

LEASE AND OPERATING AGREEMENT BY AND BETWEEN THE CITY OF
PENSACOLA AND PENSACOLA AVIATION CENTER, LLC (f/k/a Aerose LLC)

AMENDMENT NO. 5

THIS AMENDMENT NO. 5 TO THE LEASE AND OPERATING AGREEMENT of July 29, 2004 (hereinafter referred to as "Amendment No. 5"), is made and entered into this _____ day of _____, 20____, by and between the City of Pensacola, a municipal corporation of the State of Florida (hereinafter referred to as "City") and Pensacola Aviation Center, LLC, a Florida Limited Liability Company authorized to transact business in the State of Florida with an address of 4145 Maygarden Road, Pensacola, Florida 32504, and the Federal Tax Identification Number of 59-3688156, (hereinafter referred to as "Operator"), (Each at times hereinafter referred to also as "party" or collectively "parties"),

WITNESSETH:

WHEREAS, the City owns, operates, and maintains Pensacola International Airport (hereinafter referred to as "Airport") located in Escambia, County, Florida; and

WHEREAS, City and Aerose LLC entered into an Agreement dated July 29, 2004 whereby Aerose LLC leased certain property at the Pensacola International Airport to store and house aircraft owned by the Operator; and

WHEREAS, said Lease Agreement was amended on May 8, 2008 whereby Aerose LLC leased additional property in the aviation fuel farm area for the installation of an above-ground fuel tank facility; and

WHEREAS, said Lease Agreement was amended on January 24, 2013 whereby the City granted Aerose LLC the right to conduct commercial aeronautical services/activities described as Full Service Fixed Base Operations at the Airport; and

WHEREAS, said Lease Agreement was amended on July 16, 2015 to lease certain space in the Airport Terminal Building on a month-to-month basis; and

WHEREAS, on August 2, 2016, Aerose LLC assigned all of its rights, title, interest, and leasehold estate in, to, and under the lease to Pensacola Aviation Center, LLC, and Pensacola Aviation Center, LLC assumed the Lease and Operating Agreement; and

WHEREAS, said Lease Agreement was amended on _____, 20____ to extend the lease to allow for the amortization of certain construction costs; and

WHEREAS, the parties now desire to amend the Lease Agreement in order to

decrease the square footage of the Leased Premises and adjust the lease rental rate provision in the Lease Agreement as amended upon the terms and conditions hereinafter set forth to delete certain helicopter ramp parking spaces.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, it is agreed that the Lease Agreement is hereby amended as follows:

1. Article I – Leased Premises, Preferential Use Leased Premises Defined, Leased Premises Number 3 as last modified under Amendment No. 2 is hereby amended as follows:

Leased premises Number 3 is leased to Operator as Preferential Use Apron Area. The Operator hereby leases and takes from the City Leased Premises Number 3 as shown on Exhibit “B” as Preferential Use Apron Area.

Preferential Use Apron Area “1” is approximately 25,076 square feet of aircraft apron area. This apron area can accommodate aircraft maneuvering and parking for aircraft up to FAA Design Group II aircraft – larger aircraft cannot use Preferential Use Apron “1”. Therefore, Apron Area 1 usage is limited to aircraft up to and including FAA Design Group II aircraft. An additional aircraft area of 13,160 square feet or ten (10) tie-downs will also be identified in this Leased Premises area for a total of 38,236 square feet of lease area on the corporate ramp.

The Operator has inspected and is familiar with the condition of the Leased Premises. The Exclusive Use Leased Premises and the Preferential Use Leased Premises shall be taken by the Operator in an AS IS condition, subject to all defects, latent and patent, and shall be improved, maintained, swept, and stripe and operated at the Operator’s sole cost and expense except as may otherwise be specifically provided in the Agreement as amended. It is the express intention of the parties hereto that the Operator’s improvements, use and occupancy of the Exclusive Use Leased Premises and the Preferential Use Leased Premises, and all costs associated therewith, shall be and remain the financial obligation of the Operator.

2. Article VI - Rents & Fees, Preferential Use Lease Premises Rents, Leased Premises Number 3 as last modified under Amendment No. 2 is hereby amended as follows:

Preferential Use Apron Area Number 1 – In consideration of the rights and privileges herein granted, the Operator hereby covenants and agrees to pay the City a Preferential Use Apron Area Number 1 rental of \$31,449.00 per year beginning September 1, 2012 for the preferential, non-exclusive use of the Preferential Use Apron Area Number 1 shown on Exhibit “B”. This rental will be in

effect until December 31, 2016.

Preferential Use Apron Area Rent Calculation:

	Annual Rate*	Square Footage	Annual Rent*
<u>Apron Area Number 1</u>			
9/1/2012 – 12/31/2016	\$0.8225	38,236	\$31,449.00
1/1/2017 – 12/31/2022	\$0.8709	38,236	\$33,299.75

* The annual rental rate and the annual rental will be adjusted as described below.
The annual rental rate and annual rent will next be adjusted January 1, 2022.

The methodology for the calculation of square footage and annual rent for Preferential Use Apron Number 1 is as follows:

Formula for recalculation of the fully allocated fee of the Preferential Use Apron Area Number 1 is as follows:

- a. Appraiser's square foot opinion of value multiplied by the total Corporate Apron Area (250,000 square feet) multiplied by \$0.30 (the fair market rental rate per square foot at the time of the recalculation) = \$75,000).
 - b. The Operator's Preferential Use Apron Area Number 1 of 25,076 square feet divided by the total Corporate Apron Area rentable space (25,076 square feet /91,000 square feet = 0.275).
 - c. Total Corporate Apron Area rental requirement times the Operator's percentage of rentable area (\$75,000 multiplied by 0.275 = \$20,625). The ground rental approach is that the rentable area of the Corporate Apron must generate revenue to provide ground rent of the non-rentable areas (aircraft maneuvering areas).
3. List of Exhibits is hereby amended as follows:

Exhibit B – Preferential Use Leased Areas, Exhibit B-4 – Preferential use Leased Premises Number 3 – Area 2 Rotary Wing Aircraft Apron is deleted in its entirety.
 4. Exhibit B-4 Preferential Use Leased Premises Number 3 Area 2 is deleted in its entirety.
 5. All other terms and conditions of the Lease Agreement dated July 29, 2004, not

amended hereby shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 5 to the Lease Agreement on the date first above written.

ATTEST:

THE CITY OF PENSACOLA, FLORIDA

Ericka Burnett, City Clerk

By: _____
Grover C. Robinson, IV, Mayor

(City Seal)

Pensacola Aviation Center, LLC

By: _____
Member

(SEAL)

(Printed Member's Name)

By: _____
Member

(Printed Member's Name)

Legal in Form and Valid as Drawn:

City Attorney

Approved As To Substance:

Airport Director