

ON AIRPORT LAND LEASE
BETWEEN THE
CITY OF VERO BEACH, FLORIDA
AND
INDIAN RIVER COUNTY
EMERGENCY SERVICES DISTRICT

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**INTER-GOVERNMENTAL LEASE AGREEMENT
ON-AIRPORT LAND LEASE
BETWEEN THE
CITY OF VERO BEACH
AND
INDIAN RIVER COUNTY
EMERGENCY SERVICES DISTRICT**

THIS ON-AIRPORT LAND LEASE (hereinafter “LEASE”) is made and entered into this 1st day of October, 2021, by and between **THE CITY OF VERO BEACH**, a municipal corporation organized and existing under the laws of the state of Florida, whose mailing address is 1053 20th Place, P.O. Box 1389, Vero Beach, Florida, 32961-1389 (hereinafter “CITY” or “LESSOR”) and **THE INDIAN RIVER COUNTY EMERGENCY SERVICES DISTRICT**, a dependent special taxing district, organized and existing under the laws of the state of Florida, whose mailing address is 1801 27th Street, Vero Beach, Florida, 32960 (hereinafter “LESSEE”). LESSOR and LESSEE may also be referred to herein individually as a “party” or collectively as the “parties.”

RECITALS

WHEREAS, the Vero Beach Regional Airport (hereinafter “AIRPORT or “Airport”) is a department of and is owned by LESSOR, and LESSOR is vested with the power to operate the AIRPORT, to lease premises and facilities on the AIRPORT, and to grant related rights and privileges; and,

WHEREAS, LESSOR and the South Indian River County Fire District (now Indian River County Emergency Services District) previously entered into a thirty (30) year lease agreement, whereby LESSEE maintained a fire substation (hereinafter “FIRE STATION 3”) on Airport property and made monthly lease payments for such property, which was executed October 1, 1989 and expired on September 30, 2019; and,

WHEREAS, the parties have agreed that LESSEE will continue to provide aircraft rescue and firefighting (hereinafter “ARFF”) services to LESSOR, as long as LESSOR requires such services, which ARFF Agreement shall be executed simultaneously and incorporated herein, and,

WHEREAS, LESSOR desires to maintain FIRE STATION 3 on AIRPORT property to provide ARFF services to AIRPORT, and LESSOR is, at this time, required by the Federal Aviation Administration (“FAA”) to maintain such services; and,

WHEREAS, LESSOR maintains the FIRE STATION 3 on Airport property to provide ARFF services to AIRPORT, where required, as well as to provide other firefighting and emergency services to areas off-premises, which is advantageous to the health, safety, and welfare of the citizens of Vero Beach and serves an important public purpose.

NOW, THEREFORE, in consideration of the mutual promises herein, the parties hereby agree as above and as follows:

ARTICLE 1

PURPOSE AND INTENT

The parties agree that the above recitals are true and correct, and by this reference are incorporated herein to this Lease Agreement (“LEASE”). All Exhibits referred to in this LEASE are intended to be and hereby are specifically made a part of this LEASE.

ARTICLE 2

PREMISES

Subject to the terms, covenants, and conditions contained herein, LESSOR does hereby demise and lease to LESSEE, and LESSEE hires, rents, and leases from the LESSOR, the real property attached hereto marked **Exhibit “A”** boundary survey and legal description for Parcel FIRE STATION 3 furnished by the LESSOR, real property located at the AIRPORT at 2900 43rd Avenue,

Vero Beach, Indian River County, Florida, known as, Parcel ID: 32-39-26-00011-0480-00001.1, consisting of land of approximately **103,500** square feet (+/-), together with the nonexclusive right to use, in common with the AIRPORT and others, any public roads, walkways, and other public areas on the AIRPORT for access to and from the Leased Premises (hereinafter the “Premises”). Subject to all dedications, easements, restrictions, abandonments, reservations, and rights-of-way of record.

ARTICLE 3

TERM; OPTION TO RENEW

Section 3.1. Term.

The Term of this LEASE shall be for a period of thirty (30) years from the Effective Date, commencing on **October 1, 2021**, and terminating on **September 30, 2051**, (“hereinafter Term”).

Section 3.2. Option(s) to Renew.

Provided that this LEASE and any related agreement between the parties are in full force and effect and neither party is in default or breach, the parties shall have the option to renew this LEASE for **two (2)** additional terms of **ten (10) years** per term. Such option(s) may only be exercised by signed, written agreement by the parties, and may only be exercised on the condition that LESSEE continues to provide ARFF services to LESSOR in accordance with a valid agreement, if LESSOR so requires.

ARTICLE 4

RENT; SECURITY DEPOSIT; TAXES; RENT ADJUSTMENT

Section 4.1. Rent.

In addition to other good and valuable consideration, for the use of the Premises as detailed herein, LESSEE shall pay LESSOR as base rental payments: **Two-Thousand, Two-Hundred and**

Thirty and 27/100 Dollars (\$2,230.27) per month during the Term of this LEASE. This monthly base rental amount is based on **88,500 +/-** square feet of land at **\$0.3024** per square foot per year, **15,000+/-** square feet of drainage easement land at **\$0.00** per square foot per year, and **19399+/-** square feet of building at **\$0.00** per square foot per year. Rent shall be due on the first (1st) day of each month. Failure to pay the monthly amount due in full by the tenth (10th) of each month shall result in the assessment of a late charge of five percent (5%) of the amount then owed or **Fifty and 00/100 Dollars (\$50.00)**, whichever is greater.

Section 4.2. Rent Payment Location.

By Mail:

City of Vero Beach/Airport Lease Payments
P.O. Box 1389
Vero Beach, Florida 32961-1389

In Person:

City of Vero Beach/Cashiers
1036 20th Street
Vero Beach, Florida 32960

Section 4.3. Security Deposit.

No Security Deposit shall be required.

Section 4.4. Taxes.

LESSEE shall be responsible to pay all legally imposed taxes, fees, or assessments accruing during the term(s) of this LEASE, for which the leasehold is not otherwise exempt under Florida law. LESSEE acknowledges that nonpayment of any such tax cannot and does not constitute a lien against LESSOR's interest in the Premises and will instead constitute a personal obligation of LESSEE to the governmental unit imposing such tax.

Section 4.5. Rent Adjustment.

No Rent Adjustment shall be required during the Term of this LEASE.

Section 4.6. Utilities.

All taxes, fees, costs, utilities, and insurance costs due on the Premises during the Term shall be borne by LESSEE. LESSEE shall be responsible to ensure proper utility service to the Premises and must be in compliance with building code requirements. LESSEE shall pay for any and all impact fees and connection fees. LESSEE must pay for all utilities consumed or produced within the Premises, including, but not limited to, water, sewer, electricity, gas, telephone, television, Internet access, trash removal, grease removal, and hazardous waste removal, during the Term of this Lease and any subsequent terms.

ARTICLE 5
USE OF PREMISES

Section 5.1. Permitted Uses.

LESSEE shall use the Premises only for the limited purpose of the continued existence of a FIRE STATION 3 at the Airport and for the emergency services purposes incident thereto. LESSEE is limited to the following activities for the Term of this LEASE and any option to renew period:

- (a) To provide ARFF Services to LESSOR in accordance with 14 CFR Part 139, or to an alternate level of training and proficiency as agreed upon by both parties in the event that Part 139 no longer applies, or to the training requirements necessary for any change in ARFF index, as determined by the CITY.
- (b) To store and maintain any equipment required under 14 CFR Part 139, and any other essential firefighting or emergency equipment; To provide ARFF Services to LESSOR in accordance with 14 CFR Part 139, or to an alternate level of training and proficiency as agreed

upon by both parties in the event that Part 139 no longer applies, or to the training requirements necessary for any change in ARFF index, as determined by the CITY.

- (c) To conduct appropriate firefighting and trainings as required by State and Federal law;
- (d) To conduct safety inspections at the physical facility of the Airport; and
- (e) To supervise and direct all activities relating to accidents involving potentially hazardous materials.

Whether a use of the Premises meets this Section shall be determined in LESSOR's sole discretion by LESSOR's Airport Director, after consultation with LESSEE's County Administrator. Nothing in this LEASE shall be construed to limit the functions of LESSEE in the event of an imminent threat to health, safety, or welfare, or other emergency. Any additional uses of the Premises not involving ARFF services or other related emergency services must be approved by LESSOR through a signed, written agreement. All uses shall be in compliance with the CITY's comprehensive plan, and all applicable zoning and land use codes and other laws.

Section 5.2. Non-interference with Airport.

Except where otherwise required in an emergency, LESSEE agrees to refrain from and prevent any use of the Premises or the Airport, which would interfere with, disturb, or adversely affect the operation or maintenance of the Airport, or otherwise constitute an Airport hazard or a nuisance. LESSEE shall make no unlawful, improper, or offensive use of the Premises.

Section 5.3. Waste; Surrender of Possession.

LESSEE will not commit or permit waste of the Premises and must quit and voluntarily deliver up possession of the Premises at the end of the Term in as good condition as at the beginning of this LEASE, and all fixtures, equipment, and improvements in as good condition as when installed or

constructed, excepting only ordinary wear and tear. LESSEE shall have no obligation to remove any of the fixed improvements.

Section 5.4. Existing Building; Premises Leased "AS IS."

The Premises includes an existing building to be used by LESSEE for providing emergency services. The building and improvements on the Premises are leased in an "AS IS" condition, and the same are suitable for the uses intended by LESSEE. LESSEE agrees to accept the Premises strictly in "as is" condition, and no representation has been made to LESSEE concerning the suitability of the Premises for LESSEE's purposes. LESSEE will bear the sole cost and expense of all improvements on the Premises, including, without limitation, design, permitting, materials, construction, insurance, utilities, maintenance, and repair.

ARTICLE 6

ENVIRONMENT; CONSTRUCTION

Section 6.1. Ownership Held by LESSOR.

The LESSEE is granted a leasehold in government property at the AIRPORT under this LEASE with the land, buildings, and other improvements being retained by LESSOR as a leased fee, as stated in this LEASE and as set forth in **Attachment "B."** All building and other improvements to real property (including those built or otherwise added by LESSEE) shall be owned by LESSOR from the outset and remain government property throughout the Term of this LEASE. LESSOR'S retained interest does not diminish or abridge any leasehold interest conveyed to LESSEE hereunder. If LESSEE exercises an option to renew, LESSEE'S rent shall be adjusted as set forth in **Attachment "B."**

LESSEE will have the right to remove any furnishings and improvements that have not assumed the nature of realty, provided same is done prior to termination or expiration of this LEASE,

LESSEE is not then in default hereunder beyond any applicable cure period, and LESSEE repairs any damage caused by such removal. Any such property remaining after the termination or expiration of this LEASE shall immediately become the property of LESSOR unless otherwise agreed by LESSOR in writing.

Section 6.2. Environmental Site Assessment.

(a) Attached hereto, and incorporated herein as **Exhibit “C,”** is a copy of the Environmental Site Assessment Phase I. LESSOR and LESSEE accept this report as an accurate representation of the environmental condition of the Premises as of the commencement date of this LEASE.

(b) Upon termination of the LEASE, LESSEE, at LESSEE’s expense, shall conduct a Phase I Environmental Assessment of the leased property. The results of this report shall be compared to the results of the Environmental Site Assessment Phase I described in paragraph (a) above, to determine whether or not the leased property was contaminated during the Term of the LEASE. If a Phase II Environmental Assessment is recommended by the environmental auditor and it is determined to have been caused by LESSEE, LESSEE shall be responsible for any and all costs associated with the Assessment and environmental remediation pursuant to the terms of Section 19, Environmental Provisions, of **Attachment “B”** of this LEASE if determined to be caused by LESSEE.

Section 6.3. Stormwater Retention and Detention.

As provided in LESSOR's leasehold development standards, all required stormwater retention and detention facilities must be located within the perimeter of the Premises, except that LESSEE may utilize an existing common-use stormwater retention system if LESSOR is satisfied that there is

one that serves the leasehold area and it has sufficient capacity (without enlargement) to accommodate the requirements of the leasehold.

Any new stormwater detention or retention facilities must be designed in conformance with FAA Advisory Circular 150/5200-33A, "Hazardous Wildlife Attractants on or Near Airports." LESSEE acknowledges that the Airport's stormwater discharge permit is incorporated by reference into this LEASE. LESSEE covenants that its use of the Premises will not cause any violation of said permit. Further, LESSEE agrees to participate in any LESSOR-organized task force or other work group established to coordinate stormwater activities at the Airport.

Section 6.4. Access To/From Premises.

LESSOR shall have final authority to determine LESSEE's point or points of access to the site and final authority to review, and approve or reject, any plans proposed by LESSEE for LESSEE's construction of roadways, driveways, or the like, for ingress to and egress from the Premises.

Section 6.5. Compliance with Environmental Laws.

As a material inducement to LESSOR to lease the Premises to LESSEE, LESSEE covenants and warrants that LESSEE and LESSEE's use of the Premises will at all times comply with and conform to all Environmental Laws.

"Environmental Laws" shall include any and all federal, state, and local statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements, or other governmental restrictions relating to the environment or to emissions, discharges, releases or threatened releases of pollutants, contaminants, chemicals, or industrial, toxic, or hazardous substances, materials or wastes into the environment including, without limitation, ambient air, surface water, ground water, or land, or otherwise relating to the Handling (as hereinafter defined) of pollutants, contaminants, chemicals, or industrial, toxic, or hazardous substances or

wastes. "Handling" shall include use, treatment, storage, manufacture, processing, distribution, transport, placement, handling, discharge, generation, production, or disposal.

Section 6.6. Clean Air and Water Pollution Control.

LESSEE agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC §§ 740-7671q) and the Federal Water Pollution Control Act as amended (33 USC §§ 1251-1387). LESSEE agrees to report any violation to LESSOR immediately upon discovery. LESSEE assumes responsibility for notifying the Environmental Protection Agency (EPA) and the FAA. LESSEE must include this requirement in all subcontracts that exceed \$150,000.

ARTICLE 7

RIGHT OF ENTRY

LESSOR's agents or employees will have the right to enter the Premises for any legal purpose, including, but not limited to:

- (a) view and inspect the Premises, or make repairs, at any time during LESSEE's regular hours;
- (b) view and inspect the Premises, or make repairs, at any time in the event of emergency; and
- (c) perform any and all things which LESSEE is obligated to and has failed to do after fifteen (15) days' written notice to act, including maintenance, repairs, and replacements to the Premises, unless LESSEE already is making a reasonable effort to effectuate corrective measures. The cost of all labor, materials, and reasonable overhead charges required for performance of such work will be promptly paid by LESSEE to LESSOR.

Such access may be conditioned upon being escorted by LESSEE's agents or employees,

unless LESSOR's agents or employees in question: (a) are acting in their law enforcement capacity under LESSOR's police power; or (b) require immediate access to the Premises due to an emergency situation.

ARTICLE 8

COMPLIANCE WITH LAWS, ORDINANCES, AND REGULATIONS

LESSEE (including its officers, agents, servants, employees, contractors, suboperators, and any other person over which LESSEE has the right to control) shall comply at all times with all present and future laws, including the Airport Rules and Regulations, as amended, and as may be further amended or superseded, and all other statutes, ordinances, orders, directives, rules, and regulations, of the federal, state, and local governments, including LESSOR, the Transportation Security Administration ("TSA") and the FAA, which may be applicable to its operations at the AIRPORT. The provisions of **Attachment "A"** (Resolution 2015-30, Airport Leasing Policy) and **Attachment "B"** (Standard Lease Provisions for Airport Tenants), as adopted by LESSOR, and as amended from time to time, are incorporated herein and specifically made a part of this LEASE. The parties agree that should any provisions of this LEASE conflict with any provisions of the Attachments (A or B), the provisions of this LEASE shall prevail, unless otherwise noted.

ARTICLE 9

RELEASE, INDEMNITY, AND HOLD HARMLESS

Notwithstanding any minimum insurance requirements prescribed elsewhere in this LEASE, LESSEE agrees to release, defend, indemnify, and hold harmless LESSOR and its Council Members, officers, agents, and employees) from:

- 1) any and all injury, loss, or damage, of any nature whatsoever, to any person or property in connection with the use of the Premises by LESSEE, its subtenants, employees,

agents, contractors, and invitees, except to the extent caused by negligence of LESSOR (and/or its officers, agents, and employees);

- 2) any and all injury, loss, or damage, of any nature whatsoever, to any person or property (including but not necessarily limited to contamination to the environment) in connection with the installation, maintenance, repairs, and removal of any underground storage tanks or other tanks; and
- 3) any and all fines or penalties imposed on LESSOR by any governmental agency (including but not limited to the FAA and the TSA as a result of the failure of LESSEE or its agents, employees, or contractors, to abide by or comply with any statute, ordinance, rule, regulation, or other requirement (including, but not limited to, environmental damage or breaches of the Airport's security)).

LESSEE agrees to release LESSOR from any injury, loss, or damage, caused by criminal acts of third parties. LESSEE agrees that LESSOR is not responsible or liable for any acts, errors, or omissions of the TSA, FAA, or any other governmental agency. Nothing herein shall be interpreted or construed to mean that either party waives its common law sovereign immunity or the limits of liability set forth in Section 768.28, Florida Statutes.

ARTICLE 10

INSURANCE REQUIREMENTS

LESSEE must procure and maintain during the LEASE Term at its own expense, for the protection of LESSOR and LESSEE, in form satisfactory to LESSOR:

Section 10.1. General Liability Insurance.

LESSEE shall maintain general liability insurance providing all risks coverage which protects LESSOR, LESSOR's elected officials, employees, officers, and agents, and LESSEE, from claims

arising from bodily injury, property damage, operations, fire, and legal liability. Such insurance coverage shall have a combined single limit of not less than \$3,000,000 per occurrence/\$3,000,000 aggregate. Coverage shall be provided in a form no more restrictive than the latest edition of the commercial general liability policy filed by the Insurance Services Office. LESSEE's insurance shall be primary and any other insurance maintained by LESSOR shall be in excess of and shall not contribute with LESSEE's insurance.

Section 10.2. Property Insurance.

LESSEE shall maintain during the full Term of the LEASE, at LESSEE'S sole cost and expense, LESSEE shall provide, maintain, and pay for a property insurance providing coverage of not less than one-hundred percent (100%) of the insurable replacement value, without deduction for depreciation, for the demised Premises of which any buildings are a part, including any improvements and betterments which may be insurable as part of the realty. Said property insurance shall cover the improvements and betterments from loss due to fire, windstorm, flood, and any other peril included in the broadest available standard form of extended coverage. Coverage shall be in an amount sufficient to meet the co-insurance requirements of the policies, but not less than the full insurable value thereof. Deductibles for all perils, except windstorm, shall not be greater than two percent (2%) of the full insurable replacement value, without deduction for depreciation, for the demised Premises of which any buildings are a part, including any improvements and betterments which may be insurable as part of the realty. Deductibles for windstorm damages shall not exceed five percent (5%) of the full insurable replacement value, without deduction for depreciation, for the demised Premises of which any buildings are a part, including any improvements and betterments which may be insurable as part of the realty. The policy shall be endorsed to make any loss payments payable jointly to the LESSOR and LESSEE for losses covered under such policies.

In the event of damage and/or destruction to the buildings, improvements, betterments and equipment, all proceeds from such policy shall be utilized by LESSEE to repair and/or replace the damaged or destroyed buildings, improvements, betterments and equipment. LESSEE may request consent from LESSOR not to repair and/or replace the damaged or destroyed buildings, improvements, and equipment. LESSOR, in its sole discretion, may either accept or reject LESSEE'S request not to repair and/or replace. If the LESSOR rejects LESSEE'S request not to repair and/or replace, then LESSEE must utilize all insurance proceeds to repair and/or rebuild pursuant to this paragraph. If LESSOR consents to LESSEE'S request not to repair and/or replace, then the insurance proceeds shall be prorated between the LESSOR and the LESSEE based upon the time period left in the LEASE before the reversion of all structures and improvements (fixtures) to the LESSOR (example: if LESSOR consents to LESSEE'S request not to repair and/or replace and the lease is in the 28th year of a 30-year lease, the insurance proceeds would be dispersed 28/30th to the LESSOR and 2/30th to the LESSEE).

As soon as is reasonably possible after damage and/or destruction to the buildings, improvements, betterments and equipment, but no later than eighteen (18) months after said damage and/or destruction, LESSEE shall, at the LESSEE'S sole expense (using insurance proceeds available for that purpose, along with LESSEE'S own funds), commence to either repair or restore the buildings, improvements, betterments and equipment as completely as possible to their condition immediately prior to the damage, or, in the alternative, replace the structures, improvements, betterments and equipment with structures approved in advance, in writing, by LESSOR.

In the event any insurance proceeds of such policy shall remain unused after the completion of restoration or rebuilding to the LESSOR'S satisfaction, evidenced in writing, and if the LESSEE

shall not be in default under the LEASE, then the remaining funds shall be paid to LESSOR for any unpaid rent and other sums due, with any remaining sum paid to the LESSEE.

(a) All insurance required by this Section shall be with a company licensed to do business in the state of Florida, and be otherwise satisfactory to the LESSOR.

(b) Recognizing the extended term of the LEASE, LESSEE agrees that the LESSOR shall have the right to periodically review the adequacy of the required insurance and amend the insurance requirements of this section. Factors which may be considered include, but are not limited to, changes in generally accepted insurance industry standards and practices, changes in LESSEE'S use of the Premises, measurable changes in local and national economic indicators and changes in City policies and procedures.

(c) The insurance policies shall name the LESSOR as an additional insured for liability insurance and as loss payee for property insurance and shall include provision for at least thirty (30) days advance notice to LESSOR by the insurer prior to any policy change, amendment, termination or expiration of coverage. LESSEE shall cause the insurer to provide proof of the required insurance to the LESSOR before LESSEE takes possession of the Premises and shall cause the insurer to continue to supply such proof to the LESSOR for each term of coverage. LESSEE'S insurance shall be primary and any other insurance maintained by the City shall be in excess of and shall not contribute with LESSEE'S insurance.

(d) In the event that LESSEE should fail for any reason to procure or maintain insurance coverage at the minimum amounts required herein, or at the written request of LESSEE, LESSOR, at LESSOR's sole discretion, may secure insurance coverage at LESSEE's expense, or may declare LESSEE in default. LESSEE shall reimburse LESSOR for the cost of such insurance coverage secured by LESSOR within thirty (30) days of LESSEE's receipt of an invoice from LESSOR for

such insurance coverage. LESSEE shall be responsible for the payment of any applicable deductibles set out in the insurance policy secured by LESSOR.

Section 10.3. Commercial Auto Insurance.

LESSEE shall maintain commercial auto insurance for replacement value and automobile liability insurance for the ARFF vehicle(s). The liability insurance shall be a combined single limit of \$3,000,000.

Section 10.4. Worker's Compensation Insurance.

LESSEE shall maintain worker's compensation insurance meeting mandatory statutory limits, and include:

- \$1,000,000 each accident.
- \$1,000,000 bodily injury by disease each employee.
- \$1,000,000 bodily injury by disease policy limit.

Section 10.5. Pollution Liability Insurance.

LESSEE shall maintain pollution liability insurance for sudden or gradual release of pollutants. Such coverage shall have a minimum limit of \$1,000,000 per occurrence.

Section 10.6. Additionally Insured.

LESSOR shall be named as an additional insured for liability insurance, and shall include provision of at least thirty (30) days' advance notice to LESSOR prior to any policy change, amendment, termination or expiration of coverage. LESSEE shall provide proof of the required insurance to LESSOR before each term of coverage. LESSEE's insurance shall be primary and any other insurance maintained by LESSOR shall be in excess of and shall not contribute with LESSEE's insurance. LESSEE shall be responsible for the payment of any applicable deductibles set out in the insurance. Certificates of all policies evidencing the insurance required, including renewal policies,

must be delivered to LESSOR. Each such policy or certificate shall contain a valid endorsement that such insurance will not be canceled or materially changed or altered without first giving advance written notice to LESSOR.

ARTICLE 11
CASUALTY

Section 11.1. Notice to LESSOR.

If the Premises, or any improvement thereon, is damaged or destroyed by fire, hurricane, tornado, or any other casualty, LESSEE shall promptly give written notice to LESSOR of the date and nature of such damage.

Section 11.2. Damage Due to Insurable Cause within Term, or Minor Damage.

If any improvements on the Premises are damaged and:

- (a) such damage: (1) occurs by fire, hurricane, tornado, or other casualty of the type which LESSEE is required to provide coverage for, or which is covered by any insurance policy carried by LESSEE; and (2) occurs within the Term (as set forth in Section 2.1 above); or
- (b) any building or buildings are damaged so as to collectively require, for Restoration, as defined below, an estimated expenditure of not more than ten percent (10%) of the full insurable value of all buildings on the Premises immediately prior to the casualty (as determined by an "Independent Architect" as defined below);

then:

- 1) LESSEE shall, at its own cost and expense, promptly repair, replace, and rebuild it, at least to the extent of the value and as nearly as practicable to the character of the Premises and improvements existing immediately prior to the occurrence of such damage (the "Restoration");

- 2) LESSEE's Restoration shall be made in accordance with the procedures set forth above for LESSEE's initial construction (including but not limited to LESSOR's review and approval of plans); and
- 3) In the event of a casualty resulting in a loss payment for the improvements in an amount greater than One-Hundred Thousand and No/100 Dollars (\$100,000.00) as adjusted by the change in the Rent from the commencement date of the date of the casualty, the proceeds of all insurance policies maintained by LESSEE attributable to the replacement of the improvements, but not LESSEE's personal property, shall be deposited in LESSOR and LESSEE's joint names in an escrow account at a bank or other financial institution designated by LESSOR, and shall be used by LESSEE for the repair, reconstruction, or restoration of the improvements. Such proceeds shall be disbursed periodically upon certification of the architect or engineer having supervision of the work that such amounts are the amounts paid or payable for the repair, reconstruction, or restoration. LESSEE shall obtain, and make available for LESSOR receipted bills and, upon completion of said work, full and final waivers of lien.
- 4) In the event of a casualty resulting in a loss payment for the improvements in an amount equal to or less than the amount stated above, the proceeds shall be paid to LESSEE, and shall be applied towards repair, reconstruction, and restoration. In the event the insurance company monitors the repair, reconstruction, or restoration of the improvements, the parties acknowledge that the proceeds may not be disbursed in advance of invoices from contractors, and therefore, not paid in advance, in order to escrow the proceeds. In the event the proceeds are not escrowed in advance of

payments due for the repair, reconstruction, or restoration of the improvements, the proceeds shall be jointly payable to LESSOR and LESSEE.

- 5) If the insurance proceeds are insufficient to pay the cost of Restoration, LESSEE must pay the shortfall. If the proceeds exceed the cost of Restoration, LESSEE will be entitled to the surplus, unless LESSEE is in default under this LEASE. In the latter event, the surplus must be applied to the default; the remainder, if any, will be paid to LESSEE.

An "Independent Architect" shall mean an architect or engineer that is licensed to practice in the state of Florida, who has experience in estimating cost of construction and repair, and who is selected by agreement between LESSOR and LESSEE; however, if the parties do not agree and LESSEE rejects or does not approve, within thirty (30) days of LESSOR's written proposal, any two (2) independent licensed architects or engineers, then the "Independent Architect" may be selected unilaterally by LESSOR (but shall not be one (1) of the two (2) originally proposed by LESSOR, if such architect(s) or engineer(s) were expressly rejected by LESSEE in writing within said thirty (30) day time period). If the parties cannot agree on selection of an Independent Architect, LESSOR may choose one of the architects authorized to be used by the LESSEE per CCNA procedures. In any event, the fee charged by the "Independent Architect" shall be split equally between LESSOR and LESSEE.

If the construction work on the Restoration has:

- 1) not commenced by the later of:
 - a. twelve (12) months after the insurance settlement; or
 - b. twenty-four (24) months after the casualty; or
- 2) has commenced but bona fide work is not actively continuing;

LESSOR shall give written notice to LESSEE, of LESSOR's intention to terminate the LEASE within sixty (60) days, unless LESSEE can demonstrate that LESSEE has made and continues to make diligent effort to commence or continue bona fide construction work, failing which this LEASE shall terminate at the end of said sixty (60) day period, and any and all remaining insurance proceeds (whether held by LESSOR, the leasehold mortgagee, or otherwise) shall be applied, first, to completing the required Restoration, and second, to paying off the leasehold mortgage (but only to the extent the leasehold mortgage secures amounts actually spent by LESSEE on improvements to the Premises, plus interest), and third, to LESSOR.

Section 11.3. Major Damage Due to Uninsurable Cause or Near End of LEASE Term.

If any building or buildings are damaged and:

- (a) such damage: (1) occurs by a cause, such as war or nuclear attack, not of the type which LESSEE is required to provide coverage for, and which is not covered by any insurance policy carried by LESSEE; or (2) the damage occurs after the end of the Term; and
- (b) the building or buildings are damaged so as to collectively require, for Restoration, an estimated expenditure of more than ten percent (10%) of the full insurable value of all buildings on the Premises immediately prior to the casualty (as determined by an "Independent Architect as defined above), then:

LESSEE shall have the option to elect to terminate this LEASE by providing written notice to LESSOR, in the manner provided herein, within six (6) months of the date of said casualty.

If LESSEE does not so exercise this option to terminate, then: (1) LESSEE shall, at its own cost and expense, promptly repair, replace, and rebuild it, at least to the extent of the value and as nearly as practicable to the character of the Premises and improvements existing immediately prior to the occurrence of such damage; (2) LESSEE's Restoration shall be made in accordance with the

procedures set forth above for LESSEE's initial construction (including, but not limited to, LESSOR's review and approval of plans); and (3) any and all insurance proceeds attributable to the replacement of the improvements, but not LESSEE's personal property, shall be deposited in LESSOR and LESSEE's joint names in an escrow account at a bank or other financial institution designated by LESSOR (or, if required by a leasehold mortgage approved pursuant to Article 7 above, to the leasehold mortgagee) to be used by LESSEE for the repair, reconstruction, or restoration of the improvements. Such proceeds shall be disbursed periodically upon certification of the architect or engineer having supervision of the work that such amounts are the amounts paid or payable for the repair, reconstruction, or restoration. LESSEE shall obtain, and make available to LESSOR, receipted bills, and upon completion of said work, full and final waivers of lien. In the event the insurance company monitors the repair, reconstruction, or restoration of the improvements, the parties acknowledge that the proceeds may not be disbursed in advance of invoices from contractors and therefore not paid in advance in order to escrow the proceeds.

In the event the proceeds are not escrowed in advance of payments due for the repair, reconstruction, or restoration of the improvements, the proceeds shall be jointly payable to LESSOR and LESSEE. If the insurance proceeds are insufficient to pay the cost of Restoration, LESSEE must pay the shortfall. If the proceeds exceed the cost of Restoration, LESSEE will be entitled to the surplus, unless LESSEE is in default under this LEASE. In the latter event, the surplus must be applied to the default; the remainder, if any, will be paid to LESSEE.

If LESSEE does so elect to terminate the LEASE, then any and all insurance proceeds received and receivable as a result of on account of casualty damage shall be payable, first, to paying off the leasehold mortgage (but only to the extent the leasehold mortgage secures amounts actually spent by LESSEE on improvements to the Premises, plus interest), and second, split between LESSOR and

LESSEE on a pro rata basis, with LESSEE's percentage share being equal to the time that was (but for the termination) remaining on the Term of this LEASE (as extended by any options already exercised prior to the date of the casualty) as of the date of the casualty, divided by the time between the Rent Commencement Date and the end of the Term of this LEASE as extended by any options already exercised prior to the date of the casualty, and LESSOR's percentage being the remaining share. (For the purposes of this paragraph, the "Term of this LEASE" refers to the term applicable to the land under the damaged building or buildings.)

Notwithstanding the preceding sentence, in the event LESSEE terminates this LEASE, LESSEE will pay LESSOR all rents and fees, which accrue, prorated as of the date LESSEE has so terminated and surrendered the Premises to LESSOR.

ARTICLE 12
GENERAL PROVISIONS

Section 12.1. Notice.

Notice to LESSOR shall be sufficient if sent by registered or certified mail, postage prepaid, or by a nationally recognized overnight delivery service (e.g. Federal Express, UPS, Airborne Express, or DHL), to:

City of Vero Beach
Attn: Airport Director
3400 Cherokee Drive
Vero Beach, Florida 32960

with copy to: City of Vero Beach
Attn: City Manager
P.O. Box 1389
Vero Beach, Florida 32961-1389

Section 12.2. Captions.

The captions within this LEASE are inserted for convenience only, and are not intended to define, limit, or describe the scope or intent of any provisions, and shall not be construed to affect, in any manner, the terms and provisions hereof or the interpretation or construction thereof.

Section 12.3. Breach of LEASE.

Any violation or breach of the duties and obligations imposed by the LEASE and incorporated documents and the rights and remedies on the part of LESSEE may result in the suspension or termination of this LEASE or such other action that may be necessary to enforce the rights of the parties to this LEASE.

LESSOR will provide LESSEE written Notice, describing the nature of the breach and any corrective actions LESSEE must undertake, and shall include a reasonable date by which to correct the breach. The duties and obligations imposed by the LEASE and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

Section 12.4. Time.

Time is of the essence in the performance of this LEASE.

Section 12.5. Governing Law; Forum Selection and Venue.

This LEASE shall become valid when approved by LESSOR's City Council and the Board of County Commissioners, Vero Beach, Florida; it will be deemed made and entered into in the state of Florida and will be governed by and construed in accordance with the laws of Florida. In the event that there is a change in ARFF Index under Part 139 as determined by the City, the City shall be responsible for any additional necessary training costs required by such change. In the event of a dispute between the parties, all actions or proceedings will be brought and litigated exclusively in the state courts located in Indian River County or in the federal courts located in St. Lucie County, Florida.

Section 12.6. Assignment.

This LEASE shall not be assigned, transferred, hypothecated, sold, mortgaged, or otherwise encumbered. Any such assignment, transfer, or encumbrance shall be null and void and without legal effect.

Section 12.7. Attorney's Fees and Costs.

In the event there arises between the parties any dispute or litigation regarding the terms and conditions of this LEASE, each party shall be responsible for its own attorney's fees and costs.

Section 12.8. Non-waiver of Rights.

This LEASE may only be modified, altered, or amended, in whole or in part, by a written instrument setting forth such changes and signed by all parties hereto. This LEASE and attachments hereto constitute the entire agreement and understanding between the parties and all other agreements and understandings between them, related to LEASE of the Premises, whether oral or written, are hereby deemed void and merged into this LEASE. LESSOR's acceptance of rent, or any act of forbearance concerning any breach or violation of this LEASE by LESSEE shall not be construed as a waiver of any rights LESSOR has hereunder. No delay or omission on the part of LESSOR in exercising any right hereunder shall operate as a waiver of such right or any other right.

Section 12.9. Administration of LEASE.

Whenever in this LEASE, LESSEE is required or permitted to obtain the approval of, consult with, give notice to, receive notice from, or otherwise deal with LESSOR, LESSEE shall deal with LESSOR's authorized representative; and unless and until LESSOR gives LESSEE written notice to the contrary, LESSOR's authorized representative shall be LESSOR's Airport Director.

Section 12.10. Airport Development.

LESSOR reserves the right to further develop, change, or improve the Airport and its routes and landing areas as LESSOR sees fit, without LESSEE's interference or hindrance and regardless of LESSEE's views and desires.

Section 12.11. LESSEE's Use and Construction to Comply with Federal Aviation Regulations.

LESSEE agrees to conform to all applicable Federal Aviation Regulations in any operation or construction on the Premises. LESSEE agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations (which may be amended or replaced by other regulations from time to time) before constructing any improvements or modifying or altering any structure on the Premises.

Section 12.12. LESSEE's Noninterference with Aircraft.; LESSOR Noninterference with Emergency Services.

LESSEE and its successors, assigns, and sublessees will not use the Premises or any part of the Airport in any manner, or act in any manner, that might interfere with any aircraft landing, taxiing, or taking off from the Airport or otherwise create a hazard. If this covenant is breached in any way, LESSOR reserves the right to enter the Premises and abate or eliminate the interference at the expense of LESSEE.

LESSOR will not unreasonably interfere with LESSEE's use of the Premises to provide Emergency Services.

Section 12.13. Maintenance of Premises and Equipment.

LESSEE agrees that LESSOR shall have no responsibility for the maintenance of the Premises, including any improvements thereon, and that LESSEE shall, at LESSEE's own expense, keep in good order and repair, inside and out, all buildings, including, but not limited to, the air conditioning, machinery, plumbing, wiring, pipes, gas, steam, electrical fittings, and all other

emergency services equipment. It shall be LESSEE's responsibility to keep the Premises clean and to dispose of all debris and other waste matter which may accumulate. LESSEE shall maintain the grounds, landscaping, and parking areas in accordance with the same standards by which LESSOR maintains the Airport grounds, landscaping, and parking areas.

ARTICLE 13
ADDITIONAL FAA CLAUSES

Section 13.1. Incorporation of Required Provisions.

The parties incorporate herein by this reference all provisions lawfully required to be contained herein by the FAA or any other governmental body or agency. In the event that the FAA or any successor requires modifications or changes in this LEASE as a condition precedent to the granting of funds for the improvement of the Airport, or otherwise, LESSEE agrees to consent to such amendments, modifications, revisions, supplements, or deletions of any of the terms, conditions, or requirements of this LEASE as may be reasonably required.

Section 13.2. Airport Protection.

It shall be a condition of this LEASE, that LESSOR reserves unto itself, its successors, and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for the navigation of or flight in the said airspace, and for use of said airspace for landing on, taking off from, or operating on the airport.

LESSEE agrees for itself, its successors, and assigns, to restrict the height of structures, objects of natural growth, and other obstructions on the Premises to such a height so as to comply with Federal Aviation Regulations, Part 77.

LESSEE agrees for itself, its successors, and assigns, to prevent any use of the Premises, which would interfere with or adversely affect the operation or maintenance of the Airport, or otherwise constitute an airport hazard.

Section 13.3. Non-exclusivity.

Notwithstanding anything herein contained that may be, or appear to be, to the contrary, it is expressly understood and agreed that the rights granted under this LEASE are non-exclusive and LESSOR reserves the right to grant the same or similar privileges to another lessee or other lessees on other parts of the AIRPORT.

ARTICLE 14
CONDEMNATION

Section 14.1. Complete Taking.

If the entire Premises are taken or condemned for any public or quasi-public use or purpose, by right of eminent domain, this LEASE will terminate on the date title to the Premises vests in the taking authority. Rent will be prorated to the date of termination.

Section 14.2. LESSEE's Option to Terminate in the Event of Partial Taking.

If a portion of the Premises (or all reasonable access to the adjacent roadways from the then-existing or comparable curb cut locations) shall be taken or condemned for any public or quasi-public use or purpose, by right of eminent domain, LESSEE shall have the option to terminate this LEASE by advance written notice to LESSOR, given at any time after the taking authority files its notice of taking, but no later than sixty (60) days after entry of the order of taking, specifying the date on which the LEASE will terminate, which date shall be the last day of any calendar month that falls within the period for giving LESSEE's notice of its election to terminate. Such condemnation does not include condemnation by the City. Rent will be prorated to the date of termination.

If LESSEE does not elect to exercise this option, then: (1) LESSEE will be entitled to participate in the award of the taking only to the extent an award is made for business damages; (2) LESSEE shall promptly restore the remaining portions of the Premises to a condition comparable to the condition of the Premises at the time of such taking; and (3) this LEASE shall continue in full force and effect except that the rent payable hereunder shall be equitably adjusted to take into account the portion or portions of the Premises lost by the taking.

Section 14.3. Award.

If this LEASE is terminated by reason of a taking, any compensation awarded for such taking of the Premises will be equitably apportioned between the LESSOR and LESSEE to reflect the respective values of the encumbered fee and the leasehold interest.

ARTICLE 15

CIVIL RIGHTS AND TITLE VI

Section 15.1. General Civil Rights Provisions.

LESSEE agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If LESSEE transfers any of its obligation to another, the transferee is obligated in the same manner as LESSEE.

This provision obligates LESSEE for the period during which the property is owned, used or possessed by LESSEE and the Airport remains obligated to the FAA. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

Section 15.2. Nondiscrimination – Title VI Assurances.

This LEASE is (or may be) subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR part 23. LESSEE, for itself, successors, and assigns, as part of the consideration hereof, does hereby covenant and agree that, (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination, (3) that LESSEE shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

In the event of breach of any of the above nondiscrimination covenants, LESSOR shall have the right to terminate the LEASE and re-enter as if said LEASE had never been made or issued; but this provision shall not be effective until the procedures of Title 49, Code of Federal Regulations, Part 21 are followed and completed, including exercise or expiration of appeal rights.

Section 15.3. Transfer of Real Property Acquired or Improved Under the AIRPORT Improvement Program.

(a) LESSEE, for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant

running with the land, that in the event facilities are constructed, maintained, or otherwise operated on the property described in this LEASE for a purpose for which a FAA activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, LESSEE will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent List of Nondiscrimination Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

(b) In the event of breach of any of the above Nondiscrimination covenants, LESSOR will have the right to terminate the LEASE and to enter, re-enter, and repossess said lands and facilities thereon.

Section 15.4. Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program.

(a) LESSEE, for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that, (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that LESSEE will use the Premises in compliance with all other requirements imposed by or pursuant to the List of Discrimination Acts and Authorities.

(b) In the event of breach of any of the above nondiscrimination covenants, LESSOR will have the right to terminate the LEASE and to enter or re-enter and repossess said land and the facilities thereon.

Section 15.5. Title VI List of Pertinent Nondiscrimination Acts and Authorities.

During the performance of this LEASE, LESSEE agrees to comply with the following non-discrimination statutes and authorities; including, but not limited to:

1. Title VI of the Civil Rights Act of 1964 (42 USC§ 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
2. 49 CFR part 21 (Non-discrimination in Federally- assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964);
3. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
4. Section 504 of the Rehabilitation Act of 1973 (29 USC§ 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
5. The Age Discrimination Act of 1975, as amended (42 USC§ 6101 et seq.) (prohibits discrimination on the basis of age);
6. AIRPORT and Airway Improvement Act of 1982 (49 USC§ 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
7. The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by

expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

8. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 - 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
9. The FAA's Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
10. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
11. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
12. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 et. seq.).

ARTICLE 16
DEFAULT; REMEDIES

Section 16.1. Defaults by LESSEE; Remedies.

(a) **Default in payment of Rent.** Should LESSEE fail to pay to LESSOR any installment of rent when due, LESSEE shall be deemed in default of the LEASE and LESSEE shall either cure such default or surrender possession of the Premises to LESSOR within seven (7) days, after written notice of the Default is served on LESSEE.

(b) **Defaults Other than Rent.** Should LESSEE fail to perform or comply with any of its obligations, covenants, conditions, agreements, or assurances, other than payment of rent, LESSEE shall be deemed in default of the LEASE and LESSEE shall either cure such default or surrender possession of the Premises to LESSOR within thirty (30) days after written notice of the Default is served upon the LESSEE.

(c) **Abandonment.** Should the LESSEE abandon the Premises, whether such abandonment is actually known to LESSOR or presumed, the Lessee shall be deemed in default of the LEASE. Absent actual knowledge by LESSOR of abandonment of the Premises, abandonment shall be presumed when: (1) LESSEE has been absent from the Premises for a Period of thirty (30) consecutive days; (2) LESSEE has not notified LESSOR in writing of the absence being intended; (3) the rent is not current; and (4) ninety (90) days have elapsed since service of a written notice on LESSEE of the default and LESSOR's intent to retake possession.

(d) **Right of Possession on Default.** LESSOR may retake possession of the Premises without judicial action upon surrender or abandonment of the Premises by LESSEE. Should Lessee fail to cure a default under the LEASE, or in the alternative to surrender or abandon possession of the Premises within the time provided, LESSOR shall have the right to recover possession of the Premises

as provided by law in an action for possession. LESSOR's retaking of possession of the Premises, whether by LESSEE's surrender or abandonment of the Premises, or by judicial action, shall not be deemed a waiver of any of LESSOR's other claims, rights or remedies and will not terminate the LEASE absent notice of termination by LESSOR. LESSOR may at any time after retaking possession or reletting, terminate the LEASE for the default because of which LESSOR reentered.

ARTICLE 17
HOLDOVER

If LESSEE remains in possession of the Premises after the LEASE expires or terminates for any reason:

- (a) Lessee will be deemed to be occupying the Premises as a Lessee from month-to-month at the sufferance of LESSOR; and
- (b) Lessee shall reimburse LESSOR for any additional damages, which LESSOR suffers by reason of Lessee's continued occupancy.

ARTICLE 18
TERMINATION

Section 18.1. Breach.

In the event of any breach or threatened breach by Lessee of any of the terms, provisions, agreements, or conditions in the LEASE, LESSOR shall have the right to invoke any right and remedy allowed at law or in equity or by statute or otherwise as through termination, reentry, summary proceedings, and other remedies not provided for in the LEASE.

Section 18.2. Surrender.

Upon the Termination of the LEASE and/or Expiration of the Term, or upon the termination

of LESSEE's right of possession, whether by lapse of time or at the option of LESSOR, LESSEE will at once surrender possession of the Premises to LESSOR and shall have a reasonable time to remove any personal property and equipment (non-fixtures) from Premises. If possession is not immediately surrendered, LESSOR may obtain possession of the Premises as provided by law (Section 83.05, Florida Statutes, or as that provision may be amended).

ARTICLE 19
CONSTRUCTION OF LEASE

Section 19.1. Merger.

This LEASE and its attachments set out the entire agreement between the parties. There are no implied covenants or warranties except as expressly set forth herein.

Section 19.2. Modification.

No provisions of this LEASE and the Attachments hereto may be amended, extended, or modified except by written instrument executed by all parties to the LEASE.

Section 19.3. Subordination.

The LEASE shall be subordinate and subject to the provisions of any existing or future contract between LESSOR and the United States, relative to the development, operation, or maintenance of the AIRPORT, the execution of which has been or may be required as a condition precedent to the expenditure of Federal funds for the development, operation, or maintenance of the AIRPORT.

Section 19.4. Severability.

If any part of the LEASE is found invalid or unenforceable by any court or any branch of the federal government having jurisdiction over the operation of the AIRPORT, including, but not limited to, the FAA, such invalidity or unenforceability shall not affect the other provisions of the LEASE if

the rights and obligations of the parties contained therein are not materially prejudiced and if the intentions of the parties can continue to be effectuated. To that end, the separate provisions of the LEASE are declared severable.

Section 19.5. Modifications by FAA.

If any branch of the federal government having jurisdiction over the operation of the AIRPORT, including, but not limited to, the FAA, deems any provision to be in non-compliance, the parties agree to delete, insert, or modify to the extent necessary to bring such provision into compliance.

Section 19.6. Review.

The parties hereto acknowledge that they were given the opportunity to have their legal counsel review this LEASE and attachments, as well as the Attachments noted herein, and the terms and provisions shall be construed neither against, nor in favor of, any party hereto, but rather, in accordance with the fair and ordinary meaning thereof.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have executed this LEASE on the date first written above.

[SIGNATURE PAGES TO FOLLOW]

LESSEE – INDIAN RIVER COUNTY EMERGENCY SERVICES DISTRICT
(This section to be completed by LESSEE only)

ATTEST:

By: _____
Jeffrey R. Smith
Clerk of Courts and Comptroller

By: _____
Peter D. O'Bryan
Chairman

Approved by BOCC: _____

Approved as to form and legal sufficiency:

Approved:

By: _____
Dylan Reingold
County Attorney

By: _____
Jason E. Brown
County Administrator

[SEAL]

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this ___ day of _____ 2022, by **PETER D. O'BRYAN, Chairman**, of the Board of County Commissioners, on behalf of **INDIAN RIVER COUNTY EMERGENCY SERVICES DISTRICT**, a dependent special taxing district, who is personally known to me or has produced _____ as identification.

Seal:

Sign: _____
Notary Public, State of Florida at Large
Print Name: _____
Notary Commission No.: _____
My Commission Expires: _____

LESSOR – CITY OF VERO BEACH
(This section to be completed by LESSOR only)

LESSOR: CITY OF VERO BEACH, a
Florida Municipal corporation

ATTEST:

By: _____
Tammy K. Bursick
City Clerk

By: _____
Robert Brackett
Mayor

[SEAL]

Date: _____

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this ___ day of _____ 2022, by **ROBERT BRACKETT**, the Mayor, and **TAMMY K. BURSICK**, the City Clerk, of the City of Vero Beach, Florida. Both are personally known to me.

Seal:

Sign: _____
Notary Public, State of Florida at Large
Print Name: _____
Notary Commission No.: _____
My Commission Expires: _____

ADMINISTRATIVE REVIEW
(For Internal Use Only–Sec. 2-77 COVB Code)

Approved as to form and legal sufficiency:

Approved as conforming to municipal policy:

John S. Turner
City Attorney

Monte K. Falls, P.E.
City Manager

Approved as to financial requirements:

Approved as to technical requirements:

Cynthia D. Lawson
Finance Director

J. Todd Scher
Airport Director