

IN THE CIRCUIT COURT OF THE  
SEVENTEENTH JUDICIAL CIRCUIT IN AND  
FOR BROWARD COUNTY, FLORIDA

BANG JETS, LLC, a Florida limited  
liability company, and VITAL  
PHARMACEUTICALS, INC., a  
Florida corporation,

Plaintiffs,

v.

GULFSTREAM AEROSPACE  
CORPORATION, a Georgia  
corporation, and EXPERT AVIATION,  
INC., a Florida corporation,

Defendants.

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**COMPLAINT FOR:**

- (I) DECEPTIVE, UNCONSCIONABLE & UNFAIR  
TRADE PRACTICES**
- (II) DECLARATORY & SUPPLEMENTAL RELIEF**
- (III) INJUNCTIVE RELIEF**
- (IV) COVERSION OF PROPERTY**
- (V) BREACH OF CONTRACT**
- (VI) CIVIL CONSPIRACY**

Plaintiffs, BANG JETS, LLC (hereinafter “Bang Jets”) and VITAL  
PHARMACEUTICALS, INC. (hereinafter “VPX”), bring this action against Defendants,  
GULFSTREAM AEROSPACE CORPORATION (hereinafter “Gulfstream”) and EXPERT  
AVIATION, INC. (hereinafter “Expert Aviation”) and state:

**NATURE OF ACTION**

1. This action arises in connection with Defendants’ wrongful and improper attempt  
to extract in excess of \$548,000 from Plaintiffs for services that Gulfstream purportedly rendered  
on Plaintiff, Bang Jets’, aircraft—a certain Model No. GV-SP (G550), Serial No. 5349, FAA  
Registration No. N961JF (hereinafter the “Aircraft”)—which purported services and charges  
therefor Plaintiffs did *not* preapprove, and in connection with Expert Aviation’s improper issuance  
of inflated invoices to Bang Jets for purported management services relating to the Aircraft.

## **PARTIES, JURISDICTION AND VENUE**

2. This is an action for declaratory and supplemental relief, injunctive relief, and damages in excess of \$30,000 exclusive of interest, costs and attorneys' fees, and is within the jurisdiction of this Court.

3. Bang Jets is a limited liability company organized and existing under the laws of the State of Florida, with its principal place of business located in Broward County, Florida. Since acquiring ownership of the subject Aircraft on or about September 28, 2018, Bang Jets has ported the Aircraft in Broward County, Florida, for business use by lessee, VPX.

4. VPX is a corporation organized and existing under the laws of the State of Florida, with its principal place of business located in Broward County, Florida.

5. Gulfstream is a corporation organized and existing under the laws of the State of Georgia, with its principal place of business located in Chatham County, Georgia.

6. This Court has personal jurisdiction over Defendant Gulfstream for one or more of the following reasons:

a. This action against Gulfstream arises out of Gulfstream causing injury to VPX within the State of Florida, which injury arises out of one or more acts by Gulfstream outside of the State of Florida;

b. This action against Gulfstream arises out of Gulfstream operating, conducting, engaging in, or carrying on a business venture in the State of Florida, within the meaning of § 48.193(1)(a)(1), Florida Statutes;

c. Gulfstream is engaged in substantial and not isolated activity within the State of Florida, within the meaning of § 48.193(2), Florida Statutes; and/or

d. Gulfstream has designated a registered agent, among other agents and/or employees, located in Broward County, Florida, upon which Plaintiffs have or will serve process.

7. Expert Aviation is a corporation organized and existing under the laws of the State of Florida, with its principal place of business located in Palm Beach County, Florida.

8. Venue is proper in this Court under Fla. Stat. §§ 47.011 and 47.051 because: (i) one or more causes of action asserted herein arose in Broward County, Florida, and/or (ii) Gulfstream resides in Broward County, Florida for purposes thereof, as it has a registered agent located in Broward County, Florida.

### GENERAL ALLEGATIONS

9. On or about September 28, 2018, Bang Jets purchased, and acquired sole ownership of, the Aircraft. Bang Jets continues to hold sole ownership of the Aircraft.

10. On or about September 28, 2018, Bang Jets entered into a certain lease agreement with VPX, providing for VPX's business use of the Aircraft as needed. Said lease agreement remains in effect.

11. Bang Jets and VPX are commonly owned and controlled.

12. On or about September 28, 2018, Bang Jets and Expert Aviation entered into a certain Aircraft Services Agreement. A copy of said Aircraft Services Agreement (hereinafter the "ASA") is attached hereto as **Exhibit 1**.

13. Pursuant to the ASA, Expert Aviation was hired to oversee maintenance and repair of the Aircraft, in accordance with the terms and conditions set forth within the ASA.

14. At no time, however, did Bang Jets ever grant Expert Aviation a power of attorney with respect to the Aircraft, or otherwise grant Expert Aviation general authority to preapprove the rendering of services on the Aircraft, or the incurring of charges relating thereto, without first obtaining specific preapproval from Bang Jets.

15. Before Expert Aviation was permitted to initiate the provision of services on the Aircraft whenever the cost thereof would knowingly exceed \$10,000, the ASA explicitly required

Expert Aviation to obtain Bang Jets' specific approval and also to collect from Bang Jets prepayment of the cost of such work. In this regard, paragraph 6(c) ASA provided as follows:

For maintenance or repair work that will knowingly exceed \$10,000, [Expert Aviation] will (i) obtain[] [Bang Jets'] prior written consent for such work and (ii) require from [Bang Jets] a pre-payment for the estimated amount for work scope prior to the initiation of work.

16. In April 2020, pursuant to the ASA, Expert Aviation took transient possession of the Aircraft for the stated purpose of "inspections."

17. Upon information and belief, Expert Aviation thereupon remitted possession of the Aircraft to Gulfstream.

18. Between April 2020 and June 2020, Bang Jets justifiably believed, and had been led to justifiably believe, that Bang Jets' specific approval and advance payment would first be sought as required by the ASA, before any services on the Aircraft resulting in charges exceeding \$10,000 would be rendered.

19. In June 2020, however, Expert Aviation stunned Bang Jets upon presenting it with a June 18, 2020 "Preliminary Invoice" in the amount of \$536,734.85 that Gulfstream had issued without Bang Jets' approval or even advance notice.

20. Bang Jets responded to Expert Aviation by expressing its dismay and objection to that invoice, as Bang Jets had not preapproved the servicing on the Aircraft that Gulfstream had purportedly rendered or Gulfstream's purported charges therefor.

21. Gulfstream has since upwardly revised the aforesaid June 18, 2020 "Preliminary Invoice" no less than three successive times through issuance of a June 25, 2020 "Preliminary Invoice," a June 30, 2020 "Preliminary Invoice" and, most recently, a July 13, 2020 "Preliminary Invoice." As a result, the total amount that Gulfstream now purports to charge for servicing it purportedly rendered on the Aircraft is at \$548,569.15.

22. Bang Jets received the upwardly revised June 25, 2020 and June 30, 2020 “Preliminary Invoices” from Expert Aviation while Bang Jets was in the process of seeking an explanation from Expert Aviation regarding the unexpected June 18, 2020 “Preliminary Invoice.”

23. Bang Jets received the upwardly revised July 13, 2020 “Preliminary Invoice” directly from Gulfstream while Bang Jets was in the process of also seeking an explanation directly from Gulfstream regarding the non-preapproved servicing that Gulfstream had purportedly rendered on the Aircraft and Gulfstream’s staggering charges therefor.

24. In the course of Bang Jets communicating directly with Gulfstream regarding this situation, Gulfstream, through counsel, postured, threatened and contended that: **(a)** The Aircraft is currently in Gulfstream’s possession and control; **(b)** As a condition to relinquishing possession of the Aircraft to Bang Jets, Gulfstream insists that Bang Jets first fully pay the staggering charges that Gulfstream billed for servicing that it purportedly rendered on the Aircraft; **(c)** If Bang Jets does not fully pay the staggering charges that Gulfstream billed for servicing that it purportedly rendered on the Aircraft, Gulfstream may yet impose additional “storage charges” and will continue to contend that it holds a “aircraft mechanics’ lien” under local law; **(d)** Gulfstream admits that it neither sought nor obtained preapproval directly from Bang Jets for the purported servicing and charges; and **(e)** Gulfstream nonetheless contends that its purported servicing on the Aircraft and its purported charges therefor had been effectively preapproved by Expert Aviation as an agent of Bang Jets, based upon the notion that Bang Jets had somehow cloaked Expert Aviation with “apparent authority” to provide such preapproval.

25. Further, in the course of Bang Jets communicating directly with Expert Aviation regarding this situation, it came to Plaintiffs’ attention that Expert Aviation, over time, had been

issuing its own knowingly inflated invoices to Bang Jets for purported management services relating to the Aircraft.

26. In light of the above and foregoing, it has become apparent to Plaintiffs that the above-described predicament now outrageously imposed upon them is the result of a course of collaborative misconduct in which Gulfstream and Expert Aviation engage to the detriment and harm of owners and users of private aircraft such as Plaintiffs.

27. On July 17, 2020, Bang Jets terminated the ASA due to Expert Aviation having, *inter alia*, violated paragraph 6(c) thereof, quoted hereinabove.

28. Gulfstream has failed to produce to Bang Jets support for its “apparent authority” contention, yet Gulfstream nonetheless continues to withhold possession of the Aircraft from Bang Jets unless Bang Jets first pays the charges that Gulfstream has billed for the servicing it purportedly rendered on the Aircraft (the most current total being \$548,569.15, as stated hereinabove).

29. Contrary to Defendants’ contentions, Plaintiffs maintain as follows:

a. Before Gulfstream rendered any purported services on the Aircraft, Gulfstream failed to obtain requisite preapproval from Bang Jets;

b. Before Gulfstream rendered any purported services on the Aircraft, Expert Aviation had neither actual nor apparent authority to preapprove Gulfstream rendering such services;

c. Any and all invoices that Gulfstream has issued to date, or hereafter issues, requiring payment for services it purportedly rendered on the subject Aircraft invoices are invalid and unenforceable as against Bang Jets, and Gulfstream does not have the right to condition Bang Jets’ possession of the Aircraft upon payment of such invoices, in whole or in part;

d. Bang Jets has an unconditional right to immediate possession of the Aircraft;

e. Irrespective of the lack of due preapproval from Bang Jets, the invoices that Gulfstream has issued to date in connection with this matter are otherwise wrongful, unreasonable and excessive.

30. Further, Plaintiffs believe that Defendants have engaged in a calculated scheme—indeed, a civil conspiracy—to deceptively, unconscionably, and unfairly extract payment of unapproved invoices exceeding \$548,000 subject to Gulfstream’s effective holding of the Aircraft as hostage pending payment of Defendants’ unapproved ransom in the form of invoice fees alleged owed to Gulfstream and management fees owed to Expert Aviation.

31. Any and all conditions precedent to Plaintiffs bringing this action have occurred, or have been met, excused or waived.

**COUNT I**  
**DECEPTIVE AND UNFAIR TRADE PRACTICES**  
**(Against Gulfstream and Expert Aviation)**

32. Plaintiffs incorporate and reallege each and all of the allegations set forth in Paragraphs 1-31 hereinabove, as if set forth fully within this Count.

33. This is an action against Gulfstream and Expert Aviation under the Deceptive and Unfair Trade Practices Act, Fla. Stat. § 501.201 et seq. (the “Act”).

34. The Act declares unconscionable acts or practices, as well as unfair or deceptive acts or practices in the conduct of any trade or commerce, to be unlawful.

35. Gulfstream has engaged in unlawful conduct as defined within the Act, including, but not limited to, engaging in deceptive, unconscionable and unfair trade or commercial practices, to the detriment and harm of Plaintiffs.

36. Expert Aviation has engaged in unlawful conduct as defined within the Act, including, but not limited to, engaging in deceptive, unconscionable and unfair trade or commercial practices, to the detriment and harm of Plaintiffs.

37. As a direct and proximate result of Defendants unlawful conduct, both jointly and severally, Plaintiffs have each incurred pecuniary harm and damages.

38. Plaintiffs are consumers under the Act and are otherwise aggrieved persons who may seek remedies under the Act.

WHEREFORE, Plaintiffs demand judgment against Defendants, jointly and severally, awarding them all remedies under the Act, including, but not limited to, damages, declaratory relief, injunctive relief, interest, reasonable attorneys' fees and costs. The injunctive relief sought herein includes, without exclusion, preliminary and permanent injunctive relief requiring Gulfstream to: **(i)** Surrender and relinquish possession of the Aircraft to Bang Jets forthwith and without precondition; **(ii)** Take all steps necessary and appropriate to maintain the Aircraft in healthy and valuable condition while the Aircraft is in Gulfstream's possession, without precondition and at Gulfstream's expense, if any, and **(iii)** Refrain from taking any action, including legal action, that impairs, or might impair, Bang Jets' unencumbered right, title and interest in and to the Aircraft.

**COUNT II**  
**DECLARATORY AND SUPPLEMENTAL RELIEF**  
**(Against Gulfstream and Expert Aviation)**

39. Plaintiffs incorporate and reallege each and all of the allegations set forth in Paragraphs 1-31 hereinabove, as if set forth fully within this Count.

40. This is action against Gulfstream and Expert Aviation for declaratory and supplemental relief pursuant to Fla. Stat. § 86.011 et seq.



41. Plaintiffs maintain that: **(a)** Before Expert Aviation had Gulfstream initiate the rendering of purported services on the Aircraft, Expert Aviation failed to obtain requisite preapproval from Bang Jets in accordance with the requirements of the ASA; **(b)** Before Gulfstream rendered any purported services on the Aircraft, Gulfstream failed to obtain requisite preapproval from Bang Jets; **(c)** Before Gulfstream rendered any purported services on the Aircraft, Expert Aviation had neither actual nor apparent authority to preapprove Gulfstream rendering such services; **(d)** Any and all invoices that Gulfstream has issued to date, or hereafter issues, requiring payment for services it purportedly rendered on the subject Aircraft invoices are invalid and unenforceable as against Bang Jets, and Gulfstream does not have the right to condition Bang Jets' possession of the Aircraft upon payment of such invoices, in whole or in part; **(e)** Bang Jets has an unconditional right to immediate possession of the Aircraft; and **(f)** Irrespective of the lack of due preapproval from Bang Jets, the invoices that Gulfstream has issued to date in connection with this matter are otherwise wrongful, unreasonable and excessive.

42. Plaintiffs further maintain that Expert Aviation, since inception of the ASA, has been issuing its own inflated invoices to Bang Jets for purported management services relating to the Aircraft, several of which already have been paid and some of which have not yet been paid.

43. Defendants deny the above and foregoing.

44. A justiciable controversy thus exists between Plaintiffs and Defendants and there exists bona fide, actual, present and practical need for a declaration resolving same.

WHEREFORE, Plaintiffs demand judgment in their favor and against Defendants: **(a)** Declaring the positions described in paragraph 41 and 42 hereinabove correct as a matter of fact and law and otherwise adopting same; **(b)** Granting related supplemental relief, including, but not necessarily limited to, damages and preliminary and permanent injunctive relief; **(c)** Awarding

Plaintiffs all costs associated therewith pursuant to Fla. Stat. § 86.081; and **(d)** Granting any and all other and additional relief the Court may deem just and appropriate. Supplemental relief in the form of injunctive relief sought herein includes, without exclusion, preliminary and permanent injunctive relief requiring Gulfstream to: **(i)** Surrender and relinquish possession of the Aircraft to Bang Jets forthwith and without precondition, **(ii)** Take all steps necessary and appropriate to maintain the Aircraft in healthy and valuable condition while the Aircraft is in Gulfstream's possession, without precondition and at Gulfstream's expense, if any, and **(iii)** Refrain from taking any action, including legal action, that impairs, or threatens to impair, Bang Jets' unencumbered right, title and interest in and to the Aircraft. Further, Plaintiffs respectfully request the Court to order speedy trial on this claim for declaratory and supplemental relief, and to advance same on the trial calendar pursuant to Fla. Stat. § 86.111.

**COUNT III**  
**INJUNCTIVE RELIEF**  
**(Against Gulfstream)**

45. Plaintiffs incorporate and reallege each and all of the allegations set forth in Paragraphs 1-31 hereinabove, as if set forth fully within this Count.

46. This is an action against Gulfstream is for preliminary and permanent injunctive relief.

47. Plaintiffs are entitled to injunctive relief, including, without exclusion, preliminary and permanent injunctive relief requiring Gulfstream to: **(i)** Surrender and relinquish possession of the Aircraft to Bang Jets forthwith and without precondition, **(ii)** Take all steps necessary and appropriate to maintain the Aircraft in healthy and valuable condition while the Aircraft is in Gulfstream's possession, without precondition and at Gulfstream's expense, if any, and **(iii)** Refrain from taking any action, including legal action, that impairs, or threatens to impair, Bang Jets' unencumbered right, title and interest in and to the Aircraft.

48. Unless Gulfstream is so enjoined, Plaintiffs will suffer irreparable injury and harm, for which there is no remedy at law to provide Plaintiffs adequate relief.

WHEREFORE, Plaintiffs demand entry of preliminary and permanent injunctive relief against Gulfstream, an award of costs against Gulfstream and an award of any and all other and additional relief the Court may deem just and appropriate.

**COUNT IV**  
**CONVERSION OF PROPERTY**  
**(Against Gulfstream and Expert Aviation)**

49. Plaintiffs incorporate and reallege each and all of the allegations set forth in Paragraphs 1-31 hereinabove, as if set forth fully within this Count.

50. This is an action for conversion of property against Gulfstream and Expert Aviation.

51. In or about April 2020, Defendants converted the Aircraft for their own use and activity without permission or due preapproval from Bang Jets.

52. Gulfstream is currently in wrongful possession of the Aircraft and wrongfully refuses to surrender possession thereof to Bang Jets.

53. As a direct and proximate result of Defendants' conversion of property, both jointly and severally, Plaintiffs have incurred pecuniary harm and damages.

WHEREFORE, Plaintiffs demand judgment against Defendants awarding damages, interest and costs, requiring Gulfstream to surrender and relinquish possession of the Aircraft forthwith and without precondition and granting any other and additional relief the Court may deem just and appropriate.

**COUNT V**  
**BREACH OF CONTRACT**  
**(Against Expert Aviation)**

54. Plaintiffs incorporate and reallege each and all of the allegations set forth in Paragraphs 1-31 hereinabove, as if set forth fully within this Count.

55. This is an action for breach of contract against Expert Aviation.

56. Bang Jets has rights and claims against Expert Aviation under the ASA, as a party thereto.

57. VPX has rights and claims against Expert Aviation under the ASA, as an intended beneficiary thereof.

58. Expert Aviation breached the ASA by and through, *inter alia*, the following: (a) Failing to abide by paragraph 6(c) of the ASA and (b) Issuing inflated invoices to Bang Jets for purported management services relating to the Aircraft, several of which invoices already have been paid.

59. As a direct and proximate result of Expert Aviation's breach of contract, Plaintiffs have each incurred pecuniary harm and damages.

WHEREFORE, Plaintiffs demand judgment against Expert Aviation awarding damages, interest and costs, and granting any other and additional relief the Court may deem just and appropriate.

**COUNT VI**  
**CIVIL CONSPIRACY**  
**(Against Gulfstream and Expert Aviation)**

60. Plaintiffs incorporate and reallege each and all of the allegations set forth in Paragraphs 1-31, 34-38, 41-44 and 51-53 hereinabove, as if set forth fully within this Count.

61. This is an action for civil conspiracy against Gulfstream and Expert Aviation.

62. Defendants Gulfstream and Expert Aviation entered into an agreement, combined and otherwise conspired to perform certain wrongful and otherwise unlawful acts, including wrongful, unreasonable excessive overbilling in relation to services purportedly rendered on, or purportedly rendered in relation, to the Aircraft and wrongfully taking and retaining possession of the Aircraft.

63. Defendants undertook and completed multiple wrongful and otherwise unlawful overt acts in furtherance of said conspiracy, including, but not limited to, Defendants wrongfully taking possession of the Aircraft from Plaintiffs, Defendants each issuing wrongful, unreasonable and excessive bills in relation to the Aircraft and Gulfstream wrongfully refusing to relinquish possession of the Aircraft to Plaintiffs unless its wrongful, unreasonable and excessive charges for services purportedly rendered on the Aircraft are first fully paid, and Gulfstream threatening to impose additional “storage charges” and to continue contending that it holds a “aircraft mechanics’ lien against the Aircraft, unless its wrongful, unreasonable and excessive charges for services purportedly rendered on the Aircraft are fully paid.

64. Each of the Defendants has a personal stake in the aforesaid agreement, conspiracy and combination.

65. As a direct and proximate result of Defendants’ aforesaid agreement, conspiracy and combination, Plaintiffs have each incurred pecuniary harm and damages.

WHEREFORE, Plaintiffs demand judgment against Defendants awarding damages, interest and costs, and granting any other and additional relief the Court may deem just and appropriate.

Dated: August 11, 2020

Respectfully submitted,

*/s/ Zachary S. Foster*

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# EXHIBIT 1

## **AIRCRAFT SERVICES AGREEMENT (Part 91)**

This AIRCRAFT SERVICES AGREEMENT (the "Agreement") is made and entered into on September 28, 2018 (the "Effective Date") by and among BANG JETS, LLC ("Owner"), a Florida limited liability company, and EXPERT AVIATION, INC. ("Manager"), a Florida corporation.

### **RECITALS**

**WHEREAS**, Owner is the owner and registrant of the Gulfstream Aerospace Corporation GV-SP (G550) aircraft, manufacturer's serial number 5349, FAA registration mark N961JF together with all equipment, components, parts, additions, accessions and attachments (hereinafter referred to as the "Aircraft"); and

**WHEREAS**, Bang Jets, LLC leases the Aircraft to Vital Pharmaceuticals, Inc. ("VPX"), a Florida corporation, pursuant to an Aircraft Lease Agreement dated September 26<sup>th</sup>, 2018 (the "Lease") and may lease the Aircraft to other lessees in the future ("VPX" along with such other lessees shall be referred to hereinafter as "Lessee"); and

**WHEREAS**, pursuant to the terms and conditions of the Lease, VPX exercises operational control over the Aircraft; and

**WHEREAS**, Manager is in the business of managing Aircraft in accordance with FAR Part 91 of the Federal Aviation Regulations ("FARS"),

**WHEREAS**, Owner wishes to engage Manager to oversee maintenance and storage of the Aircraft in accordance with the terms and conditions stated hereunder; and

**WHEREAS**, Manager agrees to oversee maintenance and storage of the Aircraft.

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants and undertakings of the parties set forth below, the parties agree as follows:

#### **1. TERM**

The initial term of this Agreement will begin on the Effective Date and will expire on the last day of the calendar month which is twelve (12) calendar months from the Effective Date (the "Term"). The Term shall be automatically renewed for another twelve (12) month period thereafter (the "Renewal Term") unless either party gives notice of termination to the other party not less than 30 days prior to the expiration of the initial term or any succeeding renewal term of this Agreement.

#### **2. SERVICES PROVIDED BY MANAGER**

During the Term, and provided Owner is not in default hereof, (i) Manager will provide to Owner the services set forth in Exhibit A and as, otherwise, set forth in this Agreement, and (ii) when not in use, the Aircraft shall be based and kept in a hangar at Ft. Lauderdale Executive Airport or such other location as is mutually agreed between Manager and Owner.

#### **3. SCHEDULING**





- a. Owner will have the right to inspect the Aircraft and Aircraft records, including, without limitation, all logbooks, flight manuals, repair, inspection, modification and overhaul records applicable to the Aircraft, (the **Aircraft Records**), at any reasonable time, upon giving Manager reasonable notice during normal business hours, it being understood that Owner will have no obligation to carry out any such inspections and should such inspections occur, they shall not in any way affect the obligations of Manager under this Agreement. All Aircraft records shall be considered part of the Aircraft and shall be the sole property of Owner and shall be released to Owner immediately upon request following written notice of intent to terminate this Agreement by either party.
- b. During the Term, Manager will schedule Lessee's use of the Aircraft so as to ensure the Aircraft is available for all scheduled and unscheduled maintenance.

#### 4. ACCOUNTING AND RECORD KEEPING

- a. **Service Fee.** At the end of each calendar month, Manager shall invoice and Owner shall pay Manager a service fee of \$120 per hour for each hour (or pro-rated portion thereof in increments of no more than .10 hrs.) expended by Manager's personnel in performance of its duties pursuant to this Agreement (the "**Service Fee**").
- b. **Aircraft Operating Expenses.** In addition to any other amounts payable by Owner hereunder, Owner is obligated and responsible to pay all costs associated with ownership, maintenance and use of the Aircraft not paid by a Lessee.
- c. Manager shall invoice Owner, on a monthly basis, for all costs and Service Fees incurred during the previous calendar month.
- d. All invoices submitted under this Agreement shall be deemed accepted unless objected to, in writing, within ten (10) days of receipt and shall be payable upon receipt thereof by Owner. Invoices are due in full within ten (10) days. Delinquent invoices are subject to a 12% per annum late charge.
- e. The cost of services set forth above hereto may be adjusted annually on the anniversary of the Effective Date by the percentage increase in the Consumer Price Index for all Urban Consumers – U.S. city average, all items, (1982-84=100) from the most current month available, or otherwise upon 30 days' written notice from Manager.

#### 5. OPERATING FUND

Upon execution of this Agreement, Owner shall place on deposit with Manager an Operating Fund equal to two (2) months' budgeted maintenance and storage expenses (such amount, the "**Operating Fund**"). The Operating Fund shall be adjusted every six (6) months if actual Aircraft expenses vary more than 15% from the then current Operating Deposit as adjusted. The Operating Fund shall be used by Manager to pay the expenses associated with the Aircraft due from Owner under this Agreement and reconciled and replenished monthly through Owner's payment of the Manager's monthly invoices. Manager shall return within 90 days after termination of this Agreement, the remaining balance of the Operating Fund after deduction of any outstanding charges; Owner shall remain obligated for all charges under this Agreement, if any, discovered after the balance of the Operating Fund is returned.

#### 6. MAINTENANCE

- a. **MANAGER**
  - i. Shall, at Owners' expense, maintain the Aircraft in good and airworthy operating condition in compliance with all applicable FAR and manufacturer's

- recommendations; obtain all necessary services for the maintenance, and storage of the Aircraft; administer warranty claims; and maintain all Aircraft records in a complete, accurate, and up-to-date manner.
- ii. Shall, at Owner's expense, maintain all Aircraft records, including, without limitation, all logbooks, flight manuals, repair, inspection, modification and overhaul records applicable to the Aircraft, as required, perform or otherwise obtain and supervise required maintenance, process service and warranty claims, and arrange for and obtain required Aircraft licenses and permits. Unless otherwise required to do so by law or court order, Manager shall not release any Aircraft records to third parties without the prior written consent of Owner, or as otherwise required by any party with a security interest in the Aircraft.
  - iii. Shall, on behalf of Owner, continuously monitor the mechanical condition of the Aircraft and shall perform or cause to be performed all necessary maintenance of the Aircraft. Manager will keep Owner and VPX advised of the status of all scheduled maintenance, inspections and overhaul of the Aircraft, as well as any unscheduled maintenance requirement and its resolution. All maintenance to be performed by a licensed Airframe and Power Plant Mechanic.
  - iv. Shall obtain and ensure compliance with RVSM, MEL, AAIP and Letters of Authorization.
- b. Any maintenance, service, repair, or modification to the Aircraft shall be approved by and done at Owner's expense by properly licensed and qualified mechanics and, to the extent applicable, shall be maintained and operated in such a manner as to prevent invalidation of any manufacturer's warranty or service agreement, maintain the airworthiness of the Aircraft, and comply with any applicable Airworthiness Directive or mandatory manufacturer's Service Bulletins.
  - c. For maintenance or repair work that will knowingly exceed \$10,000, Manager will (i) obtain Owner's prior written consent for such work and (ii) require from Owner a pre-payment for the estimated amount for work scope prior to the initiation of work. Manager will not be obligated to initiate work and will not be liable for the interruption of the performance of Manager's contractual obligations caused by the delay or lack of pre-payment for these maintenance events.
  - d. With respect to all recommended but non-mandatory maintenance including manufacturer's recommended service bulletins, Manager shall make appropriate recommendations to Owner with respect to the advisability of undertaking such maintenance items and shall, at Owner's cost, perform or otherwise undertake such maintenance if directed by Owner to do so.

## 7. INSURANCE

- a. Manager shall, at Owner's expense, maintain in effect during the Term, all-risk insurance covering the Aircraft as required by any party having a security interest in the Aircraft (provided that Owner timely provides such requirements to Manager). Initially, in the absence of receipt of a secured party's insurance coverage requirements, such coverage will provide for hull coverage with an agreed value not less than TWENTY-FIVE MILLION UNITED STATES DOLLARS (\$25,000,000 USD). In addition, Manager shall maintain comprehensive public liability and property damage insurance in the amount of TWO HUNDRED FIFTY MILLION UNITED STATES DOLLARS (\$250,000,000 USD) combined single limit per occurrence. Said insurance may not be canceled or altered without at least 30 calendar days written notice to Owner and any Lessee shall not be invalidated or suspended by any breach of warranty,

act error, or omission on the part of Lessee or Manager. Owner and Lessee shall be named an additional insureds on all liability insurance policies providing coverage for the Aircraft and, to the extent permitted by a secured party, Owner shall be named as loss payee with respect to the hull coverage provided by the forgoing Insurance policies in effect with respect to the Aircraft. Any insurance policy or policies covering the Aircraft shall include the following coverage and provisions during the Term:

- i. "All risk of physical damage" insurance, including the perils of war and hijacking, such insurance to provide coverage (with no deductible) against any loss, theft or damage to the Aircraft, and extended coverage with respect to any engines or parts while removed from the Aircraft, for its intended use under this Agreement for the agreed value as listed above. Owner agrees that the "all risk of physical damage" insurance shall provide any and all remedy for loss of or damage to the Aircraft, including, but not limited to, loss of use and loss or diminution of market value;
  - ii. Geographical limits shall be worldwide, but in the case of war risk, the coverage territory shall be subject to such excluded territories as is usual in the aviation insurance industry; and
  - iii. The coverage required by any financing of the Aircraft.
- b. A copy of all insurance policies providing coverage with respect to the Aircraft will be provided to Owner and any Lessee at such party's request.
- c. **Recourse against Manager.** Notwithstanding anything to the contrary contained herein, Owner agrees that in all cases the proceeds of such insurance to which it is entitled shall be Owner's sole recourse against Manager for any loss or damage to owner or to the Aircraft, (i) except to the extent caused by or due to the gross negligence or willful misconduct of Manager or (ii) if Manager fails to keep the insurance. As to any loss or damage caused by the gross negligence or willful misconduct of Manager, the right of Owner to recover from Manager any portion of such loss which is not covered by the insurance provided hereunder shall not be so limited.

## 8. FORCE MAJEURE

Neither Manager nor Owner will have liability or responsibility for any delay in the performance or nonperformance of its obligations hereunder that results from fire, riot, strike or other labor troubles, maintenance or repair on the Aircraft, embargoes, acts of God, acts of government including the FAA, or other cause beyond the control of such party.

## 9. TITLE AND FITNESS

Owner warrants to Manager that it has the full power and right to execute, deliver and perform this Agreement, that the services to be provided for the Aircraft under this Agreement will not violate the terms of any agreement to which Owner is a party or is bound and that the Aircraft is in good, safe and serviceable condition and that it is fit for the use for which it is intended under this Agreement. Title and ownership of the Aircraft shall at all times remain with Owner.

## 10. INDEMNIFICATION

- a. To the fullest extent permitted by applicable law, Owner shall indemnify and hold harmless Manager and its directors, officers, employees, shareholders and affiliates from and against any and all losses, claims, damages and liabilities (including the payment of attorney's fees), jointly or severally, to which any of them may be subject arising out of any act, conduct or omission on the part of Owner or any affiliate or any director, officer,

Manager, employee, passenger or guest of Owner or any affiliate in connection with the services provided under this Agreement. Manager shall not be liable to Owner or to any affiliate, director, officer, employee, Manager, passenger or guest of Owner or any affiliate for any losses, claims, damages and liabilities arising in connection with the services provided under this Agreement except to the extent such losses or liabilities are caused by negligence or willful misconduct on the part of Manager or any affiliate, director, employee or Manager of Manager.

- b. Manager agrees to indemnify, defend and hold harmless Owner and their respective officers, directors, agents, contractors, subcontractors, invitees, guests and employees from and against any and all Damages, which may be suffered by or charged to Owner by reason of any loss of or damage to any property or injury to or death of any person arising out of or by reason of any breach, violation or non-performance by Manager or its officers, directors, agents, contractors, subcontractors, invitees, guests and employees of any covenant or condition of this Agreement or by any negligence or willful misconduct of those persons, excepting those Damages caused by the negligence or willful misconduct of Owner.

## 11. NOTICES

All notices required or permitted hereunder shall be in writing, may be sent by registered or certified mail, commercial courier, electronic delivery, or fax addressed to the parties at their addresses set forth below (or at such other addresses as they, respectively, may designate by a notice given in accordance herewith) and will be effective on the business day immediately following the date of actual delivery. Notice shall be deemed to have been received upon successful completion of the transmission to the recipient thereof.

**To Owner:**

Bang Jets, LLC  
1600 North Park Drive  
Weston, Florida 33326  
TEL: (954) 641-0570 (ext. 262)  
EMAIL: Legal@vpxsports.com  
ATTN: Office of the General Counsel

**To VPX:**

Vital Pharmaceuticals, Inc  
1600 N. Park Drive  
Weston, Florida 33326  
TEL: (954) 641-0570 (ext. 262)  
EMAIL: Legal@vpxsports.com  
ATTN: Office of the General Counsel

**To Manager**

Expert Aviation, Inc.  
7281 Winder Court  
Lake Worth, FL 33467  
TEL: 863-677-0385

EMAIL: [jej@expertav.com](mailto:jej@expertav.com)  
ATTN: Jason Jacobs or Joel Felker

## 12. TERMINATION OF AGREEMENT

- a. This Agreement may be terminated as follows:
  - i. By the non-defaulting party upon the occurrence of an Event of Default;
  - ii. Upon expiration of the Initial Term or any renewal term thereafter, provided the party desiring to terminate this Agreement gives the other party hereto written notice of its intention not to extend this Agreement and such notice is delivered not later than ninety (90) days prior to the expiration of the then current term; or
  - iii. At any time pursuant to the mutual agreement of the parties hereto.
  - iv. Upon the proper reconciliation of accounts between Manager and Owner in conjunction with the sale of the Aircraft.
  - v. During the Term and for a period of two years after termination of this Agreement, Owner shall not, on behalf of Owner or any other entity, solicit or accept business from Manager's customers; attempt to hire or induce Manager's employees to terminate employment with Manager; or request or advise any customer, vendor or employee of Manager to terminate agreements with Manager. If Owner breach or threaten a breach, of this provision, Manager shall be entitled to injunctive and/or other equitable relief.

## 13. LIENS

- a. Manager will assure that no liens are created or placed against the Aircraft by Manager or third parties as a result of Manager's actions, except mechanic's or materialmen's liens to be discharged in the ordinary course of business. Manager will notify Owner promptly upon learning of any liens not permitted by these terms and shall promptly cause the discharge of the same. Manager will indemnify Owner for legal costs, fines and penalties, including attorneys' fees, associated with lien release that are not as a result of Owner's obligations or actions.

## 14. MISCELLANEOUS

- a. This Agreement constitutes the entire understanding among the parties with respect to the oversight of the Aircraft hereunder, superseding all previous agreements, written and oral, between Manager and Owner, and nothing is to be construed as conveying to Manager any rights in the Aircraft except as the Manager thereof and on the terms and conditions herein provided. There are no representations, warranties, rights, obligations, liabilities, conditions, covenants or agreements by or in favor of either party hereto with respect to the subject matter hereof other than as set forth in this Agreement.
- b. This Agreement shall be binding upon the parties hereto and their successors and permitted assigns. Notwithstanding the foregoing, Manager hereby consents to the assignment by Lessee of all of its rights, title and interest in and under this Agreement to an affiliate of Lessee in the event the leasehold interest in the Aircraft is transferred to or otherwise placed in such affiliate. Upon such assignment, such assignee shall undertake all of the obligations of Lessee hereunder, and Lessee shall be relieved of all further liability hereunder.
- c. This Agreement, together with all exhibits, appendices and schedules hereto, constitutes the entire agreement between the parties and may not be modified except by written agreement signed by the parties hereto. Headings and captions are only for convenience and do not modify, define, expand, or limit any terms.



- d. Forbearance or indulgence by either party in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by the other party to which the same may apply, and until complete performance by such other party of said covenant or condition, such party shall be entitled to invoke any remedy available to such party under this Agreement or by law or in equity despite such forbearance or indulgence.
- e. This Agreement shall be governed by the laws of, and the parties hereby submit to the jurisdiction of the state and federal courts of, the State of Florida without regard to its conflict of laws provisions. At Owner's election and without limiting Owner's right to commence an action in any other appropriate jurisdiction, Manager hereby submits to the exclusive jurisdiction and venue of any court (federal, state or local) having situs within Palm Beach County, Florida, and Manager expressly waives personal service of process and consents to service by certified mail, postage prepaid, directed to the last known address of Manager, which service shall be deemed completed within (10) days after the date of mailing thereof.
- f. This Agreement may be executed by facsimile or electronic signature in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one agreement.
- g. If any provision is prohibited or unenforceable, such provision shall be omitted without invalidating the remaining provisions.
- h. All of Manager and Owner's covenants herein shall survive the termination of this Agreement and the return of the Aircraft.
- i. The signatories have read and understand the complete Agreement, are free of pending or threatened legal action, are validly organized in their respective states, have authority, and hereby bind their respective parties.

<signature page follows>

**IN WITNESS WHEREOF**, this Agreement has been made, executed and delivered as of the Effective Date.

**OWNER:**

BANG JETS, LLC



John H. Owoc, Chief Executive Officer of  
Vital Pharmaceuticals, Inc., the Manager of  
Bang Jets, LLC

**MANAGER:**

EXPERT AVIATION, INC.



Jason Jacobs, President

**EXHIBIT A**  
**SERVICES TO BE PROVIDED BY MANAGER TO OWNER**

During the Term of the Agreement, Manager shall provide the following services to Owner in addition to any services otherwise described in the Agreement:

1. Manage and track Airframe & Avionics maintenance.
2. Work with Owner in negotiating and obtaining the best costs available for fuel, insurance and hangar rent.
3. Arrange Aircraft interior cleaning and minor repairs.
4. Negotiate pricing for any extra projects such as complete interior refurbishment, avionics updates, all maintenance, and will ensure all Aircraft equipment is up to date.
5. Oversee the Maintenance of the Aircraft at Owner direction and cost.
6. Assist in reporting any accidents or incidents.
7. Obtain and maintain all Aircraft and FAA information (Jepps, Parts, Invoices, AD Notes, Bulletins, etc.) necessary to operate the Aircraft.

