



**Space Florida Board of Directors  
Meeting Agenda**

**August 28, 2023  
10:00 a.m. – 12:00 p.m. (EDT)**

<p><b>Call-in Number: 855-758-1310 Guest Code: 627 763 6389# Passcode: 567768</b></p>	<p><b>Meeting Location: Hyatt Regency Orlando Int’l Airport 9300 Jeff Fuqua Blvd Orlando, FL 32827</b></p> <p><b>Meeting Room: Regency AB</b></p>
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<b>BUSINESS BEFORE THE BOARD</b>	
Call to Order and Pledge of Allegiance	Lt. Gov. Nuñez
Roll Call	Terrie Ireland
Welcome and Introductions	Lt. Gov. Nuñez
Public Comments	Lt. Gov. Nuñez
<b>BUSINESS BEFORE THE BOARD</b>	
<p><b>1. APPROVAL OF MINUTES</b></p> <ul style="list-style-type: none"> <li>• April 27, 2023</li> <li>• July 20, 2023</li> </ul>	Lt. Gov. Nuñez
<p><b>2. COMMITTEE REPORTS</b></p> <ul style="list-style-type: none"> <li>➤ <b>Audit &amp; Accountability Committee</b> <ul style="list-style-type: none"> <li>• March 31, 2023 Interim Financials</li> </ul> </li> <li>➤ <b>Investment Committee</b> <ul style="list-style-type: none"> <li>• Project and Contract Activities</li> </ul> </li> </ul>	<p>Belinda Keiser</p> <p>Mori Hosseini</p>
<p><b>3. EXECUTIVE BRIEFINGS</b></p> <ul style="list-style-type: none"> <li>• Presidential Brief</li> <li>• Business Unit Reports</li> <li>• Guest Presentations</li> <li>• Upcoming Events &amp; Closing Comments</li> </ul>	Frank DiBello
<p><b>4. OTHER BUSINESS BEFORE BOARD</b></p>	Lt. Gov. Nuñez
Closing Remarks / Adjournment	Lt. Gov. Nuñez

# April 27, 2023, Board Meeting Minutes



## **Draft - Minutes of a Regular Meeting of the Space Florida Board of Directors**

A Regular Meeting of the Space Florida Board of Directors was held on April 27, 2023.

### **BOARD MEMBERS PRESENT:**

Lieutenant Governor & Space Florida Chair, Jeanette Nuñez  
Anthony Barbar  
Rodney Cruise  
Jason Clement  
Danny Gaekwad  
Mori Hosseini  
Belinda Keiser  
Christopher Nocco  
Brian Phillippi  
Scott Ross  
Jonathan Satter

### **SPACE FLORIDA SENIOR MANAGEMENT PRESENT:**

Frank DiBello  
Howard Haug  
Ron Lau  
Todd Romberger  
Denise Swanson  
Anna Farrar  
Mike Miller

### **WELCOME & INTRODUCTIONS:**

A quorum being present, Lieutenant Governor Jeanette Nuñez called the Meeting to order at 1:36 p.m. (EDT). Madam Chair welcomed Board members and opened with current and recent activities regarding the Art Contest currently being held, the 2023 Space Symposium, Frank DiBello's retirement and the presidential search and transition, as well as Governor DeSantis' upcoming Trade Mission to Japan, South Korea, Israel and the United Kingdom to continue building and expanding economic relationships and activities with the State of Florida.

### **PUBLIC COMMENTS:**

Kim Kendall, candidate for District 18 state representative from St Augustine, FL, made Public Comment in regard to Federal Aviation Administration and commercial urban air mobility use, infrastructure, activities and resources.

## **BUSINESS BEFORE THE BOARD**

### **1. APPROVAL OF MINUTES:**

- *Rodney Cruise made a motion to approve the minutes of the January 26, 2023, March 13, 2023, and April 11, 2023, Board Meetings, which was seconded by Anthony Barbar and approved unanimously.*



## 2. COMMITTEE REPORTS:

**Audit and Accountability Committee Report** - Was presented by Denise Swanson on behalf of Belinda Keiser due to sound quality issues with the phone connection and included the April 17, 2023, Audit and Accountability meeting activities with a review of the fiscal year end September 30, 2022, audit planning, to recommend issuance of the 1<sup>st</sup> Quarter Interim Financial Statements for the period ended December 31, 2022, to review the Financial Audit Solicitation tentative schedule and the review of the Enterprise Risk Management Assessment process.

Space Florida's external auditor, Yvonne Clayborne, Partner at Carr, Riggs, and Ingram provided the committee an overview and timeline of the audit planning process for the fiscal year ended September 30, 2022. The overview is a key component of the overall control system in that it allows for an explanation of the audit process by the external auditor directly to the audit committee and provides the committee members with an opportunity to ask questions.

Ms. Swanson recommended approval of the issuance of 1<sup>st</sup> Quarter Interim Financial Statements for the three-month period ended December 31, 2022.

- ***Anthony Barbar made a motion to approve the issuance of the December 31, 2022, interim financial statements which was seconded by Rodney Cruise and approved unanimously.***

Ms. Swanson provided an update on the tentative schedule for the Financial Audit Solicitation.

Ms. Swanson briefed the board on the Enterprise Risk Management Assessment process and results of the assessment completed from staff through executive management included in the advanced board package.

**Governance & Compensation Committee Report** - Was presented by Rodney Cruise and included the April 3, 2023, Governance & Compensation Committee meeting activities which included review of the three potential legislative actions underway and the Performance Management Guidelines Market and Compensation Benchmark Study.

The committee discussed the status of the three possible proposed legislative actions for the upcoming session that resulted from the January 26, 2022, Board Workshop. The first, appointment of Space Florida's Board of Directors, continues to be evaluated. The second action, consisting of updates to Sections 142 and 146 of the Internal Revenue Code by adding Spaceports alongside Airports and Docs and Wharfs; and the last, to evaluate the opportunity for Florida to provide a financial regime that serves investment in and financing of space-based assets are under development and discussions with state leadership.

Mr. Cruise provided an update and timeline of Space Florida's Compensation and Performance Management Guidelines and Compensation Benchmark Study.

**Marketing Committee Report** - Was presented by Mike Miller. There was no quorum for the February 24, 2023, special Marketing Committee Meeting or the April 14, 2023, regular Marketing Committee Meeting. Mr. Miller stated there are two items of significance for the board:

1. Proposed draft revising this committee's charter addressing the image and messaging



challenges.

2. An overview of go-to market and uniformed messaging currently under development.

Both topics are complex challenges, and this committee believes a full board discussion will benefit all, and anticipates making its presentations at the next Board Meeting.

**Investment Committee Report** – Madam Chair requested Denise Swanson provide the April 18, 2023, Investment Committee Meeting Report and request for board actions, in lieu of Mori Hossieni’s absence in person, which included Project and Contract Activities and the Space Florida Pathway for Growth Framework.

Ms. Swanson requested approvals for project and contract activities, including two Resolutions recommended for approval by the committee as follows:

**Item 1 – Project Constitution:** Management requests approval for authority to negotiate and enter agreements for Project Constitution. The Company intends to upgrade its manufacturing capabilities within its existing leased facilities in improvements, re-tooling, and additional high-value equipment necessary to increase production capacity. Requested approval includes Resolution No. 23-044, authorizing Space Florida to enter a Seventy-Five Million Dollar (\$75,000,000) Space Florida Non-Recourse Credit Facility for Project Constitution. **(Resolution No. 23-044 Attachment A).**

- *Belinda Keiser made a motion for approval of the Investment Committee recommendation that the Board approve Resolution No. 23-044 and authorize Space Florida Management to complete negotiations and enter the agreements for Project Constitution which was seconded by Rodney Cruise and approved unanimously.*

**Item 2 – Project Poseidon:** Management requests approval for authority to negotiate and enter agreements for Project Poseidon to support the Company’s upgrades to its shipyard operations to increase capacity and production at the facility. Requested approval includes Resolution No. 23-43, regarding Not-To-Exceed Two Hundred Twenty-Five Million Dollars (\$225,000,000), Six Percent (6%) Senior Secured Notes due in 2053 for Project Poseidon. **(Resolution No. 23-43 Attachment B).**

Ms. Swanson stated that since the time of the advance materials, the Company and investment bank had concerns regarding potential interest-rate market fluctuations associated with the timing of the closing, and requested a revised approval to reflect an increase in the maximum interest rate from 6.0% to 6.25%.

- *After a brief discussion, Anthony Barbar made a motion for the board to approve Resolution No. 23-43 and authorize Space Florida Management to complete negotiations and enter the agreements not to exceed Two Hundred Twenty-Five Million Dollars (\$225,000,000), Six and one quarter percent (6.25%) Senior Secured Notes due in 2053 for Project Poseidon which was seconded by Rodney Cruise and approved unanimously.*
- *Board Member Jonathan Satter disclosed a potential voting conflict under the Code of Ethics for Public Officers and Employees and abstained from voting on Project Poseidon. A copy of Mr. Satter’s Commission on Ethics Form 8A in connection with the voting conflict is included as an attachment to these minutes.*



Ms. Swanson stated that the next action was approval of Items 3-8 regarding Project and Contract Activities included in the advance board package as follows:

**Item 3 - Project Asp:** Management requests approval for authority to negotiate and enter a term sheet with Project Asp to establish its industrial gas plant in Brevard County. The Company plans to invest up to One Hundred Thirty Million Dollars (\$130,000,000) in the project and create at least twenty (20) jobs by 2026 with estimated annual average wages of Ninety Thousand Dollars (\$90,000). The Term Sheet will include Space Florida's best efforts to pursue third party financing, if requested by Company, for planned facilities construction and equipment acquisition in the amount up to One Hundred Thirty Million Dollars (\$130,000,000); lease and sublease agreements for the property; and Space Florida's evaluation of project eligibility for matching funds through the Florida Department of Transportation (FDOT) Spaceport Improvement Program.

**Item 4 - Spaceport Commodities Pipeline Extension:** Management requests approval for authority to negotiate and enter agreements for the Spaceport Commodities Pipeline Extension. The common use spaceport improvement project will provide nitrogen and helium pipelines along Titan III Road to ITL Causeway connecting into existing pipelines on the Cape Canaveral Space Force Station. Requested Approvals:

**Item A:** Agreement with FDOT in the amount of up to Thirteen Million Dollars (\$13,000,000).

**Item B:** Agreement with United Launch Alliance in the amount of up to Thirteen Million Dollars (\$13,000,000).

**Item 5 - Space Coast Regional Airport – Spaceport Access Roadway-Phase 1:** Management requests approval for authority to negotiate and enter agreements for the Spaceport Access Roadway Project on spaceport territory at the Space Coast Regional Airport. The project will provide for the design, permitting and construction of new roadway infrastructure, utility modifications and master stormwater facilities to provide the commercial space industry with access to developable spaceport territory for payload transportation. Requested approvals:

**Item A:** Agreement with FDOT in the amount of up to Three Million Four Hundred Seventy-Five Thousand Two Hundred Fifty Dollars (\$3,475,250).

**Item B:** Agreement with Titusville-Cocoa Airport Authority in the amount of up to Three Million Four Hundred Seventy-Five Thousand Two Hundred Fifty Dollars (\$3,475,250).

**Item 6 - Spaceport Improvement Program – Program Management:** Management requests approval for authority to negotiate and enter agreement with AECOM Technical Services, Inc., in the amount of up to One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000) from previously approved FDOT planning funding. AECOM will provide program and project management services to support the Spaceport Improvement Program for Space Florida and FDOT as described in the Florida Spaceport Improvement Program Project Handbook.

**Item 7 - FY2023 FDOT Planning and Engineering Services:** Management requests approval for authority to negotiate and enter agreement with FDOT in the amount of up to Three Million Five Hundred Thousand Dollars (\$3,500,000) for Fiscal Year 2023 FDOT Planning and Engineering funding for spaceport master planning, spaceport system planning and program management related efforts.



**Item 8 - 2024 FDOT Spaceport Master Plan Amendment:** Management requests approval for authority to amend the 2017 Space Florida Cape Canaveral Spaceport Master Plan to include Fiscal Year 2024 recommended projects to meet commercial, national, and state space transportation needs in accordance with Florida Statutes Chapter 331.360 and the Space Transportation Improvement Program Funding Summary attached hereto as **Attachment C**.

- *Anthony Barbar made a motion to approve the Investment Committee's recommendation for each of the Items 3-8 which was seconded by Belinda Keiser and approved unanimously.*

Ms. Swanson presented Management's introduction of Space Florida's Pathway for Growth Framework to the full board as recommended by the Investment Committee and included in the advance board package. The committee recommended a full board workshop regarding resources for sustainability associated with the proposed framework to include "invites to participate" and encouraged the board to provide timely direction on the issue after legislative changes are finalized and implemented.

### **3. EXECUTIVE BRIEFINGS:**

Frank DiBello presented the President's Report which included a review of recent activities as well as Business Unit Reports. Mr. DiBello identified upcoming events and provided closing comments.

### **CLOSING REMARKS & ADJOURNMENT**

Lieutenant Governor Jeanette Nunez requested any further questions or comments from the public or Board Members. There being none, the Chair thanked the Board for the discussion and involvement and adjourned the meeting at 3:13 p.m. (EDT)

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Lieutenant Governor Jeanette Nuñez, Chair



**BOARD OF DIRECTORS MEETING**

**April 27, 2023**

I, Frank DiBello, the undersigned President of Space Florida, do certify and declare that the attached is an accurate copy of the Minutes as approved by the Board of Directors of Space Florida in accordance with the Space Florida Governance Policies, and recorded in the Minutes of the Meeting of the Board of Directors held on April 27, 2023, and not subsequently amended or modified.

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Frank A. DiBello, President

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# FORM 8A MEMORANDUM OF VOTING CONFLICT FOR STATE OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <b>Satter, Jonathan Robert</b>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <b>Space Florida</b>
MAILING ADDRESS <b>786 Village Road</b>	NAME OF STATE AGENCY
CITY COUNTY <b>North Palm Beach FL 33408 Palm Beach</b>	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE
DATE ON WHICH VOTE OCCURRED <b>April 27, 2023</b>	

## WHO MUST FILE FORM 8A

This form is for use by any person serving at the State level of government on an appointed or elected board, council, commission, authority, committee, or as a member of the Legislature. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

## INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

### ELECTED OFFICERS:

As a person holding elective state office, you may not vote on a matter that you know would inure to your special private gain or loss. However, you may vote on other matters, including measures that would inure to the special private gain or loss of a principal by whom you are retained (including the parent or subsidiary or sibling organization of a principal by which you are retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. If you vote on such a measure or if you abstain from voting on a measure that would affect you, you must make every reasonable effort to disclose the nature of your interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes. If it is not possible for you to file a memorandum before the vote, the memorandum must be filed with the person responsible for recording the minutes of the meeting no later than 15 days after the vote.

For purposes of this law, a "relative" includes only your father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with you as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

A member of the Legislature may satisfy the disclosure requirements of this section by filing a disclosure form created pursuant to the rules of the member's respective house if the member discloses the information required by this subsection, or by use of Form 8A.

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### APPOINTED OFFICERS:

As a person holding appointive state office, you are subject to the abstention and disclosure requirements stated above for Elected Officers. You also must disclose the nature of the conflict before voting or before making any attempt to influence the decision by oral or written communication, whether made by you or at your direction.

For purposes of this law, a "relative" includes only your father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with you as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

**IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:**

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes.
- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

**IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION OR VOTE AT THE MEETING:**

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

**DISCLOSURE OF STATE OFFICER'S INTEREST**

I, Jonathan R Satter, hereby disclose that on April 27, 20 23 :

(a) A measure came or will come before my agency which (check one or more)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, \_\_\_\_\_ ;
- inured to the special gain or loss of my relative, \_\_\_\_\_ ;
- inured to the special gain or loss of \_\_\_\_\_, by whom I am retained; or
- inured to the special gain or loss of \_\_\_\_\_, which is the parent, subsidiary, or sibling organization of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

A measure came or will come before my agency which inured to my company's client, BAE.

My employer, White Wolf Capital, owns NSC Technologies, which provides services to BAE.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

May 1, 2023  
Date Filed

  
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

# July 20, 2023, Board Meeting Minutes



## **Draft - Minutes of a Space Florida Board Meeting**

A Regular Meeting of the Space Florida Board of Directors was held on July 20, 2023.

### **BOARD MEMBERS & TRANSITION TEAM PRESENT:**

Lieutenant Governor & Space Florida Chair, Jeanette Nuñez  
Anthony Barbar  
Rodney Cruise  
Mori Hosseini  
Belinda Keiser  
Katherine San Pedro Delburn  
Brian Phillippi  
Jonathan Satter  
Jared Perdue, Department of Transportation Secretary

### **SPACE FLORIDA SENIOR MANAGEMENT PRESENT:**

Todd Romberger  
Denise Swanson  
Mike Miller  
Anna Farrar

### **WELCOME & INTRODUCTIONS:**

A quorum being present, Lieutenant Governor Jeanette Nuñez, called the Meeting to order at 11:00 a.m. (EDT), and welcomed Board members.

There were no Public Comments.

#### **1. INTERVIEWS**

Lieutenant Governor Jeanette Nuñez stated that the purpose of this meeting was to interview the (3) three down selected candidates which were recommended by the Transition Team for the new President and Chief Executive Officer (CEO) of Space Florida. This meeting will provide the Board and the Transition Team the opportunity to assess the candidates' qualifications, leadership abilities, and their vision to take Space Florida into the future.

The interviews held were as follows:

Robert Long:	11:00 a.m. - 12:00 p.m.
Break for lunch	12:05 p.m. - 1:00 p.m.
Dale Nash:	1:04 p.m. - 1:48 p.m.
John Olson:	1:53 p.m. - 2:51 p.m.

Lieutenant Governor Jeanette Nuñez announced that a full Board of Directors Meeting will be scheduled for the Board members to move forward with their final selection of one of the candidates for the new President and CEO of Space Florida.



**CLOSING REMARKS & ADJOURNMENT**

Lieutenant Governor Jeanette Nunez requested any questions or comments from the public or Board Members. There being none, the Chair thanked the Board and Transition Team for involvement in conducting the interviews and the meeting adjourned at 2:52 p.m. (EDT)

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Lieutenant Governor Jeanette Nuñez, Chair

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## **BOARD OF DIRECTORS MEETING**

**July 20, 2023**

I, Frank DiBello, the undersigned President of Space Florida, do certify and declare that the attached is an accurate copy of the Minutes as approved by the Board of Directors of Space Florida in accordance with the Space Florida Governance Policies, and recorded in the Minutes of the Meeting of the Board of Directors held on July 20, 2023, and not subsequently amended or modified.

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Frank A. DiBello, President

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# March 31, 2023, Interim Financials

# SPACE FLORIDA



**Total Compiled Statement of Revenues and Expenses  
Period Ending March 31, 2023  
Unaudited  
In 000's**

	<b>Total Budget</b>	<b>Q1 Actual</b>	<b>Q2 Actual</b>	<b>Forecast</b>	<b>Total Actual and Forecast</b>	<b>Budget Remaining</b>
<b>Operating Revenues</b>						
State Appropriated Revenue - OPS	\$ 11,500	\$ 2,875	\$ 2,875	\$ 5,750	\$ 11,500	\$ -
Other Revenue	\$ 3,877	\$ 980	\$ 954	\$ 1,714	\$ 3,647	\$ 230
<b>Total Operating Revenues</b>	<b>\$ 15,377</b>	<b>\$ 3,855</b>	<b>\$ 3,829</b>	<b>\$ 7,464</b>	<b>\$ 15,147</b>	<b>\$ 230</b>
<b>Operating Expenses</b>						
Salaries & Other Related Costs	\$ 8,963	\$ 1,609	\$ 1,329	\$ 2,916	\$ 5,854	\$ 3,109
Contract & Subcontract Services	\$ 806	\$ 235	\$ 93	\$ 450	\$ 778	\$ 28
Utilities & Maintenance	\$ 3,780	\$ 945	\$ 911	\$ 2,125	\$ 3,981	\$ (201)
Travel & Entertainment	\$ 221	\$ 24	\$ 77	\$ 178	\$ 279	\$ (58)
Business Recruitment & Investment	\$ 260	\$ 26	\$ 57	\$ 155	\$ 238	\$ 22
General & Administrative	\$ 1,347	\$ 569	\$ 384	\$ 1,075	\$ 2,028	\$ (681)
<b>Total Operating Expenses (Excluding Depreciation)</b>	<b>\$ 15,377</b>	<b>\$ 3,407</b>	<b>\$ 2,851</b>	<b>\$ 6,899</b>	<b>\$ 13,158</b>	<b>\$ 2,219</b>
<b>Change in Net Assets Due to Operations</b>	<b>\$ -</b>	<b>\$ 448</b>	<b>\$ 977</b>	<b>\$ 565</b>	<b>\$ 1,990</b>	<b>\$ (1,990)</b>



# Project and Contract Activities



**Space Florida Board of Directors Meeting  
August 28, 2023**

**Project and Contract Activities**

(Florida Statutes: 331.305; 331.3051; 331.310; 331.316; 331.323; 331.324; 331.331; 331.340; 331.354; 331.360 and 331.371)

1. **Project Upgrade I:** Management requests approval for ratification of a revision to the Construction Manager as Constructor Services Contract with Barr and Barr, Inc., and Company, to authorize Space Florida to increase the contract value in the amount of up to Eight Million Dollars (\$8,000,000) to be funded directly by the Company. This request is a result of increased costs due to supply chain challenges and scope change requests.
2. **Project Upgrade II:** Management requests approval for authority to negotiate and enter agreements with First American Equipment Finance, an RBC/City National Company, and the Company for Project Upgrade II to support the Company's expansion activities associated with equipping a new Training Center. Requested approvals include Resolution No. 23-45, a copy of which is attached, regarding Not-To-Exceed Twelve Million Four Hundred Thousand Dollars (\$12,400,000) in equipment financing, with an interest rate not to exceed twelve percent (12%) per year, and maturity dates for individual items of equipment not to exceed five (5) years from the date of borrowing for an item of equipment.
3. **Carahsoft Technology Corporation:** Management requests approval for authority to negotiate and enter agreement with Carahsoft Technology Corporation in partnership with Deloitte, regarding Request for Proposal Award for "Commercial Space Industry Trends and the Evolution of Florida's Spaceport System" in the amount of up to Seven Hundred Fifty Thousand Dollars (\$750,000). Funding will be provided through previously approved FDOT Planning Funding. (Award for RFP-SF-02-0-2023)

**SPACE FLORIDA**



**ATTACHMENT A  
RESOLUTION 23-45**

***RESOLUTION NO. 23-45***

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**RESOLUTION**

*of the*

**SPACE FLORIDA  
BOARD OF DIRECTORS**

*regarding*

**NOT-TO-EXCEED \$12,400,000  
EQUIPMENT FINANCING**

*for*

**CAE USA, INC.  
(Project Upgrade II)**

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***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. CAE USA Inc. (“CAE USA”) is a subsidiary of CAE Inc., a Canadian corporation. CAE USA has its headquarters in Tampa, Florida, for CAE Inc.’s defense and security sector. CAE USA owns and operates a training center in Tampa, where it provides modeling and simulation technologies, integrated training solutions, and training-system support services for various defense and government agencies in the USA and other countries worldwide. CAE USA has more than 40 years’ experience in training the United States Air Force, Navy and Coast Guard, as well as international military and commercial operators, that fly the Hercules aircraft.

B. CAE USA is expanding its business and will relocate soon to a larger facility being constructed by Space Florida for CAE USA at the Tampa International Airport, to be used as its US headquarters for the manufacture, integration, and testing of flight training devices, as

the location of its training center for training aircraft operators, and to house the employees comprising its aerospace simulation engineer workforce (the “**Training Center**”).

C. CAE USA has asked Space Florida to undertake a lease-leaseback financing structure for the purchase of certain high-value equipment and other furniture and fixtures for placement, installation, and use in its Training Center.

D. The equipment financing will be in an aggregate borrowing amount of up to, but not exceeding, Twelve Million, Four Hundred Thousand Dollars (**\$12,400,000**). A financing has been negotiated with First American Equipment Finance, An RBC / City National Company (“**Lender**”), specializing in equipment financing.

E. The capital investment and business expansion to be undertaken by CAE USA in connection with its new Training Center and the related high-value equipment and other furnishings and fixtures will result in creation of some 100 net new company jobs in Hillsborough County, with an average annual wage of \$74,500.

F. Space Florida has determined that (i) under the Space Florida Act, this CAE USA project will constitute a “project” and an “aerospace business proposing to expand ... its business in this state,” (ii) the manufacture, integration, and testing of flight training devices, the training of aircraft operators, and the housing of CAE USA employees comprising its aerospace simulation engineer workforce in Hillsborough County will support the promotion of aerospace business development, which fulfills a primary purpose and duty 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 CAE USA 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 payable solely from (a) lease revenues received from CAE USA and (b) amounts received under a Guaranty to be provided to the Lender by CAE, Inc.;
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 CAE USA 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 do not constitute and shall not be deemed to constitute either (i) a general debt, liability or obligation of Space Florida, the State of Florida, Hillsborough County, or any other political subdivision or (ii) a pledge of the faith and credit of Space Florida, the State of Florida, Hillsborough County, or any other political subdivision, but shall be payable

solely from the lease revenues received from CAE USA under the lease financing and/or amounts received under the related Guaranty. Space Florida is not obligated to pay any amounts due or the interest thereon, 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 assist in funding the cost of the CAE USA project and paying the costs of the equipment lease-leaseback financing, Space Florida is authorized to enter into an equipment lease and sublease in connection with the lease-leaseback financing of the equipment for CAE USA in an aggregate principal amount not to exceed twelve million, four hundred thousand dollars (\$12,400,000), with an interest rate or rates not to exceed twelve percent (12%) per annum and maturity dates for individual items of equipment not to exceed 60 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 CAE USA and received by or on behalf of Space Florida under the Master Lease and Sublease Agreement authorized below.

**Section 4. Master Lease and Sublease Agreement.** The Master Lease and Sublease Agreement substantially in the form contained in **Exhibit A** to this resolution (the “**Master Lease Agreement**”) is hereby approved by the Board of Directors. The Chair 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, attest, and deliver the Master Lease Agreement and to execute and deliver all other agreements, acknowledgements, certificates, schedules, and other instruments necessary or useful to consummate the equipment lease-leaseback financing contemplated by the Master Lease Agreement and by that certain Master Loan and Security Agreement to be executed by CAE USA and the Lender. The Master Lease Agreement and other related instruments may be executed and delivered by Space Florida only upon the occurrence of the following:

- (a) Execution and delivery to the Lender by CAE, Inc., of the related Guaranty of the payment, when due, of all amounts owed under the Master Lease Agreement, the Master Loan and Security Agreement, and other instruments in connection with the equipment lease-leaseback financing; and
- (b) Delivery to Space Florida of the opinion of counsel to CAE USA, in form and substance acceptable to Space Florida officers, to the effect that the Master Lease Agreement, the Master Loan and Security Agreement, and all other instruments

related to the equipment lease-leaseback financing are legally valid, binding and enforceable against CAE USA in accordance with their terms.

**Section 5. Severability.** If any provision of this resolution is held legally invalid or unenforceable by a court of competent jurisdiction, the provision shall not affect any other part of this resolution or render any other part invalid or unenforceable. 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 and the officers of Space Florida are authorized, collectively and 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, the Master Loan and Security 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 28<sup>th</sup> day of August, 2023.*

**SPACE FLORIDA**

By: its Board of Directors

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

ATTEST:

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

**EXHIBIT “A”**

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Form of

**MASTER LEASE AND SUBLEASE AGREEMENT**

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## MASTER LEASE AND SUBLEASE AGREEMENT

This **MASTER LEASE AND SUBLEASE AGREEMENT** dated as of [\_\_\_\_\_], 2023 (this “**Agreement**”) is executed by and between **SPACE FLORIDA**, an independent special district, body politic and corporate and a subdivision of the State of Florida (“**Lessor**”), existing and operating under Part II of Chapter 331 of Florida Statutes, with its principal office at 505 Odyssey Way, Suite 300, Exploration Park, Florida 32953, **FIRST AMERICAN COMMERCIAL BANCORP, INC.**, a New York corporation (“**Sublessor**”), with its principal office at 211 High Point Drive, Victor, New York 14564, and **CAE USA, INC.**, a Delaware corporation (“**Sublessee**”), with its principal office at 5010 Air Cargo Road, Tampa, Florida 33614. The parties agree as follows:

**1. AGREEMENT OF LEASE AND SUBLEASE.** Pursuant to each Lease (as defined below), 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, equipment, software, personal property, software and/or other property, together with all replacements, parts, additions, accessories and substitutions (collectively, the “**Equipment**”) listed on a unique Equipment Schedule bearing the number and date specified therein (an “**Equipment Schedule**”), as the same may be amended, supplemented or modified from time to time with the written consent of Lessor, Sublessor and Sublessee. The parties may, now or in the future, enter into one or more Equipment Schedules that refer to and incorporate by reference this Agreement. Each Equipment Schedule shall, except as set forth therein, incorporate the terms and conditions of this Agreement and create and constitute a stand-alone lease by and among Lessor, Sublessor and Sublessee (each a “**Lease**” and collectively, the “**Leases**”), which shall be separate and distinct from any other Lease, Equipment Schedule, agreement, arrangement or understanding that has been or may be entered into among Lessor, Lessee and Sublessee, whether or not incorporating the terms and conditions of this Agreement. Lessor and Sublessor have no obligation to enter into any additional Leases with, or extend any future financing to, Sublessee. In the event of a conflict between an Equipment Schedule and this Agreement, the terms of the Equipment Schedule will prevail.

**2. ACCEPTANCE DATE AND TERM.** (a) This Agreement shall be effective and binding upon Lessor, Sublessor and Sublessee when signed by all parties. Each Lease shall be effective and binding upon Lessor, Sublessor and Sublessee when all parties have signed the related Equipment Schedule. Each Lease commences and rent is due beginning on the date that Sublessee certifies in writing to Lessor and Sublessor pursuant to a Delivery and Acceptance Certificate that all of the applicable Equipment has been received and accepted by Sublessee (the “**Acceptance Date**”). Each Lease shall be effective, and the term of each Lease (the “**Term**”) shall commence on the Acceptance Date and, unless sooner terminated or extended, such Lease shall continue for the number of months set forth in the related Equipment Schedule and shall expire on the Term Expiration Date specified in the related Equipment Schedule; *provided, however*, that obligations due to be performed by Sublessee during the Term shall continue until they have been performed in full. Unless and until Sublessee provides written authorization, Sublessor will not disburse payment with respect to Equipment subject to the related Equipment Schedule. Upon the conclusion of the Term of each Lease, and provided that no Event of Default (as defined below) has occurred hereunder and is continuing under Section 13 hereof, Sublessee shall purchase the Equipment listed

in the related Equipment Schedule for the amount of \$15,000.00 (the “**Buyout Amount**”), which Lessor and Sublessee estimate to be the fair market value of the related Equipment at the conclusion of the Term of the Lease. Upon the exercise of such purchase and payment of the Buyout Amount, Sublessee will take all rights and title to the Equipment from Lessor and Sublessor. Lessor and Sublessor agree to immediately transfer all of their respective rights and title to the Equipment to Sublessee upon such purchase and receipt of the Buyout Amount.

(b) At any time (i) after the occurrence an Event of Default or (ii) after the occurrence of any other event resulting (or that could reasonably be expected to result) in a material adverse effect on Lessor’s or Sublessee’s ability to perform its obligations under this Agreement, a Lease or an Equipment 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 immediately and automatically be conveyed to Sublessor without any further action or the delivery of any additional document of conveyance or transfer. 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. Upon payment of the Termination Price, Lessor shall be deemed to have transferred all of its rights and title to the Equipment to Sublessor and, upon request from Sublessor, Lessor shall deliver a bill of sale to Sublessor evidencing such transfer.

### **3. RENTAL PAYMENTS.**

(a) Sublessor shall prepay rent (“**Lease Rent**”) to Lessor under each Lease for use of the Equipment during the related Term in the amount set forth in and due on the Acceptance Date of the related Lease by paying the cost of the related Equipment to the vendor thereof as specified in the related Equipment Schedule and in such vendor’s invoices. Sublessor shall deliver, or 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. Upon payment of the Lease Rent, Lessor shall have no rights or obligations under this Agreement or the related Lease other than to hold title to the Equipment until such time as Sublessee pays the Buyout Amount or Sublessor pays the Termination Price.

(b) Sublessee shall pay rent (“**Sublease Rent**”) to Sublessor under each Lease for the use of the Equipment during the related Term in the amounts and on the dates set forth in and due as stated in the related Equipment 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. Sublessee will also pay rent for the period between the Acceptance Date and the first day of the following calendar month (1/30th of the monthly payment equivalent multiplied by the number of days). Sublessee will pay the Sublease Rent to Sublessor at the address specified above unless otherwise instructed by Sublessor or its Assignee (as defined below). Except as otherwise directed by Sublessor in writing, all payments of Sublease Rent are due in advance on the first day of each month (each, a “**Rental Payment Date**”).

(c) EACH LEASE IS NON-CANCELABLE AND NON-TERMINABLE FOR THE TERM, AND SUBLESSEE'S OBLIGATION TO PAY ALL SUBLEASE RENTS AND OTHER AMOUNTS DUE THEREUNDER SHALL BE ABSOLUTE AND UNCONDITIONAL AND NOT SUBJECT TO DEFENSE, ABATEMENT, DEDUCTION OR SET-OFF AGAINST LESSOR OR SUBLESSOR OR ANY ASSIGNEE, TRANSFEREE OR SECURED LENDER OF LESSOR OR SUBLESSOR (EACH AN "ASSIGNEE") OF ANY AMOUNTS WHATSOEVER.

(d) Each Lease constitutes a net lease, it being the intention of the parties that all costs, expenses and liabilities associated with the Equipment and the transaction, including (without limitation) maintenance, insurance, sales, use and personal property taxes, and other expenses relating to the purchase, possession, lease and use of the Equipment, shall be borne by Sublessee.

(e) Whenever any amount due under a Lease is not received by Sublessor or its Assignee within three (3) days of when due, Sublessee shall pay a delinquency charge equal to the lesser of two percent (2%) of the amount then past due or the maximum amount allowed by law, and such delinquency charge shall continue to apply for each subsequent month the amount remains unpaid until Sublessor exercises its rights under Section 14 hereof, whereafter interest shall accrue at 1.5% per month.

(f) Any deposit previously remitted by Sublessee in anticipation of this Agreement or any Lease shall be applied to any reasonable, actual, out-of-pocket expenses incurred by Sublessor, including (without limitation) reasonable legal fees and other expense, and any balances shall be applied to Sublessee's first Sublease Rent payment under the related Lease.

#### **4. REPRESENTATIONS, WARRANTIES AND COVENANTS OF LESSOR.**

Lessor represents, warrants and covenants to Sublessor and Sublessee that, with respect to this Agreement and each Lease:

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

(b) Lessor 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;

(c) Lessor's exact legal name is as set forth in the first paragraph of this Agreement;

(d) 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 Equipment 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. Assuming the enforceability against the other parties hereto, this Agreement and each related document constitutes, and each Equipment Schedule and the resulting

Lease and each related document will constitute, a legal, valid and binding obligation of Lessor, enforceable against Lessor in accordance with its respective terms, except to the extent limited by bankruptcy, reorganization or other laws of general application relating to the enforcement of creditors' rights and by principles of equity;

(e) The execution, delivery and performance by Lessor of or under this Agreement do not and will not at any time contravene (i) Lessor's organizational documents, (ii) 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 (iii) any law, governmental rule, regulation, or order or contractual restriction binding on or affecting Lessor; and

(f) 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 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.

**5. REPRESENTATIONS, WARRANTIES AND COVENANTS OF SUBLESSOR.** Sublessor represents, warrants and covenants to Lessor and Sublessee that, with respect to this Agreement and each Lease:

(a) 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 (i) Sublessor's organizational documents, (ii) 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 (iii) any law, governmental rule, regulation, or order or contractual restriction binding on or affecting Sublessor;

(b) 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;

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

(d) 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.

**6. REPRESENTATIONS, WARRANTIES AND COVENANTS OF SUBLESSEE.** Sublessee represents, warrants and covenants to Lessor and Sublessor that, with respect to this Agreement and each Lease:

(a) Sublessee's exact legal name, chief executive office and address is as listed above, and Sublessee is duly organized and existing in good standing under the laws of the State of Delaware;

(b) Sublessee 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 the laws of the State of Delaware;

(c) Sublessee shall not change its form or state of organization and shall immediately notify Lessor and Sublessor of any change of Sublessee's organizational identification number issued by its state of organization or its chief executive office and/or notice address;

(d) 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 (i) Sublessee's organizational documents, (ii) 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 (iii) any law, governmental rule, regulation, or order or contractual restriction binding on or affecting Sublessee;

(e) 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;

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

(g) 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 overtly 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;

(h) The Equipment consists solely of and, when placed in use by Sublessee, will remain personal property and not fixtures;

(i) The financial statements of Sublessee and Guarantor (as defined below) (copies of which have been furnished to Lessor) have been prepared in accordance with (A) generally accepted accounting principles as concerns Sublessee's financial statements, and (B) the international financial reporting standards as concerns Guarantor's financial statements, and fairly present Sublessee's and Guarantor's financial condition and the results of their 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; and

(j) Neither Sublessee nor Guarantor: (i) is an entity or organization identified on (i) any Office of Foreign Assets Control ("OFAC") "watch list," including (without limitation) OFAC's list of Specially Designated Nationals and Blocked Persons, or any Federal Bureau of Investigation "watch list" or Bureau of Industry and Security list of unverified persons or denied persons, and it is not an affiliation of any kind with such an individual, entity or organization; (ii) has a shell bank or offshore bank; and (iii) is a person or entity resident in or whose funds are transferred from or through or has operations in, a jurisdiction identified as non-cooperative by the Financial Action Task Force or sanctioned by OFAC.

**7. UNIFORM COMMERCIAL CODE ACKNOWLEDGMENT.** Sublessee acknowledges that it has received and approved any written Supply Contract covering the Equipment purchased from the Supplier and that Sublessee has been informed, either previously or pursuant to the applicable Lease, of the following: (a) the identity of the Supplier; (b) that Sublessor may have rights under the Supply Contract; and (c) that Sublessor may contact the Supplier for a description of any such rights. Sublessee acknowledges that it has chosen the Supplier and the Equipment. Each Lease is a Finance Lease. The terms "**Finance Lease**," "**Supply Contract**" and "**Supplier**" as used herein have the meanings ascribed to them in Article 2A-103(1) of the Uniform Commercial Code as in effect in the State of Florida (the "**UCC**"). This provision shall survive termination of any Lease.

**8. DISCLAIMER OF WARRANTIES.** Sublessee has selected the Equipment subject to each Lease and represents that all such Equipment is suitable for Sublessee's purposes. NEITHER LESSOR NOR SUBLESSOR IS A MANUFACTURER, DISTRIBUTOR, LICENSOR OR SUPPLIER OF ANY OF THE EQUIPMENT. NEITHER LESSOR NOR SUBLESSOR MAKES ANY EXPRESS OR IMPLIED WARRANTY OR REPRESENTATION, AND SUBLESSEE HEREBY WAIVES ALL RIGHTS AGAINST LESSOR AND SUBLESSOR RELATING TO (WITHOUT LIMITATION), ANY WARRANTY, REPRESENTATION OR OBLIGATION WITH RESPECT TO THE QUALITY, DESIGN, CONDITION, CAPACITY, VALUE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE OR WORKMANSHIP OF ANY EQUIPMENT OR AGAINST INTERFERENCE BY LICENSORS OR OTHER THIRD PARTIES, IT BEING AGREED THAT

ALL EQUIPMENT IS LEASED, AND SUBLESSEE TAKES “AS-IS” AND THAT ALL SUCH RISKS SHALL BE BORNE BY SUBLESSEE. LESSOR AND SUBLESSOR DISCLAIM, AND SUBLESSEE WAIVES, ANY WARRANTIES CONTAINED IN §§ 2A-211, 212 AND 213 OF ARTICLE 2A OF THE UCC AND SUBLESSEE WAIVES ANY RIGHT TO DEEM LESSOR OR SUBLESSOR IN DEFAULT PURSUANT THERETO AND ALL OF SUBLESSEE’S RIGHTS AND REMEDIES UNDER §§ 2A-508 THROUGH 522 OF ARTICLE 2A OF THE UCC OR OTHER APPLICABLE LAW. Lessor and Sublessor hereby assign to 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 Supplier of the Equipment to Lessor or Sublessor or their assigns, to the extent assignable. Sublessee, by its execution of each Equipment Schedule, acknowledges that it has received a copy of the Supplier’s warranties for the applicable Equipment. Sublessee’s sole remedy for the breach of any such warranty shall be against the Supplier 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 Supplier of the Equipment. If Sublessee has any claims regarding any Equipment, or any other matter arising from Sublessee’s relationship with the Supplier, Sublessee must make such claims directly against the Supplier. For so long as no Event of Default has occurred and is continuing during the term of any Lease, Sublessee shall be the beneficiary of, and entitled to, any warranty rights from the applicable Supplier as a result of Lessor’s and/or Sublessor’s purchase of the Equipment subject to any Lease, to the extent permitted by law. The provisions in this Section shall survive termination of any Lease.

**9. USE, OPERATION AND MAINTENANCE OF THE EQUIPMENT.** During the Term of any Lease, Sublessee shall: (a) permit the Equipment to be kept only at the location specified in such Lease and used solely for business purposes and the purpose for which it was designed and shall, at Sublessee’s sole expense, service, repair and maintain each item of Equipment in the same condition as when received, ordinary wear and tear excepted, in good operating order, consistent with prudent industry practice and in compliance with all applicable laws, regulations, and conditions of all insurance policies required to be maintained by Sublessee under such Lease and all manuals, orders, recommendations, instructions and other written requirements as to the repair and maintenance of such item of Equipment issued at any time by the vendor and/or Supplier thereof; (b) maintain conspicuously on any Equipment such labels, plates, decals or other markings as Lessor or Sublessor may reasonably require, indicating Lessor’s and Sublessor’s title to and interest in such Equipment; (c) furnish to Lessor and Sublessor such information concerning the condition, location, use and operation of any Equipment as Lessor or Sublessor may request; (d) subject to Sublessee’s security rules and regulations, upon not less than one (1) business day’s written or verbal notice (except in emergencies constituting an immediate threat to life or property, and only as is reasonable under the circumstances) and in a manner that will not disrupt Sublessee’s business, permit any person designated by Lessor or Sublessor, and approved by Sublessee as hereinafter provided, to inspect any Equipment and any records maintained in connection therewith during Sublessee’s normal business hours, it being understood and agreed that due to the nature of the business conducted by Sublessee at its facility, any and all individuals to enter said facility on behalf of Lessor or Sublessor shall be approved by Sublessee prior to entry into the facility, such approval shall not be unreasonably withheld or delayed, and Sublessee shall be entitled to have a representative present during such entry; *provided, however*, that the failure of Lessor or Sublessor

to inspect any Equipment or to inform Sublessee of any noncompliance shall not relieve Sublessee of any of its obligations hereunder; (e) if any Equipment does not comply with the requirements of such Lease, Sublessee shall, within 30 days of written notice from Lessor or Sublessor, bring such Equipment into compliance; (f) not use any Equipment, nor allow the same to be used, for any unlawful purpose; and (g) make no additions, alterations, modifications or improvements (collectively, “**Improvements**”) to any item of Equipment that are not readily removable without causing material damage to such item of Equipment or which will cause the value, utility or useful life of such item of Equipment to materially decline. If any such Improvement is made and cannot be removed without causing material damage or decline in value, utility or useful life (a “**Non-Severable Improvement**”), then Sublessee warrants that such Non-Severable Improvement shall immediately become Lessor’s and Sublessor’s property upon being installed and shall be free and clear of all liens and encumbrances and shall become Equipment subject to all of the terms and conditions of the applicable Lease. All Improvements, other than Non-Severable Improvements, shall be removed by Sublessee prior to the return of the item of Equipment hereunder or such Improvements shall also become the sole and absolute property of Lessor or Sublessor without any further payment by to Sublessee and shall be free and clear of all liens and encumbrances whatsoever. Sublessee shall repair all damage to any item of Equipment caused by the removal of any Improvement so as to restore such item of Equipment to the same condition that existed prior to its installation and as required by the applicable Lease. Sublessee, at its own expense, will provide a suitable place for the operation of the Equipment.

**10. PERFORMANCE OF SUBLESSEE’S OBLIGATIONS BY SUBLESSOR.** If Sublessee fails to perform any of its obligations under a Lease, Sublessor may, at its sole option, perform any such obligations without waiving Sublessee’s defaults. Within thirty (30) days of written demand, Sublessee shall pay to Sublessor any reasonable, actual, out-of-pocket amount paid by Sublessor, any reasonable, actual, out-of-pocket expense (including reasonable attorneys’ fees and costs) or any other liability incurred by Sublessor in connection with its performance of Sublessee’s obligations; provided such written demand shall contain reasonable evidence of the sums expended.

**11. FURTHER ASSURANCES AND NOTICES.** Sublessee authorizes Sublessor to insert applicable dates and numbers and such other information as may be necessary to complete all documentation for a Lease. For the duration of the Term of each Lease, Sublessee shall promptly provide Lessor and Sublessor with all credit information reasonably requested by Lessor or Sublessor, as the case may be, including (without limitation) comparative un-audited financial statements of Sublessee and audited financial statements of Guarantor for the most current annual period and financial statements of Sublessee and Guarantor certified by Sublessee’s and Guarantor’s chief financial officers, respectively, for the interim reporting periods. Sublessee’s failure to provide such information to Lessor or Sublessor within thirty (30) days of such request shall be an Event of Default (as defined below) under each Lease. UNLESS OTHERWISE PROVIDED HEREIN, ALL NOTICES TO LESSOR, SUBLESSOR OR SUBLESSEE SHALL BE IN WRITING AND SENT VIA OVERNIGHT MAIL OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE ADDRESS SHOWN ABOVE OR SUCH OTHER ADDRESS AS TO WHICH THE OTHER PARTY HAS BEEN NOTIFIED IN WRITING. Sublessor agrees to deliver to Lessor a copy of any notice of an Event of Default delivered to Sublessee. Sublessee agrees to do or perform such further acts and to obtain, execute and deliver such additional certificates, waivers, releases, instruments,



control agreements and other documents to effect the purposes of this Agreement and any Lease, to complete and evidence the transactions contemplated by any Lease, to protect the title, interest and rights of Lessor and Sublessor or any Assignee in any Equipment or in any Lease, or to assure performance of Sublessee's obligations under a Lease. Sublessee shall, at Lessor's or Sublessor's request, promptly provide Lessor or Sublessor, as the case may be, with such other documents as Lessor or Sublessor may reasonably request.

**12. UCC FILINGS.** Sublessee hereby irrevocably authorizes Sublessor to file and record, and appoints Sublessor and its agent(s) as Sublessee's attorney-in-fact to execute (if applicable), file and record such UCC financing statement(s), amendments thereto and other lien recordation documents with respect to the Equipment subject to any Lease and/or any other collateral for Sublessee's obligations under such Lease, ratifies such authorization and appointment with respect to any UCC financing statements or amendments thereto prior to the date of such Lease and to do all acts or things that Sublessor may deem necessary to protect Sublessor's title and interest in such Equipment and under such Lease. Sublessee hereby covenants and agrees that it shall not file any corrective or termination statement with respect to any UCC financing statements recorded by or for the benefit of Sublessor with respect to any Equipment without Sublessor's prior written consent. In order to secure the payment and performance in full of all of Sublessee's obligations under each Lease, Sublessee hereby grants to Sublessor a first priority security interest in all of the following in which Sublessee may now or hereafter have rights: (a) Sublessee's interest under each Lease and any interest Sublessee may have in the Equipment, (b) any and all cash, deposits and/or other property of Sublessee now or hereafter in the possession or control of Sublessor, or any affiliate of Sublessor, and (c) any other collateral in which Sublessee has granted to Sublessor, or any affiliate of Sublessor a security interest to secure any other obligations, together with all parts, accessories, accessions and attachments thereto, and all replacements, substitutions and exchanges (including trade-ins), and all proceeds of the foregoing, including goods, accounts, chattel paper, documents, instruments, general intangibles, investment property, deposit accounts, letter of credit rights and supporting obligations (collectively, the "**Collateral**").

**13. DEFAULT.** The occurrence of any of the following events shall constitute an "**Event of Default**":

(a) Sublessee, or CAE, Inc. ("**Guarantor**"), fails to make any payment of Sublease Rent or any other amount under this Agreement or under any Lease when due and the failure continues for ten days;

(b) Sublessee or Guarantor fails to perform or observe any of the covenants or obligations in, or with respect to, any Lease (or guaranty thereof) other than as described in (a) or (j) of this Section, and such failure is not cured within ten days after written notice has been provided to Sublessee;

(c) Sublessee or Guarantor makes an assignment for the benefit of creditors, files any petition or takes any action under any bankruptcy, reorganization or insolvency laws;

(d) An involuntary petition is filed under any bankruptcy statute against Sublessee or Guarantor, or any receiver, trustee or custodian is appointed to take possession of Sublessee's or

Guarantor's property, unless such petition or appointment is set aside or withdrawn within 60 days of said filing or appointment;

(e) Sublessee or Guarantor attempts to, or does, remove, transfer, sell, sublicense, encumber, part with possession of, or sublet any of the Equipment;

(f) Sublessee or Guarantor attempts to assign or transfer such Lease or its interest under such Lease or moves any of the Equipment from the location(s) set forth in the Equipment Schedule without Lessor's prior written consent;

(g) Sublessee or Guarantor terminates its existence or undergoes a sale, buyout, change in control, or change in ownership of any type, form or manner which, as judged solely by Lessor, results in a material deterioration in the creditworthiness of Sublessee or Guarantor;

(h) Any certificate, statement, representation or warranty provided by Sublessee or Guarantor under, in connection with or related to a Lease or related guaranty proves to be false in any material respect;

(i) Sublessee fails to obtain, maintain or otherwise comply with the insurance coverages required under a Lease;

(j) Sublessee or Guarantor defaults, beyond any applicable notice and cure period, in the payment or performance of any indebtedness or obligation to any affiliated firm or entity controlling, controlled by or under common control with Lessor or Sublessor; or

(k) Sublessee defaults, beyond any applicable notice and cure period, under any real estate lease or mortgage relating to a location at which items of Equipment are located, but only if the applicable landlord or mortgagee has commenced exercise of its remedies.

**14. REMEDIES.** Upon the occurrence of any Event of Default, Sublessor may declare this Agreement and any Lease hereunder to be in default and, at Sublessor's sole discretion, exercise any one or more of the following remedies with respect to each and any Lease:

(a) Through legal action, enforce specific performance by Sublessee of the applicable covenants and obligations of such Lease and/or recover damages for the breach of those covenants or obligations, including reasonable attorneys' fees and court costs;

(b) Cancel such Leases and/or otherwise terminate Sublessee's rights, but not Sublessee's obligations, under such Lease;

(c) By notice in writing to Sublessee, as liquidated damages for the loss of a bargain and not as a penalty, accelerate and declare to be immediately due and payable the Stipulated Loss Value under such Leases, as defined in Section 20 hereof, without any presentment, demand, protest or further notice (all of which are hereby expressly waived by Sublessee), at which time the same shall become immediately due and payable;

(d) Require Sublessee to return the Equipment subject to such Lease as provided in Section 21 hereof or Sublessor may take immediate possession of such Equipment, or any part of such Equipment, from Sublessee free from claims by Sublessee;

(e) Sell any or all Equipment subject to such Lease, 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 reasonable, actual, out-of-pocket 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, or otherwise dispose of, hold, use, operate, lease to others or keep idle such Equipment, all as Sublessor in its sole discretion may determine and all free and clear of any rights of Sublessee;

(f) Remedy such Event of Default, including making repairs or modifications to the Equipment, for the account and expense of Sublessee; in such event, Sublessee agree to reimburse Sublessor for all of Sublessor's reasonable, actual, out-of-pocket costs and expenses;

(g) Apply any deposit or other cash collateral or sale or remarketing proceeds of any Collateral to such Lease at any time to reduce any amounts due to Sublessor;

(h) Require Sublessee to cease use of and delete all software subject to a License from Sublessee's computer systems;

(i) Recover from Sublessee as damages all costs and expenses of Sublessor reimbursable to Sublessor hereunder, including (without limitation) expenses of disposition of the Equipment, legal fees and all other amounts specified in Section 23 hereof; and

(j) Exercise any other right or remedy which may be available to Sublessor under applicable law.

Except for the notice provided in this Section, notice of Sublessor's intention to accelerate, notice of acceleration, notice of nonpayment, presentment, protest, notice of dishonor, or any other notice whatsoever are hereby waived by Sublessee and Guarantor. Interest on the Stipulated Loss Value under any Lease shall accrue at the lesser of 1.5% per month, or the maximum rate allowed by law, from the date declared due until paid in full. The exercise of any of the foregoing remedies by Sublessor under or on account of any Lease will not constitute a termination or cancellation of such Lease unless Sublessor so notifies Sublessee in writing. At any sale of the Equipment under any Lease pursuant to this Section, Sublessor may bid for the Equipment. Notice required, if any, of any sale or other disposition by Sublessor shall be satisfied by the mailing of such notice to Sublessee at least ten (10) days prior to such sale or other disposition. In the event Sublessor takes possession and disposes of the Equipment subject to any Lease, Sublessor shall give Sublessee credit for any sums received by Sublessor from such disposition after deduction of the expenses of sale or lease. Termination of a Lease under this Section shall not affect Sublessee's duty to perform Sublessee's obligations under such Lease to Sublessor in full. In the event Sublessor seeks to take possession of any or all of the Equipment (or Collateral as defined herein) by court process, Sublessee further

irrevocably waives to the fullest extent permitted by law any bonds and any surety or security relating thereto required by any statute, court rule or otherwise as an incident to such possession. Sublessor reserves a right of set-off in all deposits and/or other amounts which are held by Sublessor and in which Sublessee has rights (collectively, “**Deposits**”) and Sublessees authorize Sublessor to charge or setoff all sums owing by Sublessee to Sublessor against any and all such Deposits. Sublessor’s remedies hereunder shall not be deemed exclusive, but each shall be cumulative and in addition to any other remedy referred to herein or otherwise available at law or equity. Waiver of any default or breach of any Lease shall not be construed as a waiver of subsequent or continuing defaults or breaches.

**15. INDEMNITY.** Sublessee assumes liability for and agrees at its own expense to indemnify, hold harmless and defend Lessor, Sublessor and any Assignee, and their respective directors, officers, employees and agents (each an “**Indemnitee**”), on a net after-tax basis from and against any and all claims, liabilities, losses, damages, and expenses (including attorneys’ fees and legal expenses) of every kind or nature arising out of or in connection with: (a) any Lease, including (without limitation) any Sublessee breach of a representation or warranty, Event of Default and/or proceeding in bankruptcy with respect thereto; (b) the manufacture, ordering, purchase, delivery, installation, ownership, selection, possession, leasing, operation, use, maintenance, transportation and return of the Equipment subject to such Lease (including latent and other defects, whether or not discoverable by Lessor, Sublessor or Sublessee); (c) any claims based on tort liability or warranty and any claim for patent, trademark or copyright infringement, and (d) any claim relating to any interruptions of service, loss of business or consequential damages (collectively, “**Claims**”). Sublessee shall not be required to indemnify an Indemnitee against Claims to the extent such Claims result directly from the gross negligence or willful misconduct of such Indemnitee. The indemnities in this Section shall survive termination of any Lease.

**16. ASSIGNMENT OF THE LEASE AND/OR EQUIPMENT.** SUBLESSOR MAY ASSIGN ANY OF ITS RIGHTS IN ANY LEASE AND/OR THE EQUIPMENT SUBJECT TO SUCH LEASE TO AN ASSIGNEE, AND LESSOR AND SUBLESSEE HEREBY CONSENT TO SUCH ASSIGNMENT AND FURTHER AGREE AS FOLLOWS: (A) ASSIGNEE DOES NOT ASSUME ANY OF THE OBLIGATIONS OF SUBLESSOR UNDER SUCH LEASE; HOWEVER, SUBLESSOR SHALL REMAIN LIABLE FOR SAME; (B) SUBLESSEE SHALL PAY ALL ASSIGNED SUBLEASE RENT PAYMENTS AND OTHER AMOUNTS DUE UNDER SUCH LEASE UNCONDITIONALLY, WITHOUT OFFSET, AND SUBLESSEE FURTHER AGREES THAT SUCH SUBLEASE RENT PAYMENTS AND OTHER AMOUNTS SHALL BE PAYABLE NOTWITHSTANDING ANY DEFENSE OR COUNTERCLAIM WHATSOEVER, WHETHER BY REASON OF BREACH OF SUCH LEASE, THE EXERCISE OF ANY RIGHT UNDER SUCH LEASE, OR OTHERWISE, WHICH SUBLESSEE MAY NOW OR HEREAFTER HAVE AGAINST SUBLESSOR (SUBLESSEE RESERVES ITS RIGHT TO HAVE RECOURSE DIRECTLY AGAINST SUBLESSOR ON ACCOUNT OF ANY SUCH DEFENSE OR COUNTERCLAIM); (C) LESSOR AND SUBLESSEE SHALL PROVIDE SUBLESSOR WITH A COPY OF ANY NOTICES SENT BY LESSOR OR SUBLESSEE TO ASSIGNEE UNDER SUCH LEASE; (D) SUBJECT TO AND WITHOUT IMPAIRMENT OF LESSOR’S RIGHT, TITLE AND INTEREST OR SUBLESSEE’S LEASEHOLD RIGHTS IN AND TO THE EQUIPMENT, SUBLESSEE SHALL HOLD THE EQUIPMENT FOR THE BENEFIT OF ASSIGNEE TO THE EXTENT OF THE ASSIGNEE’S RIGHTS THEREIN; AND

(E) SUCH ASSIGNMENT DOES NOT CHANGE SUBLESSEE'S OBLIGATIONS UNDER SUCH LEASE, NOR DOES IT INCREASE THE BURDEN AND RISKS IMPOSED ON SUBLESSEE. WITHOUT THE PRIOR WRITTEN CONSENT OF SUBLESSOR, NEITHER LESSOR NOR SUBLESSEE SHALL ASSIGN OR CONVEY, OR GRANT ANY SECURITY INTEREST IN OR LIEN ON, ITS INTEREST IN ANY LEASE OR THE EQUIPMENT SUBJECT TO SUCH LEASE IN ANY FORM OR MANNER INCLUDING (WITHOUT LIMITATION) AN ASSIGNMENT DUE TO A SALE, MERGER, LIQUIDATION, SUBLEASE, LEVERAGED BUYOUT, CHANGE OF OWNERSHIP OR CHANGE IN CONTROL.

**17. DISPUTE RESOLUTION, EXCLUSIVE VENUE AND JURY WAIVER.** THIS AGREEMENT HAS BEEN AND EACH LEASE WILL HAVE BEEN MADE, EXECUTED AND DELIVERED IN THE STATE OF FLORIDA, AND, EXCEPT FOR LOCAL FILING REQUIREMENTS, SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF FLORIDA (EXCLUSIVE OF ITS CONFLICT OF LAWS PRINCIPLES). THE PARTIES HEREBY AGREE THAT THE EXCLUSIVE VENUE FOR AN ACTION IN WHICH LESSOR IS A PARTY SHALL BE THE CIRCUIT COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT OF FLORIDA, IN HILLSBOROUGH COUNTY, FLORIDA. THE PARTIES HEREBY AGREE THAT THE EXCLUSIVE VENUE FOR ANY OTHER LAWSUIT OR OTHER LEGAL PROCEEDING ARISING OUT OF OR IN ANY WAY RELATING TO ANY LEASE SHALL BE ANY FEDERAL OR STATE COURTS SITTING IN THE MIDDLE DISTRICT OF FLORIDA (OR SUCH OTHER VENUE AS MAY BE SELECTED BY SUBLESSOR OR ITS ASSIGNEE THAT BEARS A REASONABLE RELATIONSHIP TO THE DISPUTE BETWEEN THE PARTIES) (THE "SELECTED VENUE"). SUBLESSOR AND SUBLESSEE HEREBY CONSENT TO PERSONAL JURISDICTION IN THE SELECTED VENUE AND EACH AGREES THAT IT WILL NOT FILE ANY LAWSUIT OR OTHERWISE INITIATE ANY LEGAL PROCEEDING RELATING TO OR IN ANY WAY ARISING OUT OF ANY LEASE IN ANY VENUE OTHER THAN THE SELECTED VENUE. EACH OF LESSOR, SUBLESSOR AND SUBLESSEE EACH AGREES TO WAIVE ITS RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM ARISING OUT OF OR RELATING IN ANY WAY TO ANY LEASE. LESSOR AND SUBLESSEE SHALL FILE ANY CLAIM THAT IT MAY HAVE AGAINST SUBLESSOR THAT ARISES OUT OF OR IN ANY WAY RELATES TO ANY LEASE WITHIN ONE YEAR AFTER SUCH CLAIM FIRST ARISES OR FOREVER WAIVE AND BE BARRED FROM ASSERTING SUCH CLAIM.

**18. OWNERSHIP OF THE EQUIPMENT.** The Equipment subject to each Lease shall be the personal property of Lessor subject to the terms of this Agreement. Lessor, Sublessor and Sublessee acknowledge that, notwithstanding the foregoing sentence, (i) Sublessee 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. Any income-tax and property-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

Sublessee. 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.

(b) Sublessee shall protect and defend, at its own expense, Lessor's and Sublessor's title and/or rights in such Equipment against all claims and liens and shall keep such Equipment free and clear of all such claims and liens.

**19. INSURING THE EQUIPMENT.** During the Risk Period (as defined below) associated with a Lease, Sublessee shall at its own expense obtain and maintain: (a) commercial general liability insurance (naming Lessor, Sublessor and their assigns as additional insured) for bodily injury and property damage resulting from the maintenance, use or transportation of the Equipment subject to such Lease, with minimum limits of \$1,000,000 per occurrence; and (b) property and casualty insurance (naming Sublessor and any Assignee as lender loss payee, as their interests may appear) covering all risks of loss or damage to such Equipment from any cause whatsoever, including (without limitation) fire and theft, in an amount not less than the greater of the Stipulated Loss Value or replacement value thereof. All insurance will be from an insurer and in a form and amount satisfactory to Lessor and Sublessor. Sublessee shall deliver to Lessor and Sublessor Acord 23 certificates evidencing such insurance (and each renewal or replacement thereof). All policies will provide for a lender's loss payable endorsement in favor of Sublessor and any Assignee, as their interests may appear, that no cancellation or material modification of such insurance shall be effective without thirty days' prior written notice to Lessor and Sublessor and that, in respect of the interests of Lessor, Sublessor and any Assignee, no such insurance policy shall be invalidated by any action or inaction on the part of Sublessee. 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. If Sublessee fails to insure the Equipment as required and Sublessor does not obtain such insurance as provided above, Lessor shall have the right but not the obligation to obtain such insurance, and Sublessee shall be responsible for and provide payment or, as the case may be, reimburse Lessor for all premiums thereon promptly, upon demand by Lessor, with interest thereon at 1.4% from the date paid by Lessor to the date of repayment. Sublessee consents to Sublessor's and Lessor's release, upon Sublessee's failure to obtain appropriate insurance coverage, of any and all information necessary to obtain insurance with respect to the Equipment or Sublessor's or Lessor's interest therein. Sublessee hereby appoints Sublessor and Lessor as Sublessee's attorneys-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.

**20. RISK OF LOSS TO THE EQUIPMENT.** Sublessee hereby assumes all risk of loss, damage or destruction for whatever reason to the Equipment subject to each Lease from the earlier of the date on which such Equipment is ordered or Sublessor pays the purchase price of such Equipment and continuing to the expiration of the applicable Term (the "**Risk Period**"). If, during the Risk Period, all or any portion of an item of Equipment is lost, stolen, destroyed, damaged beyond repair or rendered permanently unfit for use for any reason, or in the event of any condemnation, confiscation, theft or seizure or requisition of title to or use of such item (each a "**Casualty Occurrence**"), Sublessee shall immediately inform Lessor and Sublessor in writing. On the next succeeding due date of Sublease Rent under the related Lease, Sublessee will, at Sublessor's option,

either: (a) replace the Equipment subject to the Casualty Occurrence with like-kind equipment acceptable to Sublessor or any Assignee, free and clear of any liens or rights of other parties, and continue to pay all Sublease Rent without interruption as such become due, or (b) pay to Sublessor an amount equal to the Stipulated Loss Value for the Equipment subject to the Casualty Occurrence. Upon payment of the Stipulated Loss Value to Sublessor, the Sublease Rent shall cease to accrue and the related Lease shall terminate, but in each case only with respect to the Equipment subject to the Casualty Occurrence. In the case of software, the erasure, inoperability or other incapacity of the software is also deemed a Casualty Occurrence. Insurance proceeds received by Sublessor as a result of a Casualty Occurrence will be applied to the Stipulated Loss Value or to reimburse Sublessee for the purchase of replacement Equipment. The term “**Stipulated Loss Value**” with respect to any item of Equipment on the due date of any Sublease Rent during the Term of the related Lease shall be an amount equal to the sum of: (a) all Sublease Rent and other amounts then due and owing to Lessor and Sublessor under the applicable Lease, together with all accrued interest and late charges thereon calculated through and including the date of calculation; plus (b) all Sublease Rent then remaining unpaid for the Term of the related Lease; plus (c) the amount of any purchase obligation with respect to such item of Equipment or, if there is no such obligation, then the fair market value of such item of Equipment at the end of the Term of the related Lease, as estimated by Sublessor in its sole but reasonable discretion; plus (d) any tax and/or other indemnification amounts becoming due as a result of the loss, cancellation of such Lease and/or Event of Default, with (b) and (c) being discounted to net present value as of the date of calculation at a discount rate equal to the lesser of: (i) the 1-year Treasury Constant Maturity rate as published in the Selected Interest Rates table of the Federal Reserve statistical release H.15(519) for the week ending immediately prior to the original Acceptance Date for such Lease; or (ii) two percent (2.0%) per annum. If less than all of the Equipment subject to a Lease is involved in a Casualty Occurrence (the “**Casualty Equipment**”), the applicable Stipulated Loss Value (and reduction in the remaining payments of Sublease Rent) shall be determined by Sublessor on a pro rata basis in accordance with the amount funded by Sublessor with respect to the Casualty Equipment as a percentage of the total amount originally funded by Sublessor for such Lease.

**21. DELIVERY OF EQUIPMENT.** Upon demand by Sublessor pursuant to Section 14 hereof, Sublessee shall contact Sublessor for shipping instructions and, at Sublessee’s own risk, immediately deliver 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 delivery 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 Supplier 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 lessee 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 are of the essence of each Lease, and upon 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.

**22. TAXES.** All assessments and taxes (except those based upon the net income of Sublessor) which may now or hereafter become due or are imposed by a governmental authority

upon the purchase, ownership, leasing, sale, possession, leasehold interest, use and/or disposal of the Equipment subject to any Lease are to be paid by Sublessee, and Sublessee shall indemnify and hold Lessor and Sublessor harmless against all penalties, charges, interest and costs imposed with respect thereto. Sublessee authorizes Sublessor to add to the amount of each payment of Sublease Rent, any sales, use or leasing tax that may be imposed on or measured by the Equipment cost or such payment of Sublease Rent. If Sublessee is a tax-exempt entity, Sublessee may provide Sublessor with the appropriate tax exemption certificates and Sublessor will apply any such tax-exempt status to the applicable Lease. Sublessee will be responsible for payment of all property taxes, and Sublessee will file personal property tax returns. Sublessor is not responsible for contesting any valuation of, or tax imposed on the Equipment subject to any Lease (but may do so strictly as an accommodation to Sublessee) and will not be liable or accountable to Sublessee therefor. Sublessor retains all federal and state tax credits or benefits relating to the Equipment subject to any Lease.

**23. EXPENSES; ADMINISTRATIVE FEE.** (a) Sublessee agrees to reimburse Lessor and Sublessor on demand for any and all reasonable, actual, out-of-pocket costs and expenses incurred by Lessor or Sublessor in enforcing its rights and remedies under any provision of this Agreement following the occurrence of an Event of Default, including (without limitation) reasonable attorney's fees, the costs of repossession, storage, insuring, re-letting, selling and disposing of any and all Equipment subject to such Lease, all pre-judgment and post-judgment actions taken by Sublessor and all actions taken by Sublessor in any bankruptcy proceeding involving Sublessee, such Equipment or Guarantor.

(b) In addition to the other amounts payable by Sublessee under this Agreement, Sublessee shall pay to Lessor on or before the date of disbursement of proceeds of the first Term Loan (as set forth in the Master Loan and Security Agreement entered into by Sublessor and Sublessee simultaneously with this Agreement) a one-time administrative fee in the sum of \$\_\_\_\_\_. Thereafter, on or before September 30 of each year, commencing in 2024, Sublessee shall pay an annual administrative fee to Lessor in the amount of \$\_\_\_\_\_. No other administrative or on-going or recurring fees shall be charged to or paid by Sublessee hereunder.

(c) As material consideration for Lessor's willingness to enter into this Agreement, Sublessee shall reimburse Lessor for all reasonable expenses and costs incurred by Lessor from time to time in connection with the administration and enforcement of this Agreement, including (without limitation) reasonable fees paid to Lessor's attorneys, accountants, and consultants, taxes, governmental fees, licensing fees, and other costs and expenses arising out of or incurred by Lessor in connection with this Agreement.

**24. MISCELLANEOUS.** By Sublessee's execution of this Agreement or any Lease, Sublessee assigns to Sublessor any and all rights Sublessee may have under any purchase order(s) issued by Sublessee in regard to the Equipment subject to such Lease. All agreements, representations and warranties contained in a Lease, or in any document or certificate delivered pursuant to or in connection with such Lease, which have accrued but not been fully satisfied shall expressly survive the termination of such Lease. If any provision of a Lease is determined by competent authority to be unenforceable, such determination shall not invalidate the remaining provisions of such Lease and any such unenforceability in one jurisdiction shall not render such provision unenforceable in any other jurisdiction. To the extent permitted by applicable law,



Sublessee waives any provision of law that renders any provision this Agreement or any Lease prohibited or unenforceable in any respect. Time is of the essence for each Lease and each provision thereof. Any signature, execution and delivery of any document or instrument may be satisfied, in Sublessor's sole discretion and to the extent permitted by the UCC, by authentication of such document or instrument as a record within the meaning of Article 9 of the UCC. A photocopy, printed electronic image or facsimile of this Agreement, any Equipment Schedule and/or any related document that includes copies of the signatures of the parties hereto shall be treated as an original document and proof of the agreement between the parties. This Agreement and any and all ancillary documents may be electronically and/or digitally executed. Federal law requires all financial institutions to obtain, verify, and record information that identifies each person or legal entity that opens an account or establishes a relationship with a financial institution. Specifically, this means that when Sublessee starts a relationship or opens an account with Sublessor, Sublessor will ask Sublessee for its name, address and other information, such as tax identification number, to allow Sublessor to identify Sublessee. Sublessor may also ask to see the driver's license, passport and other identifying documentation of the person(s) who executes any documents related to this Agreement or a Lease.

EACH LEASE CONTAINS THE ENTIRE AGREEMENT AMONG LESSOR, SUBLESSOR AND SUBLESSEE WITH RESPECT TO THE SUBJECT MATTER THEREOF. EACH LEASE CAN ONLY BE MODIFIED IN WRITING, WITH SUCH MODIFICATION SIGNED BY AN AUTHORIZED REPRESENTATIVE OF ALL OF LESSOR, SUBLESSOR AND SUBLESSEE. NO ORAL OR OTHER WRITTEN AGREEMENTS, REPRESENTATIONS OR PROMISES SHALL BE RELIED UPON BY, OR BE BINDING ON, LESSOR, SUBLESSOR OR SUBLESSEE UNLESS MADE A PART OF SUCH LEASE BY A WRITTEN MODIFICATION SIGNED BY AN AUTHORIZED REPRESENTATIVE OF ALL OF LESSOR, SUBLESSOR AND SUBLESSEE. BY SIGNING BELOW, THE SIGNER ACKNOWLEDGES THAT THEY HAVE READ THIS AGREEMENT, INCLUDING ALL ATTACHED PAGES, AND THE SIGNER REPRESENTS THAT HE OR SHE IS AUTHORIZED TO SIGN ON BEHALF OF LESSOR, SUBLESSOR OR SUBLESSEE, RESPECTIVELY.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; EXECUTION 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: \_\_\_\_\_

**FIRST AMERICAN COMMERCIAL  
BANCORP, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
FEIN: \_\_\_\_\_

**CAE USA, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
FEIN: \_\_\_\_\_

## WAIVER AND CONSENT

This Waiver and Consent dated as of \_\_\_\_\_, 2023 and entered into by and among the HILLSBOROUGH COUNTY AVIATION AUTHORITY, a public body corporate existing under the laws of the State of Florida (“**Prime Landlord**”), SPACE FLORIDA, an independent special district, body politic and subdivision of the State of Florida (“**Sublandlord**”), T.D. BANK, N.A., a national banking association (“**Mortgagee**” and, collectively with Prime Landlord and Sublandlord, the “**Interest Holders**”), CAE USA, INC., a Delaware corporation (“**CAE**”), and FIRST AMERICAN COMMERCIAL BANCORP, INC., an Illinois corporation (“**FirstAm**”), with reference to the following:

A. Prime Landlord, as landlord, and CAE, as tenant, entered into a Ground Lease Agreement dated December 6, 2018 (the “**Prime Lease**”), concerning premises more particularly described in the Prime Lease (the “**Real Property**”).

B. CAE assigned its interest in the Prime Lease to Sublandlord pursuant to an Assignment of Ground Lease Agreement dated September 27, 2019.

C. Sublandlord subleased the Real Property to CAE pursuant to a Sublease Agreement between Sublandlord and CAE dated March 3, 2022 (the “**Sublease**”).

D. CAE, as leasehold mortgagor, gave Mortgagee a Leasehold Mortgage, Security Agreement and Fixture Filing dated March 3, 2022 (the “**Leasehold Mortgage**”) encumbering CAE’s leasehold interest in the Real Estate.

E. Pursuant to (i) the Master Loan and Security Agreement dated as of \_\_\_\_\_, 2023, and Addendum to Master Loan and Security Agreement (Progress Payments) thereto dated as of \_\_\_\_\_, 2023 (together, the “**Loan Agreement**”) between CAE and FirstAm, and (ii) the Master Lease and Sublease Agreement dated as of \_\_\_\_\_, 2023, and all Equipment Schedules thereto (together, the “**Lease**”) among Sublandlord, CAE and FirstAm, FirstAm is financing, refinancing or leasing certain property (the “**Property**”), described in Exhibit A attached hereto and incorporated herein. The Property is or will be installed and/or used on the Real Property, and such Real Property is owned by Prime Landlord, subject to a leasehold interest held by Sublandlord, and subject to a leasehold mortgage in favor of Mortgagee.

F. FirstAm is willing to enter into the Loan Agreement and the Lease with CAE provided Mortgagee and Prime Landlord disclaim and waive any right, title or interest in and to the Property, and provided that Sublandlord waives its leasehold interest in the Property.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. The Property is not and shall not be deemed fixtures but shall at all times be considered personal property.

2. The Interest Holders do not have and shall not acquire any right, title or interest in and to the Property by virtue of the installation or attachment of the Property to the Real Property. Each of the Interest Holders hereby waives any interest in and rights to seize or to claim any interest in the Property on account of any claims or rights the Interest Holders may have against any person, including (without limitation) any rights or claims the Interest Holders may have or assert against CAE. The Interest Holders and CAE acknowledge and agree that any rights they may claim in and to the Property shall at all times be subject and subordinate to the rights of FirstAm therein.

3. Subject to the requirements of the Master Lease and Sublease Agreement and the Master Loan and Security Agreement, FirstAm may enter upon the Real Property and during CAE's normal business hours upon not less than five (5) business days' written notice (except in emergencies constituting an immediate threat to life or property, and only as is reasonable under the circumstances) and in a manner that will not unreasonably disrupt CAE's business, to inspect, repair, replace or remove the Property, provided that FirstAm shall be responsible for any physical damage or injury to the Real Property caused by any employee, contractor or agent of FirstAm, and FirstAm shall indemnify and hold harmless the Interest Holders from and against any such physical damage or injury caused by FirstAm or its agents. Due to the nature of the business conducted by CAE on the Real Property, any and all individuals to enter the Real Property on behalf of FirstAm shall be approved by CAE prior to entry on the Real Estate, such approval shall not be unreasonably withheld or delayed, and CAE shall be entitled to have a representative present during such entry.

4. The terms and conditions of this Waiver and Consent shall be binding upon the heirs, successors-in-interest and assigns of the Interest Holders and CAE and shall inure to the benefit of FirstAm and its successors and assigns.

5. This Waiver and Consent shall continue until such time as all of CAE's obligations to FirstAm have been fully and finally paid or performed, as the case may be.

6. This Waiver and Consent may be executed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall constitute but one and the same instrument.

7. In the event of any dispute arising out of this Waiver and Consent, as among CAE, Mortgagee and FirstAm, the prevailing party shall be entitled to the recovery of its reasonable attorneys' fees and costs, in addition to any other amounts that may be awarded by a court of competent jurisdiction.

8. This Waiver and Consent shall be governed by and construed in accordance with the laws of the State of Florida.

[Signatures are on the next page.]

IN WITNESS WHEREOF, the parties hereto have caused this Waiver and Consent to be executed as of the date first written above.

**HILLSBOROUGH COUNTY  
AVIATION AUTHORITY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CAE USA, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**SPACE FLORIDA**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**T.D. BANK, N.A.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**FIRST AMERICAN COMMERCIAL  
BANCORP, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**  
**To**  
**Waiver and Consent**