

HANGAR AND BUILDING SUBLEASE AGREEMENT

WHEREAS, Charlotte County (“Sublessor”) is a political subdivision of the state of Florida; and

WHEREAS, Charlotte County has entered into a Hangar and Building Lease with the Charlotte County Airport Authority as owner and operator of the Punta Gorda Airport in the City of Punta Gorda, including certain real property within the airport known as Hangar Building 115 and the land depicted and legally described on Exhibit A attached hereto; and

WHEREAS, The Board of Trustees of Western Michigan University (“Sublessee”) is a Michigan constitutional body corporate and operates a state supported university including a College of Aviation and has a desire to commence certain aeronautical training in Florida; and

WHEREAS, Western Michigan University has a desire to Sublease Hangar Building 115 and the land as depicted and described in Exhibit A and where Charlotte County desires to Sublease said property to Western Michigan University.

THEREFORE, in consideration of the above recitals and for other valuable and valid consideration described herein the Parties hereby enter into the Hangar and Building Sublease Agreement pursuant to the terms and conditions below appearing:

MASTER LEASE.

1. MASTER LEASE. Sublessor is a tenant under a lease dated September 13, 2016 between Charlotte County Airport Authority and Sublessor (the “Master Lease”) under which Sublessor leases property located at 28000 A-1 Airport Road, Punta Gorda, FL 33982, commonly known as Hangar 115 and the adjacent premises indicated in the Master Lease (the “Premises”). The Master Lease is attached hereto as Exhibit “A” and incorporated herein by reference.

PREMISES.

2. PREMISES. Sublessor now subleases to Sublessee on the terms and conditions set forth in this Sublease all of the Premises.

WARRANTY BY SUBLESSOR.

3. WARRANTY BY SUBLESSOR. Sublessor warrants and represents to Sublessee that the Master Lease has not been amended or modified since its execution, that Sublessor is not now, and as of the commencement of the term of this Sublease, will not be, in default or breach of any of the provisions of the Master Lease, and that Sublessor has no knowledge of any claim by Lessor that Sublessor is in default or breach of any of the provisions of the Master Lease.

TERM.

4. **TERM.** The Term of this Sublease will commence on the date last executed by the parties hereto (Commencement Date), and end on September 13, 2019 (Termination Date), unless otherwise sooner terminated in accordance with the provisions of this Sublease or unless extended pursuant to the options to extend the term for the Master Lease. Possession of the Premises will be delivered to Sublessee no later than July 1, 2017. If for any reason Sublessor does not deliver possession to Sublessee on the commencement of the Term, Sublessor will not be subject to any liability for such failure, the Termination Date will not be extended by the delay, and the validity of this Sublease will not be impaired, but rent will abate until delivery of possession.

USE OF PREMISES.

5. **USE OF PREMISES.** The Premises will be used and occupied exclusively for the operation of a Western Michigan College of Aviation flight school, and uses directly related to the aviation education program, including but not limited to, classroom instruction, faculty offices, and other educational activities directly related to the education aviation curriculum, and in accordance with all provisions of the Master Lease, and for no other use or purpose.

RENT.

6. **RENT.** Sublessee will pay to Sublessor as minimum rent, without deduction, setoff, notice, or demand, at 18501 Murdock Circle, Suite 302, Port Charlotte, FL 33948, Florida or at another place as Sublessor may designate by notice to Sublessee, the sum of \$1.00 per year, in advance to be paid on the anniversary date of said Sublease.

INSURANCE AND INDEMNIFICATION.

7. **INSURANCE AND INDEMNIFICATION.** Sublessee shall obtain and maintain insurance in the types and amounts specified in the Master Lease and agrees to name Sublessor as an additional insured. In addition to the commercial general liability coverage required by the Master Lease, Sublessee agrees to obtain and maintain the following insurance: Aircraft Liability Insurance at a limit of liability not less than **\$5,000,000** each occurrence and **\$5,000,000** annual aggregate. This coverage shall include Bodily Injury and Property Damage Liability; Personal and Advertising Injury Liability; Medical Payments each person \$50,000 part of \$5,000,000 each occurrence not in addition to; and Ground Hangarkeeper's Property Damage Liability with Each Aircraft Limit of \$5,000,000. The certificate holder shall be named; Charlotte County Airport Authority and Charlotte County Board of County Commissioners and each shall be named as additional insureds under the policy(s). Sublessee also agrees to and shall hold harmless and indemnify the Sublessor from and for any and all payments, expenses, costs, attorney fees and from and for any and all claims and liability for losses or damage to property or injuries to persons occasioned wholly or in part by or resulting from any acts or omissions by the Sublessee or the Sublessee's agents, employees, guests, licensees, invitees, subtenants, assignees or successors, or for any cause or reason whatsoever arising out of or by reason of the occupancy or business of the Sublessee which result from any acts or omissions by the Sublessee or the Sublessee's agents, employees, guests, licensees, invitees, subtenants, assignees or successors.

ASSIGNMENT AND SUBLETTING.

8. **ASSIGNMENT AND SUBLETTING.** Sublessee will not assign this Sublease or further sublet all or any part of the Premises without the prior written consent of Sublessor and the consent of Lessor. Sublessor may withhold its consent on any such assignment or further sublet at its sole discretion for any reason.

OTHER PROVISIONS OF SUBLEASE.

9. OTHER PROVISIONS OF SUBLEASE. Except as otherwise stated in this Sublease, all applicable terms and conditions of the Master Lease are incorporated into and made a part of this Sublease as if Sublessor were Lessor under the Master Lease, Sublessee Lessee under the Master Lease, and the Premises the Master Premises. Sublessee assumes and agrees to perform Lessee's obligations under the Master Lease during the Term to the extent that those obligations are applicable to the Premises, except that the obligation to pay rent to Lessor under the Master Lease will be considered performed by Sublessee to the extent and in the amount rent is paid to Sublessor in accordance with Section 6 of this Sublease. Sublessee will not commit or suffer any act or omission that will violate any of the provisions of the Master Lease. Sublessor will exercise due diligence in attempting to cause Lessor to perform its obligations under the Master Lease for the benefit of Sublessee. If the Master Lease terminates, this Sublease will terminate and the parties will be relieved of any further liability or obligation under this Sublease, provided however, that if the Master Lease terminates as a result of a default or breach by Sublessor or Sublessee under this Sublease and/or the Master Lease, then the defaulting party will be liable to the nondefaulting party for the damage suffered as a result of the termination. Notwithstanding the foregoing, if the Master Lease gives Sublessor any right to terminate the Master Lease in the event of the partial or total damage, destruction, or condemnation of the Master Premises or the building or project of which the Master Premises are a part, Sublessor's exercise of that right will not constitute a default or breach under this Sublease.

ATTORNEY FEES.

10. ATTORNEY FEES. If any party to this Sublease commences an action against the other party arising out of or in connection with this Sublease, the prevailing party will be entitled to recover its costs and reasonable attorney fees.

AGENCY DISCLOSURE.

11. AGENCY DISCLOSURE. Sublessor and Sublessee each warrant that they have dealt with no real estate broker in connection with this transaction and no real estate brokerage commission is owed.

NOTICES.

12. NOTICES. All notices, requests, demands, or other communications required under this agreement must be in writing and will be deemed to have been duly given if either delivered by hand, courier, or personally on the date of delivery, or if mailed by certified or registered mail with postage prepaid, on the third business day after the date on which it is so mailed:

To Sublessor:

Economic Development

18501 Murdock Circle, Suite 302

Port Charlotte, FL 33948

Copy to: County Attorney

18500 Murdock Circle, Bldg. A, Suite 573

Port Charlotte, FL 33948

To Sublessee:

Jan Van der Kley, Vice-President of Business and Finance

Office of Business and Finance, Western Michigan University

1903 W. Michigan Avenue

Kalamazoo, MI 49008

Either party may designate a different address by sending notice of address change to the other party at the address set forth above.

MERGER.

13. MERGER. This Sublease constitutes the final, complete, and exclusive agreement between the parties on the matters contained in this Sublease. All prior and contemporaneous negotiations and agreements between the parties on the matters contained in this Sublease are expressly merged into and superseded by this Sublease. In entering into this Sublease, neither party has relied on any statement, representation, warranty, nor agreement of the other party except for those expressly contained in this Sublease.

COMPLIANCE.

14. COMPLIANCE. The parties agree to comply with all applicable federal, state, and local laws, regulations, codes, and ordinances having jurisdiction over the parties, property, or the subject matter of this Sublease.

BOARD APPROVAL

15. BOARD APPROVAL. This Sublease is subject to the approval of the Western Michigan University Board of Trustees and will be submitted for approval at its next formal meeting.

IN WITNESS WHEREOF, the parties have set their hands and seals this _____ day of _____, 2016.

WITNESS:

THE BOARD OF TRUSTEES OF WESTERN MICHIGAN UNIVERSITY

By _____

WITNESS:

WITNESS:

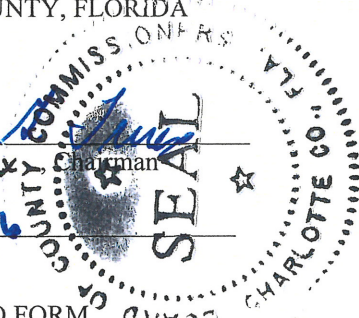
Barbara T. Scott, Clerk of Circuit Court and Ex-officio Clerk to the Board of County Commissioners

By: Michelle D. Bernardino
Deputy Clerk A 2016-074

BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA

By: William G. Truex
Chairman

Date: 11/22/16



APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: Janette S. Knowlton
Janette S. Knowlton, County Attorney
LR 16-0281