

Aircraft Sale Agreement
Dated 14/12/2021

This Agreement is between

Airflite Pty Ltd
ABN 49 171 253 631
as the Seller

and

???????? Pty Ltd
ACN ??? ??? ??? as the Buyer

in respect of

PA44-180 Aircraft

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This Aircraft Sale Agreement is made on the Effective Date, between:

Airflite Pty Ltd (the "Seller"); and The party described in Schedule 1 to this Agreement (together with its executors, administrators and permitted assigns) (the "Buyer").

1 Definitions and Interpretation

1.1 Definitions

In this Agreement:

Acceptance Certificate means the acceptance certificate in substantially the form of Schedule 2.

Agreement means these terms and conditions, the Schedules and any annexures.

Aircraft means the aircraft as described in SCHEDULE 2 (and includes a separate reference to all Engines, parts and Technical Records except where it would not make sense to interpret the reference to Aircraft in such way).

Airframe means the Aircraft, excluding the Engines and the Technical Records.

Applicable Regulation means any law, treaty, court order, regulation (including any internal corporate regulation), official directive, mandatory requirement or contractual undertaking which takes effect in the relevant circumstances in relation to the Seller, the Buyer or the Aircraft and, without limitation, includes any resolution in, directive or embargo.

Aviation Authority means each of the authorities which, under the Applicable Regulations of the State of Registration, may control or supervise civil aviation in that state or exercise jurisdiction over matters relating to the Aircraft.

Bank Transfer means 100% of the total agreed Purchase Price transferred by the Buyer to the Seller in accordance with the terms set out in clause 6 of this Agreement.

Business Day means a day (other than a Saturday or Sunday) on which business of the nature contemplated by this Agreement is carried out in Western Australia, or, where used in relation to payments, on which banks are open for business in Western Australia.

Bill of Sale means the bill of sale substantially in the form of Schedule 4 hereto.

Default Rate means the rate per annum which is 6% above the Cash Rate Target of the Reserve Bank of Australia from time to time.

Delivery means the delivery of the Aircraft to the Buyer and its acceptance by the Buyer under this Agreement, as evidenced by the Acceptance Certificate.

Delivery Date means the date on which the Buyer is obliged to execute the Acceptance Certificate in accordance with this Agreement.

Delivery Location means the location noted in clause 4.2(c).

Dollars or **AUD** means Australian dollars.

Effective Date means the date on which this Agreement is signed by the parties, or if signed on separate days, the date of the last signature.

Engine means each engine specified in Schedule 2.

Estimated Delivery Date means the date noted in clause 4.2(a) or such later date as may be fixed for Delivery of the Aircraft in accordance with this Agreement.

Event of Loss means with respect to the Aircraft:

- (a) its actual, constructive, compromised, arranged or (as between all relevant parties) agreed total Loss; or
- (b) its destruction, damage beyond repair or being rendered permanently unfit for normal use for any reason (including any damage to the Aircraft or requisition for use or hire of the Aircraft which results in an insurance settlement on the basis of a total Loss); or
- (c) its requisition for title, confiscation, sequestration, detention, forfeiture or any compulsory acquisition; or
- (d) its hijacking, theft or disappearance, resulting in Loss of possession of the Aircraft for a period of 15 consecutive days or longer;

Indemnitee means the Seller and its shareholders, subsidiaries, affiliates, partners, contractors, directors, agents and employees.

Loss means any cost, expense, (including the fees of professional advisers and out of pocket expense), financial liability, damage or monetary loss of any kind.

Obligation means in relation to a person, any obligation of that person under the Relevant Documents.

Purchase Price means the price in Schedule 1 of this Agreement.

Relevant Documents means this Agreement, the Bill of Sale, the Acceptance Certificate, the Certificate of Technical Conformity and any agreement amending or extending such documents.

Security Interest means any mortgage, charge, assignment, pledge, lien, or any other agreement or arrangement having the effect of conferring security.

Tax means taxes, duties and fiscal levies of all kinds arising now or in the future and whether direct or indirect, together with any penalties, fines, surcharges or interest on any such levies and **Taxation** shall be construed accordingly.

Technical Records means the documents, data and records identified in Schedule 2 Part 3.

1.2 Interpretation

- (a) Unless a contrary intention is indicated, a reference to:
 - (i) any Applicable Regulation includes any provision which amends or supplements it or which is issued or enacted in place of it; (ii) this Agreement or any other agreement or document includes this Agreement or such other agreement or document as amended or supplemented or any new agreement or document replacing it; (iii) a "person" may, depending on the context, include a natural person, any form of corporate or business association, or any state or form of governmental or official body, whether having a distinct legal personality or not; (iv) The Seller, the Buyer or any other person shall include their respective successors and assigns.
- (b) The Clause headings, and sub-headings are used in this Agreement only to make it easier to read, they are not intended to affect its meaning.
- (c) Any references to this Agreement include all of its schedules.
- (d) A Clause or a Schedule is a reference to a Clause or a Schedule of this Agreement.
- (e) Words importing the plural shall include the singular and vice versa.

2 Seller's Obligations Conditional

This Agreement shall become effective on the date that it is signed. However, the Seller shall have no Obligation to sell the Aircraft to the Buyer unless the Seller has received each of the following documents and evidence in form and substance satisfactory to it:

- (a) the Certificate of Technical Conformity is executed by the Buyer;
- (b) The Seller shall have received the full Purchase Price;
- (c) the Acceptance Certificate is executed by the Buyer;
- (d) the Bill of Sale is executed by the Buyer;

3 Agreement to Sell and Buy

3.1 Agreement

Subject to the provisions of this Agreement, the Seller agrees to sell the Aircraft to the Buyer, and the Buyer agrees to buy the Aircraft from the Seller for the Purchase Price on the Delivery Date. The sale shall be on an "as is, where is" basis. This Agreement shall constitute the entire agreement between Airflite Pty Ltd and the Buyer with respect to the Aircraft.

3.2 Security Interests

The Seller further represents and warrants to the Buyer that the Seller will at the time of transfer of title (as defined in clause 5) have full legal and beneficial title in and to the Aircraft, free and clear of all Security Interests.

4 Inspection, Delivery and Acceptance

4.1 Inspection

Prior to Delivery the Buyer shall be allowed to inspect the Aircraft and on completion of such inspection shall execute the Certificates of Technical Conformity in Schedule 4.

4.2 Delivery

- (a) The Estimated Delivery Date is 14th January 2022,
- (b) The Delivery Date will be the date the agreed Purchase Price has been made in full as per the terms in Clause 6.
- (c) Delivery Location is the Seller's hangar, 37 Eagle Drive Jandakot WA 6163.

4.3 Acceptance

At the time of Delivery of the Aircraft to the Delivery Location as specified in clause 4.2(c), the Buyer and the Seller shall execute the Acceptance Certificate in Schedule 2.

4.4 Passing of Risk

Notwithstanding any other term of the Agreement the risk in the Aircraft shall pass to the Buyer when the Aircraft is delivered to the Buyer and the Acceptance Certificate has been executed.

4.5 Damage or Fault before Delivery

If the Aircraft suffers damage or a fault in the Aircraft occurs before Delivery which in either case does not constitute an Event of Loss but which adversely affects the airworthiness of the Aircraft, the following provisions shall apply:

- (a) The Seller shall promptly notify the Buyer of such damage or fault and notify the Seller as soon as reasonably practicable whether such damage or fault can be repaired prior to the Cut-off Date;
- (b) if the Seller notifies the Buyer that such damage or fault can be repaired prior to the Cut-off Date, the Seller shall endeavour to procure the repair of such damage or fault as soon as reasonably practicable. If such repair is not completed and the Aircraft delivered to the Buyer on or before the Cut-off Date, this Agreement shall terminate without further act, and the rights and Obligations of the parties under this Agreement shall cease and be discharged without further liability on the part of either the Seller or the Buyer, save that the Seller shall refund the Purchase Price to the Buyer; and
- (c) if the Seller reasonably determines that such damage or fault cannot be repaired prior to the Cut-off Date, the Seller shall immediately notify the Buyer, following which this Agreement shall terminate without further act, and the rights and Obligations of the parties under this Agreement shall cease and be discharged without further liability on the part of either the Seller or the Buyer save that the Seller shall refund the Purchase Price to the Buyer.

4.6 Event of Loss before Delivery

- (a) If the Aircraft suffers an Event of Loss before Delivery, then with effect from the date of that Event of Loss, this Agreement shall terminate without further act, and the rights and Obligations of the parties under this Agreement shall cease and be discharged without further liability on the part of either the Seller or the Buyer, save that the Seller shall refund the Purchase Price to the Buyer.
- (b) If, before Delivery, an event occurs which with the passage of time and/or a relevant determination would constitute an Event of Loss, and such event continues beyond the Cut-off Date, then with effect from the Cutoff Date this Agreement shall without further act terminate and the rights and Obligations of the parties hereunder shall cease and be discharged without further liability on the part of either the Seller or the Buyer, save that the Seller shall refund the Purchase Price to the Buyer.

5 Passing of Title**5.1 Passing of title upon payment**

Title to the Aircraft shall pass from the Seller to the Buyer when the Buyer pays to the Seller all amounts payable under this Agreement.

5.2 CASA requirements following title transfer

The Seller and Buyer will complete all necessary paperwork (including compliance with any Applicable Regulation) required by the Aviation Authority by the Aviation Authority's required timeframe.

6 Payment**6.1 Purchase Price**

- (a) 5% of the accepted price will be required within 24 hours of Airflite Pty Ltd acceptance. **THIS 5%DEPOSIT IS NOT REFUNDABLE.**
- (b) The Buyer shall pay the Purchase Price plus GST, as per clause 8.2(c), to the Seller by Bank Transfer three (3) days prior to Delivery with a receipt of deposit confirming the Bank Transfer has been made.
- (c) The balance of the total Purchase Price is as per Item 2 on Schedule 1.

6.2 Method of Payment

All sums payable by the Buyer in the performance of its Obligations shall be paid to the Seller on or prior to the Delivery Date, in Australian Dollars and in immediately available funds. All payments shall be made into the Seller's account as per the following details:

Bank: NAB
BSB: 086-138
Account Number: 50 719 1176
Account Name: Airflite Pty Ltd

Payments by the Buyer shall be accompanied by a payment advice addressed to the Seller and shall not be considered as having been paid until they have been cleared in the account of the Seller. The Buyer shall make no deduction from the Purchase Price on account of any right of set-off or counterclaim.

6.3 Late Payments

If the Buyer is late in making any the payment, it shall pay default interest on the overdue amount at the Default Rate until it is paid. That interest will be payable at intervals as demanded by the Seller (irrespective of whether the Seller obtains a court judgement for sums owed to it in the meantime). All default interest will be compounded monthly and calculated on the basis of the actual number of days elapsed over a 365 day year.

6.4 Payments on Business Days

If any payment under this Agreement would otherwise be due on a non BusinessDay, it shall be due on the preceding Business Day.

6.5 Duties and handling costs

Unless the Seller otherwise agrees in writing, all stamp duty, import duty, Delivery, handling, storage and packaging and any other expenses relating to the Agreement shall be paid by the Buyer.

7 Force Majeure

To the full extent permitted by law the Buyer releases the Seller from all and any liability for or in connection with or arising out of any failure or delay in performance of its obligations under this Agreement due in whole or in part to any cause whatsoever beyond the Seller's reasonable control.

8 Indemnities**8.1.A General Indemnity**

To the full extent permitted by law the Buyer:

- (a) agrees to indemnify and at all times hereafter to keep indemnified and hold harmless the Seller, its servants and agents against all claims for Loss or damage (whether as a result of negligence or otherwise) arising directly or indirectly out of the Buyer's use, possession, ownership or resale to a third party or out of the use, possession or ownership by such third party of the Aircraft or any part or parts thereof whether separately or in combination with any other equipment or material; and
- (b) agrees that the Indemnity in clause (a) shall survive the termination of the Agreement and shall extend to cover all alleged defaults or defects in the Aircraft or part or parts thereof or instructions supplied for use in connection with the Aircraft or out of any failure of the Aircraft to perform a particular task or to achieve a particular result or to comply with any particular specification.

8.2 Tax Indemnities

- (a) Withholdings

- (i) The Buyer shall make no deduction from any of its payments under the Relevant Documents, for or on account of any Taxes, unless there is a legal requirement for it to do so;
 - (ii) If there is a legal requirement to make deductions from any of its payments under the Relevant Documents, the Buyer shall: (aa) deduct the minimum amount necessary to comply with the law; (bb) pay the Seller such additional amount as results in a net amount received by the Seller, on the relevant payment date, that is equal to the amount that it would have received if the deduction had not been made;
- (b) **Taxes Generally**
- (i) The Buyer agrees to indemnify and keep harmless the Seller against the Relevant Taxes defined in paragraph (ii) below arising after the Delivery Date;
 - (ii) **Relevant Taxes** means those Taxes which an Indemnitee may suffer or incur, whether directly or indirectly which arise as a result of (A) the ownership, maintenance, repair, possession, transfer of possession, storage, modification, leasing, testing, design, subleasing, condition, use or operation of the Aircraft, or which are otherwise connected with the Aircraft, during or otherwise relating to the period after the Delivery Date and (B) any breach by the Buyer of its Obligations.
- (c) **GST**
- (i) The Buyer will, in addition to the Purchase Price to be paid to the Seller under this Agreement, pay the amount of GST imposed on any taxable supply made by the Seller to the Buyer under this Agreement.
 - (ii) For the purposes of paragraph (i) the additional amount is the amount of GST payable on that part of the Seller's entitlements to payment to which are subject to GST according to *A New Tax System (Goods and Services Tax) Act 1999* and related legislation enacted by the Commonwealth of Australia under the GST Act.
 - (iii) The Seller will itemise the Purchase Price and GST to the Buyer in the form of a valid tax invoice.

9 Disclaimers and Waivers

9.1 Exclusions

The Aircraft is delivered "as is, where is" and the Buyer agrees and acknowledges that, save as expressly stated in this Agreement, the Seller will have no liability in relation to the description, airworthiness, satisfactory quality, fitness for any use or purpose, value, condition, or design, of the Aircraft, whether arising in contract or in tort (and whether any relevant contractual provision is express or implied). It is also agreed by the Buyer that the Seller has not and will not be deemed to have made or given any warranties or representations, express or implied with respect to the Aircraft, including but not limited to the matters referred to above.

9.2 Waiver of Warranty

The Buyer waives, as between itself and the Seller, all its rights in respect of any warranty or representation, express or implied, on the part of the Seller and all claims against the Seller arising at any time in respect of or out of the operation or performance of the Aircraft or this Agreement except to the extent arising under any provision of this Agreement.

9.3 Confirmation

The Buyer confirms that it is fully aware of the provision of this Clause 9 and acknowledges that the Purchase Price has been calculated on the basis of its provisions.

10 Termination

10.1 Option to Terminate

The Seller may at its option terminate the Agreement without prejudice to its rights hereunder if the any of the following events occur:

- (a) the Buyer defaults in any payment due under the Agreement or commits a substantial breach of any other term of the Agreement;
- (b) a resolution is passed or proposed or a petition is presented or an application filed for the winding up of the Buyer;
- (c) the Buyer makes or proposes to make any arrangement with its creditors; (d) the Buyer is placed under official management;
- (d) any other circumstance or event which in the opinion of the Seller is or is likely to have a materially adverse affect on the ability of the Buyer to perform or comply with its Obligations under the Agreement; or
- (e) the Buyer becomes insolvent or, being an individual becomes insolvent or bankrupt or commits an act of bankruptcy,

10.2 Notice of Termination

Termination under clause 10 shall be effected by the Seller giving notice of termination in writing to the Buyer. Such termination is to take effect on the date specified in the notice, or if no such date is specified, immediately.

11 Notices

All notices under, or in connection with, this Agreement will, unless otherwise stated, be given in writing by letter or email. No notice which purports to be a consent of the Seller will be valid unless it is in writing. Any notice shall be effective when given as follows:

- (a) if by letter, when delivered to the addressee; or
- (b) if by email, the time and date it was sent.

The address, telephone and email of the Seller and the Buyer are set out in Schedule 1.

12 Miscellaneous

12.1 Assignment

The Buyer shall not assign its rights or interests or delegate its Obligations or duties under the Agreement without the prior written consent of the Seller which shall not be unreasonably withheld

12.2 Waivers

The terms of this Agreement may be waived only in writing and specifically. Delay in exercising or non-exercise of any such right is not a waiver of that right.

12.3 Severability

Each word, phrase, sentence, paragraph and clause ("a provision") of this Agreement is severable and if a Court determines that a provision is unenforceable illegal or void the Court may sever that provision which becomes inoperative and such severance will not affect the other provisions of this Agreement.

12.4 Law and Jurisdiction

This document shall be read and construed and take effect in accordance with the laws of the State of Western Australia from time to time in force and the parties submit to the non-exclusive jurisdiction of the courts of Western Australia for all proceedings arising from this Agreement.

12.5 Amendments

Subject to the terms of this Agreement, no amendment of or addition to the provisions of this document shall be binding unless it is in writing and signed by all of the parties.

12.6 Costs

Each party must bear its own costs of negotiating and preparing the Agreement and performing its Obligations under the Agreement.

12.7 Counterparts

This Agreement may be executed in counterparts.

EXECUTED as an Agreement.

SIGNED for and on behalf of **Insert Buyers Name**

SIGNED for and on behalf of Airflite Pty Ltd

Full Name

Full Name

Position Held

Position Held

Signature

Signature

Date

Date

In the presence of (full name):

In the presence of (full name):

Witness Signature

Witness Signature

Date

Date

SCHEDULE 1 CONTRACT DETAILS AND PRICE**Agreement Number:** **ENTER AGREEMENT NUMBER FROM AGREEMENTS DATABASE****Buyer Name and Address:****A.C.N.****A.B.N.****Item 1:****Description of Services:**

Aircraft Sale

Item 2:**Contract Price and Payment Details:****Contract Price:**[Fixed lump sum price exclusive of GST\$ must be above reserve price]**GST amount:** [GST amount if applicable]**Item 3:****Representative:**

Airflite Pty Ltd

Item 4:**Buyer Representative:****Insert Buyers Name**

SCHEDULE 2 AIRCRAFT DESCRIPTION

Rego	Serial	Make	Model	Year	Airframe TT	Engine Type	Engine TSO	Avionics	Location
VH-CZH	4496216	Piper	PA44-180	2005	10,685.1	Lycoming O-360-A1H6/ LO-360-A1H6	1,800.2 1,800.2	Analogue	Jandakot
VHCZG	4496215	Piper	PA44-180	2005	11,135.6	Lycoming O-360-A1H6/ LO-360-A1H6	37.4 37.4	Analogue	Jandakot
VH-CZD	4496189	Piper	PA44-180	2004	11,303.5	Lycoming O-360-A1H6/ LO-360-A1H6	350.6 350.6	Analogue	Jandakot
VH-KJM	447995122	Piper	PA44-180	1978	12,135.5	Lycoming O-360- E1A6D	709.4 709.4	Analogue	Jandakot

(Remove irrelevant aircraft to transaction)

Part 2 - Conditions and Outline Specification

The Aircraft is/are located in Jandakot and are sold 'as is, where is'.

Part 3 - Technical Records

Technical records for the aircraft referred to in SCHEDULE 1 will be supplied by the Seller to the Buyer upon Delivery.

These documents include:

1. Certificate of Registration;
2. Certificate of Appointment of Registered Operator ;
3. Certificate of Airworthiness ;
4. Pilot Operating Handbook
5. Log Book Statement Part 1 ;
6. Aircraft Log Books.

SCHEDULE 3 ACCEPTANCE CERTIFICATE (ONE FOR EACH AIRCRAFT)

Relating to one (1) Piper Seminole PA44-180 aircraft,
Registration Number (s) VH??? Airframe Serial Number(s) ?????
(the "Aircraft")

[insert Buyer's name here] (the "Buyer") certifies that pursuant to the terms of an aircraft sale agreement dated 20/12/2021 between Airflite Pty Ltd (the "Seller") and the Buyer (the "Sale Agreement"):

- (a) The Buyer has inspected the Aircraft, and accepts Delivery of the Aircraft "as is where is" as required by the Sale Agreement;
- (b) The Buyer has inspected, found to be complete and satisfactory to it and received the Technical Records; and
- (c) The Buyer acknowledges that it has no rights or claims whatsoever against the Seller in respect of the condition of the Aircraft or the Technical Records any of the other matters referred to in the Sale Agreement

SIGNED for and on behalf of [insert Buyers Name]

SIGNED for and on behalf of Airflite Pty Ltd

Full Name

Full Name

Position Held

Position Held

Signature

Signature

Date

Date

In the presence of (full name):

In the presence of (full name):

Witness Signature

Witness Signature

Date

Date

SCHEDULE 4**BILL OF SALE**

For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Airflite Pty Ltd (the "**Seller**"), owner of the full legal and beneficial title to the aircraft, engines, equipment and documents described below (the "**Aircraft**"):

- INSERT AIRCRAFT #1 details;
- INSERT SUBSEQUENT AIRCRAFT #S AND details; and
- Technical Records.

does hereby sell, grant, transfer and deliver all its right, title and interest in and to the Aircraft, to [insert Buyer's name here] (the "**Buyer**"), under an aircraft sale agreement dated 20 December 2021 made between the Seller and the Buyer (the "**Sale Agreement**"). The Seller hereby warrants to the Buyer, and its successors and assigns, that there is hereby conveyed to the Buyer title to the Aircraft, free and clear of any Security Interests.

Capitalised terms used but not defined in this Bill of Sale shall have the same meaning as in the Sale Agreement.

The Aircraft is/are sold "as is, where is".

This Bill of Sale is governed by the laws of Western Australia.

SIGNED for and on behalf of [insert Buyers Name]

SIGNED for and on behalf of Airflite Pty Ltd

Full Name

Full Name

Position Held

Position Held

Signature

Signature

Date

Date

In the presence of (full name):

In the presence of (full name):

Witness Signature

Witness Signature

Date

Date

SCHEDULE 5**CERTIFICATE OF TECHNICAL CONFORMITY****Relating to one AIRCRAFT DETAILS AND REGISTRATION NUMBERS** (the "Aircraft")

XYZ Pty Ltd (the "Buyer") certifies that pursuant to the terms of the aircraft sale agreement (the "Sale Agreement") dated **?? ??? 2021** made between **Airflite Pty Ltd** (the "Seller") and the Buyer:

- (a) Capitalised terms used but not defined in this Certificate shall have the same meaning as in the Sale Agreement.
- (b) The Buyer has inspected the Aircraft, and the Aircraft conforms with the description and is in the condition and equipped as required by the Sale Agreement;
- (c) The Buyer has inspected, found to be complete and satisfactory to it [and received] all of the Technical Records; and
- (d) The Buyer acknowledges that it has no rights or claims whatsoever against the Seller in respect of the condition of the Aircraft or the Technical Records or any of the other matters referred to in the Sale Agreement.

SIGNED for and on behalf of **Insert Buyers Name****SIGNED** for and on behalf of Airflite Pty Ltd

Full Name

Full Name

Position Held

Position Held

Signature

Signature

Date

Date

In the presence of (full name):

In the presence of (full name):

Witness Signature

Witness Signature

Date

Date
