

Prepared By,
Record and Return to:

Alex Rosen, Esq.
Verotown, LLC
c/o Major League Baseball
1271 Avenue of the Americas
New York, New York 10020

**FIRST AMENDMENT TO THE AMENDED AND RESTATED FACILITY LEASE
AGREEMENT**

This FIRST AMENDMENT TO THE AMENDED AND RESTATED FACILITY LEASE AGREEMENT (“Amendment”) is made as of the __ day of January, 2021 (the “Effective Date”), by and between Indian River County, Florida, a political subdivision of the State of Florida (hereinafter referred to as the “County”), and Verotown, LLC, a Delaware corporation, (hereinafter referred to as “Verotown”).

RECITALS

A. **WHEREAS**, County and MiLB Vero Beach, LLC, a Florida limited liability company (the “Initial Tenant”) entered into that certain Facility Lease Agreement effectively dated May 1, 2009 whereby County leased that certain real property located in Vero Beach, Florida, and known generally as “Dodgertown” (the “Facility”) and being more particularly described in Exhibit “A” of the Agreement, as further amended by that certain First Amendment to Facility Lease Agreement by and between the County and the Initial Tenant effectively dated June 1, 2011, as further amended by that certain Second Amendment to Facility Lease Agreement by and between the County and Initial Tenant effectively dated January 1, 2012, as further amended by that certain Third Amendment to Facility Lease Agreement by and between County and Verotown effectively dated July 16, 2013, as further amended by that certain Fourth Amendment to Facility Lease Agreement by and between County and Verotown effectively dated January 21, 2014, and as further amended by that certain Fifth Amendment to Facility Lease Agreement by and between County and Verotown effectively dated April 1, 2014, and as further amended by that certain Amended and Restated Facility Lease Agreement by and between County and Verotown effectively dated January 2, 2019 (collectively referred to as the “Agreement”);

B. **WHEREAS**, pursuant to Section 13.02 of the Agreement, the Agreement may be amended in a writing executed by both parties;

C. **WHEREAS**, in order to modify certain terms of the Agreement, including certain rights and obligations associated with the Capital Improvements and additional contributions to the Capital Reserve Account, Verotown and the County now desire to amend the Agreement as hereinafter set forth, in accordance with the terms and conditions of this Amendment.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Verotown and the County hereby agree to amend the Agreement as follows:

1. Recitals; Defined Terms. The above Recitals are true and correct and are hereby incorporated herein by reference. All capitalized terms not defined herein shall be given the meanings ascribed thereto in the Agreement.
2. Additional Contribution to the Capital Reserve Account. The parties acknowledge and hereby agree, pursuant to Section 8.04(a) of the Agreement, County shall no longer be obligated to (i) remove and replace the press box at Holman Stadium (including the stairs leading up to the current press box) (the "Press Box"); and (ii) replace the first and third base concession stands at Holman Stadium. It being acknowledged and agreed by County and Verotown that Verotown shall renovate the Press Box, repair the roof of the home plate concession stand and renovate the home plate and third base restrooms at Holman Stadium (collectively, the "New Renovations") pursuant to Section 8.05(a) of the Agreement, as herein amended. Verotown's obligation to perform the New Renovations shall be conditioned upon the following: (i) on the Effective Date hereof, or such later date as may be mutually agreed to by the parties, the County shall deposit into the Capital Reserve Account the sum of Two Million and Fifty Thousand and No/100 Dollars (\$2,050,000) to cover the costs of the New Renovations (the "New Renovation Fund Amount"); and (ii) prior to the commencement of the New Renovations, and subject to Verotown's reasonable satisfaction, complete the County Improvements as outlined in Sections 8.04(a)(1) and 8.04(a)(2) of the Agreement, as amended. Notwithstanding the foregoing, nothing herein or in the Agreement shall release County of its obligations to remove the existing first and third base concession stands as contemplated in Section 8.04(a) of the Agreement.
3. County Approval of the New Renovations. Pursuant to Section 8.01 of the Agreement and notwithstanding anything in the Agreement to the contrary, County hereby approves and grants to Verotown the New Renovation Fund Amount to be used by Verotown in accordance with Section 8.05(b) of the Agreement, as amended; and such amount shall not be subject to any restriction outlined in Section 8.02 of the Agreement. Verotown is not required to obtain County approval for the design of the replacement Press Box. Verotown is required to obtain all necessary site plan approvals and building department permits as required by law. In accordance with the provisions of Section 8.01 of the Agreement, the expenditures to be made for the New Renovations will be subject to the approval of the County, which approval shall not be unreasonably withheld, unreasonably conditioned or unreasonably delayed, and will be granted in accordance with Section 8.03 of the Agreement.
4. Section 1.02 of the Agreement is hereby amended by adding the following defined term in the proper alphabetical order:

““Press Box” means the existing press box at Holman Stadium, including the stairs leading up to the press box as of the Effective Date.”

5. Section 4.05 of the Agreement is hereby amended by deleting “Chris Haydock” and inserting “Rachelle Madrigal” in lieu thereof.
6. Section 8.03(c)(i) of the Agreement is hereby amended by deleting “Twelve Million Four Hundred Thousand and No/100 Dollars (\$12,400,000)” and inserting “Fourteen Million Four Hundred Fifty Thousand and No/100 Dollars (\$14,450,000)” in lieu thereof.
7. Section 8.04(a) of the Agreement is hereby amended to extend the time frame for completion of certain County Improvements described in Sections 8.04(a)(5), to four (4) years from the Effective Date.
8. Section 8.04(a)(1) of the Agreement is hereby deleted in its entirety and replaced with the following in lieu thereof:

“1. removal of the first base concession stand at Holman Stadium;”
9. Section 8.04(a)(2) of the Agreement is hereby deleted in its entirety and replaced with the following in lieu thereof:

“2. removal of the third base concession stand at Holman Stadium;”
10. Section 8.04(a)(3) of the Agreement is hereby deleted in its entirety and replace with the following in lieu thereof:

“3. RESERVED.”
11. Section 8.04(a)(4) of the Agreement is hereby amended by deleting “August 31, 2019” and inserting “March 31, 2020” in lieu thereof, however, notwithstanding the provisions of Section 7 of this Amendment, the County shall complete the jointly identified mold remediation at the following areas of the Existing Facility in accordance with the following timelines: (i) Conference Center within one (1) year from receipt of certificate of completion on the current Conference Center roof project; (ii) Vero Beach Dodger Office (Ticket Office) upon the earlier of eight (8) months after receipt of a satisfactory indoor air quality assessment from the County’s consultant and July 1, 2022; and (iii) Executive Building no earlier than the completion of the permanent roof in accordance with Section 16 of this Amendment and no later than December 31, 2023.
12. Section 8.05(a) of the Agreement is hereby amended to extend the time frame for completion of certain Verotown Improvements described in Sections 8.05(a)(7), 8.05(a)(8), 8.05(a)(11) to four (4) years from the Effective Date and 8.05(a)(5), 8.05(a)(10), and 8.05(a)(12) to five (5) years from the Effective Date.
13. Section 8.05(a) of the Agreement is hereby amended to add new Sections 8.05(a)(14), 8.05(a)(15), 8.05(a)(16) and 8.05(a)(17) which shall read as follows:
 14. Renovation of home plate restrooms at Holman Stadium;
 15. Renovation of third base restrooms at Holman Stadium;

16. Renovation of the Press Box at Holman Stadium; and
 17. Repair the roof of the home plate concession stand at Holman Stadium.
14. The first sentence of Section 8.05(b) of the Agreement is deleted in its entirety and replaced with the following in lieu thereof:
- “Up to fifty percent (50%) of the costs of the Verotown Improvements identified in paragraphs (a)(1) through (a)(13) above will be eligible for reimbursement to Verotown from the Capital Reserve Account. The Verotown Improvements identified in paragraphs (a)(14) through (a)(17) above shall be eligible for full reimbursement from the County from the Capital Reserve Account. Should the costs of the Verotown Improvements identified in paragraphs (a)(14) through (a)(17) above be less than Two Million Fifty Thousand and No/100 Dollars (\$2,050,000), any difference may be used for any past, current or future Capital Improvement, Repairs and Replacements or Facility maintenance as determined in Verotown’s sole discretion.
15. Section 13.01 of the Agreement is hereby amended by deleting “245 Park Avenue, New York, New York 10167” and inserting “1271 Avenue of the Americas, New York, New York 10020” in lieu thereof.
16. Executive Building Roof. The County and Verotown hereby acknowledge that the temporary roof of the Executive Building constructed by the County does not satisfy the County Improvement obligations identified in the Agreement or this Amendment. The parties agree that the County remains obligated to replace such temporary roof with a permanent roof and the construction on such permanent roof shall commence on or before September 23, 2022 (with the County to complete such construction to Verotown’s reasonable satisfaction as soon as reasonably possible following its commencement but not later than March 31, 2023). In addition to completing the construction of the permanent roof on or before March 31, 2023, the County shall complete its obligations to remediate any mold in the Executive Building after the installation of the permanent roof and prior to December 31, 2023.
17. Additional Insurance. Until the completion of the permanent roof replacement pursuant to Section 16 of this Amendment, in addition to the obligations set forth in Section 8.04(e) of the Agreement, the County agrees to reimburse Verotown up to One Hundred Thousand and No/100 Dollars (\$100,000.00) in documented business interruption losses that result from a roofing failure of the roof of the Executive Building that prevents Verotown from fully utilizing the Building for its intended purpose.”
18. Due Diligence. Within twenty (20) days of the Effective Date, County shall deliver to Verotown copies of all documents related to any construction activities of the Press Box and the first and third base concession stands, including, but not limited, to any environmental reports, asbestos inspections, and architectural construction and engineering documents (collectively, the “Documents”). No later than twenty (20) days after the

completion of the County's removal of the first and third base concession stands, County shall deliver to Verotown any additional and/or updated Documents.

19. Assignment of Existing Contracts. In the event Verotown, in Verotown's sole and absolute discretion, elects to assume any contract related to the Press Box and/or first and third base concession stands, County shall use its best efforts to effectuate the assignment. Notwithstanding the foregoing, nothing in this Amendment or the Agreement shall require Verotown to assume any contract related to the Press Box or the first and third base concession stands currently entered into by County.
20. Indemnification; Release by County. To the extent permitted by Florida law, in addition to County's indemnification obligations under the Agreement, County agrees to indemnify, save and hold Verotown harmless from any and all Losses (as defined in the Agreement) arising or occurring prior to the completion of the New Renovations and the permanent roof of the Executive Building that are directly related to the New Renovations or the roof of the Executive Building; provided that the County will not be responsible for any Losses related to the New Renovations or the roof of the Executive Building that are directly caused by the gross negligence or willful misconduct of Verotown and any liability of the County shall be reduced proportionately to the extent of any contributory fault chargeable by Verotown. In the event that the Agreement should terminate and/or Verotown should ever cease to be the lessee under the Agreement, the County does hereby release and forever discharge Verotown and its respective affiliates, subsidiaries and direct or indirect parent or affiliate entities and all present, former and future managers, directors, officers, agents, representatives, employees, successors and assigns of Verotown and/or its respective affiliates, subsidiaries and direct or indirect parent entities (collectively, the "Released Parties") against any and all claims, suits, controversies, actions, causes of action, cross-claims, counter-claims, demands, debts, compensatory damages, liquidated damages, punitive or exemplary damages, other damages, claims for costs and attorneys' fees, or liabilities of any nature whatsoever in law and in equity, both past and present and whether known or unknown, suspected, or claimed against the County or any of the Released Parties, which arise out of or are connected with the Facility, including without limitation, the New Renovations (the "General Release"). The Released Parties are intended to be third-party beneficiaries of this Amendment, and the General Release may be enforced by each of them in accordance with the terms hereof in respect of the rights granted to such Released Parties hereunder.
21. Bid Process. The County hereby finds that it is in the best interest of the County and its citizens to waive the requirements for bids and a public procurement process pursuant to the process defined by the Indian River County ordinance and hereby contracts with Verotown, as the lessee pursuant to the Agreement, to oversee and manage the New Renovations, specifically including the renovation of the Press Box. As such, Verotown is hereby authorized to independently determine the selection of any contractors, subcontractors and/or agents to perform the work associated with New Renovations and specifically including the renovation of the Press Box.
22. Effect of First Amendment. Except as specifically amended by this Amendment, the Agreement shall remain in full force and effect and as modified hereby, the Agreement is

ratified and confirmed in all respects. If any of the provisions of this Amendment, or the application thereof to any person or circumstance, shall, to any extent, be invalid or unenforceable, the remainder of this Amendment or the circumstances other than those as to whom or which it is held invalid or unenforceable shall not be affected thereby, and every provision of this Amendment shall be valid and enforceable to the fullest extent permitted by law. In the event of any conflict between the terms of this Amendment and the terms of the Agreement, this Amendment shall control.

23. Counterparts. This Amendment may be executed in two or more counterparts, and, when so executed, will have the same force and effect as though all signatures appeared on a single document. Any signature pages of this Amendment may be detached from any counterpart without impairing the legal effect of any signature thereon and may be attached to another counterpart identical in form thereto but having attached to it one or more additional signature pages. Electronically transmitted signatures shall be deemed original signatures.
24. Further Assurances. The County and Verotown shall do and perform, or cause to be done and performed, any and all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of the Agreement and this Amendment.
25. Construction; Assignment of Construction Warranties. The County and Verotown hereby agree to utilize commercially reasonable efforts to complete all construction described in the Agreement and the Amendment. Further, the County and Verotown hereby agree to hold any and all warranties for construction described in the Agreement and the Amendment jointly and severally.
26. Captions and Headings. The captions and headings in this Amendment are for reference only and shall not be deemed to define or limit the scope or intent of any terms, covenants, conditions or agreements contained herein.

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IN WITNESS WHEREOF, the undersigned have executed this Amendment as of the day and year first above written.

VEROTOWN, LLC

By: Office of the Commissioner of Baseball, its Sole Member

[Seal]

By: [Signature]

Name: Rachelle Madrigal

Title: Managing Director

Attest:

Secretary

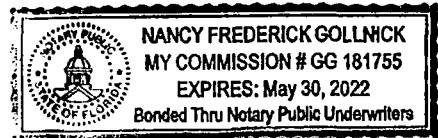
STATE OF FLORIDA)
)ss:
COUNTY OF INDIAN RIVER)

The foregoing instrument was acknowledged before me this 16th day of February, 2021, by, RACHELLE MADRIGAL of Verotown, a Delaware corporation, on behalf of such entity. He is personally known to me or produced a valid driver's license as identification.

[Signature]
Notary Public

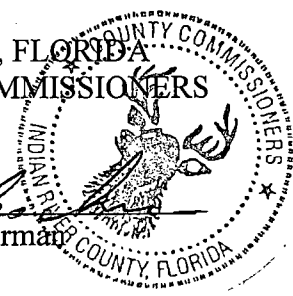
Print Name: NANCY FREDERICK GOLLNICK

My commission expires: May 30, 2022



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DATE
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INDIAN RIVER COUNTY, FLORIDA
BOARD OF COUNTY COMMISSIONERS



By: Joseph E. Flescher
Joseph E. Flescher, Chairman

Approved by BCC: February 9, 2021

Attest: Jeffrey R. Smith, Clerk of Court and
Comptroller

By: Shonda J. Furr
Deputy Clerk

Approved as to form and legal sufficiency:

Dylan Reingold
Dylan Reingold
County Attorney

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 12th day of February, 2021, by Joseph E. Flescher, Chairman of the Indian River County, Florida, Board of County Commissioners (check one) who is personally known to me or who produced _____ as identification.

Kimberly K. Moirano
Notary Public - State of Florida
Print Name: _____
My Commission expires: _____

