



Aircraft Operating Agreement

THIS DOCUMENT IMPACTS YOUR LEGAL RIGHTS READ THE ENTIRE DOCUMENT BEFORE SIGNING

This Aircraft Operating Agreement (the "Operating Agreement") by and among ICON Aircraft, Inc., a corporation incorporated under the laws of the State of Delaware ("ICON"), _____ ("Owner"), and _____ ("Managing Pilot") (each a "Party," and collectively, the "Parties") is effective _____. This Aircraft Operating Agreement is entered into in connection with the purchase of the ICON A5 aircraft serial number _____ and FAA N-number _____ (the "Aircraft").

RECITALS

WHEREAS, Owner is the owner of the Aircraft.

WHEREAS, Managing Pilot is a natural person who is (check one): the Owner, or an Affiliate (as defined herein) of Owner or a non-Affiliate of Owner, in each case, that has agreed with Owner, for good and valuable consideration, which may include the opportunity to operate the Aircraft at no charge, the receipt and sufficiency of which are acknowledged by Managing Pilot, to assume the duties and responsibilities of Managing Pilot herein;

WHEREAS, the Parties acknowledge that this Operating Agreement has been the subject of discussion and negotiation and it is fully understood by the Parties that the price of the Aircraft and the other agreements of the Parties, including those set forth in ICON's A5 Limited Warranty and in the Aircraft Purchase Agreement (the "Purchase Agreement"), were arrived at in consideration of the provisions of this Operating Agreement, specifically including but not limited to the agreements and waivers of Owner and Managing Pilot and the indemnifications herein;

WHEREAS, the Aircraft is an S-LSA aircraft designed in accordance with FAA accepted ASTM consensus standards, and accordingly is subject to ASTM Specification F2295 (Continued Operational Safety Monitoring of a Light Sport Aircraft), which requires manufacturers to obtain the agreement of owner/operators to accept certain responsibilities for continued operational safety monitoring, which responsibilities are included herein;

WHEREAS, the Parties desire to encourage safe operation of the Aircraft; and

WHEREAS, potential litigation against aircraft manufacturers and their suppliers in relation to aircraft accidents caused by pilot error or other factors unrelated to the fault of the manufacturers is a major cost driver for aircraft and the components of aircraft, and ICON and its customers have a legitimate interest in reducing these costs.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants, promises, and undertakings set forth in this Agreement, and other valuable consideration, the receipt, sufficiency, and adequacy of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

AGREEMENT

1. PILOT QUALIFICATIONS

a. Managing Pilot hereby represents and warrants that Managing Pilot (check one):

has completed an ICON approved Initial Sport Pilot training course or ICON approved Transition Pilot training course (each, "ICON Approved Training") and holds and at all relevant times will hold a valid sport pilot certificate with LSA seaplane endorsement or private pilot certificate (or greater certificate) issued by the FAA and a seaplane rating or LSA seaplane endorsement, or, if applicable, the licenses and endorsements required by relevant non-U.S. authorities (the "Required Certificates and Endorsements"); or

will complete ICON Approved Training and will hold the Required Certificates and Endorsements prior to flying the Aircraft.

b. Owner and Managing Pilot each agree not to permit anyone to fly the Aircraft unless the pilot-in-command for the flight: (i) holds a valid sport pilot certificate with an LSA seaplane endorsement or private pilot certificate (or greater certificate) issued by the FAA and a seaplane rating or an LSA seaplane endorsement; (ii) has completed ICON Approved Training; and (iii) meets all FAA recent flight experience and currency requirements.

c. Owner will not allow, and will maintain adequate safeguards to prevent, anyone to act as pilot-in-command of the Aircraft unless approved by the Managing Pilot.

d. Owner and Managing Pilot each agree not to permit a flight instructor to give flight instruction in the Aircraft unless the instructor

is an appropriately rated and current FAA CFI and has completed the ICON Instructor Pilot Course.

e. If Managing Pilot is not Owner or an Affiliate of Owner, Managing Pilot may resign as Managing Pilot hereunder at any time by sending written notice to Owner (at the Owner's address herein) and ICON (at contracts@iconaircraft.com). For the avoidance of doubt, such resignation will not relieve Managing Pilot of any obligations or liabilities under this Operating Agreement with respect to events, acts, or omissions occurring prior to such resignation.

f. Owner agrees that the Aircraft will not be flown if there is no Managing Pilot. Whenever there is a vacancy in the Managing Pilot position due to resignation under Paragraph 1.e or whenever Owner desires to replace the then-current Managing Pilot, Owner will obtain a new Managing Pilot's signature to an Acknowledgment and Joinder form (obtained from ICON) agreeing to be bound by this Operating Agreement as Managing Pilot (a current version of which is attached as Annex A) and deliver the signed agreement to ICON prior to allowing anyone to fly the Aircraft. Owner agrees that the Aircraft will always have a Managing Pilot who is a natural person.

2. SAFE FLIGHT OPERATIONS

a. Owner and Managing Pilot understand that flying has risk factors that, if not mitigated by the pilot, may result in serious injury or death of the pilot, or passengers, or others and that the pilot's care and competence is a significant risk factor. Owner and Managing Pilot understand that participating in ground, water, and air operations and related activities could result in injuries from a variety of factors, including but not limited to: pilot error; engine or mechanical failure; defects in the aircraft or components; negligent maintenance; defects in runways; interference by wildlife; other aircraft; boats or other foreign objects; difficult search and rescue; unfavorable weather or terrain; contaminated fuel; hard or forced landings; turbulence; slippery aircraft or docks; low temperature water; inability to swim; harm from the propeller; or other causes. Owner and Managing Pilot knowingly assume these risks on behalf of themselves and their Successors in Interest.

b. It is the responsibility of Owner and Managing Pilot when the pilot or operator of the Aircraft to manage all risk factors, including but not limited to: physical and mental preparedness, the Aircraft's airworthiness, the Aircraft's operating procedures and limitations, the Aircraft's weight and balance, the functionality of instrumentation, the meteorological flying conditions, persons and vehicles in the vicinity, air traffic and terrain avoidance, airspace awareness, and all applicable regulations.

c. Owner and Managing Pilot understand that the Aircraft is designed only for operation under visual flight rules and should never be flown in instrument meteorological conditions. Owner and Managing Pilot understand that the Pilot's Operating Handbook, Aircraft Specifications, Maintenance Manual, and ICON Flight Training manuals contain the official performance, safety, reliability, and other information related to the Aircraft and Options, and suitability of the Aircraft and Options for a particular type of flying or flight conditions. Owner and Managing Pilot should not rely on any explicit or implicit statements not contained in these official materials, whether or not made by an ICON officer, employee, or other representative or observed in advertising, media, online materials, or ICON events, or otherwise.

d. Owner and Managing Pilot acknowledge that the Aircraft is an S-LSA (special light sport aircraft), is not a FAR Part 23 certified aircraft, and is not suited or authorized for commercial transport or aerobatics.

e. Owner and Managing Pilot understand and agree that, in the interest of the safety of Owner, Managing Pilot, and others in the ICON owner community, the Aircraft is equipped with a flight data recorder owned by ICON and that ICON or ICON-authorized service centers may access data regarding operation of the Aircraft during repair and maintenance services or following an incident or accident and such data may be transmitted directly to ICON or its designees. Notwithstanding anything to the contrary herein, the flight data recorder and the data collected thereon is and remains the sole property of ICON. As provided in the Purchase agreement, Owner has a limited, non-transferable (except in connection with the assignment of this Operating Agreement in connection with a Transfer of the Aircraft in accordance with Section 11), non-exclusive right to use the flight data recorder and data thereon for its own non-commercial purposes related to its operation of the Aircraft. Owner agrees not to remove or disable the flight data recorder. In the event that Owner or someone on Owner's behalf removes or disables the flight data recorder, Owner agrees to promptly purchase a replacement and have it installed at Owner's sole expense. ICON reserves the right to replace or upgrade the flight data recorder in the future at ICON's sole expense; provided, however, that no cockpit recording flight data recorder will be installed without Owner's consent. The terms of ICON's use of flight data and Owner's access to such data are set forth in ICON's privacy policy available in the Owners Center.

f. Owner and Managing Pilot will not fly or permit anyone to fly the Aircraft if, to the best of Owner's or Managing Pilot's knowledge, the flight data recorder is not fully operational.

3. CONTINUED OPERATIONAL SAFETY AND AIRCRAFT MAINTENANCE

a. Owner will not operate, and will not permit anyone else to operate, the Aircraft outside of the regions where the aircraft is authorized for operation by the appropriate government authority ("Authorized Regions") (an updated list of which is maintained by and available from ICON), except as permitted by the local aviation authority. As of the date hereof, the United States and Australia are the only Authorized Regions. Operating the Aircraft outside of the Authorized Regions, except as permitted by the local aviation authority, invalidates ICON's A5 Limited Warranty.

b. Owner understands and agrees that the United States and other jurisdictions where ICON expands its support services are the only regions where Owner can obtain service and maintenance support from ICON (the "Support Regions") (an updated list of which is maintained by and available from ICON). As of the Effective date, the United States is the only Support Region.

c. Owner agrees to maintain the Aircraft and its components in accordance with all applicable FAA airworthiness directives and



aviation authority regulations related to maintaining the airworthiness of the Aircraft and all mandatory service bulletins issued by ICON. ICON may issue one of three types of service bulletins (collectively, "Service Bulletins") related to the Aircraft:

- i. Safety Directive/Alerts are issued for safety related items that require immediate action. Compliance with Safety Directive/Alerts is mandatory and the bulletin will indicate to what extent the work will be performed at ICON's cost.
 - ii. Service Bulletins are issued to address the function, performance, or reliability of the Aircraft. Compliance with these bulletins is mandatory and the bulletin will indicate to what extent the work will be performed at ICON's cost.
 - iii. Notifications are issued to address the function, performance, or reliability of the Aircraft. Compliance with these bulletins is not mandatory and the work will be performed at Owner's cost.
- d. Owner is receiving an early production run aircraft. These initial aircraft are intended for ICON's closest customers who are committed to the success of the company and the ICON pilot and owner community. Owner understands that as an early production run aircraft Service Bulletins may be frequent and ICON's service network may not be fully developed. Owner understands that it may take two years or more to fully develop local support in their home region. Owner agrees to be supportive of the company during this product introduction and growth phase and to provide regular feedback to ICON to help ICON improve its products and customer experience.
- e. If ICON issues a Safety Directive/Alert or a Service Bulletin or otherwise contacts Owner regarding a mandatory safety or reliability related service, Owner agrees to cooperate to have the service completed at an ICON-Authorized service center within the timeframe specified in the notice or, if no timeframe is specified, by the next annual condition inspection or 100 hour inspection, as applicable.
- f. Owner agrees that maintenance on the Aircraft may only be performed by personnel meeting the requirements in the ICON Maintenance Manual.
- g. Owner agrees that only equipment described in the ICON Maintenance Manual may be installed on the Aircraft. Installation of any equipment not described in the Maintenance Manual and any repair, alteration, or maintenance for which instructions are not provided in the Maintenance Manual are considered to be major repairs, alterations, or maintenance pursuant to ASTM F2483 and require advance approval by the manufacturer. Owner understands and agrees that pursuant to FAA regulations (14 CFR 91.327 (b)(5)), each alteration accomplished in the Aircraft after the date of manufacture must comply with ASTM standards and be authorized by either ICON or a person acceptable to the FAA.
- h. Owner will read and comply with the maintenance and continued airworthiness information and instructions provided by ICON.
- i. Owner agrees to maintain current contact information in the ICON Owners Center such that ICON may send Owner Service Bulletins and other important information.
- j. Owner and Managing Pilot each agree to notify ICON of any safety of flight issue or significant service difficulty upon discovery.
- k. Owner understands that ASTM F2295 paragraph 5.4.6. provides that should the owner/operator not comply with any mandatory service requirement, the Aircraft will be considered not in compliance with applicable ASTM standards and may be subject to regulatory action by the presiding aviation authority.
- l. Owner agrees not to convert the Aircraft into an E-LSA (experimental).

4. OPTIONAL RELEASE AND COVENANT NOT TO SUE; LIMITATION OF LIABILITY

a. **Election.** The provisions of this Section 4 are intended by the Parties to reduce ICON's cost of litigation and enable ICON to sell the A5 aircraft for a lower price than it would otherwise have to charge. Owner may opt out of this Section 4 for an additional charge as set forth herein. Check and initial next to one:

- Owner and Managing Pilot each elect to opt out of this Section 4. Owner agrees that the purchase price of the Aircraft will be increased by an additional US \$10,000.00 plus applicable taxes (it being understood that the provisions in this Section are an important consideration of ICON in determining the Aircraft's purchase price). If this election and payment are made, Section 4 will be excluded from this Operating Agreement and replaced with "[Reserved]."
- Owner and Managing Pilot agree to this Section 4, including the release, limitation of liability, covenant not to sue, and indemnification obligations.

Owner Initials

Managing Pilot Initials

Owner Initials

Managing Pilot Initials

b. **Release.** Each of Managing Pilot and Owner, on behalf of itself, himself, or herself and its, his, or her Affiliates and Successors in Interest, as defined herein, (collectively "Releasors") hereby releases and discharges ICON, its Affiliates and suppliers, and each of ICON's and their officers, directors, successors, assigns, insurance companies, agents, and employees (collectively, the

“Released Parties”) from and against any and all liability, loss (including but not limited to loss of income, wages, support, or consortium), injury, death, damages (including but not limited to direct, indirect, incidental, exemplary, punitive, special, or consequential damages), costs, expenses (including but not limited to attorneys’ fees and costs), harm, claims, or causes of action (including but not limited to claims for personal injury, wrongful death, and/or property damage), arising out of or relating to: (i) the use of the Aircraft or any component, feature, accessory, or configuration of the Aircraft; (ii) ICON’s training; or (iii) any accident or incident involving the Aircraft. In each case (i), (ii), or (iii), whether in strict liability, contract, tort, or other, regardless of how such injury, damage, or loss may arise and regardless of whether the injury, damage, or loss is occasioned in whole or in part by the active or passive negligence, neglect, or fault of any one or more of the Released Parties, or any other breach of a legal duty arising by common law, statute, or contract.

c. Release Exclusion. The release in Paragraph 4.b will not apply to the extent the National Transportation Safety Board (“NTSB”) (or comparable foreign governmental entity with jurisdiction to investigate an incident or accident involving aircraft) has determined in a final report that a defect in the Aircraft or component thereof as configured at the time of sale, a defect in a repair or a modification made by ICON, or a defect in ICON’s training was the probable cause of an accident or incident involving the Aircraft (the “Release Exclusion”). The enforceability and application of this Release Exclusion is expressly identified as a matter subject to the arbitration clause in Section 9. To the extent that an arbitrator or court finds that this Release Exclusion is not enforceable as written, the Release Exclusion in this Paragraph 4.c will be stricken from this Operating Agreement, but such finding will not affect or diminish the application or enforceability of the release in Paragraph 4.b or the other provisions of this Section 4 or this Operating Agreement.

d. Covenant Not to Sue. Each of the Releasors hereby agrees never to institute, initiate, or assist in the prosecution of any action, claim, proceeding, or suit, whether at law or otherwise (including but not limited to by way of a cause of action, arbitration, class action, cross claim, third-party claim, lien, or law suit) against any of Released Parties for any matter covered by the release in Paragraph 4.b (other than matters excluded in Paragraph 4.c). For avoidance of doubt, each of the Owner and Managing Pilot agrees and instructs that such Party’s Affiliates and Successors in Interest will not institute any suit or action at law or otherwise against any of Released Parties, nor will they initiate or assist the prosecution of any action, claim, proceeding, or suit, whether at law or otherwise, for any matter released in this Operating Agreement.

e. Indemnification.

i. **Owner, on behalf of itself, himself, or herself, and its, his, or her Affiliates and Successors in Interest, agrees to defend, indemnify, and hold the Released Parties harmless from and against any claims, actions, suits, proceedings, losses, damages, liabilities, costs, and expenses (including, without limitation, reasonable attorney fees and costs) arising from or relating to: (A) any breach or threatened breach by Owner, his or her Affiliates or Successors in Interest of the covenant not to sue in Paragraph 4.d; or (B) any claim, action, suit, or proceeding by or on behalf of Owner, its, his, or her Affiliates or its, his, or her Successors in Interest relating to any matter released under Paragraph 4.b (other than matters excluded in Paragraph 4.c).**

ii. **Managing Pilot, on behalf of himself or herself and his or her Affiliates and Successors in Interest, agrees to defend, indemnify, and hold the Released Parties harmless from and against any claims, actions, suits, proceedings, losses, damages, liabilities, costs, and expenses (including, without limitation, reasonable attorney fees and costs) arising from or relating to: (A) any breach or threatened breach by Managing Pilot, his or her Affiliates or Successors in Interest of the covenant not to sue in Paragraph 4.d; or (B) any claim, action, suit, or proceeding by or on behalf of Managing Pilot, his or her Affiliates, or his or her Successors in Interest relating to any matter released under Paragraph 4.b (other than matters excluded in Paragraph 4.c).**

iii. **The indemnity obligations set out herein expressly extend to and include a duty to defend, indemnify, and hold harmless the Released Parties from all claims, actions, suits, and proceedings that allege the Released Parties’ own negligence, negligent act, or omissions, product defects, or any other basis of liability on the part of the Released Parties, irrespective of whether those allegations are true.**

f. Effect. The release, covenant not to sue, and indemnification set forth herein will relate to any and all claims and legal rights now existing or arising in the future, whether known or unknown. Releasors acknowledge that they have read and understand Section 1542 of the California Civil Code, which reads as follows: “A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.” Releasors hereby expressly waive and relinquish all rights and benefits under that section and any law of any jurisdiction of similar effect with respect to its release of any claims Releasors may have against the Released Parties.

5. INDEMNIFICATION

a. Owner, on behalf of itself and its Affiliates and Successors in Interest, agrees to defend, indemnify, and hold the Released Parties harmless from and against any claims, actions, suits, proceedings, losses, damages, liabilities, costs, and expenses (including, without limitation, reasonable attorney fees and costs) (collectively “Losses”) to the extent such Losses are caused by or result from any breach of any of the representations, warranties, covenants, or agreements of Owner or its Affiliates or Successors in Interest in this Aircraft Operating Agreement.

b. Managing Pilot, on behalf of himself or herself and his or her Successors in Interest, agrees to defend, indemnify, and hold the Released Parties harmless from and against any claims, actions, suits, proceedings, losses, damages, liabilities, costs, and expenses (including, without limitation, reasonable attorney fees and costs) to the extent such Losses are caused by or result from any breach of any of the representations, warranties, covenants, or agreements of Managing Pilot or his or her Successors in Interest in this Aircraft Operating Agreement.

6. NO DURESS

Each Party acknowledges that it is entering into this Operating Agreement, including but not limited to the provisions of Sections 4 and 5, willingly and without duress.

7. CERTAIN DEFINITIONS

a. **"Affiliate"** of a Person means another Person who, directly or indirectly, controls, is controlled by or is under common control with such Person, including, without limitation, any general partner, manager, managing member, officer, or director of such Person.

b. **"Person"** means a natural person, firm, corporation, partnership, association, Limited Liability Company, trust, or any other legal entity.

c. **"Successors in Interest"** means a Person's spouses, children, devisees, personal representatives, survivors, heirs, issue, assigns, creditors, successors, executors, administrators, legatees, insurers, estate beneficiaries and estate, any person wholly or partially dependent on such Person for support and maintenance, and any other Person acting or claiming for, on behalf of, or through such Person or having a property right in, or a claim against, a trust estate or the estate of a decedent.

8. CHOICE OF LAW; COMPLIANCE WITH LAWS; EXPORT CONTROLS

a. This Operating Agreement and any disputes arising out of or relating to it as well as all aspects of the Parties' relationships and any disputes that may arise between them in relation to the Aircraft, its sale, its use and operation, any injuries or deaths suffered during its operation will be governed by the laws of the State of California, regardless of the choice of law provisions of California or any other jurisdiction.

b. Each party must comply with all applicable standards, provisions, and stipulations of all foreign, federal, state, and local laws, rules, regulations, ordinances, and Executive Orders. In addition, each party will, at all times, act in a lawful manner and will not use monies associated with this Order to bribe government officials. ICON is subject to U.S. export and import laws and regulations, including without limitation the Office of Foreign Assets Control (OFAC), 31 CFR Parts 500-599; the Export Administration Regulations (EAR), 15 CFR Parts 730-774; and the Foreign Trade Regulations (FTR), 15 CFR Part 30. Buyer agrees that Buyer will not export, re-export, release, or otherwise transfer, directly or indirectly, the Aircraft, goods, technical data, and/or services provided by ICON in violation of U.S. law. Buyer is responsible for obtaining any necessary U.S. government authorization required to ensure compliance of Buyer with U.S. law.

9. ARBITRATION; VENUE

a. Any and all disputes or claims arising out of or relating to this Operating Agreement, any injury or other harm sustained in the use of the Aircraft or any component thereof, or otherwise out of the Parties' relationships will be resolved by final and binding arbitration before a single arbitrator administered by the American Arbitration Association in San Francisco, California in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect (which rules can be found at: www.adr.org/commercial). **THIS AGREEMENT TO ARBITRATE DISPUTES WAIVES ANY RIGHT TO A JURY TRIAL OF ANY CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT. IF A DISPUTE IS ARBITRATED, OWNER AND MANAGING PILOT AND THEIR AFFILIATES AND SUCCESSORS IN INTEREST GIVE UP ANY RIGHTS TO PARTICIPATE AS A CLASS REPRESENTATIVE OR CLASS MEMBER ON ANY CLASS CLAIM THEY MAY HAVE AGAINST ICON (OR OTHER RELEASED PARTIES), INCLUDING ANY RIGHT TO CLASS ARBITRATION OR ANY CONSOLIDATION OF INDIVIDUAL ARBITRATIONS.** Any arbitration under this arbitration clause will be governed by the Federal Arbitration Act (9 U.S.C. § 1, et seq.) and not by any state law concerning arbitration. In determining whether the Release Exclusion of Paragraph 4.c applies, the arbitrator will admit and consider reports of the NTSB, including the NTSB's final report and its probable cause determination, irrespective of any rule of evidence or other law that would apply in a civil action relating to the claim before the arbitrator. If the arbitrator finds he or she cannot admit and consider such reports or that Release Exclusion of Paragraph 4.c is unenforceable under applicable law, the Release of Paragraph 5.b will apply without the exclusion that would otherwise be provided by Paragraph 4.c.

b. Consistent with and without waiving the foregoing, the Parties agree that any court action to enforce the arbitration clause, have judgment entered in conformity with the award rendered in the arbitration, or otherwise in the unlikely event the arbitration provision is found to be unenforceable or otherwise inapplicable, (i) will be heard exclusively in the United States District Court for the Eastern District of California if federal jurisdiction exists or an appropriate state court located in Solano County in the State of California if federal jurisdiction does not exist (collectively, the "Agreed Courts"), and (ii) the Parties acknowledge and agree that the Agreed Courts will have sole and exclusive jurisdiction and venue for all claims and disputes arising out of or relating to this Operating Agreement or otherwise out of the Parties' relationships, and the Parties hereby consent to the jurisdiction of the Agreed Courts and waive any and all objections that they may have to the jurisdiction and venue in the Agreed Courts, including any claim or defense that the Agreed Courts are an inconvenient forum.

c. Notwithstanding Paragraph 9.a, the Parties will be entitled to seek and obtain, exclusively in the Agreed Courts, equitable relief for specific performance of Sections 1.b, 1.f, 2.e, 3.c, 3.h, 3.l, 4.d, or 11 of this Agreement and for temporary, preliminary, or permanent injunctive

relief, restraining orders, or other equitable relief against breach or threatened breach of such Sections.

d. Should any litigation or arbitration be commenced (including any proceedings in a bankruptcy court) arising out of or related to this Operating Agreement or otherwise out of the Parties' relationships, the prevailing party in any such proceedings, as determined by the arbitrator or Court, will be entitled to reimbursement of its reasonable attorneys' fees, expenses (including but not limited to the fees of experts), and any and all arbitration and court costs, including the fees of the arbitrators, expenses, and costs of any arbitration and judicial proceedings, including any appeals.

10. BINDING; SEVERABILITY

a. Owner and Managing Pilot represent and warrant that this Operating Agreement constitutes a legal, valid, and binding obligation of Owner and Managing Pilot enforceable against Owner and Managing Pilot in accordance with its terms.

b. In the event that any provision of this Operating Agreement is determined by any court or arbitrator to be illegal, invalid, or unenforceable under any present or future law, then (i) such provision will be fully severable, and this Operating Agreement will be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part hereof and the remaining provisions will remain in full force and effect, and (ii) in lieu of such illegal, invalid, or unenforceable provision, there will be added automatically as a part of this Operating Agreement a legal, valid, and enforceable provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible; provided that, as provided in Paragraph 4.c to the extent that a court or arbitrator finds the Release Exclusion of Paragraph 4.c is unenforceable as written, it will be stricken from this Operating Agreement and the Release of Paragraph 4.b will apply without the exclusion that would otherwise be provided by Paragraph 4.c.

11. TRANSFER OF THE AIRCRAFT OR THIS AGREEMENT

a. Owner will not sell or otherwise Transfer (as defined herein) the Aircraft or any interest therein unless (i) the transferee has agreed, by executing an owner Acknowledgement and Assignment Agreement form (a current version of which is attached as **Annex B**) (the "Assignment Form"), to be bound by this Operating Agreement as Owner and, if there will be a new Managing Pilot, such new Managing Pilot has signed an Acknowledgment and Joinder Agreement obtained from ICON agreeing to be bound by this Operating Agreement as Managing Pilot (a current version of which is attached as Annex A) and (ii) the signed Assignment Form and Acknowledgment and Joinder Agreement has been received by ICON. Owner's responsibility for compliance with its obligations set forth in this Operating Agreement will continue without regard to a Transfer of the Aircraft unless and until the Assignment Form has become effective and been received by ICON. For the avoidance of doubt, receipt by ICON of an effective Assignment Form will not relieve Owner of any obligations or liabilities under this Operating Agreement arising or accruing from events, acts, or omissions occurring prior thereto.

b. In the event Owner Transfers the Aircraft or interest therein and fails to deliver to ICON an Assignment Form signed by the transferee as Owner (and/or the Acknowledgment and Joinder Agreement for a new Managing Pilot, if applicable) within 10 days after such Transfer, then Owner will pay ICON an assignment fee of US \$5,000.00 (the "Assignment Form Fee"), which will be due 10 days after such Transfer, to compensate ICON for the costs and expenses of obtaining the Assignment Form from the new owner and/or the Acknowledgment and Joinder Agreement for a new Managing Pilot, if applicable, and other costs which are difficult to calculate. Late payment of the Assignment Form Fee will accrue interest of 1½% per month (or the maximum interest rate permitted by law, if less) compounding monthly, until paid. Owner's payment of the Assignment Form Fee will not relieve or diminish Owner's obligations or liabilities under this Operating Agreement, including without limitation obligations under Section 4 and the obligation to deliver an Assignment Form, unless and until ICON has received the executed Assignment Form from transferee and, if there will be a new Managing Pilot, the executed Acknowledgment and Joinder Agreement from the new Managing Pilot.

c. Neither Owner nor Managing Pilot will Transfer this Operating Agreement or any rights or obligations herein without the prior written consent of ICON (which consent may be withheld in its sole discretion) except in connection with a Transfer of the Aircraft in compliance with Paragraph 11.a.

d. "Transfer" means any sale, assignment, encumbrance, hypothecation, pledge, conveyance in trust, gift, transfer by bequest, devise or descent, or other transfer, or disposition of any kind, whether voluntary, involuntary or by operation of law, including, but not limited to, transfers pursuant to merger or sale of assets, divorce or legal separation, transfers to receivers, levying creditors, trustees or receivers in bankruptcy proceedings or general assignees for the benefit of creditors. For the avoidance of doubt, a direct or indirect change in the ownership of Owner will be deemed a Transfer.

e. Owner agrees that ICON may file a notice with the FAA title registry (and foreign registries, as applicable) indicating the obligations of Owner to comply with the transfer restrictions herein, including delivery of an Assignment form.

12. INTERPRETATION

If an ambiguity or question of intent or interpretation arises, then this Operating Agreement will be construed as if drafted jointly by the Parties, and no presumption or burden of proof will arise favoring or disfavoring any party to this Operating Agreement by virtue of the authorship of any of the provisions. The article, section, and paragraph titles and headings contained in this Operating Agreement are inserted as a matter of



convenience and for ease of reference only and will be disregarded for all other purposes, including the construction or enforcement of this Operating Agreement or any of its provisions.

13. ENTIRE AGREEMENT; MODIFICATION

This Operating Agreement constitutes the entire agreement and understanding regarding its subject matter. This Operating Agreement may be amended or modified, and any of the terms, covenants, representations, warranties, or conditions may be waived, only by a written instrument executed by ICON, Owner, and Managing Pilot. Any waiver by any party of any condition or breach will not be deemed to be a further continuing waiver of any such condition or breach, or of the breach of any other provision of this Operating Agreement.

14. SPECIFIC PERFORMANCE

The Parties acknowledge and agree that breach of Sections 1.b, 1.f, 2.e, 3.c, 3.h, 3.i, 4.d, or 11 of this Agreement would cause irreparable injury to the non-breaching Party for which monetary damages would not be an adequate remedy and, therefore, notwithstanding anything to the contrary, such Sections will be specifically enforceable and any breach or threatened breach of such Sections will be the proper subject of a temporary, preliminary, or permanent injunction, restraining orders or other equitable relief (including, without limitation, an order rescinding purchases, sales and other Transfers of the Aircraft not made in compliance with this Agreement) without having to prove actual damages or that monetary damages would be inadequate and without the need of posting a bond or other form of security.

15. REMEDIES CUMULATIVE

All remedies in this Agreement are cumulative and in addition to (not in lieu of) any other remedies available to a Party at law or in equity.

IN WITNESS WHEREOF, the Parties have caused this Aircraft Operating Agreement to be executed by their duly authorized representatives effective as of the date first set forth above.

Owner:

ICON Aircraft, Inc.

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Managing Pilot:

Signature: _____

Name: _____

Address: _____

Email: _____

Phone Number: _____

Date: _____