

RESOLUTION NO. 20-32

RESOLUTION

of the

**SPACE FLORIDA
BOARD OF DIRECTORS**

regarding

**NOT-TO-EXCEED \$75,000,000
EQUIPMENT FINANCING
for
SIMCOM INTERNATIONAL, INC.
(Project Beverly)**

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF SPACE FLORIDA:

Section 1. Authority. This resolution is adopted pursuant to (i) the Constitution of the State of Florida, (ii) the Space Florida Act, which is Chapter 331, Part II, of Florida Statutes, (iii) Chapter 189, Florida Statutes, and (iv) other applicable provisions of law.

Section 2. Findings. The Board of Directors of Space Florida finds and declares the following:

A. SIMCOM International, Inc., d/b/a SIMCOM Aviation Training (“**SIMCOM**”), is a for-profit, privately-held, aviation-services company providing simulation training services for pilot and maintenance training across a variety of general-aviation, business, and commercial aircraft types. The company currently has its training facilities at two locations in Orange County, Florida: Lee Vista Commerce Center (north of Orlando International Airport) and Park South Business Center (south Orlando). The Company also has a training center in Scottsdale, Arizona.

B. To buttress SIMCOM’s Florida operations as its training headquarters, the company is seeking to lower its operating costs. To that end, among other measures, SIMCOM

has asked Space Florida to use a conduit-financing structure to purchase five full-flight simulators that will be located initially at its existing facilities in Orlando, then relocated to a proposed new facility at Lake Nona.

C. The financing of the simulators will be in an aggregate borrowing amount of up to, but not exceeding, Seventy-Five Million Dollars (\$75,000,000). A financing has been negotiated through Stonebriar Commercial Finance, LLC (“**Lender**”), a third-party capital firm experienced in flight-training equipment financing and sales.

D. SIMCOM has a workable option other than investing in Orange County. The company can choose to move its facilities and operations out of the State of Florida and relocate cost-effectively to another state. The decision whether to remain in Orange County will depend on, among other things, whether Space Florida will finance and lease to the company the high-value simulation equipment needed by the company.

E. The total capital investment projected by SIMCOM to be undertaken, if it elects to remain and expand its operations in Orange County, will be One Hundred, Two Million Dollars (\$102,000,000), of which Seventy-Five Million Dollars (\$75,000,000) will be for the lease financing of the new simulators. Finally, the capital investment and business expansion will result in creation of fifty-two (52) net new company jobs in Orange County, with an average annual wage of Fifty-Five Thousand Dollars (\$55,000).

F. Space Florida has determined that (i) under the Space Florida Act, this SIMCOM project will constitute a “project” and an “aerospace business proposing to expand . . . its business in this state,” (ii) SIMCOM’S aviation-training business to be conducted in Orange County will support the promotion of aerospace business development, which satisfies the purposes and duties for which Space Florida was established under the Space Florida Act, and (iii) the project will assist both in achieving Space Florida’s stated mission of fostering a business environment that encourages the development of the state’s position as a global leader in aerospace research, investment, exploration and commerce and in creating high-value-added businesses and jobs in the State.

G. A negotiated lease financing of the equipment for SIMCOM is required and necessary and is in the best interest of Space Florida for the following reasons:

1. the lease financing will be a special and limited obligation of Space Florida payable solely from lease revenues received from SIMCOM;
2. a lease financing of this type is not suitable for a public offering and competitive bids, which is why such a transaction is rarely attempted; and
3. there is no basis to expect that the terms and conditions of a lease financing arrived at by a public offering and competitive bids would be any more favorable to either Space Florida or SIMCOM than through a negotiated transaction with the Lender.

H. The principal amount of the debt under the lease financing and the premium, if any, and the interest thereon shall not be deemed to constitute (i) a general debt, liability or obligation of Space Florida, the State of Florida, Orange County, or any other political subdivision, (ii) a pledge of the faith and credit of Space Florida, the State of Florida, Orange County, or any other political subdivision, but shall be payable solely from the lease revenues received from SIMCOM under the lease financing. Space Florida is not obligated to pay any amounts due or the interest thereon except from the lease revenues received for that purpose, and neither the faith and credit of Space Florida nor the faith and credit or taxing power of the State of Florida or any political subdivision thereof is pledged to the payment of the principal or interest coming due on the lease financing. Space Florida has no taxing power.

I. If and to the extent required by law, the Lender shall provide Space Florida with a disclosure statement containing the information required by Section 218.385(6), Florida Statutes, and the truth-in-bonding information required by Section 218.385(2), Florida Statutes, prior to the execution of the lease-financing documents. Space Florida does not require any further disclosure from the Lender.

Section 3. Authorization of Transaction. To fund the cost of the SIMCOM project and to pay the costs of the lease financing, Space Florida is authorized to enter into a lease financing of the simulation equipment for SIMCOM in an aggregate principal amount not to exceed Seventy-Five Million Dollars (\$75,000,000), with an interest rate or rates not to exceed ten percent (10.0%) per annum and maturity dates for individual items of equipment not to exceed ninety-six (96) months from the date of borrowing for an item of equipment.

No recourse shall be had against Space Florida or its properties or revenues for payment of the principal of, premium, if any, and interest on the owed amounts under the lease financing agreements and instruments except for the lease revenues paid by SIMCOM and received by or on behalf of Space Florida under the Master Lease Agreement authorized below.

Section 4. Master Lease and Sublease Agreement. The President and Chief Executive Officer and other officers of Space Florida are authorized and directed to execute and deliver a Master Lease and Sublease Agreement with SIMCOM and the Lender in substantially the form attached hereto as **Exhibit A (“Master Lease Agreement”)**.

The form of the Master Lease Agreement attached as Exhibit A to this resolution is hereby approved by the Board of Directors. The Chair of the Board, the other members of the Board, the President and CEO, the Executive Vice President and Treasurer, and the other officers of Space Florida are authorized and directed to execute and deliver the Master Lease Agreement in substantially the form contained in Exhibit A and all other agreements, certificates, schedules, and other instruments necessary or useful to consummate the transactions contemplated by the Master Lease Agreement. The Master Lease Agreement and other related instruments may be executed and delivered by Space Florida upon the occurrence of the following:

- (a) execution and delivery to the Lender by both Simcom, Inc. and Simcom Holdings, Inc., of the unconditional Continuing Guaranties of the payment, when

due, of all amounts owed under the Master Lease Agreement and related instruments; and

- (b) Delivery to Space Florida of the opinion of counsel to SIMCOM, in form and substance acceptable to Space Florida officers, to the effect that the Master Lease Agreement and all other related instruments are legally valid, binding and enforceable against SIMCOM in accordance with their terms.

Section 5. Severability. If any provision of this resolution shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable in any context, the same shall not affect any other provision herein or render any other provision (or such provision in any other context) invalid, inoperative or unenforceable to any extent whatever. To that end, this resolution is declared to be severable.

Section 6. Governing Law. This resolution shall be governed by and construed in accordance with the laws of the State of Florida.

Section 7. Authorizations. The Chairman of this Board of Directors, the other members of this Board, and the officers of Space Florida are authorized, collectively or individually, to execute and deliver all other instruments, documents, and contracts on behalf of Space Florida and to take all other actions, as may be necessary or useful, in connection with the Master Lease Agreement and the transactions contemplated thereunder.

Section 8. Superseding Clause. All resolutions or parts thereof in conflict herewith are hereby superseded.

Section 9. Effective Date. This resolution shall take effect immediately upon its adoption.

APPROVED this 16th day of July, 2020.

SPACE FLORIDA

By: its Board of Directors

By: _____
Honorable Jeanette Nunez,
Lt. Governor of Florida
Chair, Board of Directors

ATTEST:

By: _____

EXHIBIT "A"
MASTER LEASE AGREEMENT

Draft 07/13/2020 #41519615 v3



MASTER LEASE AND SUBLEASE AGREEMENT

THIS MASTER LEASE AND SUBLEASE AGREEMENT, dated as of _____, 2020 (this "**Agreement**"), is made and entered into by and among **SPACE FLORIDA**, an independent special district, body politic and corporate and subdivision of the State of Florida ("**Lessor**"), with its principal office at 505 Odyssey Way, Suite 300 Exploration Park, Florida 32953, **STONEBRIAR COMMERCIAL FINANCE LLC**, a Delaware limited liability company ("**Sublessor**"), with its principal office at 5601 Granite Parkway, Suite 1350, Plano, Texas 75024, and **SIMCOM INTERNATIONAL, INC.**, a Florida corporation ("**Sublessee**"), with its principal office at 6989 Lee Vista Blvd., Orlando, Florida 32822. The parties may, now or in the future, enter into one or more equipment schedules (each, a "**Schedule**") which refer to and incorporate by reference this Agreement. Each Schedule shall constitute a lease (each, a "**Lease**" and collectively, the "**Leases**") for the Equipment (defined below) specified therein. Additional details pertaining to each Lease are specified in the applicable Schedule. Lessor and Sublessor have no obligation to enter into any additional Leases with, or extend any future financing to, Sublessee.

1. **LEASE, SUBLEASE, DELIVERY AND ACCEPTANCE.** Subject to and upon all of the terms and conditions of this Agreement and each Schedule, Lessor agrees to lease to Sublessor and Sublessor agrees to lease from Lessor, and Sublessor agrees to sublease to Sublessee and Sublessee agrees to sublease from Sublessor, the property described in each such Schedule (the "**Equipment**") for the Term (as defined in Section 2) set forth in such Schedule. Lessor and Sublessor hereby appoint Sublessee as Lessor's and Sublessor's agent for the sole and limited purpose of ordering and accepting delivery of the Equipment from each vendor thereof. Upon delivery, Sublessee shall inspect and, to the extent the Equipment conforms to the condition required by the applicable sales contract, accept the Equipment. Sublessee will evidence its acceptance of the Equipment by acknowledging such acceptance in the applicable Schedule or, upon Lessor's request, by executing and delivering to Lessor and Sublessor a Delivery and Acceptance Certificate (in the form provided by Sublessor). Sublessee shall pay any and all shipping, delivery and installation charges. Lessor shall not be liable to Sublessor or Sublessee for any delay in, or failure of, delivery of the Equipment.

2. **TERM.** (a) Each Lease shall be effective and the term of each Lease ("**Term**") shall commence on the date of Sublessor's acceptance of the applicable Schedule executed by Lessor and Sublessee and, unless

sooner terminated, such Lease shall expire on the Term Expiration Date specified in the applicable Schedule; *provided, however*, that obligations due to be performed by Sublessee during the Term shall continue until they have been performed in full.

(b) At any time after the occurrence of (i) an Event of Default or (ii) any other event resulting (or that could reasonably be expected to result) in a material adverse effect on Lessor's ability to perform its obligations under this Agreement, a Lease or a Schedule, Sublessor shall have the right and option (the "**Termination Option**") in its sole discretion to purchase for the Termination Price the Equipment subject to all or less than all of the Leases and terminate the lease from Lessor to Sublessor. The Termination Option shall be effective immediately upon Sublessor's giving notice of exercise to Lessor and Sublessee, and Lessor's right, title and interest in the applicable Equipment shall immediately and automatically terminate and be conveyed to Sublessor without any further action. Notwithstanding Sublessor's exercise of the Termination Option, the sublease from Sublessor to Sublessee shall remain in effect and enforceable in accordance with the terms hereof. The "**Termination Price**" shall be \$100.

3. **RENT.** (a) Sublessor shall prepay rent ("**Lease Rent**") to Lessor for use of the Equipment during the Term in the amounts set forth in and due in the applicable Schedule by paying the cost of the related Equipment to the vendor thereof as specified in the related Schedule. Sublessor and Sublessee shall cause the vendor of the Equipment to deliver to Lessor a bill of sale in form and substance satisfactory to Lessor, Sublessor and Sublessee.

(b) Sublessee shall pay rent ("**Sublease Rent**") to Sublessor for the use of the Equipment during the Term in the amounts and on the dates set forth in the applicable Schedule. The term "Sublease Rent" shall include all payments due under a Lease by Sublessee including (without limitation) rental payments, adjustments to rent, if any, security deposits and interim rents. Timeliness of Sublessee's payment and its other performance under any Lease is of the essence. If any Sublease Rent or other amount payable by Sublessee hereunder is not paid within three (3) days after its due date, Sublessee agrees to pay to Sublessor on demand a late charge in the amount equal to five percent (5%) of any such unpaid amount; *provided, however*, that such late charge shall not constitute interest and, in no event, shall the amount collected exceed the maximum amount permitted by applicable law. All payments to Sublessor provided for herein shall be payable to Sublessor in United States Dollars by wire transfer or at Sublessor's address specified in the applicable Schedule in immediately available funds, or at any other place designated by Sublessor.

4. **LEASE NOT CANCELABLE; SUBLESSEE'S OBLIGATIONS ABSOLUTE.** No Lease may be prepaid, canceled or terminated except as expressly provided herein or in the respective Schedule or other written rider or amendment to the Lease, executed by Lessor, Sublessor and Sublessee. Sublessee's obligation to pay all Sublease Rent due or to become due hereunder shall be absolute and unconditional and shall not be subject to any delay, reduction, set-off, defense, counterclaim, abatement or recoupment for any reason whatsoever, including any rights or claims Sublessee may have against any person or entity, including (without limitation) the manufacturer, vendor, or supplier of the Equipment related to any defects, malfunctions, breakdowns or infirmities in the Equipment or any representations by the manufacturer, supplier or vendor thereof or any accident, condemnation or unforeseen circumstances. If the Equipment is unsatisfactory for any reason, Sublessee shall make any claim solely against the manufacturer, supplier or vendor thereof and shall, nevertheless, pay Sublessor all Sublease Rent payable hereunder.

5. **SELECTION AND USE OF EQUIPMENT.** Sublessee agrees that it shall be responsible for the selection, use of, and results obtained from, the Equipment and any other associated equipment or services. Sublessee agrees that the Equipment will be operated solely in the continental United States unless the applicable Schedule provides otherwise and by competent, qualified personnel in connection with Sublessee's business for the purpose for which the Equipment was designed and in accordance with applicable operating instructions, insurance policies, laws and government regulations. Sublessee shall not discontinue use of any Equipment for more than 90 days without Sublessor's written consent, which shall not be unreasonably withheld. Sublessee shall procure and maintain in effect all orders, licenses, certificates, permits, approvals and consents required by federal, state or local laws or by any governmental body, agency or authority in connection with the delivery, installation, possession, use and operation of the Equipment. Sublessee shall not move any Equipment from the location(s) specified for it in the applicable Schedule without Sublessor's written consent, which shall not be unreasonably withheld.

Lessor, Sublessor and Sublessee agree that each Lease is a "finance lease" as defined by Section 2A-103(g) of the Uniform Commercial Code as in effect in the State of Florida (the "**UCC**"). Sublessee acknowledges that: (i) Sublessee is or has selected the "Supplier" as defined in Article 2A of the UCC and has directed Lessor and Sublessor to purchase the Equipment from the Supplier in connection with each Lease, and (ii) Sublessee was informed, before Sublessee's execution of this Lease and is hereby informed in writing that Sublessee is entitled under Article 2A of the UCC to the promises and warranties, including those of any

third party, provided to Lessor or Sublessor by the Supplier in connection with or as part of the Equipment purchase, and that Sublessee may communicate with the Supplier and receive an accurate and complete statement of those promises and warranties, including any disclaimers and limitations on remedies relating thereto. Sublessee acknowledges and agrees that neither the manufacturer or supplier, nor any salesperson, representative or other agent of the manufacturer or supplier, is an agent of Lessor or Sublessor. No salesperson, representative or agent of the manufacturer or supplier is authorized to waive or alter any term or condition of this Agreement or any Schedule, and no representation as to the Equipment or any other matter by the manufacturer or supplier shall in any way affect Sublessee's duty to pay Sublease Rent and perform its other obligations as set forth in this Agreement or any Schedule.

6. **DISCLAIMER OF WARRANTIES.** Sublessee acknowledges and agrees that (a) the Equipment is of a size, design and capacity selected by Sublessee, (b) neither Lessor nor Sublessor is a manufacturer or a vendor of such Equipment and neither Lessor nor Sublessor selected the Equipment, (c) LESSOR AND SUBLESSOR LEASE AND SUBLESSEE TAKES THE EQUIPMENT AND EACH PART THEREOF "AS-IS" AND THAT NEITHER LESSOR NOR SUBLESSOR MAKES ANY REPRESENTATION, WARRANTY OR COVENANT, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING (WITHOUT LIMITATION) THE CONDITION, QUALITY, DURABILITY, VALUE, DESIGN, OPERATION, SUITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE IN ANY RESPECT WHATSOEVER OR AS TO THE ABSENCE OF LATENT OR OTHER DEFECTS, WHETHER OR NOT DISCOVERABLE, OR AS TO THE ABSENCE OF ANY INFRINGEMENT OR ANY PATENT, TRADEMARK OR COPYRIGHT, OR AS TO ANY OBLIGATION BASED ON STRICT LIABILITY IN TORT OR ANY OTHER REPRESENTATION, WARRANTY OR COVENANT OF ANY KIND OR CHARACTER, EXPRESSED OR IMPLIED WITH RESPECT THERETO, AND HEREBY DISCLAIMS ANY SUCH WARRANTY. SUBLESSEE SPECIFICALLY WAIVES ALL RIGHTS TO MAKE A CLAIM AGAINST LESSOR OR SUBLESSOR FOR BREACH OF ANY WARRANTY WHATSOEVER. IN NO EVENT SHALL LESSOR OR SUBLESSOR HAVE ANY OBLIGATION OR LIABILITY FOR, NOR SHALL SUBLESSEE HAVE ANY REMEDY AGAINST LESSOR OR SUBLESSOR FOR ANY ACTUAL, INCIDENTAL, SPECIAL, CONSEQUENTIAL DAMAGES OR OTHER CLAIM, LOSS, DAMAGE OR EXPENSE CAUSED DIRECTLY OR INDIRECTLY BY THE EQUIPMENT OR ANY DEFICIENCY OR DEFECT THEREOF OR THE INSTALLATION, OPERATION, MAINTENANCE OR REPAIR THEREOF OR THERETO. Sublessee may have rights under the contract evidencing Lessor's and Sublessor's purchase of

the Equipment from the manufacturer or vendor. Sublessee is advised to contact such manufacturer or vendor of the Equipment for a description of any such rights. Lessor hereby assigns to Sublessor and Sublessee during the term of any Lease, so long as no Event of Default has occurred hereunder and is continuing, for the sole purpose of prosecuting a claim, the benefits of any and all warranties, if any, expressed or implied with respect to the Equipment, running from the manufacturer or the vendor of the Equipment to Lessor or its assigns, to the extent assignable. Sublessee, by its execution of each Schedule, acknowledges that it has received a copy of the manufacturer's warranties for the applicable Equipment. Sublessee's sole remedy for the breach of any such manufacturer's warranty shall be against the manufacturer of the equipment, and not against Lessor, Sublessor or their assigns. Sublessee expressly acknowledges that Lessor and Sublessor make, and have made, no representations or warranties whatsoever as to the existence or the availability of such warranties of the manufacturer of the Equipment.

7. OWNERSHIP; MARKING; FINANCING STATEMENTS; NO LIENS. (a) The Equipment is and shall be the sole property of Lessor, and Lessor shall have title to the Equipment, both legal and equitable during the term of this Agreement, subject to the terms of this Agreement. Lessor, Sublessor and Sublessee acknowledge their intent and agree that (i) Sublessor is and shall remain entitled to treatment as the "owner" of the Equipment for all federal, state and local income tax purposes, (ii) with respect to Sublessor's obligations to Lessor, each Lease is a loan for purposes federal, state and local income taxes and bankruptcy and has been fully performed by Sublessor. Each of the parties hereto agrees that it will not, nor will it permit any affiliate to, at any time, take any action or fail to take any action which would be inconsistent with the intentions and agreements of the parties expressed in this Section 7. Any income tax returns filed by Lessor, Sublessor and Sublessee will be consistent with this characterization. Lessor, Sublessor and Sublessee each agrees that any depreciation, interest expense deductions, investment tax credits or any other federal tax benefits with respect to the Equipment or any part thereof are benefits of Sublessor. Lessor, and Sublessee will fully cooperate with Sublessor in any effort by Sublessor to avail itself of any such depreciation, investment tax credit or other tax benefits. Lessor, Sublessor and Sublessee agree that they will not, nor will they permit any affiliate to, at any time, take any action or fail to take any action which would be inconsistent with the intentions and agreements of Lessor, Sublessor and Sublessee in this Section 7.

(b) The parties agree that the Equipment shall at all times remain personal property and not a fixture and that both Lessor's right, title and interest thereto, and Sublessor's right and interest thereto, shall

not be impaired, notwithstanding the manner in which it may be affixed to any real property. Sublessee shall affix to the Equipment any labels supplied by Sublessor indicating Lessor's and Sublessor's interests in such Equipment and shall promptly replace any such markings or identification which are removed, defaced or destroyed. Sublessee shall obtain and record such instruments and take such steps as may be necessary to prevent any person or entity from acquiring any rights in the Equipment by reason of the Equipment being claimed or deemed to be real property.

(c) In order to secure the prompt payment and performance as and when due of all of Sublessee's obligations (both now existing and hereafter arising) under all Leases, Sublessee shall be deemed to have granted and hereby grants to Sublessor, a first priority security interest in the following (whether now existing or hereafter created): the Equipment described in such Schedule and all cash and non-cash proceeds relating to the Equipment, including the proceeds of all insurance policies (regardless of whether the Equipment is characterized under the UCC as Sublessor's "equipment" or "inventory"), under the related Lease and the security deposit, if any. Sublessee agrees that, with respect to the Equipment, in addition to all of the other rights and remedies available to Sublessor hereunder upon the occurrence of an Event of Default, Sublessor shall have all of the rights and remedies of a first priority secured party under the UCC. Sublessee may not dispose of any of the Equipment except to the extent expressly provided herein, notwithstanding the fact that proceeds constitute a part of the Equipment. Sublessee hereby authorizes Sublessor to file a financing statement and amendments thereto describing the Equipment and other collateral described above or in any and all Schedules now and hereafter executed pursuant hereto and adding any other collateral described therein and containing any other information required by the applicable Uniform Commercial Code. Sublessee shall execute and deliver to Sublessor for filing any similar documents Sublessor may request.

(d) Upon request by Sublessor, Sublessee shall obtain and deliver to Sublessor valid and effective waivers, in recordable form, by the owners, landlords and mortgagees of the real property upon which the Equipment is located or certificates of Sublessee that Sublessee is the owner of such real property or that such real property is neither leased nor mortgaged. Furthermore, Sublessee agrees to maintain the Equipment free from all claims, liens, attachments, rights of others or encumbrances of any nature or kind whatsoever, including legal processes ("**Liens**") of creditors of Sublessee or any other persons, other than Liens for fees, taxes, levies, duties or other governmental charges of any kind, Liens of mechanics, materialmen, laborers, employees or suppliers and similar Liens not yet delinquent or that are being

contested in good faith by negotiations or by appropriate proceedings which suspend the collection thereof ("**Permitted Liens**"); *provided, however*, that such proceedings do not involve any substantial risk (as determined in Sublessor's sole discretion) of the sale, forfeiture or loss of the Equipment or any interest therein). Sublessee will defend, at its own expense, Lessor's and Sublessor's interest in the Equipment from such claims, Liens or legal processes. Sublessee shall also notify Lessor and Sublessor promptly upon receipt of notice of any Lien affecting the Equipment in whole or in part.

(e) In the event Sublessee receives or otherwise comes into possession of any manufacturer's statement of origin, any certificate of title or any other document evidencing ownership issued with respect to any Equipment, Sublessee will promptly (but in no event later than five business days) after receipt thereof deliver the same directly to Sublessor, in each case with any necessary endorsements in favor of Sublessor.

8. **MAINTENANCE OF EQUIPMENT.** Sublessee, at its sole cost and expense, shall maintain, service and repair the Equipment: (a) in accordance and consistent with (i) the manufacturer's or supplier's recommendations and all maintenance and operating manuals or service agreements, whenever furnished or entered into, including any subsequent amendments or replacements thereof, issued by the manufacturer, supplier or service provider, (ii) the requirements of all applicable insurance policies, (iii) the purchase agreement or supply contract, if any, so as to preserve all of Lessor's and Sublessor's rights thereunder, including all rights to any warranties, indemnities or other rights or remedies, (iv) all applicable laws, and (v) the prudent practice of other similar companies in the same business as Sublessee, but in any event, to no lesser standard than that employed by Sublessee for comparable equipment owned or leased by it; (b) without limiting the foregoing, so as to cause the Equipment to be in good repair, condition and working order and in at least the same condition as when delivered to Sublessee hereunder, except for ordinary wear and tear resulting despite Sublessee's full compliance with the terms hereof. All replacement parts shall be free and clear of all Liens, encumbrances or rights of others, except for Permitted Liens, and have a value, utility and remaining useful life at least equal to the parts replaced. Subject to the provisions of Section 7(a), title to all such parts, improvements and additions to the Equipment immediately shall vest in Lessor and Sublessor, without cost or expense to Lessor or Sublessor or any further action by any other person, and such parts, improvements and additions shall be deemed incorporated in the Equipment and subject to the terms of the Lease as if originally leased hereunder. Sublessee agrees to keep the Equipment in a suitable environment as specified by the manufacturer's guidelines or the equivalent and meet all recertification

requirements. Sublessee shall make the Equipment and its maintenance records available for inspection by Lessor and Sublessor at reasonable times and upon reasonable notice.

9. **ALTERATION; MODIFICATIONS; PARTS.** No material alterations or modifications of or to the Equipment may be made or permitted to be made without the prior written consent of Lessor and Sublessor, which shall not be unreasonably withheld. At the request of Sublessor, any alteration shall be removed and the Equipment restored to its normal, unaltered condition at Sublessee's expense (without damaging the Equipment's originally intended function or its value) prior to its return to Lessor or Sublessor, provided that any updates or upgrades shall become part of the Equipment. Any part installed in connection with warranty or maintenance service or which cannot be removed in accordance with the preceding sentence shall be the property of Sublessor.

10. **LOSS OR DAMAGE; STIPULATED LOSS VALUE.** Until the Equipment is returned to and received by Lessor or Sublessor as provided in this Agreement, Sublessee shall bear the entire risk of loss or destruction or damage to the Equipment ("**Casualty Loss**"). No Casualty Loss shall relieve Sublessee from its obligations to pay Sublease Rent except as expressly provided in this Section 10. When any Casualty Loss occurs, Sublessee shall immediately notify Lessor and Sublessor and, at the option of Sublessor and at Sublessee's sole cost and expense, promptly place such Equipment in good repair and working order in the condition required by this Agreement. Provided that no Event of Default has occurred and is continuing, upon receipt of evidence reasonably satisfactory to Sublessor of completion of such repairs, Sublessor will apply any net insurance proceeds received by Sublessor on account of such loss to the cost of repairs. Upon the occurrence of the loss, disappearance, theft, damage or destruction of any item of the Equipment to such extent as shall make repair thereof uneconomical or has rendered any item of the Equipment permanently unfit for normal use, or the condemnation, confiscation, requisition, seizure, forfeiture or other taking of title to or use of any item of the Equipment or the imposition of any Lien thereon by any governmental authority (any of the foregoing occurrences being herein referred to, in Sublessor's discretion, as a "**Total Loss**"), Sublessee shall, on the next date for the payment of Sublease Rent, pay to Sublessor the Sublease Rent due on that date plus the Stipulated Loss Value (set forth in applicable Schedule) of the item or items of the Equipment with respect to which the Total Loss has occurred and any other sums due hereunder with respect to that Equipment (less any insurance proceeds or condemnation award actually paid and received by Sublessor). Upon making such payment, the Lease and the obligation to make future Sublease Rent payments shall terminate solely with respect to the Equipment or items thereof so paid for and (to the extent

applicable) Sublessee shall become entitled thereto "AS IS WHERE IS" without warranty, express or implied, with respect to any matter whatsoever. Stipulated Loss Value shall be determined as of the next date on which a payment of Sublease Rent is or would be due after a Total Loss, after payment of any Sublease Rent due on such date, and the applicable Stipulated Loss Value shall be that which is set forth with respect to such Sublease Rent payment. If Sublessee fails to perform its obligations under this Section 10, Sublessor shall have the right to substitute performance, in which case, Sublessee shall immediately upon demand, reimburse Sublessor therefor.

11. **INSURANCE.** Sublessee shall obtain and maintain at all times (including, without limitation, any period of storage) on the Equipment, at its own expense, all risk physical damage insurance and comprehensive general and/or automobile (as appropriate) liability insurance (covering bodily injury and property damage exposure including, without limitation, contractual liability and products liability) in such amounts, against such risks, in such form and with such insurers as Sublessor may reasonably require, *provided, however*, that the amount of all-risk physical damage insurance shall not be less than the greater of (a) the replacement value of the Equipment; or (b) the Stipulated Loss Value of the Equipment specified in the applicable Schedule. Each physical damage insurance policy will name Sublessor (together with its successors and assigns) as loss payee. Each liability insurance policy shall provide coverage (including contractual, cross-liability and personal injury coverage) of not less than \$5,000,000 or the amount required by law, whichever is greater for each occurrence, name Lessor and Sublessor (together with their affiliates and each of its and their successors and assigns) as an additional insured and be primary as respects of any other insurance. Each insurance policy shall provide, by endorsement or otherwise that the interests of Lessor and Sublessor shall not be invalidated by any action or inaction of Sublessee, any guarantor or any other person, and shall insure Lessor and Sublessor regardless of any breach or violation by Sublessee or any other person, of any warranties, declarations or conditions of such policies. All policies shall contain a clause requiring the insurer to give Lessor and Sublessor at least thirty (30) days prior written notice of any material change in the terms or cancellation of the policy and shall include a waiver of subrogation as respects Sublessor's insurance policies. Sublessee shall be liable for all deductible portions of all required insurance. Sublessee shall furnish a certificate of insurance providing confirmation of these insurance policies and, at Lessor's or Sublessor's request, Sublessee shall provide a copy of each insurance policy (with endorsements); *provided, however*, Lessor and Sublessor shall have no duty to ascertain the existence of or to examine the insurance policies to advise Lessor or Sublessee if the insurance coverage does not comply with the requirements of this Section 11. If Sublessee fails to insure the Equipment as required,

Sublessor shall have the right but not the obligation to obtain such insurance, and the cost of the insurance shall be for the account of Sublessee due as part of the next due payment of Sublease Rent. Sublessee consents to Sublessor's release, upon its failure to obtain appropriate insurance coverage, of any and all information necessary to obtain insurance with respect to the Equipment or Sublessor's interest therein. Sublessee hereby appoints Sublessor as Sublessee's attorney-in-fact to make claim for, receive payment of, and execute and endorse all documents, checks or drafts issued with respect to any Casualty Loss under any insurance policy relating to the Equipment.

12. **TAXES.** Sublessee will pay, to the extent due, all tangible personal property taxes, fees, levies, imposts, duties, withholdings and governmental charges, if any, on the Equipment and on Sublessee's leasehold interest on the Equipment, including all sales, use, excise, goods and services, and other taxes and fees, except for Excluded Taxes (as defined herein). Sublessee shall, to the extent permitted by law, cause all billings of such taxes, fees, levies, imposts, duties, withholdings and governmental charges to be made to Sublessee. Sublessee shall indemnify and hold Lessor and Sublessor harmless from, all charges, fees, assessments and sales, use, excise and other taxes (including, without limitation, income, franchise, business and occupation, gross receipts, sales, use, licensing, registration, titling, commercial activity, personal property, stamp and interest equalization taxes, levies, imposts, duties, charges or withholdings of any nature), and any fines, penalties or interest thereon, imposed or levied by any governmental body, agency or tax authority upon or in connection with the Equipment, its purchase, ownership, delivery, leasing, possession, use or relocation of the Equipment or otherwise in connection with the transactions contemplated by each Lease or the Sublease Rent thereunder, excluding taxes on or measured by the net income of Sublessor. Sublessee shall prepare and file all property tax reports, renditions, returns and information statements which are required to be made with respect to any item of Equipment leased hereunder. For that purpose, Lessor and Sublessor hereby appoint Sublessee their agent and attorney-in-fact to make filings and/or payments on behalf of Lessor and Sublessor where the incidence thereof falls on Lessor or Sublessor. Lessor and Sublessor will cooperate with Sublessee by timely providing information requested by Sublessee in connection with Sublessee's preparation and filing of such reports, renditions, returns or information statements. Lessor and Sublessor further agree to forward to Sublessee any assessments, tax bills or other correspondence received in connection therewith. Upon request, Sublessee will furnish to Lessor and Sublessor proof of payment of all taxes and other imposts described above. For the purposes of this Lease, "**Excluded Taxes**" shall mean: (i) any tax based on, or measured by, the net income or gross receipts (or any tax that Sublessor and Sublessee agree is in effect similar to, in lieu of or in

substitution for, any such tax) of Sublessor imposed by the United States or any state, local or foreign government or other taxing authority in a jurisdiction in which Sublessor is subject to tax; and (ii) any tax in the nature of a franchise, business or capital stock tax, if such tax is based on or measured by the capital stock value, par value or net worth of Sublessor and is imposed by any state, local or foreign government or other taxing authority in a jurisdiction in which Sublessor is subject to tax.

13. **PURCHASE.** Sublessee shall, on the Term Expiration Date for the applicable Lease, purchase the related Equipment for a purchase price equal to the product of (a) the Purchase Percentage (as set forth in the related Schedule) and (b) the Equipment Cost (as set forth in the related Schedule). Sublessee shall pay to Sublessor the applicable Purchase Price, together with all sales and other taxes applicable to the transfer of the Equipment and any other amount payable and arising hereunder, in immediately available funds, whereupon Lessor and Sublessor shall transfer to Sublessee, without recourse or warranty of any kind, express or implied, all of Lessor's and Sublessor's right, title and interest in and to such Equipment on an "as is, where is" basis, except each of Lessor and Sublessor will warrant that such Equipment is free and clear of any liens created by it.¹

14. **RETURN OF EQUIPMENT.** Except for Equipment that has suffered a Total Loss and is not required to be repaired pursuant to Section 10, upon an Event of Default and upon demand by Sublessor pursuant to Section 20(e), Sublessee shall contact Sublessor for shipping instructions and, at Sublessee's own risk, immediately return the Equipment, freight, equipment loading, unloading and rigging costs prepaid, to a location in the continental United States specified by Sublessor. At the time of such return to Sublessor, the Equipment shall be (a) in the operating order, repair and condition as required by or specified in the original specifications and warranties of each manufacturer and vendor thereof, ordinary wear and tear excepted, and meet all recertification requirements and (b) capable of being immediately assembled and operated by a third party purchaser or third party Sublessor without further repair, replacement, alterations or improvements, and in accordance and compliance with any and all statutes, laws, ordinances, rules and regulations of any governmental authority or any political subdivision thereof applicable to the use and operation of the Equipment. The provisions of this Section 14 are of the essence of the Lease, and upon

¹ NTD: need to discuss whether the last sentence of this sentence should be repeated, modified with the bank simultaneously purchasing the simulator from Space Florida for the "Termination Price" so as to transfer title etc.

application to any court of equity having jurisdiction in the premises, Sublessor shall be entitled to a decree against Sublessee requiring specific performance of the covenants of Sublessee set forth in this Section 14.

15. **GENERAL INDEMNITY.** Each Lease is a net lease. Therefore, Sublessee shall indemnify Lessor, Sublessor and their successors and assigns and each of their affiliates, agents, officers, directors and employees (each an “**Indemnitee**”) against, and hold each such Indemnitee harmless from and against any and all Claims (other than such as may result solely from the gross negligence or willful misconduct of such Indemnitee), by paying (on an after-tax basis) or otherwise discharging same, when and as such Claims shall become due, including Claims arising on account of any Lease or the Equipment, or any part thereof, including the ordering, acquisition, delivery, installation or rejection of the Equipment, the possession, maintenance, use, condition, ownership or operation of any item of Equipment, and by whomsoever owned, used or operated, during the term of any Lease hereunder with respect to that item of Equipment, the existence of latent and other defects (whether or not discoverable by Lessor, Sublessor or Sublessee), any claim in tort for negligence or strict liability, any claim for patent, trademark or copyright infringement, any claim for the loss, damage, destruction, removal, return, surrender, sale or other disposition of the Equipment or any item thereof, or for whatever other reason whatsoever. It is the express intention of Lessor, Sublessor and Sublessee that the indemnity provided for in this Section 15 includes the agreement by Sublessee to indemnify the Indemnitees from the consequences of such Indemnitees’ own simple negligence, whether that negligence is the sole or concurring cause of the Claims, and to further indemnify such Indemnitees with respect to Claims for which the Indemnitees are strictly liable. Lessor, Sublessor or the Indemnitee affected thereby shall give Sublessee prompt notice of any Claim hereby indemnified against and Sublessee shall be entitled to control the defense thereof, so long as no payment default, bankruptcy or insolvency default or Event of Default has occurred and is then continuing and such Claim does not involve the possibility of criminal sanctions on any Indemnitee; *provided, however*, that Lessor, Sublessor or such Indemnitee shall have the right, in its reasonable discretion, to approve defense counsel selected by Sublessee. For the purposes of this Lease, the term “**Claims**” shall mean all claims, allegations, harms, judgments, good faith settlements entered into, suits, actions, debts, obligations, damages (whether incidental, consequential or direct), demands (for compensation, indemnification, reimbursement or otherwise), losses, penalties, fines, liabilities (including strict liability), charges that any Indemnitee has incurred or for which it is responsible, in the nature of interest, Liens (other than Sublessor’s Liens), and costs (including reasonable attorneys’ fees and disbursements and any other reasonable legal or non-legal expenses of investigation or defense of any Claim, whether or not such Claim is ultimately defeated or

incurred in enforcing the rights, remedies or indemnities provided for hereunder, or otherwise available at law or equity to Sublessor), of whatever kind or nature, contingent or otherwise, matured or unmatured, foreseeable or unforeseeable, by or against any person. For avoidance of doubt, the indemnity is not limited to claims by third parties (other than ordinary and usual operating and overhead expenses). The provisions of this Section 15 with regard to matters arising during a Lease Term shall survive the expiration or termination of such Lease.

16. **ASSIGNMENT BY LESSOR AND SUBLESSEE PROHIBITED.** NEITHER LESSOR NOR SUBLESSEE SHALL, WITHOUT THE PRIOR WRITTEN CONSENT OF SUBLESSOR, WHICH CONSENT SHALL NOT BE UNREASONABLY WITHHELD, (A) ASSIGN, TRANSFER, PLEDGE OR OTHERWISE DISPOSE OF ANY LEASE OR EQUIPMENT, OR ANY INTEREST THEREIN; OR (B) SUBLEASE OR LEND ANY EQUIPMENT, OR PERMIT IT TO BE USED BY ANYONE OTHER THAN SUBLESSEE AND ITS CUSTOMERS AND THEIR RESPECTIVE EMPLOYEES.

17. **ASSIGNMENT BY SUBLESSOR.** Sublessor may assign its rights, title and interest in and to any Lease and the Equipment, individually or together, in whole or in part, and/or grant or assign a security interest in any Lease and the Equipment individually or together, in whole or in part, and Lessor's and Sublessee's rights will be subordinated thereto. Each such assignee shall have all of the rights of Sublessor under each Lease assigned to it. Neither Lessor nor Sublessee shall assert against any such assignee any claims or defenses by way of abatement, set-off, counterclaim or recoupment that Lessor or Sublessee may have against Sublessor or any other person. Upon receipt of written notice of Sublessor's assignment of all or any part of its interest in any Lease, Lessor and Sublessee agree to attorn to and recognize any such assignee as the owner of such assigned Lessor's interest in any Lease and Sublessor and Sublessee shall thereafter make such payments, including (without limitation) such Sublease Rents as are indicated in the notice of assignment, to such assignee. Notwithstanding the foregoing, (i) no assignment by Sublessor shall in any way impair any of Lessor's or Sublessee's rights or interests under this Agreement or any Lease or any related documents or subject Lessor or Sublessee to any obligation or liability to which it would not have been subject had such assignment not occurred; (ii) no assignment by Sublessor shall in any way adversely affect the use or quiet enjoyment of the Equipment by Sublessee; (iii) no such assignment by Sublessor shall subject Lessor or Sublessee to any costs or liabilities in excess of costs and liabilities for which Lessor or Sublessee would have been subjected to under this Agreement or any Lease to the same extent as if such assignment had not occurred; (iv) no such assignment by Sublessor shall be to a competitor

of Sublessee (as the business of Sublessee presently exists); and (v) no such assignment shall be effective against Lessor or Sublessee until Lessor and Sublessee receive notice of such assignment; *provided, however,* no such notice is required if any such assignee is a subsidiary or affiliate of Sublessor.

18. REPRESENTATIONS, WARRANTIES AND COVENANTS OF LESSOR, SUBLESSOR AND SUBLESSEE.

(a) Lessor represents, warrants and covenants to Sublessor and Sublessee that:

(i) it is an independent special district, body politic and corporate and subdivision of the State of Florida;

(ii) It will exercise its best efforts to preserve and keep in full force and effects its existence as an independent special district, body politic and corporate and subdivision of the State of Florida;

(iii) its exact legal name is as set forth in the first paragraph of this Agreement;

(iv) Lessor has duly authorized the execution and delivery of this Agreement and any related documents, and will be fully authorized to execute and deliver each Schedule and any related documents, under the terms and provisions of the resolution of its governing body or by other appropriate official approval; all requirements have been met and procedures have occurred (including, without limitation, public bidding and open meeting requirements) in order to ensure the enforceability of this Agreement and any related documents, and all procedures will be met and procedures will have occurred in order to ensure the enforceability of this Agreement and any related documents, against Lessor; and this Agreement and any related documents constitute, and each Schedule and the resulting Lease and any related documents will constitute, legal, valid and binding obligations of Lessor, enforceable in accordance with their respective terms, except to the extent limited by bankruptcy, reorganization or other laws of general application relating to effecting the enforcement of creditors' rights;

(v) the execution, delivery and performance by Lessor of or under this Agreement do not and will not at any time contravene (A) Lessor's organizational documents, (B) the provisions of, or constitute a default under, or result in the creation of any lien or encumbrance upon the property of Lessor under, any indenture, mortgage, contract or other agreement to which Lessor is a party or by

which it or its property is bound, or (C) any law, governmental rule, regulation, or order or contractual restriction binding on or affecting Lessor; and

(vi) there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, to which Lessor is a party, pending or threatened against or affecting Lessor, nor to the best knowledge of Lessor is there any basis therefor, wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated by any Lease or any other document, agreement or certificate which is used or contemplated for use in the consummation of transactions contemplated by any Lease or which would adversely affect the financial condition of Lessor. Further, Lessor is not in default under any obligation for borrowed money, for the deferred purchase price of property or any lease agreement which, either individually or in the aggregate, would have the same such effect under the laws of the state(s) in which the equipment is to be located.

(b) Sublessor represents, warrants and covenants to Lessor and Sublessee that:

(i) the execution, delivery and performance by Sublessor of or under this Agreement are within Sublessor's powers, have been duly authorized by all necessary corporate or other organizational action on the part of Sublessor, do not require the approval of any stockholder, member, partner, trustee or holder of any obligations of Sublessor except such as have been duly obtained and do not and will not at any time contravene (A) Sublessor's organizational documents, (B) the provisions of, or constitute a default under, or result in the creation of any lien or encumbrance upon the property of Sublessor under, any indenture, mortgage, contract or other agreement to which Sublessor is a party or by which it or its property is bound, or (C) any law, governmental rule, regulation, or order or contractual restriction binding on or affecting Sublessor;

(ii) no authorization or approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for the due execution, delivery and performance by Sublessor of this Agreement;

(iii) each Lease constitutes the legal, valid and binding obligations of Sublessor enforceable against Sublessor in accordance with its terms; and

(v) there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, to which Sublessor is a party, pending or threatened against or affecting

Sublessor, nor to the best knowledge of Sublessor is there any basis therefor, wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated by any Lease or any other document, agreement or certificate which is used or contemplated for use in the consummation of transactions contemplated by any Lease or which would adversely affect the financial condition of Sublessor.

(c) Sublessee represents, warrants and covenants to Lessor and Sublessor that:

(i) it is and will at all times remain a “registered organization” (as defined in the Uniform Commercial Code) duly organized, validly existing and in good standing under that laws of the State of Florida, and Sublessee’s exact legal name is as set forth in the first paragraph of this Agreement;

(ii) the execution, delivery and performance by Sublessee of or under this Agreement are within Sublessee’s powers, have been duly authorized by all necessary corporate or other organizational action on the part of Sublessee, do not require the approval of any stockholder, member, partner, trustee or holder of any obligations of Sublessee except such as have been duly obtained and do not and will not at any time contravene (A) Sublessee’s organizational documents, (B) the provisions of, or constitute a default under, or result in the creation of any lien or encumbrance upon the property of Sublessee under, any indenture, mortgage, contract or other agreement to which Sublessee is a party or by which it or its property is bound, or (C) any law, governmental rule, regulation, or order or contractual restriction binding on or affecting Sublessee;

(iii) no authorization or approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for the due execution, delivery and performance by Sublessee of this Agreement;

(iv) each Lease constitutes the legal, valid and binding obligations of Sublessee enforceable against Sublessee in accordance with its terms;

(v) there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, to which Sublessee is a party, pending or threatened against or affecting Sublessee, nor to the best knowledge of Sublessee is there any basis therefor, wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated by any Lease or any other document, agreement or certificate which is used or contemplated for use in the consummation of transactions contemplated by any Lease or which

would adversely affect the financial condition of Sublessee. Further, Sublessee is not in default under any obligation for borrowed money, for the deferred purchase price of property or any lease agreement which, either individually or in the aggregate, would have the same such effect under the laws of the state(s) in which the equipment is to be located;

(vi) the Equipment consists solely of and will remain personal property and not fixtures;

(vii) the financial statements of Sublessee (copies of which have been furnished to Lessor) have been prepared in accordance with generally accepted accounting principles consistently applied ("**GAAP**"), and fairly present Sublessee's financial condition and the results of its operations as of the date of and for the period covered by such statements, and since the date of such statements there has been no material adverse change in such conditions or operations;

(viii) no Lease Party (as defined below) nor any of its respective affiliates (A) is or will become a person whose property or interest in property are blocked or subject to blocking pursuant to Section 1 of Executive Order 13224 of September 23, 2001 Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)); (B) will engage in any dealings or transactions prohibited by such executive order, or be otherwise associated with any such person in any manner that is in violation of such executive order; or (C) will otherwise become a person on the list of Specially Designated Nationals and Blocked Persons ("**SDN List**") or subject to the limitations or prohibitions under any other regulation, executive order or sanctions programs administered by the Office of Foreign Assets Control; and

(ix) no part of the extensions of credit hereunder or the equipment leased hereunder will be used, directly or indirectly, for any benefit or advantage to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended from time to time.

19. **DEFAULT.** An Event of Default shall occur under each Lease upon the occurrence of any one or more of the following events (each, an "**Event of Default**"):

- (a) Sublessee fails to pay when due (i) any Sublease Rent payment required to be paid by Sublessee and any such failure continues for five calendar days after the due date thereof; or (ii) any payment (other than a Sublease Rent payment) required to be paid by Sublessee under or in connection with

any Lease and any such failure continues for five calendar days following the date of Sublessor's written demand for such payment;

- (b) Sublessee shall fail to obtain and maintain the insurance required herein;
- (c) Sublessee or any guarantor of any or all of the obligations of Sublessee hereunder (a "Guarantor" and together with Sublessee, the "Lease Parties") fails to perform or observe any other covenant, condition or agreement provided under or in connection with a Lease and such failure shall continue unremedied for a period of ten (10) days after Sublessor's written notice thereof to Sublessee, as the case may be;
- (d) any representation or warranty made in this Agreement or a Lease, or financial statements delivered or furnished by any of the Lease Parties under or in connection with a Lease, shall prove to have been false, misleading, erroneous or inaccurate in any material respect when made;
- (e) any petition for relief is filed by or against any of the Lease Parties or Lessor under any bankruptcy, insolvency, reorganization or similar laws and any such matter instituted against a Lease Party is not dismissed or fully stayed within 60 days following the filing or commencement thereof;
- (f) any of the Lease Parties fails to make any payment when due or fails to perform or observe any covenant, condition or agreement to be performed by it under any agreement or obligation to any creditor (including Sublessor under any other agreement or any other Lease under this Agreement) after any and all applicable cure periods therefore shall have elapsed where such failure has resulted in a termination of such other agreement or acceleration of the related obligation;
- (g) any judgment shall be rendered against any of the Lease Parties which shall remain unpaid or is not fully stayed for a period of 60 days, resulting in a material adverse effect on the Equipment, on Sublessee's ability to perform its obligations under this Agreement, a Lease or a Schedule or Sublessor's lien on the Equipment;
- (h) any of the Lease Parties shall dissolve, liquidate, wind up or cease its business; convey, lease or otherwise dispose of all or substantially all of its assets; make any material change in its capital structure or lines of business; merge or consolidate with any other entity; or divide or be divided;
- (i) if any of the Lease Parties is a privately held corporation or any other non-public business organization and effective control of such Lease Party's voting capital stock or other ownership interest, issued and outstanding from time to time, is not retained by the present stockholders or

interest holders (unless such Lease Party shall have provided sixty (60) days' prior written notice of the proposed disposition of stock or ownership interest and Lessor shall have consented thereto in writing, which consent shall not be unreasonably withheld); provided that no consent shall be required in the event that either of the present stockholders of Holdings acquires the ownership interest of the other stockholder of Holdings;

- (j) if any of the Lease Parties is a publicly held corporation and, during any twelve (12) month period, there is a change in the ownership of such Lease Party's capital stock exceeding five percent (5%) of all its capital stock issued and outstanding during such period;
- (k) any Guarantor shall no longer, directly or indirectly, own a majority of the equity interests in Sublessee;
- (l) any collateral security, including any security deposit or letter of credit delivered pursuant to any Schedule, is cancelled, terminated or becomes illegal, invalid, prohibited or unenforceable or ceases to rank in the priority herein contemplated against the property charged thereunder;
- (m) any Event of Default (as such term is defined therein) occurs under any other agreement between any Lease Party or any affiliate of any Lease Party, on the one hand, and Sublessor or any affiliate of Sublessor, on the other.

The occurrence of an Event of Default with respect to any Lease shall, at the sole discretion of Sublessor, constitute an Event of Default with respect to any or all Leases under this Agreement without (except as otherwise expressly provided herein) the necessity of any notice or demand on the part of Sublessor. Notwithstanding anything set forth herein, Sublessor may exercise all rights and remedies hereunder independently with respect to each Lease.

For the avoidance of doubt, Lessor and Sublessee acknowledge that Sublessor has fully performed its obligations under this Agreement and each Lease upon the execution thereof and the payment of Lease Rent thereunder, and Lessor shall have no right to declare any Event of Default or exercise any rights hereunder or under any Lease with respect to any Event of Default.

20. **REMEDIES.** Without duplication, upon the occurrence and continuation of an Event of Default, Sublessor shall have the right, in its sole discretion, to exercise any one or more of the following remedies:

- (a) terminate the applicable Lease and all of Lessor's and Sublessee's rights, but not Sublessee's obligations, under such Lease and in and to the Equipment leased thereunder;
- (b) declare any and all Sublease Rent and other payment obligations under each Lease immediately due and payable, including all past, present and future Sublease Rent and other payment obligations;
- (c) declare the Stipulated Loss Value payable under any or all Leases immediately due and payable;
- (d) take possession of or render unusable by Sublessee any or all items of Equipment, wherever located, without demand, notice, court order or other process of law, and without liability for entry to Sublessee's premises, for damage to Sublessee's property or otherwise;
- (e) demand that Sublessee return any or all Equipment to Sublessor in accordance with Section 14, and, for each day that Sublessee shall fail to return any item of Equipment, Sublessor may demand an amount equal to the Sublease Rent payable for such Equipment in accordance with Section 14;
- (f) lease, sell or otherwise dispose of any or all of the Equipment, whether or not in Sublessor's possession, in a commercially reasonable manner at public or private sale with or without notice, with the right of Sublessor to purchase and apply the net proceeds of such disposition, after deducting all costs of such disposition (including but not limited to costs of transportation, possession, storage, refurbishing, advertising and brokers' fees), to the obligations of Sublessee arising under the Lease, with Sublessee remaining liable for any deficiency until all obligations under this Agreement are paid in full and with any excess being retained by Sublessor;
- (g) recover from Sublessee as damages all costs and expenses of Sublessor reimbursable to it hereunder, including (without limitation) expenses of disposition of the Equipment, legal fees and all other amounts specified in Section 21;
- (h) proceed by appropriate court action, either at law or in equity (including an action for specific performance), to enforce performance by Lessor and Sublessee or to recover damages associated with such Event of Default; or exercise any other right or remedy available to Sublessor at law or in equity; and
- (i) by offset, recoupment or other manner of application, apply any security deposit, monies held in deposit or other sums then held by Sublessor, and with respect to which Sublessor has an interest, against any obligations of Sublessee arising under this Lease, whether or not Sublessee has pledged,

assigned or granted a security interest to Sublessor in any or all such sums as collateral for said obligations.

Lessee may pursue any other rights or remedies available at law or in equity, including (without limitation) the UCC (as defined below), rights or remedies seeking damages, specific performance and injunctive relief. Any failure of Sublessor to require strict performance by Sublessee, or any waiver by Sublessor of any provision hereunder or under any Schedule, shall not be construed as a consent or waiver of any other breach of the same or of any other provision. Any amendment or waiver of any provision hereof or under any Schedule or consent to any departure by Sublessee herefrom or therefrom shall be in writing and signed by Sublessor.

Interest at the rate of the lesser of (a) one and one-half percent (1½%) per month and (b) the highest rate Sublessee can legally obligate itself to pay or Sublessor can legally collect, shall accrue with respect to any amounts payable under this Section 20 for as long as such amounts remain outstanding, and shall be paid by Sublessee upon demand.

Lessor, Sublessor and Sublessee agree that Sublessor has the right, upon the occurrence of an Event of Default, to exercise the Termination Option and that such exercise shall not in any way whatsoever serve to limit or otherwise affect Sublessor's right to exercise any other remedy set forth herein or otherwise available to Sublessor at law or in equity.

No right or remedy is exclusive of any other provided herein or permitted by law or equity. All such rights and remedies shall be cumulative and may be enforced concurrently or individually from time to time.

21. **QUIET ENJOYMENT.** SO LONG AS NO EVENT OF DEFAULT HAS OCCURRED HEREUNDER, NEITHER LESSOR NOR SUBLESSOR SHALL TAKE ANY ACTION TO INTERFERE WITH THE QUIET ENJOYMENT OF THE EQUIPMENT OR ANY PART THEREOF BY SUBLESSEE.

22. **EXPENSES.** Sublessee shall pay Lessor and Sublessor on demand all costs and expenses in protecting and enforcing Sublessor's rights and interests in each Lease and the Equipment, including (without limitation) legal, collection and remarketing fees and expenses incurred by Sublessor in enforcing

the terms, conditions or provisions of each Lease or, upon the occurrence and continuation of an Event of Default.

23. **SUBLESSEE'S WAIVERS.** To the extent permitted by applicable law, Sublessee hereby waives any and all rights and remedies conferred upon a Sublessor by Sections 2A-508 through 2A-522 of the UCC. To the extent permitted by applicable law, Sublessee also hereby waives any rights now or hereafter conferred by statute or otherwise which may require Sublessor to sell, lease or otherwise use any Equipment in mitigation of Sublessor's damages as set forth in Section 20 or which may otherwise limit or modify any of Sublessor's rights or remedies under this Agreement. Any action by Sublessee against Sublessor for any default by Sublessor under any Lease shall be commenced within one year after any such cause of action accrues.

24. **NOTICES; ADMINISTRATION.** Except as otherwise provided herein, all notices, approvals, consents, correspondence or other communications required or desired to be given hereunder shall be given in writing and shall be delivered by overnight courier, hand delivery or certified or registered mail, postage prepaid, email, or facsimile transmission (with confirmation of receipt):

- a) if to Lessor, then to 505 Odyssey Way, Suite 300 Exploration Park, Florida 32953, e-mail: _____, or such other address as shall be designated by Lessor;
- b) if to Sublessor, then to 5601 Granite Parkway, Suite 1350, Plano, Texas 75024, ATTN: General Counsel, e-mail: notice@StonebriarCF.com, or such other address as shall be designated by Sublessor; and
- c) if to Sublessee, then to 6989 Lee Vista Blvd., Orlando, Florida 32822, email: ehinson@simulator.com, or such other address as shall be designated by Sublessee.

All such notices and correspondence shall be effective when received.

25. **FURTHER ASSURANCES.** Lessor and Sublessee, upon the request of Sublessor, will execute, acknowledge, record or file, as the case may be, such further documents and do such further acts as may be reasonably necessary, desirable or proper to carry out more effectively the purposes of this Agreement.

26. **FINANCIAL STATEMENTS.** Sublessee shall deliver or cause to be delivered to Sublessor: (a) as soon as available, but not later than 120 days after the end of each fiscal year of SIMCOM Holdings, Inc. (“**Holdings**”) and its consolidated subsidiaries, the consolidated balance sheet, income statement and statements of cash flows and shareholders’ equity for Holdings and its consolidated subsidiaries (the “**Financial Statements**”) for such year, prepared in accordance with GAAP and certified by independent certified public accountants of recognized standing selected by Holdings; and (b) as soon as available, but not later than 60 days after the end of each of the first three fiscal quarters in any fiscal year of Holdings and its consolidated subsidiaries, the Financial Statements for such fiscal quarter, together with a certification duly executed by the chief financial officer, or equivalent, of Holdings that such Financial Statements have been prepared in accordance with GAAP and are fairly stated in all material respects (subject to normal year-end audit adjustments); *provided, however*, that Financial statements, opinions of independent certified public accountants and other certificates and information required to be delivered pursuant to this Section 26 shall be deemed to have been delivered if Holdings shall have timely filed with the SEC or EDGAR an SEC Form 10-Q or Form 10-K satisfying the requirements of this Section 26, or such items are timely posted by or on behalf of Holdings on a website to which Sublessor has free access. Regardless of the availability of such information publicly, though, Sublessee will promptly deliver or cause to be delivered to Sublessor paper copies upon Sublessor’s request therefor.

27. **GOVERNING LAW; CONSENT TO JURISDICTION.** EACH LEASE AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER AND THEREUNDER SHALL IN ALL RESPECTS BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF FLORIDA (WITHOUT REGARD TO THE CONFLICT OF LAWS PRINCIPLES OF SUCH STATE), INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, REGARDLESS OF THE LOCATION OF THE EQUIPMENT. The parties agree that any action or proceeding arising out of or relating to a Lease may be commenced in any federal or state court sitting in the Middle District of Florida and the parties irrevocably submit to the jurisdiction of each such court and agree not to assert, by way of motion, as a defense or otherwise, in any such suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of such court, that the suit, action or proceeding is brought in an inconvenient forum, that the venue of such suit, action or proceeding is improper, or that the Lease or the subject matter thereof or the transaction contemplated hereby or thereby may not be enforced in or by such court. Sublessee further agrees that any action or

proceeding arising out of or relating to this Agreement, any Lease or the subject matter hereof or thereof may be commenced in any federal or state court sitting in the Eastern District of Texas, and Sublessee irrevocably submits to the jurisdiction of each such court and agrees not to assert, by way of motion, as a defense or otherwise, in any such suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of such court, that the suit, action or proceeding is brought in an inconvenient forum, that the venue of such suit, action or proceeding is improper, or that this Agreement, the Lease or the subject matter hereof or thereof or the transaction contemplated hereby or thereby may not be enforced in or by such court.

28. **WAIVER OF JURY TRIAL.** LESSOR, SUBLESSOR AND SUBLESSEE IRREVOCABLY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

29. **SEVERABILITY; INTEGRATION.** If any provision shall be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions shall not in any way be affected or impaired. Lessor, Sublessor and Sublessee acknowledge that they have read this Agreement and the schedules hereto, understand them, and agree to be bound by their terms and conditions. Further, Lessor, Sublessor and Sublessee agree that this Agreement and the Schedules delivered in connection herewith from time to time are the complete and exclusive statement of the agreement between the parties, superseding all proposals or prior agreements, oral or written, and all other communications between the parties relating to the subject matter hereof.

30. **PRESS RELEASES.** Subject to the prior written consent the other party as to form (such consent not to be unreasonably withheld) Lessor, Sublessor or Sublessee may issue appropriate press releases announcing the consummation of this transaction and the aggregate amount thereof.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed or caused this Master Lease and Sublease Agreement to be duly executed by their respective duly authorized officers as of the date first above written

SPACE FLORIDA

By: _____

Name: _____

Title: _____

FEIN: _____

**STONEBRIAR COMMERCIAL FINANCE
LLC**

By: _____

Name: _____

Title: _____

FEIN: _____

SIMCOM INTERNATIONAL, INC.

By: _____

Name: _____

Title: _____

FEIN: _____

