



EAST HAMPTON AIRPORT
159 PANTIGO ROAD
EAST HAMPTON, NY 11937

James L. Brundige
Airport Director

June 21, 2022

Dear Airport User:

The Town of East Hampton is working with an FAA approved consultant to design, implement, and maintain private instrument procedures for the new private-use airport, called “Special procedures.” These Special procedures will be owned by the Town and will be reviewed and approved by the FAA. The Town expects that these Special procedures will be available upon opening of the private-use East Hampton Town Airport (JPX) on May 19, 2022.

If you would like to use these Special procedures, you must apply to the FAA and obtain the FAA’s authorization to use the Special procedures. In order to apply, you must have the consent of the Town. Attached to this letter are four attachments: (1) an overview of the Special procedures; (2) a hold harmless agreement between you and the Town; (3) a hold harmless agreement between you and the Special procedure consultant; and (4) a customer and aircraft profile (provided in both pdf and excel format). The latter three attachments must be reviewed, executed, and submitted to the Town **before** the Town will give you consent to apply to the FAA for use of the Special procedures. To be clear, if you decide to provide an application to the Town, you acknowledge consenting to all of these agreements. In addition to submitting these three documents, you **must also provide a copy of your insurance policy that lists the Town and Flight Tech as an “additional insured” and waives any subrogation rights.** This means the entire application package that must be returned to the Town consists of:

1. Hold harmless agreement between you and the Town;
2. Hold harmless agreement between you and Flight Tech;
3. A customer and aircraft profile for each aircraft you want to have authorized for Special procedures; and
4. A copy of your insurance policy noting that the Town and Flight Tech are “additional insureds” and that subrogation rights are waived.

Once you provide the fully executed application package to the email SpecialProcedureApplication@EHamptonNY.gov, you will be provided with a Procedure Permission Letter denoting the Town’s consent to apply for access to the Special procedures from the FAA. Regardless of when you complete the application package, in order to gain FAA authorization to use Special procedures you are required to fill out the entire application package, submit the three attachments denoted above, and receive consent from the Town. Once you receive the Procedure Permission Letter from the Town, you will need to interact directly with the FAA

to obtain a Letter of Authorization (LOA) or Operations Specification (OpSpec) to use the Special procedures pursuant to FAA processes and guidance.

If you have questions, I can be reached at JBrundige@ehamptonny.gov or you can contact the procedure designer at info@flight-tech.aero.

Respectfully,

Jim Brundige
Airport Director

Cc: John Jilnicki, Town Attorney



East Hampton Town Airport Operator Indemnification and Use Agreement

This Indemnification and Use Agreement ("Agreement") is made and entered into as of _____, 202__ between Flight Tech Engineering, LLC, a Colorado limited liability company ("Flight Tech") and _____ ("Operator"). Flight Tech and Operator are sometimes individually referred to herein as a "Party" and collectively as the "Parties".

RECITALS

- A. Flight Tech and the Town of East Hampton are parties to an agreement under which Flight Tech developed and maintains the Flight Procedures (defined below) for the Town of East Hampton.
- B. The Town of East Hampton has requested that Operator be permitted by Flight Tech to use the Flight Procedures (defined below).
- C. This Agreement sets forth the terms and conditions under which Flight Tech agrees to permit Operator to use the East Hampton Town Airport RNAV (GPS) M RWY 10 and RNAV (GPS) M RWY 28 flight procedures ("Flight Procedures").
- D. Specific information and operational requirements regarding the Flight Procedures are attached as Exhibit A to this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the agreements made herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Flight Tech and Operator hereby agree as follows:

ARTICLE 1. PROVISION OF FLIGHT PROCEDURES

Flight Tech agrees to provide the FAA Form 8260 instrument procedure data for the Flight Procedures to Operator (the "Services") at no charge. The Operator agrees to utilize the Flight Procedures only on the terms and conditions set forth in this Agreement and in Exhibit A.

ARTICLE 2. TERM OF AGREEMENT

This Agreement shall become effective upon mutual execution by the Parties. Flight Tech may terminate this Agreement by notice to Operator (a) upon the termination of the Master Services Agreement between Flight Tech and the Town of East Hampton, (b) upon Flight Tech's termination of maintenance of the Flight Procedures, or (c) upon Operator's breach of this Agreement. Either Party has the right to terminate this Agreement at any time by ninety (90) days' prior notice to the other party provided that Flight Tech may immediately terminate this Agreement without such ninety (90) day notice if Flight Tech determines that Operator cannot, has not, or will not utilize the Flight Procedures safely.

ARTICLE 3. REPRESENTATIONS, RIGHTS, AND OBLIGATIONS

- A. **FAA Authorization** - Operator represents and warrants that prior to Operator's use of the Flight Procedures, Operator shall be authorized by the Federal Aviation Administration ("FAA") for use of the Flight Procedures for aircraft and passenger carrying operations and has complied with any additional training and/or airport environment awareness as required by the Flight Procedure's FAA 8260 -7B approval. Upon Flight Tech's request, Operator shall provide Flight Tech with any and all documents, communications, and/or other materials necessary to demonstrate that Operator has received such authorization from the FAA. If Operator is no longer authorized to use the Flight Procedures for any reason, including but not limited to rescission or cancellation of FAA authorization, Operator must immediately provide written notice to Flight Tech at the address below, and this Agreement shall terminate.
- B. **Flight Tech Approval** - Operator acknowledges and agrees that, as set forth more specifically in Exhibit A, Flight Tech may impose requirements for the use of the Flight Procedures beyond those required by the FAA. Operator agrees to provide Flight Tech with any and all documents, communications, or other materials necessary to demonstrate to Flight Tech that Operator can and will comply with the requirements for use of the Flight Procedures as set forth herein and in Exhibit A. Operator shall immediately discontinue use of the Flight Procedures upon Flight Tech's rescission of Operator's approval to do so. Operator acknowledges and agrees that Flight Tech may modify Exhibit A at any time, without the consent of Operator.
- C. **Exclusive Use and Non-Distribution** - The Services and Flight Procedures provided hereunder are only for Operator's internal use and are not meant or intended for resale or distribution to or use by any party other than Operator. Under no circumstances may Operator or any other person acting by or through Operator duplicate, resell, or provide the Flight Procedures data to the public or any third-party, including Operator's affiliates or subsidiaries or lessees of Operator's aircraft.

Upon termination of this Agreement, Operator shall immediately cease use of the Flight Procedures and return to Flight Tech and/or destroy all copies (physical or digital) of the Flight Procedures data.

- D. **Notices** - Notices under this Agreement shall be provided to the following addresses (or such other address a Party may designate by notice to the other Party):

To Flight Tech:

Alec Seybold, President
Flight Tech Engineering, LLC
P.O Box 3596
Englewood, CO 80155
aseybold@flight-tech.aero

To Operator:

- E. **Exclusions** - Nothing in this Agreement shall be interpreted to modify any requirement imposed on Operator by the FAA or any other third-party. Flight Tech does not represent or warrant that compliance with this Agreement will satisfy Operator's regulatory or contractual obligations with respect to such third-parties. Operator is solely responsible for ensuring its compliance with FAA rules and regulations and the terms of Operator's agreements with any other third party.

ARTICLE 4. DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITIES

DISCLAIMER OF WARRANTIES - THE SERVICES AND THE FLIGHT PROCEDURES ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND WHATSOEVER.

- A. **Disclaimer and Release** - THE CONDITIONS, REPRESENTATIONS, OBLIGATIONS, LIABILITIES AND WARRANTIES (IF ANY) OF FLIGHT TECH AND REMEDIES OF OPERATOR SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE AND IN SUBSTITUTION FOR, AND OPERATOR HEREBY WAIVES, RELEASES AND RENOUNCES, ALL OTHER WARRANTIES, OBLIGATIONS AND LIABILITIES OF FLIGHT TECH, AND ANY OTHER RIGHTS, CLAIMS AND REMEDIES OF OPERATOR AGAINST FLIGHT TECH, EXPRESS OR IMPLIED, ARISING

BY LAW OR OTHERWISE, WITH RESPECT TO ANY OPERATOR-SUPPLIED INFORMATION, THE SERVICES, THE FLIGHT PROCEDURES, OR OTHER THINGS PROVIDED, AND ANY NONCONFORMANCE OR DEFECT IN THE DESIGN, ADEQUACY, ACCURACY, RELIABILITY, SAFETY, OR CONFORMANCE WITH GOVERNMENT STANDARDS OR REGULATIONS OF SUCH SERVICES OR OTHER THINGS PROVIDED UNDER THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO:

(i) ANY IMPLIED WARRANTY OF MERCHANTABILITY, SATISFACTORY QUALITY, OR FITNESS;

(ii) ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE;

(iii) ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY ARISING IN STRICT LIABILITY OR IN TORT, WHETHER OR NOT ARISING FROM THE NEGLIGENCE OF FLIGHT TECH; AND

(iv) ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY FOR LOSS OF, OR DAMAGE TO, ANY PROPERTY OF CUSTOMER, INCLUDING WITHOUT LIMITATION, ANY AIRCRAFT.

B. [Exclusion of Consequential and Other Damages](#) - FLIGHT TECH WILL HAVE NO OBLIGATION OR LIABILITY WHATSOEVER, WHETHER ARISING IN CONTRACT (INCLUDING WARRANTY), TORT (WHETHER OR NOT ARISING FROM THE NEGLIGENCE OF FLIGHT TECH), STRICT LIABILITY OR OTHERWISE WITH RESPECT TO THE SERVICES:

(i) FOR ANY LOSS OF USE, REVENUE OR PROFIT; AND

(ii) FOR ANY DAMAGES ARISING FROM OPERATOR'S USE OF THE FLIGHT PROCEDURES; AND

(iii) FOR ANY DAMAGES RESULTING FROM BUSINESS INTERRUPTION; AND

(iv) FOR ANY DAMAGES RESULTING FROM DELAY IN PERFORMANCE AND COST OF SUBSTITUTE PROCUREMENT; AND

(v) FOR ANY COSTS OF REPRODUCTION OR RECOVERY OF DATA OR INFORMATION WHICH IS LOST IN WHOLE OR IN PART; AND

(vi) FOR ANY OTHER INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES.

ARTICLE 5. INDEMNIFICATION

Operator agrees to save, defend, indemnify and hold harmless Flight Tech and the Flight Tech Affiliates (defined below) from and against all claims, demands and liabilities (including claims and demands by and liabilities to third-parties), and costs and expenses (including attorneys' fees) incident thereto or incident to successfully establishing the right to indemnification (a) arising from or related to Operator's use of the Flight Procedures or Services; (b) arising from or related to injury to or death of any person or persons, including employees and customers of Operator (but not employees of Flight Tech), or arising from or related to loss of or damage to any property, including without limitation aircraft, whether or not arising in strict liability or tort or occasioned by the negligence of Flight Tech, except to the extent due solely to the willful or reckless misconduct of Flight Tech or (c) arising from or related to Operator's breach of this Agreement.

As used in this Agreement, "Flight Tech Affiliates" shall mean Flight Tech's members, officers, directors, managers, employees, contractors, subcontractors, service providers, agents, representatives, parent entities, subsidiaries, or other affiliated entities, partnerships, or joint ventures controlling, controlled by, or under common control with Flight Tech, and any successors or assigns to any of the foregoing.

ARTICLE 6. OTHER TERMS

- A. **Applicable Law.** This Agreement shall be governed by and construed and interpreted according to the laws of the State of Colorado. In the event of any litigation or suit arising out of or relating to this Agreement, such litigation or suit may be brought in the courts of the State of Colorado, County of Jefferson, or, if it has or can acquire jurisdiction, in the United States District Court for the District of Colorado, and each of the Parties irrevocably submits to the exclusive jurisdiction of each such court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the litigation or suit shall be heard and determined only in any such court and agrees not to bring any proceeding arising out of or relating to this Agreement in any other court.
- B. **Third Party Beneficiaries.** Each of the Flight Tech Affiliates is an express third-party beneficiary of Article 5 of this Agreement with the right and power to enforce any provision of Article 5 of this Agreement against Operator as though each of such Flight Tech Affiliates was an original party to this Agreement.
- C. **Assignment.** Neither Party may assign or transfer this Agreement or any rights or obligations hereunder, in whole or in part, without the prior written consent of the other Party, except that Flight Tech may make such an assignment or transfer

without Operator's consent to a successor to all or substantially all of the business of Flight Tech, whether by way of merger, consolidation, sale of stock, sale of assets or other transaction. Any assignment or attempted assignment by either Party in violation of the terms of this Article 6 shall be null, void and of no legal effect.

- D. **Survival.** The following provisions of this Agreement shall survive the expiration, termination, or completion of this Agreement and shall remain in effect after any such termination, expiration or completion: Articles 3C – 3E, 4, 5 and 6.
- E. **Waivers.** No waiver by any Party of any default or breach of this Agreement, whether intentional or not, shall be deemed to extend to any prior or subsequent default hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.
- F. **Severability.** Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.
- G. **Construction.** In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, local, or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word “including” shall mean including without limitation.
- H. **Incorporation of Exhibits, and Schedules.** Any Exhibits and Schedules identified in this Agreement are incorporated herein by reference and made a part hereof.
- I. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties as to its subject matter, and supersedes all previous and contemporaneous agreements, proposals, or representations, written or oral, concerning the subject matter of this Agreement.
- J. **Attorneys' Fees.** In the event of litigation concerning this Agreement, the prevailing party in such litigation shall be entitled to recover its costs and reasonable attorney fees from the non-prevailing party.
- K. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which, whether an original or delivered electronically (including PDF counterparts), shall be deemed an original but all of which together will constitute one and the same instrument.
- L. **Force Majeure** – Neither Party will be responsible or liable for any failure to perform

any of its obligations under this Agreement if such failure is due to unforeseen circumstances or to causes beyond its reasonable control, including but not limited to acts of God, pandemic, epidemic, war, riots, terrorism, embargoes, acts of civil or military authorities, weather conditions, fires, floods, earthquakes, accidents, labor unrest, interruptions in the delivery of required services, failure of communications services, or shortage or failure of other critical materials or services for the duration of any such circumstances or cause.

[signature page follows]

SIGNATURES

In witness whereof, the Parties have executed this Agreement as of the date first set forth above.

FLIGHT TECH ENGINEERING, LLC

OPERATOR: _____

By: 

By: _____

Name: Richard Scott
(type or print)

Name: _____
(type or print)

Title: Chief Operating Officer

Title: _____

Date: 6/9/2022

Date: _____

EXHIBIT A



Terms and Conditions

Overview

The Flight Procedures are considered privately-owned Special procedures. Special procedures are developed for specific users and are not published for public use under Title 14, Code of Federal Regulations (14 CFR), Part 97. A Special procedure is required when its design does not meet the normal standards outlined in the U.S. Standard for Terminal Instrument Procedures (TERPS), FAA Order 8260.3. This occurs when the airport is a private-use, Prior Permission Required (PPR) facility which prevents developing a procedure using normal standards. Special procedures require equivalent levels of safety (ELOS) mitigations which generally require additional training, equipment, safety precautions, and oversight as a condition of the FAA's approval of the Special procedure and authorization of its use.

FAA Special Instrument Approach Procedure Differences

An Instrument Approach Procedure (IAP) complies with the U.S. Standard for Terminal Instrument Procedures (TERPs), which prescribes standardized methods for use in developing IAPs. Standard IAPs are promulgated under Title 14 of the Code of Federal Regulations, Part 97, and are available for use by appropriately qualified pilots operating properly equipped and airworthy aircraft in accordance with operating rules and procedures acceptable to the FAA.

Special procedures are also developed using TERPs but are not published. The FAA authorizes only certain individual pilots and/or organizations to use Special procedures, and as a condition of such authorization may require additional crew training, aircraft equipment or performance capabilities, and/or the use of landing aids, communications, or weather services not generally available for public use.

Flight Data Center (FDC) Notices to Airmen (NOTAMs) may also be used to promulgate safety-of-flight information relating to Special procedures. Pilots may access NOTAMs

online or through an FAA Flight Service Station (FSS). **FSS specialists will not automatically provide NOTAM information to pilots or dispatchers for Special procedures during telephone pre-flight briefings. Pilots and organizations authorized by the FAA to use Special procedures must specifically request FDC NOTAM information for the particular Special procedure they plan to use.**

Approach Categories

The Flight Procedures may be utilized only by aircraft operating within Aircraft Approach Categories **A, B, and C**. It is the responsibility of the Operator to determine if the aircraft can be flown within the speeds prescribed by these Categories prior to utilizing the Flight Procedures.

Procedure Oversight

The Flight Procedures are privately-owned by the Town of East Hampton and maintained by Flight Tech. The Flight Procedures utilize equipment and a runway environment that is maintained by the Town of East Hampton. The Flight Procedures have been approved by the FAA and a commissioning flight validation utilizing a properly equipped aircraft to confirm flyability and obstacle clearance has been performed. Periodic inspection checks of the Flight Procedures are scheduled every 540 days in accordance with FAA Order 8200.1. The FAA reviews all Special procedures to assure quality control and standard application of criteria in compliance with current policy and directives.

In addition to procedure design quality assurance, the FAA, through its Principal Operations Inspectors (POIs) or Flight Standards District Office (FSDO)/Certificate Management Unit (CMU) offices, authorizes the use of Special procedures by individual pilots and/or organizations to ensure Operators and their aircraft are capable and qualified to fly the Special procedures. Authority to utilize the Flight Procedures can be revoked at any time without reason or cause by the FAA. Although not all inclusive, this could be caused by failure to maintain FAA Form 8260 requirements or failure to follow the terms of this Agreement. Operators agree to immediately discontinue use of the Flight Procedures and remove them from their navigation and charting databases within 30 days of receiving notice to discontinue use.

Operator Responsibilities

The Flight Procedures utilize Area navigation (RNAV) with Global Positioning System (GPS), and Wide Area Augmentation System (WAAS). A Localizer Performance with Vertical

Guidance (LPV) line of minima provides precise lateral and vertical guidance to the runway threshold. Operator is solely responsible for obtaining an FAA OpSpec, letter of authorization (LOA), or other required FAA approval for use of the Flight Procedures. Operator is solely responsible for proper use of and assumes all risks with respect to use of the Flight Procedures.

As Special procedures, the Flight Procedures require a tailored chart and navigation database subscription. As part of this Agreement, Flight Tech will provide the Flight Procedures' ARINC 424 data to Operator's navigation and chart database provider; however, Operator is solely responsible for all tailored database creation and subscription costs therefor. Unless otherwise specifically stated in the Agreement, the following services are not provided under this Agreement: development of aircraft operator training programs (i.e., Advanced Qualification Programs), production grade approach charts, take-off and landing performance data, one engine inoperative missed approach, and one engine inoperative departure procedures.

The Flight Procedures will utilize satellite-based navigation to provide lateral and vertical course and range guidance. When flown as designed, the Flight Procedures are intended to provide obstacle clearance in instrument conditions, and for approaches, down to the Minimum Descent Altitude (MDA) or Decision Altitude (DA) at which point if the pilot can visually identify the runway, a landing can be initiated. Descent below the MDA/DA is not allowed if the runway environment cannot be identified. Initiation of the missed approach is required if visual references are not acquired and maintained until landing. If visual contact of the runway environment is obtained, it is the responsibility of the pilot in command (PIC) to determine if a transition to a stabilized visual approach to the runway can be made. If the PIC perceives that conditions are unsafe while in flight, or believes the assigned course is unreasonably hazardous, the PIC should reject the approach and divert to another airport or hold at the established point. Air traffic controllers and Flight Tech do not have the capability for determining whether a given weather situation is "safe for landing;" the final decision as to whether to undertake the landing is solely with the PIC.

It is the responsibility of Operator or any other authorized operator and/or the PIC to discontinue use of the Flight Procedures if any of the following scenarios arise:

- i. Navigational facilities required for navigation are out of service, impaired, or unavailable.
- ii. Satellite reception for the Flight Procedures is lost or degraded below the capability required by the GPS/FMS operations manual.
- iii. The airport environment and/or runway is not suitable for landing.
- iv. Runway Friction Values do not meet the minimum required to safely land the aircraft per the Aircraft Flight Manual (AFM).
- v. Weather conditions are below the approach minimums established for use.

- vi. Tailwind limitations have been exceeded for the approach procedure or the approved aircraft/company operations manual.
- vii. The aircraft, PIC, or flight crew does not meet the necessary equipment or training requirements per the FAA 8260-7B and/or the aircraft manufacturer minimum equipment list.
- viii. An active FDC NOTAM exists that states the approach is 'NA'.
- ix. The local altimeter setting is not received (and an approved alternate is not available).
- x. Aircraft not properly configured for landing.
- xi. The PIC and/or flight crew does not meet the regulatory and/or company requirements to conduct the Flight Procedures.
- xii. Active NOTAMs have not been reviewed.
- xiii. Or for any other reason in which the PIC cannot safely continue the Flight Procedures.

Operator shall, at its own expense, obtain and keep in force at all times liability insurance with respect to operation of, and other activities with respect to, aircraft, insuring Operator in the amount of at least \$1,000,000.00 for CFR Part 91 Operators and \$2,000,000 for CFR Part 91K and Part 135 Operators in combined single limit coverage (with any sub-limits approved by Flight Tech in its commercially reasonable discretion) including comprehensive general liability insurance (including bodily injury and medical expense, property damage, passenger liability, owned and non-owned aircraft liability, and contractual liability covering Operator's obligations under Article 5 of the Agreement). The insurance required shall name "Flight Tech Engineering, LLC, a Colorado limited liability company" as a named additional insured and shall include a waiver by the insurer of all right of subrogation against Flight Tech in connection with any loss or damage thereby insured against. Upon its execution of this Agreement, Operator shall deliver to Flight Tech, and from time to time when requested by Flight Tech thereafter, copies of the policy or policies of such insurance or certificates evidencing the existence and amounts of same. Said policy or policies shall provide that the insurance provided thereunder shall not be subject to cancellation or change except after at least thirty (30) days' prior written notice given to both Operator and Flight Tech.

Missed Approach Considerations

The FAA Aeronautical Information Manual (AIM) provides the following guidance:

Obstacle protection for missed approach is predicated on the missed approach being initiated at the decision altitude/height (DA/DH) or at the missed approach point and not lower than minimum descent altitude (MDA).

Prior to initiating an instrument approach procedure, the pilot should assess the actions to be taken in the event of a bailed (rejected) landing beyond the missed approach point or below the MDA or DA (H) considering the anticipated weather conditions and available aircraft performance. 14 CFR 91.175(e) authorizes the pilot to fly an appropriate missed approach procedure that ensures obstruction clearance, but it does not necessarily consider separation from other air traffic. The pilot must consider other factors such as the aircraft's geographical location with respect to the prescribed missed approach point, direction of flight, and/or minimum turning altitudes in the prescribed missed approach procedure. The pilot must also consider aircraft performance, visual climb restrictions, charted obstacles, published obstacle departure procedure, takeoff visual climb requirements as expressed by nonstandard takeoff minima, other traffic expected to be in the vicinity, or other factors not specifically expressed by the approach procedures.

Assessment of the Point of No Return (PNR)

The procedure does not provide obstacle clearance in the case of a missed approach, go-around, or bailed landing executed below DA or past the missed approach point. It is the responsibility of the Operator to determine its Point of No Return (PNR), which is also known as the commit point. The PNR is described as the point at which the aircraft no longer has the climb performance to meet the climb gradient prescribed by the Flight Procedures to clear obstacles throughout the missed approach procedure and must therefore commit to landing. Since this evaluation is aircraft specific, Flight Tech does not provide this service as part of the approach procedure authorization. The Operator should perform this analysis utilizing an FAA-approved method or through the use of a third-party performance provider to determine the approved landing weight and one engine inoperative missed approach capabilities.

One Engine Inoperative (OEI) Missed Approach Planning

To maintain the required obstacle clearance in the missed approach, all engine operating performance is required. To ensure safe contingency procedures exist in the event of an engine failure during the missed approach, it is recommended that Operators assess the aircraft's capability to complete the missed approach utilizing one-engine inoperative performance. If the aircraft cannot meet the prescribed climb gradient for the Flight Procedures with one engine inoperative, the following options can be utilized:

- 1) Decrease planned landing weight until the aircraft is capable of meeting the climb gradient while operating with one engine inoperative.

- 2) Develop a one engine inoperative (OEI) extraction/escape procedure in accordance with the guidance in FAA Advisory Circular (AC) 120-91 (as revised).

Note: A third party performance provider may be utilized to develop an OEI extraction procedure (i.e., Jeppesen, AeroData, APG, etc.).

**EAST HAMPTON TOWN AIRPORT
HOLD HARMLESS AGREEMENT**

This Hold Harmless Agreement (“*Agreement*”) is made and entered into as of _____ between the Town of East Hampton (“*East Hampton*”) and _____ (“*Operator*”). East Hampton and Operator are sometimes individually referred to herein as a “*Party*” and collectively as the “*Parties*”.

RECITALS

- A. Flight Tech Engineering, LLC (“*Flight Tech*”) and East Hampton are parties to an agreement pursuant to which Flight Tech, on behalf of East Hampton, developed and maintains the flight procedures for East Hampton Town Airport RNAV (GPS) M RWY 10 and RNAV (GPS) M RWY 28 (the “*Flight Procedures*”).
- B. Operator has requested to use the Flight Procedures.
- C. As a condition to East Hampton’s consent to Operator’s use of the Flight Procedures, East Hampton requires that Operator to enter into this Agreement setting forth the terms and conditions governing Operator’s use of the Flight Procedures.

AGREEMENT

NOW, THEREFORE, in consideration of the agreements made herein, for East Hampton’s consent to Operator’s use of the Flight Procedures, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, East Hampton and Operator agree as follows:

SECTION 1. INDEMNIFICATION

Operator, on behalf of itself and on behalf of each of its Affiliates, agrees to save, defend, indemnify and hold harmless East Hampton and each of its Affiliates (each, an “*Indemnitee*”) from and against, and agrees that neither Operator nor any of its Affiliates will sue for or make any other claim or demand relating to, any claim, suit, proceeding, judgment, loss, penalty, fine, demand, or liability, including costs and expenses (including attorneys’ fees) incident thereto or incident to any Indemnitee successfully establishing the right to indemnification (collectively, “*Losses*”) (including any such Losses owed by any Indemnitee to any third party) (a) arising out of, related to, or otherwise concerning the use by Operator or its Affiliates of the Flight Procedures; (b) arising out of, related to, or otherwise concerning injury to or death of any person or persons, including Affiliates of East Hampton, Operator or Flight Tech, or arising out of, related to, or otherwise concerning loss of or damage to any property, including without limitation aircraft, whether or not arising in strict liability or tort or occasioned by the negligence of East Hampton, except to the extent due solely to the willful or reckless misconduct of East Hampton or (c) arising out of, related to, or otherwise concerning Operator’s breach of this Agreement.

As used in this Agreement, “*Affiliates*” shall mean, with respect to any person, entity or instrumentality (each, a “*Person*”), such Person’s officers, directors, managers, employees, contractors, subcontractors, service providers, agents, representatives, parent entities, subsidiaries, or other affiliated entities, instrumentalities, partnerships, joint ventures, or trusts controlling, controlled by, or under common control with such Person, and any successors or assigns to any of the foregoing.

SECTION 2. DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITIES

A. DISCLAIMER AND RELEASE. THE FLIGHT PROCEDURES ARE BEING PROVIDED TO OPERATOR "AS IS" WITHOUT WARRANTY OF ANY KIND WHATSOEVER. OPERATOR HEREBY WAIVES, RELEASES AND RENOUNCES ALL WARRANTIES, OBLIGATIONS AND LIABILITIES OF EAST HAMPTON, AND ANY OTHER RIGHTS, CLAIMS AND REMEDIES OF OPERATOR AGAINST EAST HAMPTON, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, WITH RESPECT TO THE FLIGHT PROCEDURES, AND ANY NONCONFORMANCE OR DEFECT IN THE DESIGN, ADEQUACY, ACCURACY, RELIABILITY, SAFETY, OR CONFORMANCE WITH GOVERNMENT STANDARDS OR REGULATIONS WITH RESPECT TO THE FLIGHT PROCEDURES, INCLUDING BUT NOT LIMITED TO:

(i) ANY IMPLIED WARRANTY OF MERCHANTABILITY, SATISFACTORY QUALITY, OR FITNESS;

(ii) ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE;

(iii) ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY ARISING IN STRICT LIABILITY OR IN TORT, WHETHER OR NOT ARISING FROM THE NEGLIGENCE OF EAST HAMPTON; AND

(iv) ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY FOR LOSS OF, OR DAMAGE TO, ANY PROPERTY OF CUSTOMER, INCLUDING WITHOUT LIMITATION, ANY AIRCRAFT.

B. EXCLUSION OF CONSEQUENTIAL AND OTHER DAMAGES. EAST HAMPTON WILL HAVE NO OBLIGATION OR LIABILITY WHATSOEVER, WHETHER ARISING IN CONTRACT (INCLUDING WARRANTY), TORT (WHETHER OR NOT ARISING FROM THE NEGLIGENCE OF EAST HAMPTON), STRICT LIABILITY OR OTHERWISE WITH RESPECT TO THE FLIGHT PROCEDURES:

(i) FOR ANY LOSS OF USE, REVENUE OR PROFIT;

(ii) FOR ANY DAMAGES ARISING FROM OPERATOR'S USE OF THE FLIGHT PROCEDURES;

(iii) FOR ANY DAMAGES RESULTING FROM BUSINESS INTERRUPTION;

(iv) FOR ANY DAMAGES RESULTING FROM DELAY IN PERFORMANCE AND COST OF SUBSTITUTE PROCUREMENT;

(v) FOR ANY COSTS OF REPRODUCTION OR RECOVERY OF DATA OR INFORMATION WHICH IS LOST IN WHOLE OR IN PART; AND

(vi) FOR ANY OTHER ACTUAL, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES.

SECTION 3. OTHER TERMS

- A. Governing Law. This Agreement shall be governed by and construed and interpreted according to the laws of the State of New York. In the event of any litigation or suit arising out of, related to, or otherwise concerning this Agreement, such litigation or suit may be brought in the courts of the State of New York, County of Suffolk, or, if it has or can acquire jurisdiction, in the United States District Court with jurisdiction over the County of Suffolk, and each of the Parties irrevocably submits to the exclusive jurisdiction of each such court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the litigation or suit shall be heard and determined only in any such court and agrees not to bring any proceeding arising out of, related to, or otherwise concerning this Agreement in any other court.
- B. Third Party Beneficiaries. Each Indemnitee shall be an express third party beneficiary of this Agreement with the right and power to enforce any provision of this Agreement against Operator as though such Indemnitee were an original party to this Agreement.
- C. Assignment. Operator may not assign or transfer this Agreement or any rights or obligations hereunder, in whole or in part, without the prior written consent of East Hampton. Any assignment or attempted assignment by Operator in violation of the terms of this paragraph shall be null, void and of no legal effect.
- D. Waivers. No waiver by any Party of any default or breach of this Agreement, whether intentional or not, shall be deemed to extend to any prior or subsequent default hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.
- E. Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.
- F. Construction. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, local, or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word “including” shall mean including without limitation.
- G. Entire Agreement. This Agreement constitutes the entire agreement between the Parties as to its subject matter, and supersedes all previous and contemporaneous agreements, proposals, or representations, written or oral, concerning the subject matter of this Agreement.
- H. Attorneys’ Fees. In the event of litigation arising out of, related to, or otherwise concerning this Agreement, the prevailing party in such litigation shall be entitled to recover its costs and reasonable attorney fees from the non-prevailing party.
- I. Counterparts. This Agreement may be executed in one or more counterparts, each of which, whether an original or delivered electronically (including PDF counterparts), shall be deemed an original but all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first set forth above.

THE TOWN OF EAST HAMPTON

By: John C. Jilnicki
Name: John C. Jilnicki
Title: Town Attorney

OPERATOR

By: _____
Name: _____
Title: _____

Special Instrument Procedure Application

Customer and Aircraft Profile

Airport	JPX - East Hampton Town Airport
Procedure Name	RNAV (GPS) M RWY 10/28 & IFR T/O Mins

Entity Name applying for LOA/OpSpec C081					
Aircraft Owner Name					
Primary Contact Name		Phone #		E-mail	
Backup Contact Name		Phone #		E-mail	
Aircraft Types/N-number	Aircraft Type 1/N#	Aircraft Type 2/N#	Aircraft Type 3/N#	Aircraft Type 4/N#	Aircraft Type 5/N#
Approach Category Straight-in					
Operation Type (FAR)					
Chart Provider					
NavData Provider					
FMS Make/Model					

Send completed form to: info@Flight-Tech.Aero