH LOSS, DAMAGE OR INJURY TO AIRCRAFT, OR OTHER PROPERTY OF TENANT THAT MAY BE LOCATED OR STORED IN THE PREMISES, IS CAUSED EXCLUSIVELY BY LANDLORD'S NEGLIGENCE. THE PARTIES HEREBY AGREE THAT UNDER NO CIRCUMSTANCES SHALL LANDLORD OR COUNTY BE LIABLE FOR INDIRECT, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES, WHETHER IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY AND NEGLIGENCE), SUCH AS BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFITS OR OTHER DAMAGE RELATED TO THE LEASING OF PREMISES AND/OR OTHER SERVICES PROVIDED UNDER THIS LEASE. THE PARTIES FURTHER AGREE THAT UNDER NO CIRCUMSTANCES SHALL LANDLORD OR COUNTY BE LIABLE FOR DAMAGE TO AIRCRAFT, OR OTHER PROPERTY, OR FOR INJURY AS A RESULT OF A STORM OR HURRICANE, OR PRECAUTIONARY MEASURES ESTABLISHED BY THE LANDLORD OR COUNTY. IN THE EVENT OF A BREACH OR DEFAULT BY LANDLORD OF ANY OF ITS OBLIGATIONS UNDER THIS LEASE, TENANT SHALL LOOK SOLELY TO LANDLORD'S INSURANCE IN THE DEMISED PREMISES FOR THE SATISFACTION OF TENANT'S REMEDIES. NO OTHER PROPERTY OR ASSETS OF LANDLORD, COUNTY OR ANY PARTNER, MEMBER, SHAREHOLDER, OFFICER OR DIRECTOR THEREOF, SHALL BE SUBJECT TO LEVY, EXECUTION OR OTHER ENFORCEMENT PROCEDURE FOR THE SATISFACTION OF TENANT'S REMEDIES

4.

Initials

UNDER OR WITH RESPECT TO THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT
HEREUNDER OR TENANT'S USE OR OCCUPANCY OF THE DEMISED PREMISES.

5. **INDEMNITY-FORCE MAJEURE.** TENANT agrees to release, indemnify, and hold LANDLORD AND COUNTY, its officers and employees, harmless from and against any and all liabilities, damages, business interruptions, delays, losses, claims, judgments or any kind whatsoever, including all costs, attorneys' fees, and expenses incidental thereto, which may be suffered by, or charged to LANDLORD, arising from or proximately caused by TENANT'S sole negligence as related to: (i) TENANT'S negligent use of the premises; (ii) by reason of any loss or damage to any property or injury to or death of any person arising out of or related to TENANT'S negligence or the negligence of its agents or employees (iii) or by agents or invitees, or invitees' invitees of any covenant or condition of the Lease or by any negligent act or failure to act of those persons. LANDLORD shall not be liable for its failure to perform this Lease or for any loss, injury, damage or delay of any nature whatsoever resulting therefrom caused by an Act of God, fire, flood, accident, strike, labor dispute, insurrection, war or any other cause beyond LANDLORD'S control, including without limitation acts or omissions to act by LANDLORD.

LANDLORD agrees to release, indemnify and hold TENANT, its officers and employees, harmless from and against any direct liabilities, damages, claims, or judgments, including all cost, attorney's fee, and expenses incidental thereto, which may be suffered by, or charges to TENANT, arising exclusively from the negligence of LANDLORD and related to: (i) any loss of or damage to any property or injury to or death of any person arising out of or related to LANDLORD'S sole negligence; (ii) or by reason of any breach, violation or non-performance by LANDLORD or its servants, employees, agents of any covenant or condition of the Lease or by any act or failure to act of those persons if such breach, violation or non-performance is the sole cause of any loss, injury or damage. TENANT shall not be liable for any loss, injury, or damage resulting there from caused by any Act of God, fire, flood, accident, strike, labor, dispute, riot insurrection, war or any other cause beyond TENANT's control, including without limitation acts or omission to act by TENANT.

- 5.01 **Hurricane Procedures/Act of God:** TENANT agrees to comply with and abide by any provisions for storm or hurricane preparedness required or recommended by LANDLORD and/or COUNTY, for the safety and security of the Aircraft and/or Airport and/or PREMISES and/or neighboring aircraft and property ("Hurricane Plan"). TENANT hereby explicitly approves in advance and waives any and all objections to any and all Hurricane Plans, and further grants LANDLORD the authority to move TENANT'S Aircraft within the PREMSIES and/or to other property under LANDLORD'S control at the Airport as LANDLORD deems necessary. LANDLORD shall make a reasonable effort to notify TENANT of LANDLORD'S Hurricane Plan prior to taking any action, however TENANT'S approval shall not be required. Notwithstanding the foregoing, LANDLORD shall not be responsible or liable for any damages, including without limitation, to TENANT'S property or Aircraft as a result of the actions or omissions of LANDLORD

pursuant to this section. IT is acknowledged that before and/or during an emergency and/or Act of God, TENANT may be required to remove all or some of TENANT'S aircraft and/or property from the Premises in LANDLORD'S sole discretion at TENANT'S sole expense.

- 5.02 **Vendor/Invitee or Invitees' Invitees Indemnification:** As set forth in this Lease, TENANT agrees to fully indemnify and hold LANDLORD AND COUNTY harmless from and against any and all liabilities, expenses, damages, claims and losses incurred by LANDLORD AND COUNTY, including attorney's fees and costs, as a result of: (i) the failure by TENANT to perform any covenant required to be performed hereunder; or (ii) any accident, injury or damage that shall happen in or about the Premises resulting, in whole or in part, from any act or omission of TENANT of TENANT'S agents, employees, invitees or invitees', servants, consultants, contractors, subcontractors or licensees; or (iii) any accident, injury or damage that shall happen in or about the Premises to TENANT or TENANT'S agents, employees, invitees or invitees; invitees, servants, consultants, contractors, subcontractors or licensees arising, in whole or in part, out of TENANT'S negligence. TENANT further shall be solely responsible for notifying all such vendors, invitees, and third parties that LANDLORD has disclaimed such liability and that TENANT shall be solely liable to same for any such damages.
- 5.03 **Indemnity/Generally:** In the event that a third party makes a claim alleging facts that, if true, would require TENANT to indemnify under this Section, and said claim is not caused solely by LANDLORD'S negligence, TENANT shall indemnify against all damages incurred in connection with defending that claim, including amounts paid in settlement, even though the claim successfully defended in whole or in part and even though the claim is settled prior to a final determination as to the truth of such allegations: provided that LANDLORD not settle a claim that would result in a claim for indemnification by the TENANT hereunder without the TENANT'S prior written consent.
6. **ASSIGNMENT AND SUBLETTING.** TENANT may not assign this Lease or let or sublet the whole or any part of the PREMISES without the prior written consent of LANDLORD which may be withheld in LANDLORD's sole discretion.
7. **CONDEMNATION.** The parties agree that should the entire PREMISES be taken or condemned by any competent authority for any public or quasi-public use or purpose during the term of this Lease, then this Lease shall terminate as of the date when possession is required for public use, unless LANDLORD, at his option, provides equal suitable space which shall be substituted for the demised PREMISES. In the event of a partial condemnation which renders the remainder of the Premises usable for the use stated herein in the sole discretion of the LANDLORD, the rent shall be pro-rated diminished according to the square footage of Premises so taken. All such calculations shall be performed by LANDLORD. If the remaining square footage of premises is

insufficient to support TENANT operations, TENANT may unilaterally terminate the lease unless LANDLORD is able to offer alternate adequate space and accommodations within 60 days of announced demise of Premises.

All damages or compensation awarded or paid for any such taking shall belong to and be the property of LANDLORD without any participation by TENANT, whether such damages or compensation shall be awarded or paid for diminution in value of the leasehold estate created hereby or under the PRIME LEASE, and TENANT hereby expressly waives and relinquishes all claims to such award or compensation or any part thereof and of the right to participate in any such condemnation or eminent domain proceedings against the owners of any interest in same.

8. **DAMAGE OR DESTRUCTION.** If the PREMISES should be damaged or destroyed by fire or other casualty, TENANT will promptly notify LANDLORD of such casualty. LANDLORD will repair and restore the buildings and improvements (exclusive of improvements installed by TENANT) so damaged or destroyed as nearly as possible to their condition prior to such casualty, limited, however, to the amount of insurance proceeds actually received by LANDLORD. In the meantime, if the demised PREMISES should be rendered totally unusable due to such casualty, there will be an abatement of rent until the PREMISES are again tenantable, unless such fire or casualty results from the acts or negligence of TENANT, TENANT's agents or employees, in which event there will be no abatement of rent. The length of the abatement period shall be added to the term of the Lease by mutual agreement. In the event LANDLORD does not make the PREMISES useable within sixty (60) days after LANDLORD receives the insurance proceeds in connection with the casualty, or in any event within ninety (90) days after the date of the casualty, and Landlord does not make alternate space available, the TENANT may terminate this Lease but shall have no other remedies. In the event the damage is partial, and the remaining Premises are usable for the use stated herein as determined by mutual agreement of the LANDLORD and tenant, the Rent shall be pro-rated diminished according to the square footage of Premises so taken. All such calculations shall be performed by LANDLORD. If the remaining square footage of premises is insufficient to support TENANT operations, TENANT may unilaterally terminate the lease unless LANDLORD is able to offer alternate adequate space and accommodations within 60 days of casualty.
9. **SURRENDER OF PREMISES.** Upon the expiration or termination of this Lease, TENANT shall surrender the PREMISES to LANDLORD in substantially the same condition as the PREMISES were in at the beginning of this Lease and in good and clean condition, reasonable wear and tear excepted. LANDLORD must be advised at least sixty (60) days in advance of nonrenewal of Lease by TENANT or TENANT will be liable for an additional month's rent. Should TENANT remain in possession of the PREMISES after the expiration of the term or earlier termination of this Lease, with or without the consent of LANDLORD, express or implied, such holding over shall, in the absence of a written agreement to the contrary, be deemed to have created and be construed to be a tenancy at sufferance terminable on written notice by either party to the other, at double the rent installments

(prorated on a monthly basis) in effect during the lease year immediately preceding the expiration of the term of this Lease, and otherwise subject to all of the other terms, covenants and conditions of this Lease insofar as the same may be applicable to a tenancy at sufferance, without prejudice to any remedy which LANDLORD any have against TENANT for holding over unlawfully, provided, however, that if TENANT holds over with the prior written consent of LANDLORD, the rent installments will not be doubled as hereinabove provided.

10. **ALTERATIONS.** TENANT shall not make any alterations, additions or improvements to the exterior or interior of the PREMISES or to any other property of LANDLORD without LANDLORD's prior written consent, or erect or install any additional improvements, signs and equipment without LANDLORD'S prior written consent, which may be withheld for any reason. It is expressly understood that no signs are to be installed anywhere on the Premises without LANDLORD's written prior and explicit consent.

If any mechanic's or construction lien is recorded against the PREMISES or against TENANT'S leasehold interest in the PREMISES by reason of work, labor, or service or materials supplied or claimed to have been supplied to TENANT, TENANT shall, within thirty (30) days after the recording thereof, cause such lien to be discharged or bonded off of record. In any event, neither the PRIME LESSOR'S nor the LANDLORD'S interest in the PREMISES shall be subject to any lien arising out of any work, labor, services, or materials supplied or claimed to have been supplied to or for TENANT. TENANT shall never, under any circumstances, have the power to subject the interest of LANDLORD or the PRIME LESSOR in the PREMISES to any mechanics', construction or material men's liens or liens of any kind, nor shall any provision contained in the Lease ever be construed as empowering the TENANT to encumber or cause the LANDLORD to encumber the title of interest of LANDLORD in the DEMISED PREMISES. Any liens filed against the DEMISED PREMISES in violation of this paragraph shall be null and void and of no force or effect.

11. **MAINTENANCE.** LANDLORD will be responsible for all repairs and maintenance of the exterior of the building(s), including but not limited to, all structural maintenance of building except as otherwise stated herein. TENTANT shall provide all day to day and routine maintenance and upkeep on the interior of those portions of the premises under TENANT's control, including pole sign on ramp side of old FBO facility. No hazardous or flammable materials will be stored within or about the PREMISES. No boxes, crates, rubbish, paper or other litter that could cause or support combustion shall be permitted to accumulate within or about the Hangar. This Lease, at LANDLORD's option, shall be terminated if TENANT willfully or negligently causes damage to LANDLORD'S property, including specifically, but not limited to, any of the following:

- 11.01 Dumping oil, gas or any harmful liquids or solids anywhere on LANDLORD'S property other than in appropriate disposal containers. In connection therewith, in the event any asphalt is damaged due to the dumping or leaking of any gasoline or oil, then TENANT shall immediately repair same

at TENANT'S expense within five (5) days after written notice from LANDLORD, or at LANDLORD'S option, LANDLORD shall repair same, in which event TENANT shall reimburse LANDLORD for all of LANDLORD's costs and expenses relating to such repair within five (5) days written demand by LANDLORD.

- 11.02 Parking cars, trucks, campers, trailers or airplanes on any of the grass areas of the LANDLORD'S property or anywhere except designated parking areas for such vehicles.

It is further expressly understood that no tie-down or parking of any aircraft is permitted outside except in designated parking areas. TENANT will notify LANDLORD of current aircraft operations and ensure said aircraft are allowed on the ramp until they are removed. LANDLORD may charge TENANT a daily rate per aircraft for excessive use of the ramp areas. Aircraft temporarily being staged for departure or re-positioning must be properly secured. Further, no storage of boats, trucks, trailers or mobile homes is permitted outside of the hangar or anywhere on LANDLORD'S property. No pets or other animals are allowed on the property, except for handicap assistance animals.

12. **TENANT'S LOSSES.** All personal property of TENANT shall be kept in the PREMISES at TENANT'S sole risk. LANDLORD shall not be liable to TENANT for any damage or injury to TENANT, its employees, agents, guests or invitees, or to any property of TENANT, for any reason whatsoever, except to the extent of LANDLORD'S sole negligence.
13. **NOTICES.** All notices to be given hereunder shall be in writing and shall be sent by mail to the addresses shown on the front page of this Lease, or to such other address as either party may have furnished by prior written notice sent pursuant hereto. Any notices permitted or required to be given by the terms of this Lease shall be effective upon mailing and shall be deemed sufficient if mailed by United States mail, with proper postage and address affixed thereto.
14. **DEFAULT.** Failure to pay the rent by the fifth (5th) day of the month or to cure any other default as soon as reasonably practical and in any event within ten (10) days after written notice by LANDLORD, or commencement of bankruptcy or insolvency proceedings by or against the TENANT, or if TENANT makes an assignment for the benefit of creditors, or suffers this Lease to be taken under any writ of execution or attachment, or if TENANT vacates or abandons the DEMISED PREMISES, then any of such events shall constitute a default hereunder and the LANDLORD shall have the right at its option to terminate TENANT's possession and to enter the PREMISES and remove all persons and property there from forcibly or otherwise, LANDLORD shall in that event post a notice to TENANT at the PREMISES with a three (3) day warning that if the default is not cured the TENANT shall be dispossessed without any further notice or legal action by LANDLORD. In the

event of default hereunder, the LANDLORD may, at its option, enter the PREMISES as the agent of the TENANT and re-let the PREMISES as the agent of the TENANT at such price and upon such terms, and for such duration of time, as LANDLORD may determine, and receive the rent and apply the same to the payment of the rent due from TENANT, and the TENANT shall pay any deficiency, but any excess monies shall be the sole property of LANDLORD. TENANT agrees to pay all costs of eviction, collection, and reasonable attorneys' fees, in the event LANDLORD engages the services of an attorney or commences proceedings, in pre-trial, trial, appeal and/bankruptcy against TENANT. LANDLORD's remedies hereunder are cumulative and shall be in addition to all legal remedies. Failure to promptly exercise any right in this Lease shall not be deemed a waiver of said right. TENANT agrees that LANDLORD may enforce this lien when default has occurred by denying TENANT access to the leased PREMISES and/or by seizure of the TENANT's personal property.

15. **HABITUAL DEFAULT.** Notwithstanding the foregoing, in the event that the TENANT has frequently, regularly or repetitively defaulted in the performance of or breached and of the terms, covenants and conditions required herein to be kept and performed by the TENANT of the same type and kind, in the sole opinion of the LANDLORD and regardless of whether the TENANT has cured each such individual condition of breach or default as provided in this lease hereinabove, the TENANT may be determined by the LANDLORD to be an "habitual violator." At the time that such determination is made, LANDLORD may issue to TENANT a written notice advising of such determination, citing the circumstances therefore, advising that the tenancy is being terminated for said habitual breach and advising that TENANT shall have 30 days to vacate the PREMISES. Three (3) separate instances of default, even if cured, shall be considered to be (although not required) conclusive evidence that TENANT is a habitual violator, "per se," under this section.
16. **LANDLORD'S RIGHT OF ACCESS.** The LANDLORD, its employees, and agents shall have the right to enter the Premises at all reasonable times for the purpose of inspecting, cleaning, or repairing the PREMISES, or any portion thereof, or to exhibit the PREMISES to prospective tenants, purchasers, or others the LANDLORD may deem appropriate.
17. **USE.** The PREMISES shall be used and occupied by TENANT solely for the purposes set forth in Paragraph 1.10 above and for no other purposes whatsoever without limiting the foregoing. TENANT agrees that LANDLORD may establish and amend from time to time reasonable Rules and Regulations regarding the use, operation and maintenance of the Premises and the complex housing same, and TENANT covenants to abide by all such Rules and Regulations that shall be now or hereafter in effect from time to time.
 - 17.01 **Substitution of Hangar Space:** TENANT acknowledges that LANDLORD cannot guarantee that TENANT will have the same Hangar Space as its Premises every day. LANDLORD agrees that although it cannot guarantee the same Hangar Space, it shall make reasonable efforts to ensure that the Aircraft(s) are stored in the specified Hangar. LANDLORD, however, shall retain the right to move, park and/or

relocate the Aircraft to a new space within the Hangar in the event that LANDLORD, in its sole discretion, determines that such a move is necessary or appropriate. If LANDLORD elects to move, park and/or relocate the Aircraft to a new space, LANDLORD shall make a reasonable effort to notify TENANT of the change in the Aircraft's location.

- 17.02 **Services Provided:** LANDLORD will provide the service of moving the Aircraft from the Premises onto the ramp area, and from the ramp area into the Premises. It is expressly agreed that TENANT shall have no right to perform the above services unless TENANT receives written permission from LANDLORD. LANDLORD shall be responsible for all damages exclusively caused by the services provided by LANDLORD employees.
18. **COMPLIANCE WITH GOVERNMENTAL AND AIRPORT REGULATIONS.** TENANT shall comply with all statutes, ordinances, rules, regulations and requirements of the federal, state, county or city government departments or bureaus exercising jurisdiction over the leased PREMISES, including FAA regulations and rules and regulations of the applicable airport, and shall comply with all rules and regulations promulgated by LANDLORD of which TENANT is notified; including without limitation rules and procedures established for the safety and security of aircraft, crew and passengers in the event of an approaching storm, whether or not such storm is forecast to or actually reaches hurricane status. TENANT acknowledges receipt of a copy of the rules and regulations of the applicable airport, as well as a copy of advance precautionary measures in the event of a storm or hurricane. The TENANT further acknowledges that pursuant to the terms of the PRIME LEASE, the PRIME LANDLORD reserves the right to itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the PREMISES, together with the right to cause in the airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for the navigation of or flight in the airspace, and for the use of the airspace for landing on, taking off from or operating within the AIRPORT. This Lease is subject to the consent/approval of the COUNTY. The Parties agree to cooperate in good faith related to any requirements imposed by the COUNTY in order to grant such consent/approval.
19. **SUBORDINATION/ATTORNMEN TO PRIME LEASE AND TO MORTGAGES.**
- 19.01 **Prime Lease:** It is acknowledged that this is a sublease, and that LANDLORD has leased certain property, which includes the PREMISES from the governmental authority which owns the airport in which the PREMISES are located. This Lease shall be subordinate to LANDLORD'S lease, and shall comply with all applicable provisions of LANDLORD'S lease. TENANT hereby acknowledges receipt of a copy of the Prime Lease dated January 01, 2009, the First Amendment thereof dated July 13, 2010, the Second Amendment thereof dated August 3rd, 2010, the Third Amendment thereof dated June 19, 2012 and the Fourth Amendment thereof dated March 19, 2013, the Fifth Amendment thereof dated March 4, 2014, and

the Sixth Amendment thereof dated April 1, 2014 (collectively referred to herein as the "Prime Lease"). If the Prime Lease is terminated for any reason during this lease term, including any extensions, this Lease shall also terminate without recourse.

- 19.02 **Mortgages:** This Lease is subject and subordinate to any and all mortgages which may now or hereafter affect the real property of which the PREMISES are located and to all renewals, modifications and extensions thereof. TENANT shall, upon request of LANDLORD, execute within five (5) business days, any subordination documents which LANDLORD or any mortgagee of the PREMISES may reasonably request, but not such documents shall be required to effectuate said subordination.
- 19.03 **Attornment:** TENANT agrees that in the event of a sale, transfer or assignment of LANDLORD'S interest in the DEMISED PREMISES, or in the event any proceedings are brought for the foreclosure of or for the exercise of any power of sale under any mortgage made by LANDLORD encumbering the DEMISED PREMISES, to attorn to and to recognize such transferee, purchaser or mortgagee as the LANDLORD under this LEASE.
20. **CONSTRUCTION OF LEASE.** All the provisions contained herein shall bind and inure to the benefit of the parties, hereto, their heirs, personal representatives, successors and assigns. In the event, at any future time, one or more of the provisions of this Lease shall be held to be void by any court of competent jurisdiction for any reason, such provision shall be deemed to be separable, and the remainder of this Lease shall be valid and in full force and effect. Without regard to which party initially drafted this Lease, it shall not be construed for or against any party but shall be construed and enforced as a mutually prepared agreement. The Paragraph and subparagraph headings used herein are for convenience or reference only and shall not affect the construction of, or be taken into consideration in interpreting this Lease as a whole or the individual Paragraphs and subparagraphs.
21. **TIME OF THE ESSENCE.** Time shall be of the essence in connection with all terms and conditions set forth herein.
22. **FINAL AGREEMENT.** This Lease represents the entire agreement between the parties, and any other statements, conditions, representations or commitments are considered to be merged herein.
23. **SURVIVAL OF CONVENANTS.** All portions of this Lease which may, by necessity, be required to be enforced by either party are enforceable beyond the date of the termination of this Lease.

24. **WAIVER.** The failure of either party to enforce any covenant or other provision of this Lease shall not constitute a waiver of the right to do so thereafter, nor shall the same give rise to any caused of action or defense on the part of the TENANT.
25. **MODIFICATION.** No Modification of this Lease will be effective to vary any of the terms or provisions thereof unless the modification is in writing, referencing this Lease, and signed by both parties. A copy of any modification will be given to both parties.
26. **FAA REQUIREMENTS.** TENANT is aware that the Federal Aviation Administration regulates the use of airports. TENANT, in exercising any of the rights or privileges herein granted to it, shall not on the grounds of race, color or natural origin discriminate or permit discrimination against any person or group of persons in any manner prohibited by Part 21 of the Regulations of the Secretary of Transportation. LANDLORD is hereby granted the right to take such action, anything to the contrary herein notwithstanding, as the United States may direct in enforcing this non-discrimination covenant. TENANT understands and agrees that the governmental authority owning the airport in which the PREMISES is located has reserved unto itself, its successors and assigns, for the use and benefit of the public, the right of flight for the passage of aircraft in the airspace above the surface of the PREMISES, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the airspace, and for the use of the airspace for landing on, taking off from, or operation of the airport. TENANT expressly agrees for itself, its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the PREMISES encompassed by this Lease to such a height so as to comply with Federal Aviation Regulations, Part 77. TENANT agrees for itself, its successors and assigns, to prevent any use of the PREMISES which would interfere with or adversely affect the operation or maintenance of the airport or otherwise constitute an airport hazard.
27. **HAZARDOUS WASTE.** TENANT agrees that it will comply with all environmental laws, whether local, state or federal, as same may be amended from time to time. Without limiting the foregoing, TENANT agrees that it will (i) give written notice to LANDLORD at least seven (7) days in advance of any production, generation, handling, storage, treatment, transportation, disposal, release or removal of "Hazardous Waste" (as defined below) from or on the PREMISES; (ii) not use or employ the PREMISES or any portion of the Land to handle, transport, store, treat or dispose of any Hazardous Waste, whether or not it was generated or produced on the PREMISES; (iii) defend, indemnify and hold any kind whatsoever, including, but not limited to, attorneys; fees and costs at all tribunal levels, which LANDLORD may suffer, incur or pay resulting from or arising out of any act or omission of TENANT, or TENANT'S Agents, or any other person on the PREMISES under color of authority of TENANT, effecting the handling storage, treatment, transportation, disposal, release or threat of release, or removal of Hazardous Waste from or on the PREMISES, TENANT shall obtain (provide LANDLORD with evidence that is has obtained) environmental liability insurance naming LANDLORD and any mortgagee as additional

insured. Such insurance shall be issued by a company with minimum limits of coverage satisfactory to LANDLORD.

The term "Hazardous Waste" shall include, without limitation, any toxic waste, chemical pollutant, solid waste, combination of solid waste, or similar environmental hazard, which, because of its quantity, concentration, or physical, chemical or infectious characteristics may cause or significantly contribute to (i) an increase in mortality, (ii) an irreversible or incapacitating illness, or (iii) a substantial, present, or potential hazard to human health or the environment, when improperly treated, stored, transported or disposed, or otherwise managed, whether at such time of occurrence, it shall be deemed a violation of any law.

It is expressly understood and agreed by TENANT that TENANT shall be fully responsible for the disposal of any and all waste oil consumed, produced and expended by TENANT. TENANT shall contract with an authorized oil disposal company and shall not utilize LANDLORD'S property, tanks or equipment for disposing of any waste oil.

The obligations of TENANT, as well as the foregoing indemnity in connection with this Paragraph, shall survive the expiration or earlier termination of this Lease, anything herein to the contrary notwithstanding.

28. **EXCLUSIVE FUELING RIGHTS.** LANDLORD has the exclusive fueling rights for the Premises. Under no conditions can any fuel truck(s), other than LANDLORD'S fuel truck(s), be invited or permitted on the Premises. You may taxi anywhere on the field for fuel.

29. **RESTRICTIVE COVENANTS.**

29.01 TENANT covenants and agrees, from and after the date hereof, so long as this lease shall be in effect and for three (3) years thereafter, not to compete with LANDLORD, either alone or in conjunction or collaboration with any other person or business entity, in the following business areas on Bob Sykes Airport or within the Landlord's customer base region typically referred to as the Florida panhandle: (1) any non-government manned flight training (i.e., 14CFR FAA Parts 61 and 141) for which the LANDLORD's preexisting lease with Okaloosa County requires LANDLORD to perform; (2) any non-government flight transport operations for pay (i.e., 14CFR FAA Part 135); and (3) any non-government Part 145 commercial maintenance (except on TENANT's own aircraft) for which the LANDLORD has the exclusive right to perform at Bob Sikes Airport.

29.02 In consideration of this non-compete to protect and assure continuation of the Landlord's business interests, the LANDLORD covenants and agrees, from and after the date hereof, so long as this lease shall be in effect and for three (3) years thereafter, that the Tenant's current training support to the USG and foreign military operations and any future comparable military training or operational


support, as well as Federal, State, or commercial operations under Part 91 Public Use or Part 133/137 External Loads, are not, and will not be deemed to be in competition with the stated services provided by the Landlord in its capacity as the Fixed Base Operator (FBO) and provider of certain FAA flight services. In further consideration of the Tenant's agreement to this non-compete, the LANDLORD agrees to the following: 1) Landlord continues to waive, as in the lease previous to this one, those additional charges specified in Paragraph 1.13 of this document; and, 2) Landlord continues to provide a ten (\$.10) cent discount on each gallon of aviation fuel purchased from the FBO; and, 3) Landlord does not require a security deposit or pledge of collateral (e.g., personal property) to execute this lease. This does not preclude LANDLORD from asserting a claim of lien under State and/or Federal law.


- 29.03 **Injunctive Relief.** The Parties agree that either is entitled to seek injunctive relief in enforcing the terms of this section.
- 29.04 **Attorney's Fees.** In the event either Party engages the services of an attorney or commences proceedings, in pre-suit, pre-trial, trial, appeal and/or bankruptcy against TENANT the other to enforce the provisions of this section and the court subsequently deems one party the prevailing party for purposes of this provision, the non-prevailing party shall pay all reasonable attorney's fees and costs of the prevailing party.
- 29.05 **Consideration.** The parties agree that the consideration for this non-compete agreement is reasonable, adequate and sufficient to support the terms of this section. The parties further agree that these restrictive covenants are (a) reasonable in time, scope, area and line of business, (b) necessary to protect the legitimate business interests of the LANDLORD, (c) supported by reasonable, adequate and sufficient consideration, and (d) are not prohibited under Florida law.
30. **RADON GAS.** Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to person who are exposed to it over time. Levels of Radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding Radon and Radon testing may be obtained from the county public health unit.
31. **LITIGATION VENUE/APPLICABLE LAW.** This LEASE shall be governed and construed only in accordance with the law of the State of Florida. The parties agree that sole and exclusive venue for purposes of any litigation arising out of or related to this LEASE shall be only in Okaloosa County, Florida. The prevailing party in any litigation arising out of or related to this Lease shall be entitled to its reasonably incurred attorney's fees and costs. In the event of a counterclaim, the prevailing party shall be the party receiving the higher monetary award.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year above written.

LANDLORD: Aero FX, Inc.


WITNESSES:



Print Name: Karen Harde II
As its: CFO/VP Finance


Print Name: Jennifer Blackwood

TENANT: Kachemak Bay Flying Services, Inc.

WITNESSES:


Print Name: JOHN PACK
As its: GENERAL MANAGER


Print Name: KEVIN FOLETTE


Print Name: Pete Pelletier

AMENDMENT NO. 1
COMMUNITY HANGAR AND HANGAR OFFICE LEASE AGREEMENT

THIS AMENDMENT is entered into on the 19 day of October 2022, by and between AERO FX, Inc., d/b/a, EMERALD COAST AVIATION, whose address is 5535 John Givens Road, Crestview, FL 32539, (hereinafter referred to as "LANDLORD"), and Kachemak Bay Flying Services, Inc. (KBFS), whose address is 615 Discovery Dr., Huntsville, Alabama 35806 (hereinafter referred to as "TENANT").

WITNESSETH

WHEREAS, Landlord and Tenant entered into the original Community Hangar and Hangar Office Lease Agreement (the "Sublease Agreement") effective October 1, 2022; and

WHEREAS, this Amendment No. 1 is being executed at the request of Okaloosa County (the "COUNTY") to incorporate the Seventh Amendment of the Landlord's Prime Lease with the County into paragraph 19.01 of Sublease Agreement;

WHEREAS, this Amendment No. 1 shall be subject to the terms, covenants, conditions, and agreements to be kept, performed and observed by the Parties as stipulated in the Sublease Agreement not otherwise amended hereby;

NOW, THEREFORE, the Landlord and Tenant each in consideration of the Sublease Agreement to be performed by the other, do hereby agree as stated:

1. The recitals set forth above are incorporated herein.
2. The third sentence of Paragraph 19.01 shall be amended hereby to read as follows:

TENANT hereby acknowledges receipt of a copy of the Prime Lease dated January 1, 2009, the First Amendment thereof dated July 13, 2010, the Second Amendment thereof dated August 3, 2010, the Third Amendment thereof dated June 19, 2012, the Fourth Amendment thereof dated March 19, 2013, the Fifth Amendment thereof dated March 4, 2014, the Sixth Amendment thereof dated April 1, 2014 and the Seventh Amendment thereof dated June 1, 2021 (collectively referred to herein as the "Prime Lease").


3. The Effective Date of this Amendment shall be October 1, 2022.

[Signatures on Following Page]

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year above written.

LANDLORD: Aero FX, Inc.

WITNESSES:



Print Name: JONATHAN DUNN
As its: President




Print Name: COURTNEY NORRIS



Print Name: BEAU WATTS

TENANT: Kachemak Bay Flying Services, Inc.

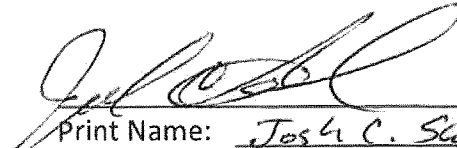
WITNESSES:



Print Name: JOHN PAIK
As its: GENERAL MANAGER



Print Name: KEVIN FOLETTE



Print Name: JOSH C. SCULLS

**PROCUREMENT/CONTRACT/LEASE
INTERNAL COORDINATION SHEET**

Procurement/Contract/Lease Number: 208-0335-AD Tracking Number: 4955-22
Procurement/Contractor/Lessee Name: Profx Grant Funded: YES ___ NO X
Purpose: Sublease to KBFS
Date/Term: 1-1-2014 1. GREATER THAN \$100,000
Department #: _____ 2. GREATER THAN \$50,000
Account #: _____ 3. \$50,000 OR LESS
Amount: _____
Department: NA Airport Dept. Monitor Name: 8130

Purchasing Review

Procurement or Contract/Lease requirements are met: [Signature] Date: 9-28-12
Purchasing Manager or designee Jeff Hyde, DeRita Mason, Jessica Darr, Amber Hammonds

2CFR Compliance Review (if required)

Approved as written: No federal funds Grant Name: _____
Grants Coordinator Suzanne Ulloa Date: _____

Risk Management Review

Approved as written: see email attached Date: 9-28-12
Risk Manager or designee Kristina LoFria

County Attorney Review

Approved as written: see email attached Date: 10-4-12
County Attorney Lynn Hoshihara, Kerry Parsons or Designee

Department Funding Review

Approved as written: _____ Date: _____

IT Review (if applicable)

Approved as written: _____ Date: _____

DeRita Mason

From: Lydia Garcia
Sent: Wednesday, September 28, 2022 9:32 AM
To: DeRita Mason
Cc: Lynn Hoshihara; Parsons, Kerry
Subject: RE: SUBLEASE AeroFX/ECA to KBFS L08-0335-AP
Attachments: Consent to Sublease AeroFX to KBFS.docx; Aero FX to KBFS Sublease Draft.docx

Good Morning All,

The attached L08-0335-AP Sublease Aero FX to KBFS is approved by Risk Management for insurance purposes.

Kind Regards,

L. Garcia
Public Records Request & Contracts Specialist

OKALOOSA COUNTY BCC

Risk Management
Direct: 850.689.4111
Fax: 850.689.5973 |
Email: riskinfo@myokaloosa.com

302 N. Wilson St. Suite 301
Crestview, FL 32539

<https://myokaloosa.com/>



Please note: Due to Florida's very broad public records laws, most written communications to or from county employees regarding county business are public records, available to the public and media upon request. Therefore, this written e-mail communication, including your e-mail address, may be subject to public disclosure.

From: DeRita Mason <dmason@myokaloosa.com>
Sent: Wednesday, September 28, 2022 6:12 AM
To: Lynn Hoshihara <lhoshihara@myokaloosa.com>
Cc: Lydia Garcia <lgarcia@myokaloosa.com>; Parsons, Kerry <KParsons@ngn-tally.com>
Subject: FW: SUBLEASE AeroFX/ECA to KBFS L08-0335-AP

Good morning,
Please review and approve the attached.
Thank you,

DeRita Mason

DeRita Mason

From: Parsons, Kerry <KParsons@ngn-tally.com>
Sent: Tuesday, October 4, 2022 2:24 PM
To: Lydia Garcia; DeRita Mason
Cc: Lynn Hoshihara
Subject: RE: SUBLEASE AeroFX/ECA to KBFS L08-0335-AP
Attachments: Consent to Sublease AeroFX to KBFS.docx

The attached consent, as amended, is approved for legal purposes.

Kerry A. Parsons, Esq.
**Nabors
Giblin &
Nickerson**
ATTORNEYS AT LAW
1500 Mahan Dr. Ste. 200
Tallahassee, FL 32308
T. (850) 224-4070
kparsons@ngn-tally.com

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From: Lydia Garcia <lgarcia@myokaloosa.com>
Sent: Wednesday, September 28, 2022 10:32 AM
To: DeRita Mason <dmason@myokaloosa.com>
Cc: lhoshihara@myokaloosa.com; Parsons, Kerry <KParsons@ngn-tally.com>
Subject: RE: SUBLEASE AeroFX/ECA to KBFS L08-0335-AP

Good Morning All,

The attached L08-0335-AP Sublease Aero FX to KBFS is approved by Risk Management for insurance purposes.

Kind Regards,

L. Garcia
Public Records Request & Contracts Specialist

OKALOOSA COUNTY BCC
Risk Management
Direct: 850.689.4111
Fax: 850.689.5973 |
Email: riskinfo@myokaloosa.com

302 N. Wilson St. Suite 301
Crestview, FL 32539

<https://myokaloosa.com/>

