



VIRGIN ISLANDS PORT AUTHORITY

Post Office Box 301707

ST. THOMAS, VIRGIN ISLANDS U.S.A. 00803-1707

TEL: (340) 774-1629 • FAX (340) 774-0025

www.viport.com

September 22, 2025

**Eddy Benoit
Managing Member
Benoit Group, LLC
Marsh Creek Village
6780 Roswell Road NE, Suite 200
Atlanta, GA 30328**

Re: Lease Agreement – Virgin Islands Port Authority and Benoit Group, LLC

Dear Mr. Benoit,

On behalf of the Virgin Islands Port Authority, I am pleased to inform you that the referenced Lease Agreement has been fully executed in accordance with legal requirements and is now a binding contractual document.

The effective date of this lease will be the first day of the month following the approval of the lease by the Governor of the Virgin Islands, which is October 1, 2025.

Please be reminded of the initial Lessee's obligations under the agreement, including:

Article 3A(1) – Access Fee:

A fee of Three Hundred Thousand Dollars (\$300,000.00) shall be paid to the Authority within 180 days (6 months) after either:

- The lease approval by the Governor, or***
- The financial closing of the project, whichever occurs first.***

Other fee payment obligations will have expected adherence.

Please also review the lease for any additional obligations related to rent, insurance, and other provisions as outlined.

Enclosed, you will find a copy of the executed lease for your records. We also include a copy of the Development Agreement for the subject property at Lindbergh Bay No. 68A.

Benoit Group, LLC

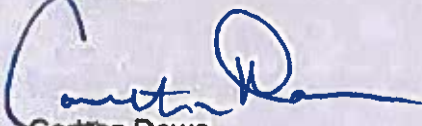
Lease Agreement between the Virgin Islands Port Authority and Benoit Group, LLC

September 22, 2025

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Should you have any questions, please contact Attorney Vincent Frazer at (340) 774-1629 or via email at vfrazier@viport.com.

Sincerely,



Carlton Dowe

Executive Director

cc:

Catherine Hendry, Esq., General Counsel - VIPA

Vincent Frazer, Esq., Staff Attorney - VIPA

Ava Penn, Director of Financial Affairs and Acting Property Manager - VIPA

Verna Thomas, Property Management Officer - VIPA

Clive Rivers, Esq, Attorney - Benoit Group, LLC

Torian Priestly, Chief Development Officer - Benoit Group, LLC



THATCH FARM LEASE AGREEMENT

BETWEEN

THE VIRGIN ISLANDS PORT AUTHORITY

AND

BENOIT GROUP, LLC

VIRGIN ISLANDS PORT AUTHORITY
THATCH LEASE AGREEMENT
BENOIT GROUP, LLC

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VIRGIN ISLANDS PORT AUTHORITY
THATCH FARM LEASE AGREEMENT
BENOIT GROUP, LLC

LEASE AGREEMENT

THIS LEASE AGREEMENT made and entered into this 1 day of October, 2025 by and between the **VIRGIN ISLANDS PORT AUTHORITY**, P. O. Box 301707, St. Thomas, Virgin Islands 00803-1707 (hereinafter referred to as "AUTHORITY") and **BENOIT GROUP, LLC** of Marsh Creek Village 6780 Roswell Road NE, Suite 200 Atlanta, GA 30328 (hereinafter referred to as "LESSEE").

WITNESSETH:

WHEREAS, AUTHORITY by Acts 2375 and 2405 ("hereinafter referred to as "the Acts") is charged with the responsibility of administration, management, and operation of public airport and marine facilities in the Virgin Islands; and certain real properties incidental thereto;

WHEREAS, AUTHORITY is the owner of the real property known as No. 68A Estate Lindberg Bay 4A Southside Quarter St. Thomas, U.S.V.I. (Hereinafter, "Leased Premises") which is considered a portion of airport properties held for the purpose of supporting the operations of the Cyril E. King Airport; and

WHEREAS, the LESSEE is proposing to develop an Affordable Housing Complex on the Lease Premises. The AUTHORITY is willing to have an affordable housing community on the Leased Premises as non-aeronautical use of a portion of the airport properties; and

WHEREAS, the use of the airport properties for non-aeronautical purpose is subject to the approval of the Federal Aviation Administration of the U.S. Department of Transportation; and

WHEREAS, the Governing Board of the AUTHORITY approved and authorized the Executive Director to execute a lease Agreement with the AUTHORITY at the meeting of June 16, 2021.

NOW, THEREFORE, the parties in consideration of the covenants and mutual promises contained in this Lease, hereby agree to the following:

ARTICLE 1. LEASED PREMISES AND USE

A. Leased Premises.

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Authority hereby leases to Lessee the following described Leased Premises (hereinafter referred to in this Lease as the "Leased Premises"):

Estate Lindberg Bay No. 68 A
No. 4A Southside Quarter
St. Thomas, U.S. Virgin Islands
Consisting of 4.798 Acres as shown on
PWD No. D9-775-T69
Exhibit A attached hereto.

B. Use.

The Leased Premises are to be used for the purpose of the construction and management of an affordable housing development for low and moderate residents and elderly residents. (Hereinafter referred to as "**PLANS**"). Lessee agrees that it shall acquire all licenses and approvals and shall abide by all local laws, rules, and regulations applicable to this purpose and project. Lessee further agrees that it shall not allow any use at the Leased Premises that is prohibited by any federal or local law, rule or regulation or any use which would invalidate any policy of insurance, now existing or herein written of the airport properties of Authority or Lessee.

ARTICLE 2. TERM AND OPTION

A. Base Term.

This Lease shall be for forty (40) Years beginning on the first day of the month after the latest occurrence of either the 1) the approval by the Governor of the Virgin Islands or 2) upon the commencement of the construction of the housing development designed in the "Plans," on the Lease Premises (hereinafter referred to as the "Effective Date").

ARTICLE 3. AUTHORITY'S COMEPENSATION

In lieu of a monthly rent payable to the AUTHORITY, Lessee shall make payment to AUTHORITY as follows:

A. Pre-Construction Fees

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1. Access Fee. A fee in the amount of Three Hundred Thousand Dollars (\$300,000.00) shall be paid to the AUTHORITY within 180 days after the approval of the lease by the Governor of the Virgin Islands or upon the financial closing of the project, whichever comes first.
2. Development Fee. Lessee shall pay to the AUTHORITY an amount equal to 1.1% of the project construction cost. Said development fee shall be paid as follows:
 - a. Twenty Five percent (25%) is payable at the financial closing for the project; and
 - b. Twenty Five percent (25%) payable upon the completion of the construction and receipt of the building occupancy permit from the Department of Planning and Natural Resources; and
 - c. Fifty percent (50%) payable within sixty (60) days after the stabilization of the tenancies in the housing development. Stabilization shall be upon establishment of 85% of the unit rentals.

B. Lease Term Rent

On or before the 31st day of March of the seventh (7th) anniversary of the effective date of this lease and every March 31st thereafter until the 15th anniversary of the effective date, the Lessee shall pay the AUTHORITY an amount equal to 15% of the Gross Receipts earned by the Lessee, less qualified expenses, as defined below.

Qualified Expenses shall mean include the following:

- Maintenance cost for maintain the improvements on the Lease Premises;
- Capital expenditures or Capital Reserves required by Article 4 of this lease;
- Gross Receipt Taxes or Excise taxes paid to the Government Of the Virgin Islands
- Insurance premiums paid for the buildings on the facility;
- Payroll cost for non-executive management staff.

C. Increase in Rent

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On the fifteenth (15th) anniversary of the effective date of the lease, the rent shall be re-negotiated by the parties for an increase based on fair market value. The new rent shall become effective on January 1st of the sixteenth (16th) anniversary. The fair market value shall be determined by the negotiation of the parties based on a current appraisal presented by the AUTHORITY. If the parties are unable to agree on a new rent, the Lessee may present its own appraisal completed by an appraiser licensed in the Virgin Islands. If the two appraisals are within 10% of each other's value, then the average of the two appraisals shall be considered the fair market rental value. If the two appraisals differ by more than 10% then the two appraisers of the appraisals presented by the AUTHORITY and the Lessee shall select a third appraiser who shall be provided with the two appraisals. The third appraiser shall make an independent appraisal and said appraisal shall determine the fair market rental value to be used as the new rent for the following ten (10) years. Thereafter, the parties shall use the same process for the future increase of the rent. In no event will the rent be less than the fair market rental value presented in the negotiation process. The Parties shall each contribute fifty (50%) of the cost for the third appraiser.

The Base Rent during any Holdover Tenancy shall be subject to Article 17 – Holding Over.

D. Books and Records

Lessee shall maintain, during the term of this Agreement and for a period of three (3) years thereafter or in the event of a claim by Lessor, until such claim of Lessor for payments hereunder shall have been fully ascertained, fixed, and paid, separate and accurate records of gross receipts, but in no event shall Lessee be required to maintain such records for a period greater than seven (7) years. The term "gross receipts" as used herein means the total amount collected annually as rent and other income paid to Lessee for use of the Leased Premises, whether for cash or on credit or partly for cash and partly on credit, and without any deductions other than the Qualified Expenses defined in Section B above. Provided, however, that any sums collected and paid out for any customs duties, any retail sales tax, retail excise tax, or gross receipts tax separately stated or imposed by any duly constituted governmental authority shall be excluded from the definition of gross receipts.

In accordance with generally accepted accounting principles, such records required to be kept by Lessee pursuant to this Section shall show in detail all business done or transacted in, on, about or from or pertaining to each of the Leased Premises. The Lessee shall enter all receipts arising from such business in regular books of account, and all

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entries in any such records or books shall be made at or about the time the transactions respectively occur. Pertinent original sales records to be maintained and kept by Lessee include the following:

- a. Contracts and lease agreements of all rental units;
- b. The original records of reservations made at and for the Leased Premises;
- c. Memorandum receipts or other records of merchandise taken out on approval;
- d. Bank deposit records;
- e. Such other records, if any, which would normally be examined by an independent accountant pursuant to accepted auditing standards in performing an audit of sales;
- f. Monthly financial reports submitted to parent company;
- g. Monthly Gross Receipts as submitted to the Virgin Islands Bureau of Internal Revenue; and
- h. Annual report of Gross Receipts as certified by an independent accountant.

In addition, the Lessee shall, throughout the term of this agreement, maintain annual reports of Gross Receipts derived from its operation under this Agreement, using a form and method which may be reasonably directed by Lessor. Upon Lessor's written request, Lessee shall make available within a reasonable time any and all books, records and accounts pertaining to its operations under this Agreement. The intent and purpose of the provisions of this section are that the Lessee shall keep and maintain records that will enable the Lessor to clearly and accurately ascertain, determine and audit, if so desired by Lessor, the amount of Gross Receipts received by Lessee. The form and method of Lessee's reporting of Gross Receipts shall be adequate to provide a control and test check of all revenues derived by Lessee under this Agreement.

Should any examination, inspection and audit of Lessee's books and records by Lessor disclose an underpayment by Lessee in excess of three percent (3%) of the total annual consideration due, which underpayment successfully withstands any and all challenges thereto asserted by the Lessee, the Lessee shall, in addition to promptly paying Lessor the amount of such underpayment, reimburse Lessor for all costs reasonably incurred in the conduct of such examination, inspection, and audit. In the event that Lessor

deems it necessary to use the services of legal counsel in connection with collecting the reimbursement for such examination, inspection and audit, the Lessee shall reimburse Lessor for reasonably attorney's fees and litigation expenses as part of the aforementioned costs incurred.

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Not later than ninety (90) days after each anniversary of the commencement of the Term of this Agreement or the end of the fiscal year of the Lessee, Lessee shall furnish to Lessor a copy of the Lessee's filed VIBIR Form 720b stamped by Virgin Islands Bureau of Internal Revenue, and an annual report of the Gross Receipts derived from the sales and Services permitted hereunder. Said report shall not be made public except as required by local and/or federal law enforcement of taxing agencies.

ARTICLE 4. CAPITAL RESERVE

Commencing on the January 1st of the Tenth (10th) anniversary, Lessee shall, at Lessee's sole cost and expenses spend or reserve a minimum of the greater of (a) Two Percent (2%) of the rental income per annum or (b) \$20,000.00 per annum as a capital reserve (the "Capital Reserve") for reinvestment in the Leased Premises.

Absent a lender (as defined by Article 16) commencing March 1st of the Tenth (10th) anniversary, the Lessee shall provide quarterly reports to the AUTHORITY of capital improvements and expenses made to the Leased Premises in the prior three (3) months. In the event that the Lessee has not satisfied the Capital Reserve requirements during any calendar year, subject to credits as herein after provided, the Lessee shall deposit with the Lessor the balance required to satisfy the Capital Reserve requirements. In the event that Lessee's capital improvements and expenses for any calendar year exceed the Capital Reserve requirements, such amount shall be credited forward for ensuing calendar years. Within forty-five days (45) of the end of each calendar year, the Lessee shall submit annual accounting for the Capital Reserve and pay over to the Lessor such amounts, if any, as are required to satisfy the Capital Reserve requirements. Such accounting shall also set forth the amount by which the Lessee has exceeded the Capital Reserve requirements which amount shall be credited to the ensuing years' Capital Reserve requirements.

In the event that the Lessee's lender requires that the Lessee maintain a capital reserve with the lender, pursuant to lender requirements, the Capital Reserve may be established, maintained, controlled, disbursed, and administered by the lender but shall be used solely for the benefit of the Leased Premises. When the Capital Reserve is held by the lender, Lessee shall provide to Lessor a copy of documentation of the reserve requirements and copies of subsequent documentation requested by the lender.

Subject to Lessor's rights of review and approval of plans and specifications as provided for in the Original Lease, Lessee shall have the direction in determining the timing and the nature of capital improvements, subject only to any additional requirements set forth by the lender. Capital improvements may include, but not limited to, (a) any improvements of existing and new buildings, parking lot, electrical equipment; (b) any

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capital improvements defined by generally accepted accounting principles ("GAAP"); and (c) any fees and services associated with additional investments including, but not limited to, fees from architects, lawyers, banks, governmental agencies, environmental engineers, structural engineers, brokers, and appraisers, as may be capitalized in conformance with GAAP.

Any capital improvements made to the Leased Premises in excess of Capital Reserve requirements shall be credited towards subsequent Capital Reserve requirements shall be credited towards subsequent Capital Reserve contribution obligation(s). Lessee shall be paid funds from the Capital Reserve by the Lessor (or the lender as the case may be), from time to time, upon presenting a written request along with receipt(s) of capital expenditures or contract(s) for capital improvements to be expended. Any Capital Reserve funds not reinvested in the Leased Premises at the expiration of the lease term shall vest in Lessor. The Capital Reserve requirements set forth herein shall only apply to an arm's length transaction with a third-party transferee and shall terminate and not apply after any foreclosure or transfer in lieu of foreclosure to a lender or any designee of a lender.

ARTICLE 5. UTILITY SERVICES

The Lessee shall make separate arrangements and pay for all utility services and shall cause and pay for the installation of these services. Lessee shall hold AUTHORITY and the premises, free and harmless from all charges for the furnishing of utility services to the said premises during the term of this lease. Lessee shall remove all garbage and rubbish from the leased premises during the term of this lease. All installation of utilities shall be in accordance with Article 14 - Lessee to Build or Improve.

ARTICLE 6. NOTICES

Wherever in this Lease it is required that Lessee send notice to Authority or apply for prior approval, consent, or permission thereof which may be required by the terms and conditions of this Lease, or for any purpose; or whenever it is required that Authority notify Lessee, for any purpose, such notice (or application) to Authority or to Lessee shall be deemed sufficient and completed when sent and delivered certified mail, return receipt requested, addressed to said authority to the attention of:

EXECUTIVE DIRECTOR
VIRGIN ISLANDS PORT AUTHORITY
P. O. BOX 301707
ST. THOMAS, VIRGIN ISLANDS 00803-1707; and

VIRGIN ISLANDS PORT AUTHORITY
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addressed to Lessee and directed to the attention of:

EDDY BENOIT
BENOIT GROUP, LLC
Marsh Creek Village
6780 Roswell Road NE, Suite 200
Atlanta, GA 30328

and to such other respective addresses as the parties may designate in writing from time to time. In lieu of certified mail, personal delivery, or other mutually agreeable method of communication with receipt confirmation is deemed sufficient.

ARTICLE 7. REQUIRED INVESTMENT BY LESSEE

a. The Lessee shall, at its cost and expense, demolish the existing structures on the Leased Premises. Prior to the commencement of the demolition the Lessee takes all necessary steps to procure the proper permits for demolition.

b. Lessee shall, at Lessee's sole cost and expense, construct, or cause to be constructed a multi-building affordable housing complex with no less than 100 residential units on the Leased Premises at a cost of no less than Fifty-five Million Dollars (\$55,000,000.00) in a manner and according to the approved plans referred in Article 8 of this agreement.

ARTICLE 8 - APPROVALS

Section 8.01 – FEDERAL APPROVAL

This Lease is subject to approval by the Federal Aviation Administration ("FAA") If the FAA disapproves this Lease, either party may terminate the Lease by providing written notice.

Section 8.02 – TERRITORIAL APPROVAL

This Lease, being in excess of one (1) year, shall be subject to and contingent upon the approval of the execution of same, by the Governor of the Virgin Islands pursuant to Title 29, Virgin Islands Code, Chapter 10, Section 543, or as amended.

ARTICLE 9 - PAYMENT OF FEES AND CHARGES

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Section 9.01 – GENERAL PAYMENT

All payments specified in Article 3 shall be paid promptly when due. Any payment remaining unpaid **thirty (30) days** after the due date shall be charged interest at a rate of one **percent (1%) per month** per month from the date it became due until it is paid by Lessee to Lessor. Any other charges, fees or late payment fees are also due on the first day of the month following the month in which the charges, fees or late payment fees were assessed. All payments of money required to be made by the Lessee to Authority hereunder shall be made when due in legal tender of the United States of America at Authority's office at its Administrative Offices, 8074 Lindberg Bay, St. Thomas, VI 00802 or mailed to its Executive Director at P.O. Box 301707, St. Thomas, VI 00803-1707, or at such other place as Authority may designate in writing. All payments shall be free from all claims, demands, set offs or counterclaims of any kind against Authority.

Section 9.02 – TERMINATION OF LEASE

The termination of this Lease by lapse of time or otherwise shall not relieve Lessee of its obligations to pay any rental fees, or other charges already accrued, nor shall Lessee be relieved of its future obligations to pay rent up to the original date of termination indicated by this Lease unless termination is due to default other than by Lessee.

ARTICLE 10 - RENT A SEPARATE COVENANT

Lessee shall not for any reason withhold or reduce Lessee's required payments of rent and other charges provided in this Lease. It is expressly understood and agreed by the parties that the payment of rents and additional fees is a covenant by Lessee that is independent of the other covenants of the parties hereunder.

ARTICLE 11 - LATE PAYMENT INTEREST

The parties hereto agree that the Authority may charge the Lessee interest at the rate of one and one **(1%) percent per month** on all amounts that are overdue in excess of thirty **(30) days** without further notice. Failure to pay same shall constitute grounds to terminate said Lease and/or recover possession of the Leased Premises.

The parties further agree that the charging of interest shall not affect nor limit any of the rights that Authority may have regarding eviction or any other actions or rights

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available to said Authority under the terms of this Lease.

ARTICLE 12 - BUSINESS OPERATION / CONDUCT AND BEHAVIOR

In the performance of its obligations hereunder and of the authorized use of the Leased Premises, Lessee shall pay all fees charged and obtain and keep current all licenses and permits to conduct any business at the Leased Premises as required by law.

Lessee shall conduct its operations in an orderly and proper manner consistent with sound and ethical business practice, as the term is customarily understood. If Lessee conducts its operations in a manner that **unreasonably** annoys, disturbs, or offends others near the Leased Premises, within 24 hours or as extended by Authority, Lessee shall remove the cause of any objection made by Authority relative to the demeanor, conduct or appearance of any the employees of the Lessee or others on the Leased Premises.

ARTICLE 13 - LEASED PREMISES REPRESENTATIONS

The Lessee acknowledges that it has not relied upon any representation or statement of Authority or its officers, employees, or agents as to the condition of the Leased Premises or the suitability thereof for the operations permitted on the Leased Premises by this Lease. The Lessee, prior to the execution of this Lease, has thoroughly examined the Leased Premises and has found the premises to be adequate for the Lessee's purpose as stated and determined them to be suitable for the Lessee's operation hereunder. Without limiting any obligation of the Lessee to commence operations hereunder at the time and in the manner stated elsewhere in this Lease, the Lessee agrees that no portion of the Leased Premises will be used initially or at any time during the letting which is in a condition unsafe or improper for the conduct of Lessee's operations hereunder. Before any use of the Leased Premises, the Lessee will immediately correct any such unsafe or improper condition.

Authority shall not be liable to the Lessee, or to any person, for injury or death to any person or persons whomsoever, or damage to any property whatsoever at any time in the Leased Premises, including but not limited to any such injury, death, or damage from falling material, water, rain, hail, gas, steam, or electricity, whether the same may leak into, or fall.

ARTICLE 14 - LESSEE TO BUILD

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Section 14.01 – CONSTRUCTION BY LESSEE

Lessee shall, at Lessee's sole cost and expense, construct a multi-building affordable housing complex with no less than 100 residential units on the Leased Premises at a cost of no less than Fifty-five Million Dollars (\$55,000,000.00) in a manner and according to the approved plans referred in Section 2 of this agreement. The Lessee shall submit in advance four (4) copies of the approved plans done by a U.S.V.I. licensed architect or engineer for the addition and/or alteration work and shall be solely responsible for the costs of construction and filing of the necessary plans and permits. In addition, Lessee shall deliver to Authority reproducible "as-builts" of improvements and additions no later than ninety (90) days following the substantial completion of any such addition and/or alteration.

Any and all demolition, construction and improvements shall be at the Lessee's sole risk and shall comply with any existing building codes, applicable leasehold development standards, and other existing regulations of any appropriate federal or local governing body. The Lessee shall obtain all necessary and required permits and approvals from federal and/or local authorities before commencing construction or alteration work on the Leased Premises.

No construction shall be permitted that does not comply with Part 77 of the Federal Aviation Administration Regulation or that may interfere with the landing and taking off of aircraft from or otherwise constitute a hazard or obstruction to the operations of the Cyril E. King Airport, St. Thomas, Virgin Islands.

Section 14.02 – TITLE TO IMPROVEMENTS

Title to all improvements constructed by or for Lessee shall remain in Lessee for the term of the Lease. Upon the termination or at the expiration of the lease agreement, title to all improvement constructed by Lessee or for Lessee on the lease premises and all equipment serving the improvements shall vest in the AUTHORITY and Lessee shall by appropriate documents convey same to AUTHORITY.

The removal by Lessee of any property installed by Lessee under the terms of this Lease shall be in compliance with Section 15.02.

At the expiration of the Lease term, Authority, at its sole discretion, reserves the right:

- (a) To require the Lessee to convey to the Authority, its successors or assignee,

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title to any or all improvements installed by Lessee. Title to all improvements constructed by or for Lessee shall vest in Authority and Lessee shall by appropriate documents convey same to Authority; or

Section 14.03 – LESSEE’S CONTRACTOR

Lessee shall, at its own expense, require contractors to obtain and furnish satisfactory evidence to Authority of statutory worker’s compensation insurance, commercial general liability, and automobile insurance, if applicable, and physical damage insurance, on a “builder’s risk” form with the interest of Authority endorsed thereon, in such amounts and in such manner as Authority may reasonably require. Authority may require additional types and amounts of insurance as Authority reasonably determines to be necessary. Such insurance or bond shall remain in force for the period of such construction, and thereafter until ninety (90) days from and after the date of completion (within the meaning of the laws of the Virgin Islands) thereof.

The Lessee shall also insure (or furnish a surety bond with respect to) any and all construction, alteration, of improvements of the Lessee at or upon the Leased Premises, against mechanic’s and/or material man’s liens arising from such work.

Section 14.04 – NO CRANE OPERATION WITHOUT FAA’S APPROVAL

The Lessee must coordinate and secure a determination from the Federal Aviation Administration of a no objection letter through Authority whenever it proposes to use a crane for maintenance and/or repairs at the Leased Premises.

Section 14.05 – COASTAL ZONE MANAGEMENT FEES

All fees or charges assessed or imposed by the Coastal Zone Management Commission of the Department of Planning and Natural Resources or the Government of the Virgin Islands, pursuant to the Virgin Islands Coastal Zone Management Act, Title 12, Chapter 21, Virgin Islands Code and any amendments thereto or successor laws thereof, in connection with any required coastal zone development permit pursuant to this agreement shall be borne exclusively by Lessee. Authority shall not be obligated to pay or reimburse Lessee for same. In no event shall Lessee be liable for any permit fees, rents, or charges by the Coastal Zone Management Commission for occupying the land hereby leased from Authority, any such fees, rents, or charges, if any, being for the account of Authority.

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ARTICLE 15 - TAXES AND ASSESSMENT

Lessee shall also pay all lawful taxes allocable to the Leased Premises with respect to leasehold improvements installed by Lessee, which may be assessed by any legally constituted taxing authority.

ARTICLE 16 – ENCUMBRANCE OF LEASEHOLD ESTATE

Section 16.01 – LESSEE'S RIGHT TO ENCUMBER

Lessee may, from time to time during the term of this lease and with the consent of Authority which will not be unreasonably withheld, encumber to any bank or financial institution, herein called "Lender", by deed of trust or mortgage or other security instrument all of Lessee's interest under this lease and the leasehold estate hereby created in Lessee for the purpose of securing monies advanced and used in constructing improvements on the leasehold premises; provided, however, that no encumbrances incurred by Lessee pursuant to this section shall, and Lessee shall not have the power to incur any encumbrances that will, constitute in any way a lien or encumbrance on the fee of said premises or any interest of Authority in said premises. Any encumbrances provided for herein shall be subject to the provisions of Article 16, herein, which provides for the Authority's right of first refusal upon default of Lessee, among other things.

Section 16.02 – REQUEST FOR NOTICE OF LOAN DEFAULT

Immediately after the recording of any deed of trust or mortgage executed by Lessee pursuant to Section 10.01 of this lease and containing a power of sale as defined by Virgin Islands law, Lessee shall at Lessee's own cost and expense, record in the office of the Recorder of Deeds, St. Thomas, Virgin Islands, a written request, provided, executed and acknowledged by Authority for a copy of any notice of default and a copy of any notice of sale under deed of trust or mortgage to be mailed to Authority at the address specified in the request by Authority.

Section 16.03 – NOTICE TO AND SERVICE ON LENDER

Authority shall mail to Lender, should Lessee incur any encumbrance pursuant to Section 10.01 of this lease, a duplicate copy of any and all notices Authority may from time to time give to or serve on Lessee pursuant to or relating to this lease. Lessee shall at all times keep the Authority informed in writing of the name and mailing address of the Lender and any changes to the Lender's mailing address. Any notices or other communications permitted by this or any other section of this lease or by law to be served

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on or given to Lender by Authority shall be deemed duly served on or given to Lender seven (7) days after being deposited with the United States Postal Service, mailed with first class postage prepaid, certified or registered mail, return receipt requested and addressed to Lender at the last mailing address or Lender furnished in writing to Authority by Lessee or Lender.

Section 16.04 – NO MODIFICATION WITHOUT LENDER'S CONSENT

Should Lessee incur any encumbrance pursuant to Section 10.01 of this lease, Lessee and Authority hereby expressly stipulate and agree that they will not modify this lease in any way nor cancel this lease by mutual agreement without the written consent of Lender having such encumbrance.

Section 16.05 – RIGHTS OF LENDER

Should Lessee incur any encumbrance pursuant to Section 10.01 of this lease, the Lender having such encumbrance shall have the right at any time during the term of this lease and the existence of this encumbrance to:

(a) Do any act or thing required of Lessee under this lease, and any such act or thing done and performed by Lender shall be as effective to prevent a forfeiture of Lessee's rights under this lease as if done by Lessee itself;

(b) Realize, after complying with Article 22.02 relating to the right of first refusal among other things, on the security afforded by the Leasehold estate by exercising foreclosure proceedings or power of sale or other remedy afforded in law or in equity or by the security document, herein called the "Trust Deed", and to:

1. Transfer, convey, or assign the title of Lessee to the leasehold estate created by this lease to any purchaser at any foreclosure sale, whether the foreclosure sale be conducted pursuant to court order or pursuant to a power of sale contained in the Trust Deed; and
2. Acquire and succeed to the interest of Lessee under this lease by virtue of any foreclosure sale, whether the foreclosure sale be conducted pursuant to court order or pursuant to a power of sale contained in the Trust Deed.

Section 16.06 – RIGHT OF LENDER TO CURE DEFAULTS

Should Lessee incur an encumbrance pursuant to Section 10.01 of this lease, before

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Authority may terminate this lease because of any default under or breach of this lease by Lessee, Authority must give written notice of the default or breach to Lender and afford Lender the opportunity after service of the notice to:

- (a) Cure the breach or default within sixty (60) days where the default can be cured by the payment of money to Authority or some other person;
- (b) Cure the breach or default within ninety (90) days where the breach or default must be cured by something other than the payment of money and can be cured within that time; or
- (c) Cure the breach or default in such reasonable time as may be required where something other than money is required to cure the breach or default and cannot be performed within ninety (90) days provided that acts to cure the breach or default are commenced within that time period after service of notice of default on Lender by Authority and are thereafter diligently continued by Lender.

Section 16.07 – FORECLOSE IN LIEU OF CURING DEFAULT

Notwithstanding any other provision of this lease, a Lender under an encumbrance incurred by Lessee pursuant to Section 10.01 of this lease may, after complying with the provisions of Article 22.02 in regard to the right of first refusal, among other things, forestall termination of this lease by Authority by commencing proceedings to foreclose this encumbrance on the leasehold estate created by this lease. The proceedings so commenced may be for foreclosure of the encumbrances by order of court or for foreclosure of the encumbrance under a power of sale contained in the instrument creating the encumbrance. The proceedings shall not, however, forestall termination of this lease by Authority for the default of breach by Lessee unless:

- (a.) They are commenced within sixty (60) days after service on Lender of the notice described in Section 10.06 of this lease;
- (b.) They are, after having been commenced, diligently pursued in the manner required by law to completion; and
- (c.) Lender keeps and performs all of the terms, covenants, and conditions of this lease requiring the payment or expenditure of money by Lessee until the foreclosure proceedings are complete or are discharged by redemption, satisfaction, payment, or conveyance of the leasehold estate to Lender.

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Section 16.08 – ASSIGNMENT WITHOUT CONSENT ON FORECLOSURE

Provided that Lender under any encumbrance incurred by Lessee pursuant to Section 10.01 of this lease complies with the provision of Article 22.02 of this lease regarding the right of first refusal of Authority, among other things, and gives written notice of transfer to Authority setting forth the name and address of the transferee as well as the effective date of the transfer, the written consent of Authority shall not be required for transfer of Lessee's interest under this lease to:

(a.) A purchaser at a foreclosure sale of the encumbrance whether the foreclosure sale can be conducted pursuant to court order or pursuant to a power of sale in the instrument creating the encumbrance; or

(b.) A purchaser from Lender after foreclosure where Lender was the purchaser of Lessee's interest at the foreclosure sale of the encumbrance and Lender is a recognized financial institution.

Section 16.09 – NEW LEASE TO LENDER

Notwithstanding any other provision of this lease; should this lease terminate because of the insolvency or bankruptcy of Lessee or because of any default under or breach of this lease by Lessee, Authority will execute a new lease for said premises to the Lender under encumbrance incurred by Lessee pursuant to Section 10.01 of this lease as Lessee, provided:

(a.) Lender has complied with the provisions of Article 22.02 of this lease.

(b.) A written request for the new lease is served on Authority by Lender within sixty (60) days after service on Lender of the notice described in Section 10.03 of the lease.

(c.) The new lease is for a term ending on the same date the term of this lease would have ended had not this lease been terminated, provided for the payment of rent at the same rate that would have been payable under this lease during the remaining term of this lease had this lease not been terminated, and contains the same terms, covenants, conditions, and provisions as are contained in this lease. Provided, however, that the new lease shall not contain the right to further encumber premises as set out in Section 10.01.

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(d.) Lender, on execution of the new lease by Authority, shall pay any and all sums that would at the time of the execution of the new lease be due under this lease but for its termination and shall otherwise full remedy, or agree in writing to remedy, any other defaults under or breaches of this lease committed by Lessee that can be remedied.

(e.) Lender, on execution of the new lease, shall pay all reasonable costs and expenses, including attorney's fees and court costs, incurred in terminating this lease, recovering possession of said premises from Lessee or the representative or Lessee, and preparing the new lease.

(f.) The new lease shall:

1. Extend the time for performance of any unperformed acts required by Item 7, Article 8 and elsewhere in this lease for such period as is equal to the delay in performance of this lease and for such period as is equal to the delay in performance of the act caused by Lessee's inability or failure to perform the act and the time required to terminate this lease and execute a new lease to Lender; and
2. Excuse the performance of any act required by Item 7, Article 8 and elsewhere in this lease that has already been performed by Lender, and Lender's assignee as Lessee under the new lease, shall be liable for payment of all costs and expenses incurred in the performance of any act required by Article 8 of this lease, whether performed before or after execution of the new lease, that might be alleged or claimed as a lien against said premises.

Section 16.10 – NO MERGER OF LEASEHOLD AND FEE ESTATES

Should Lessee incur any encumbrance pursuant to Section 10.01 of this lease then there shall thereafter, during the existence of the encumbrance, be no merger without the consent of Lender under such encumbrance of the leasehold estate created by this lease and the fee estate in said premises merely because both estates have been acquired or become vested in the same person or entity.

ARTICLE 17 - MAINTENANCE AND REPAIRS

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Section 17.01 – LESSEE'S OBLIGATIONS

Within twenty-four (24) months of the effective date of this lease agreement, Lessee shall at its sole cost and expense, commence the demolition of the existing buildings and structures and any accessory structures on the leased premises and dispose and remove all debris, final finish grading and prepare site for construction of the planned development as approved in "the Plan" identified in Article 8.

During the term of this lease Lessee shall, at Lessee's own cost and expense, construct and maintain a residential development and all improvements on the Leased Premises. Lessee shall construct buildings and improvements and have the right to make such alterations, improvements, and changes to any building or other structures which may from time to time be on the premises as Lessee may deem necessary, or to replace any such building or structure with a new one of at least equal value, provided that prior to making any substantial or material structural alterations, improvements, or changes or to replacing any such building or structure, Lessee shall obtain AUTHORITY's written approval of plans and specifications therefor, which approval shall not be unreasonably withheld, provided that the value of the building or structure shall not be diminished and the structural integrity of the building or structure shall not be adversely affected by any such alterations, improvements, or changes, or that any proposed new building or structure is at least equal in value to the one which it is to replace, as the case may be. In the event of disapproval, AUTHORITY shall give to Lessee an itemized statement of reasons therefore which shall be subject to the arbitration procedures specified in Section __. If AUTHORITY does not disapprove the plans and specifications provided for in this section within thirty (30) days after the same have been submitted to AUTHORITY, such plans and specifications shall be deemed to have been approved by AUTHORITY. Lessee will in no event make any alterations, improvements, or other changes of any kind to any building on the Leased Premises that will decrease the value of such building, or that will adversely affect the structural integrity of the building.

Nothing in this Article shall be construed to impose upon the Authority any obligations to construct, maintain or to make repairs to the Leased Premises. During the term of this lease, the Lessee shall be in exclusive control and possession of said Leased Premises.

Section 17.02 – REQUIREMENTS OF GOVERNMENTAL AGENCIES

At all times during the term of this lease, Lessee, at Lessee's own cost and expense, shall:

- a. Make all alterations, additions, or repairs to the Leased Premises or the

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improvements or facilities on said premises required by any valid law, ordinance, statute, order, or regulation now or hereafter made or issued by any federal, local, or other governmental agency or entity;

b. Observe and comply with all valid laws, ordinances, statutes, orders, and regulations now or hereafter made or issued respecting said premises or the improvements or facilities on said premises by any federal, local, or other governmental agency or entity; and

c. Indemnify and hold Authority and the property of Authority, including the Leased Premises, free and harmless from any and all liability, loss, damages, fines, penalties, claims, and action resulting from Lessee's failure to comply with and perform the requirements of this section.

ARTICLE 18 – ENVIRONMENTAL MATTERS

Section 18.01 – HAZARDOUS MATERIALS DEFINED

For purposes of this Lease, "Hazardous Materials" will mean any product, substance, chemical, material or waste whose presence, nature, quantity, and/or intensity or existence, use, manufacture, disposal, transportation, spill, release, or effect either by itself or in combination with other materials expected to be on the Leased Premises, now or in the future, is either: (i) potentially injurious to the public health, safety or welfare, the environment, or any part thereof; (ii) regulated or monitored by any governmental authority; or (iii) a basis for potential liability of Authority to any governmental authority or third party. Hazardous Materials will include but not be limited to, solvents, petrochemical products, explosives, asbestos, urea formaldehyde PCBs, chlorofluorocarbons, freon or any flammable, toxic, biological, corrosive, or radioactive materials.

Section 18.02 – HAZARDOUS MATERIALS PROHIBITED

Lessee shall not cause or permit any Hazardous Material to be generated, produced, manufactured, maintained, brought upon, transported, used, stored, treated, discharged, released, spilled, leaked, or disposed of on, in, under, or about the Leased Premises by Lessee or its employees, agents, contractors, affiliates, sublessees or assignees without the prior written consent of Authority (which consent may be withheld, conditioned or delayed by Authority in its sole and absolute discretion); provided, however, that notwithstanding the foregoing, Lessee shall have the right to use and store diesel fuel in connection with the operation of an approved back-up electrical generator, in accordance with all applicable laws, rules and regulations, after obtaining all applicable permits and approvals in keeping with Article 8.

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Section 18.03 – NOTIFICATION OF RELEASE OF HAZARDOUS MATERIALS

Lessee shall immediately advise Authority by telephone, followed up in writing, of any and all enforcement, cleanup, removal, claims made or threatened, or any release, discharge, or spill of Hazardous Materials, by Lessee, any third party, or other governmental or regulatory actions instituted, completed, or threatened pursuant to any Laws affecting the Leased Premises or adjoining or neighboring properties. Lessee shall provide copies to Authority in a timely fashion, in whatever capacity and in whatever form obtained, any and all information, test results, correspondence, or other data acquired in connection with Lessee's locating, remediating, removing, or disposing of Hazardous Materials on or about the Leased Premises, or regarding Lessee's notice of Hazardous Materials or enforcements, or otherwise, and in connection with Lessee's obligations under this Lease.

Section 18.04 – OBLIGATION TO REMEDIATE HAZARDOUS MATERIALS

A. Lessee, at its sole costs expense, covenants and warrants to promptly investigate, clean up, remove, restore, and otherwise remediate (including without limitation, preparation of any feasibility studies or reports, sampling, testing, and the performance of any and all closures) any spill, release, discharge, disposal, emission, migration, or transportation of Hazardous Materials caused by Lessee, its employees, agents, contractors, invitees, subtenants, or successors, on under, from or affecting the Leased Premises, in accordance with all applicable Laws and in accordance with the then current best practice as to such remediation, to the sole satisfaction of Authority. Such affected portions of Leased Premises and any adjacent property are to be returned to the condition existing prior to the appearance of such Hazardous Materials.

Lessee will not commence any remediation of Hazardous Materials in any way connected to Leased Premises, or any portion thereof, without first notifying Authority, in writing, of Lessee's intention to do so and affording Authority ample opportunity to appear, intervene, or otherwise appropriately assert and protect Authority's interest. Notwithstanding the foregoing, Lessee shall be entitled to respond immediately to an emergency without first obtaining Authority's prior written consent.

B. Upon expiration or earlier termination of this Lease, Lessee will, at Lessee's sole cost and expense, cause all Hazardous Materials brought to the Leased Premises and/or Facility by Lessee, its employees, agents, contractors, suppliers, licensees, invitees, to be removed from the Leased Premises in compliance with any and all applicable Hazardous Materials disposal laws. Lessee shall also be responsible for the safe and proper

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removal of all garbage and regulated substances it generates during its use and occupancy of the Leased Premises upon termination of this Lease at Lessee's sole cost and expense.

Section 18.05 – INDEMNIFICATION - HAZARDOUS MATERIALS

In addition to any other provision herein concerning indemnification, Lessee will indemnify, protect, defend and forever hold Authority, its officers, employees, agents and the Leased Premises, or any portion thereof, harmless from any and all damages, losses, liabilities, judgments, penalties, claims, obligations, attorneys' and consultant's fees, and other costs and expenses arising out of any failure of Lessee, its agents, contractors, employees, suppliers, licensees, or invitees to observe any Hazardous Materials Laws, whether knowingly, unknowingly, intentionally or unintentionally, or any covenants of this Article 12 of this Lease pertaining to environmental matters. All provisions of this Article 12 shall survive any termination of this Lease.

ARTICLE 19 - INSPECTION

Authority or any other Federal or local Government Agency shall have the right to enter upon the Leased Premises at all reasonable hours for the purpose of making an inspection in relation to the Lessee's operations, and the Lessee shall cooperate with such an inspection.

ARTICLE 20 - RIGHTS OF ENTRY RESERVED

Without limiting the generality of this Article, Authority, by its officers, employees, agents, representative, and contractors, and furnishers of utilities and other services, shall have the right, for its own benefit, for the benefit of the Lessee, or for the benefit of other tenants to maintain existing and future utility, mechanical, electrical and other systems and to enter upon said Leased Premises at all reasonable times to make such repairs, replacements or alterations as may, in the opinion of Authority, be necessary or desirable and from time to time, to construct or install over, in or under the Leased Premises new systems or parts thereof, and to use the Leased Premises for access to other parts of the airport properties not otherwise conveniently accessible. During such times as indicated above, there shall be no proration, abatement, or reduction of the rent due.

Nothing in this Article shall or shall be construed to impose upon the Authority any obligations, or additions, or shall create any liability for any failure to do so. The Lessee is and shall be in exclusive possession of the said demised Leased Premises and Authority shall not in any event be liable for any injury or damage to the Leased Premises nor to any property of the Lessee or of any other persons located in or thereupon, other than such

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injury or damage occasioned by the acts of Authority, its employees or agents, which shall be repaired or remedied by Authority at its expense.

At any time and from time to time during ordinary business hours within the three (3) months preceding the expiration of this Lease, Authority, by its agents, and employees, whether or not accompanied by prospective lessees, occupiers, or users of the Leased Premises, shall have the right to enter thereupon for the purpose of exhibiting and viewing all parts of the same. Authority shall be permitted to place a sign on such demised Leased Premises, indicating that said Leased Premises are for rent.

Nothing herein contained shall permit nor shall be construed to permit Authority to exercise any right of access or entry for any of the purposes denoted in this Article except at reasonable times and in such manner as to not unreasonably interfere with or hinder the use, occupancy, and enjoyment of the said Leased Premises by the Lessee.

ARTICLE 21 – REDELIVERY OF LEASED PREMISES

Section 21.01 – UPON TERMINATION OF LEASE

Promptly upon the termination or cancellation of this Lease, by expiration of its term or otherwise, Lessee shall at once surrender and deliver to Authority the Leased Premises and all improvements thereon to which Authority is entitled to hereunder.

ARTICLE 22 - ASSIGNMENT AND SUBLETTING

No request for, or consent to assignment or subletting, shall be considered unless Lessee shall have paid all rentals, fees, and charges due and owing to Authority and Lessee shall have otherwise met all other legal obligations to be performed, kept, and observed by it under the terms and conditions of this Lease or as this Lease may be subsequently amended. Authority reserves the right to investigate or request evidence of the financial capacity of the proposed assignee prior to making its decision.

Section 22.01 – NO ASSIGNMENT WITHOUT AUTHORITY'S CONSENT

The Lessee shall not, at any time, sell, mortgage, or pledge its interest in this Lease, leasehold improvements and/or personal property, either in whole or in part without the prior written consent of the Authority which consent shall not be unreasonably withheld when such pledge is for financing purposes or to an affiliate. Lessee shall not assign the Leased Premises or any part thereof without prior written approval from the Authority

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which approval shall not be unreasonably withheld. Any such attempt to sell, convey, transfer, mortgage, pledge, or assign this Lease without such consent or approval, except as provided herein, shall be null and void. Provided that after thirty (30) days written notice to Authority, transfer of Lessee's right and obligations under this lease by assignment, merger, or operation of law to a company parent of, subsidiary to or affiliate with Lessee shall not require such approval. Notwithstanding these provisions, Lessee shall be permitted, subject to Authority's consent, to assign its interest in this Lease and in such leasehold improvements and personal property for financing purposes or to an affiliate.

Section 22.02 – ASSIGNMENT OF SECURITY

Notwithstanding the provisions of Section 17.01 of this lease, Lessee may with prior written notice to Lessor as to the identity of assignee only, transfer and assign all of Lessee's interest under this lease and the leasehold estate hereby created in Lessee under the following conditions:

- a. The assignment or transfer is to a bank or other financial institution which has advanced or has committed itself to advance monies to the Lessee for the development, construction or operation of improvements on the lease premises, and, in order to secure the repayment of which, said bank or financial institution (hereinafter called the "holder" of the leasehold mortgage) has taken back or will take back a Leasehold Mortgage on the premises.
- b. This consent to the assignment is conditioned on the Lessee and holder agreeing that the Lessor shall have the right of first refusal to assume the obligation of Lessee in the Leasehold Mortgage under the following conditions and terms:
 1. If the holder of the Leasehold Mortgage acquired the right of foreclosure or the right to acquire possession of the premises, by virtue of a default b the Lessee under the Leasehold Mortgage, or under the note which it secures;
 2. The holder of the Leasehold Mortgage, before commencing its action to foreclose the Leasehold Mortgage or to otherwise acquire possession of the premises, as the case may be, shall give written notice thereof to Lessor;
 3. The Lessor shall have a period of sixty (60) days from its receipt of said notice to elect, by written notice to the Lessee and to the holder of the Leasehold Mortgage, to cure any existing default and assume full liability on the obligations of the Leasehold Mortgage;

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4. The Lessee shall surrender this lease to the Lessor and the Lessee hereby covenants to do so within fifteen (15) days after Lessee's receipt of Lessor's written notice of such election;

5. The Lessee hereby further agrees that the covenant to surrender to Lessor may be specifically enforced by Lessor or by the holder of the Leasehold Mortgage or by both;

6. The holder shall have agreed in writing to the terms and condition of this Section 17.02;

7. The consideration to be paid by the Lessor for any surrender of this lease which is made pursuant to the foregoing shall be the higher of:

i. The appraised fair market value of the leasehold, including the value of improvements placed on the leased premises and the remainder of the lease term (plus options, if any), but excluding the value of the fee simple interest in the land itself;

ii. The indebtedness (including principal, accrued interest, costs and fees, including legal fees owed by the Lessee to the holder of the Leasehold Mortgage;

8. Such consideration shall be first applied toward the indebtedness owed by the Lessee to the holder of the Leasehold Mortgage, and the balance, if any shall be paid to the Lessee. The appraisal of the improvements placed on the leased premises referred to above shall be made by two appraisers, one of which shall be selected by the Lessor and one selected by the Lessee. If the two appraisers selected cannot agree on an appraised value, then they shall agree on a third appraiser whose appraised value shall be used for this computation.

Section 22.03 – LESSEE'S RIGHT TO SUBLET

A. Lessee shall not at any time sublet the Leased Premises or any part thereof, without prior written consent from the Authority, which shall not be unreasonably withheld. Authority may withhold such approval at its discretion, except that approval shall not be unreasonably withheld if the sublease, together with all other subleases within the Leased Premises results in a sublease of fifty percent (50%) or less of Lessee's total amount leased space. Any such attempt to sublet the Leased Premises, without such approval, except as

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provided herein, shall be null and void.

B. No sublease pursuant to this section shall release Lessee from its obligations to pay when due the rentals, fees and charges provided herein.

Section 22.04 – WRITTEN ASSIGNMENT AND SUBLEASE REQUIRED

A. In the event Lessee requests approval to assign or sublease, the request shall be accompanied by a copy of the proposed assignment or sublease agreement, if prepared. In the event such proposed assignment or sublease agreement has not been prepared, a written summary of the material terms and conditions to be contained in such assignment or sublease agreement shall be included with Lessee's request for approval by Authority.

B. No such assignment or sublease shall become effective unless reduced to writing and signed by the Lessee (Assignor) and Assignee or by the Lessee and the sublessee, and until it shall have first been approved by Authority in writing on the face of the assignment or sublease, a copy of which shall be given to Authority. Assignor and Assignee may not alter, amend, or otherwise modify the terms of such assignment without the expressed prior written approval of Authority. Lessee and sublessee may not alter, amend, or otherwise modify the terms of any such sublease without the expressed prior written approval of the Authority. Authority shall, upon reasonable notice to sublessee, have the right to make demand on sublessee to produce evidence of all sums paid to Lessee under the terms of the sublease. Said sublease shall be subordinated to the provisions of this Agreement, shall be in a form acceptable to Authority, and shall include a statement of the term of the sublease.

ARTICLE 23 - HOLDING OVER

In the event the Lessee remains in possession of the Leased Premises beyond the term of this Lease without the execution of a new agreement, and with the consent of Authority, Lessee shall be deemed to be occupying the Leased Premises on the basis of a revocable permit as a tenant from month to month at a rental equal to two times the last rental amount herein provided or the current rate applicable for such space, whichever is greater. Lessee shall be subject to all other conditions, provisions, and obligations of this Lease. Upon receipt of a thirty (30) days' notice to vacate the Lessee shall quit said Leased Premises within said period.

ARTICLE 24 - RIGHTS AND PRIVILEGES RESERVED BY AUTHORITY

Rights not specifically granted to Lessee by this Lease are expressly and

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independently reserved to Authority. Authority expressly reserves the right to prevent any use of the described Premises which would interfere with or adversely affect the operation or maintenance of the Airport, or otherwise constitute an Airport Hazard.

Authority 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 real property owned by Authority, 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 navigation of or flight in said airspace, and for use of said airspace for landing on, taking off from or operating on the Airport.

Authority further reserves unto itself, its successor and assigns the right during the time of war or national emergency to lease its properties or any part thereof, to the United States Government for military or naval use and if any such lease is executed, the privileges of this instrument insofar as they are inconsistent with the privileges of the lease to the Government, shall be suspended.

ARTICLE 25 - GENERAL RIGHTS OF LESSEE

Section 25.01 – RIGHT OF INGRESS AND EGRESS

1. The Lessee, its employees, customers, guests, contractors, suppliers of material, furnishers of service, and/or invitees, in common with others shall have the non-exclusive right of ingress to and egress from any and all Leased Premises leased herein and such other portions of the area to or from which said persons shall reasonably require ingress at locations as Authority may from time to time designate.

2. The use of any Airport Facility roadways shall be subject to the rules and regulations of the Authority which are now in effect, or which may hereafter be promulgated for the safe and efficient operation of the Airport Facilities. Authority may, at any time, temporarily or permanently, close or consent to or request the closing of any such roadways and any other area at the Airport Facility presently or hereafter used as such, so long as a reasonable alternative means of ingress and egress as provided above remains available to the Lessee. Except in a case where no reasonable means of ingress and egress are available due to Authority's closing or consenting to close such areas, the Lessee hereby releases and discharges Authority, its successors and assigns, of and from any and all claims, demands, or causes of action which the Lessee may now or at any time hereafter have against any of the foregoing, arising or alleged to arise out of the closing of any street, roadway, or other area, whether within or outside the airport properties.

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Section 25.02 – CONSTRUCTION AND ALTERATIONS AND ARCHITECTS, CONTRACTORS, AND BUILDERS

The Lessee shall have the right to use rights-of-way at locations approved and designated in writing by Authority either for the exclusive use of Lessee or for common use with others for drains, conduits, ducts, pipes, wires, cables, or similar installations, and facilities related or incidental to communications, controls, teletypes, telephones, interphone and pneumatic tubes between the places where such equipment and facilities have been installed in the Leased Premises and the place where such equipment and facilities have been installed in space leased to Lessee for its exclusive use elsewhere at the Facility.

The Lessee shall pay a reasonable annual rental for such easements or rights-of-way when and if requested to do so by the Authority in accordance with Authority's published rates and charges for such use then in effect.

The Lessee shall have the right to employ such architects, contractors or builders as the Lessee shall deem necessary or desirable in connection with the authorized construction, installation, alteration, modification, repair and/or maintenance of any building, structure or improvement upon the Leased Premises leased herein; provided however, that any of such architects, contractors, or builders shall be properly licensed or otherwise competent in their respective professions or trade.

Section 25.03 – SIGNS

The Lessee shall have the right to install and operate upon the Leased Premises at Lessee's expense, identification signs representing its business. Prior to the installation, Lessee shall submit to Authority for approval in writing, drawings, sketches, design, dimensions, type, and character of identification of the signs to be installed. The approval of said sign shall be within the sole and absolute discretion of the Authority. Signs shall be substantially uniform in size, and the number, general type, size, design, character, and locations shall be designated by the Authority. Said signs shall be constructed and installed so as to comply with any existing building and other existing regulations. Lessee shall maintain any such sign or other installation in good condition and repair.

Upon the expiration or the sooner termination of this Lease, the Lessee, unless expressly requested not to by Authority in writing, shall remove, obliterate or paint out any and all signs, posters and similar devices placed by the Lessee on the Leased Premises, unless expressly requested not to do so by Authority in writing; Authority is to be the sole judge as to which of these actions shall be performed. In the event of the failure on the

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part of the Lessee to so remove, obliterate or paint out each and every sign or piece of advertising, Authority may perform such necessary work and the Lessee shall be responsible for, and pay the cost thereof upon demand to Authority.

Section 25.04 – NO MISUSE OF RIGHTS

The rights granted to Lessee by this Lease shall not be exercised in such a way as to interfere with or adversely affect the use, operation, maintenance, or development of the Airport Facility.

Section 25.05 – NO OTHER RIGHTS

Authority grants to Lessee no rights or privileges other than those specified in this Lease. Nothing in this Lease, however, shall be construed to limit the rights of either party under federal law or local law unless clearly indicated by the express terms of this Lease.

ARTICLE 26 - RULES AND REGULATIONS

Lessee, its employees, officers, agents, contractors, or invitees shall observe and obey all rules and regulations presently existing, or which may from time to time during the term hereof be reasonably prescribed by Authority for conduct and operation at or on the Airport Facility so leased, and the Laws, Rules, and Regulations of any federal or local agency having jurisdiction and/or authority over such Facilities. Lessee acknowledges that it is familiar with the rules and regulations of Authority presently in effect with regard to Airport Facility, a copy of which is available to, or furnished the Lessee, and the Lessee warrants and represents that he is cognizant of and familiar with the aforesaid rules and regulations.

Authority shall have the right to adopt and enforce reasonable rules and regulations with respect to the use and operation of the Airport Properties. Except in the case of emergency, Authority shall give the Lessee notice of any and all proposed changes to Authority 's rules and regulations at least fifteen (15) days prior to the effective date of such change or changes, which shall provide an opportunity for Lessee to provide comment on such rule and regulation prior to its effective date. Authority shall furnish to the Lessee copies thereof, and the Lessee hereby agrees to be bound and comply with said rules and regulations, subject, however, to the right of the Lessee to, in good faith, challenge in a Court of Law, the validity of such amended rules.

ARTICLE 27 - AIRPORT SECURITY PROGRAM

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Lessee agrees to observe all security rules and regulations and other requirements applicable to Lessee including, but not limited to all regulations of the U.S. Department of Transportation ("DOT"), the Federal Aviation Administration ("FAA"), the U.S. Department of Homeland Security ("DHS"), the U.S. Department of Customs and Border Protection (CBP"), the Transportation Security Administration ("TSA") and any other federal or local agency having jurisdiction over the operations of the Airport and Authority.

Lessee shall be responsible for requesting and securing the necessary identification badges, permits, decals, etc. for all of its employees, sub-lessees, contractors, invitees, vehicles, equipment, etc. to access any secured area, including, but limited to the Airport Operations Area ("AOA"). Lessee agrees to comply with Authority's Airport Security Program and any amendments thereto. Lessee further agrees to correct any security deficiency or other deficiency as may be determined by Authority,

ARTICLE 28 - LIENS

The Lessee shall not commit or suffer any act or neglect whereby the Leased Premises including improvements of the Lessee thereupon or therein, or the estate of the Lessee in the same, at any time during the term of this Lease become subject to any attachment, lien, charge or encumbrance whatsoever, and shall indemnify and hold harmless Authority against all liens, charges and encumbrances and all expenses resulting therefrom, including reasonable attorney's fees. It is expressly understood that the Lessee shall have no authority, expressed or implied, to create any lien, charge or encumbrance upon the Leased Premises, or any portion thereof.

In the event the Lessee should engage an architect, contractor, or subcontractor for the purpose of doing any physical or structural work upon the Leased Premises, the contract between the Lessee and the architect, contractor or subcontractor shall contain a clause prohibiting the filing of a lien upon the leased property.

ARTICLE 29 - WAIVER

No act or acceptance by Authority of rentals, fees, charges or other payments in whole or in part for any periods after a default of any of the other terms, covenants and conditions hereof to be performed, or observed by the Lessee, shall be deemed a waiver of any right on the part of Authority to terminate the letting, unless such waiver is executed by Authority, in writing, showing a clear intent on the part of Authority to create such a waiver.

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A waiver by Authority of any default of Lessee, or by Lessee of any default of Authority, in the performance of any of the covenants, terms or conditions of this Lease shall not be deemed or considered to be a future waiver of the same matter or of any future or present matter, and it is mutually covenanted and agreed that the various rights, powers, privileges, options and remedies of Authority and Lessee herein respectively contained shall be construed to be cumulative, and no one of them shall be deemed to be exclusive of the other, or exclusive of any rights, powers, privileges, option or remedies provided by law.

ARTICLE 30 - TERMINATION BY AUTHORITY

Section 30.01 – TERMINATION EVENTS

If and in the event any one or more of the following events shall occur, that is to say:

1. The Lessee shall become insolvent, or shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy or a petition or answer seeking an arrangement or its reorganization or the readjustment of its indebtedness under the Federal Bankruptcy Laws or under any other law or statute of the United States or of the Virgin Islands thereof, or consent to the appointment of a receiver, trustee, or liquidator of all or substantially all of its property; or
2. By order or decree of a court the Lessee shall be adjudged bankrupt or an order shall be made approving a petition filed by any of its creditors or by any of the stockholders of the Lessee, seeking its reorganization or the readjustment of its indebtedness under the Federal Bankruptcy Laws or under any law or statute of the United States or of the Virgin Islands thereof; provided that if any such judgment or order is stayed or vacated within sixty (60) days after the entry thereof, any notice of cancellation shall be and become null, void and of no effect; or
3. The Lessee, is a partnership, and the said partnership shall be dissolved as the result of any act or omission of its partners or any of them, or by operation of law or the order or decree of any court having jurisdiction, or for

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any other reason whatsoever; or

4. By or pursuant to, or under authority of, any legislative act, resolution or rule, or any order or decree of any court or governmental board, agency or officer, a receiver, trustee, or liquidator shall take possession of all or substantially all of the property of the Lessee, and such possession or control shall continue in effect for a period of thirty (30) days; or
5. The Lessee shall voluntarily abandon, desert, or vacate the Leased Premises or discontinue its operations at the Leased Premises; or
6. The Lessee shall fail to immediately cure any security deficiency promptly upon written notice from Authority or any federal or local agency having jurisdiction or responsibility for same; or
7. Any lien shall be filed against the Leased Premises because of any act or omission of the Lessee and shall not be discharged or contested by the Lessee in good faith by proper legal proceedings within thirty (30) days; or
8. The Lessee shall fail to pay within thirty (30) days of the date when due any installment or payment of rent or any other charges, including but not limited to, security deposit, levied under the terms of this Lease; or
9. The Lessee shall fail to keep, perform and observe each and every other promise, covenant and agreement set forth in this Lease, on its part to be kept, performed or observed, within sixty (60) days after its receipt of written notice of default thereunder from Authority (except where fulfillment of its obligation requires activity over a period of time, and the Lessee shall have commenced in good faith to perform whatever may be required for fulfillment within sixty (60) days after receipt of such notice and continues such performance without interruption except for causes beyond its control);

then upon the occurrence of any such event or at any time thereafter during the continuance thereof, Authority may by sixty **(60) days** written notice terminate the letting and the Lessee's rights hereunder, such termination to be effective upon the date specified in such notice. Such right of termination and the exercise thereof shall be and operate as a conditional limitation.

Section 30.02 – NOTICE OF CANCELLATION

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If any of the events enumerated in Section 24.01 hereof shall occur prior to the commencement of the letting, the Lessee shall not be entitled to enter into possession of the Leased Premises, and Authority, upon the occurrence of any such event, or at any time hereafter, during the continuance thereof, twenty-four (24) hours written notice may cancel the interest of the Lessee under this Lease, such cancellation to be effective upon the date specified in such notice, and any monies deposited by the Lessee shall be retained by Authority as liquidated damages.

ARTICLE 31 - TERMINATION BY LESSEE

If and in the event any one or more of the following events shall occur, the Lessee may terminate this Lease in its entirety either prior to or subsequent to the commencement of the term hereby granted, to wit:

1. The failure or refusal of any governmental agency (foreign or domestic) having jurisdiction over the operations of the Lessee, to grant or permit Lessee, for a period of ninety (90) days, the right to regularly operate and use the Airport Facility; provided, however, that such failure or refusal is not due to any fault of Lessee; or
2. The inability of the Lessee to use the Leased Premises, the use or occupancy of which is granted herein, continuing for a period longer than thirty (30) days due to any order, rule or regulation of any appropriate governmental agency having jurisdiction over the operations of Lessee; or
3. The breach by the Authority of, or its failure to perform, any of the covenants or agreements herein contained, and either the failure of Authority to remedy such breach for a period of ninety (90) days after receipt of a written notice of the existence of such breach, or, if fulfillment of the Authority's obligation requires activity over a period of time, the failure of the Authority within said ninety (90) day period in good faith to commence that activity required and to continue the same thereafter except for causes beyond its control; or
4. The inability of Lessee to use said Leased Premises continuing for a longer period than thirty (30) days by reason of acts by the public enemy during the existence of a state of war declared or undeclared; or
5. The assumption by the Government or any authorized agency thereof, of the

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operation, control or use of the Airport properties, or any substantial portion or portions thereof, including a partial taking as provided for in Article 31 in such manner as substantially to restrict the Lessee, from engaging in commerce at or from the Airport Facility.

ARTICLE 32 - INSURANCE AND DESTRUCTION

Section 32.01 – PROPERTY INSURANCE

The Lessee shall, at its own expense, keep all buildings, improvements, and other structures on the Leased Premises, as well as any and all additions thereto, insured for their full insurable value. Such insurance shall be in an amount of the replacement cost of such improvements, and shall be standard multi-peril insurance including flood, fire, windstorm, earth movement, theft, and other hazards, with the usual extended coverage endorsement and endorsements for vandalism and malicious mischief and such other extended coverage endorsements as Authority may reasonably from time to time require. Authority shall be named as a loss payee.

Section 32.02 – LESSEE'S DUTY TO RESTORE PREMISES

Should, at any time during the term of this lease, any buildings or improvements now or hereafter on the Leased Premises be destroyed in whole or in part by fire, theft, the elements, or any other cause not the fault of Authority, this lease shall continue in full force and effect and Lessee, at Lessee's own cost and expense, shall repair and restore the damaged or destroyed building, buildings, improvement, improvements according to the original plan thereof or according to such modified plans therefore as shall be approved in writing by Authority. The work of repair and restoration shall be commenced by Lessee within sixty (60) days after the damage or destruction occurs and shall be completed with due diligence. In all other respects, the work or repair and restoration shall be done in accordance with the requirements for original construction work on said premises set forth in Article 8 of this lease.

Section 32.03 – APPLICATION OF INSURANCE PROCEEDS

Any and all fire or other insurance proceeds that become payable at any time during the term of this lease because of damage to or destruction of any building or improvements on the Leased Premises shall be paid to Lessee and applied by Lessee toward the cost of repairing and restoring the damaged or destroyed buildings or improvements in the manner required by Section 26.02 of this lease; provided, however, that should Lessee exercise the option given Lessee by Section 26.05 of this lease to

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terminate this lease because of damage to or destruction of buildings or improvements on said premises, then, in that event, any and all fire or other insurance proceeds that become payable because of such damage or destruction shall be paid to Authority and Lessee in proportion to their respective losses taking into consideration the Lessee's loss of income and Authority's loss of his fee estate of the damaged or destroyed building or improvements. Said losses shall be determined by the parties, but if an agreement is not reached then the dispute shall be submitted to arbitration.

Section 32.04 – OPTION TO TERMINATE LEASE FOR DESTRUCTION

In the event that the unexpired period remaining on this Lease is less than three (3) years, after the occurrence of the aforesaid damage or destruction including the option period, Lessee shall have the option of terminating this lease on the last calendar day of any month by giving Authority at least thirty (30) days written notice of Lessee's intent to do so and by removing, at Lessee's own cost and expense, all debris and remains of the damaged improvements from said premises where:

a. Any buildings or improvements now or hereafter on the Leased Premises are so damaged or destroyed by fire, theft, the elements, or any cause not the fault of Lessee or Authority that they cannot be repaired and restored as required by Section 8.01 of this lease at a cost not exceeding thirty-five (35) percent of the cost of replacing all buildings and improvements if totally destroyed then, immediately preceding the calamity damaging or destroying the damaged buildings or improvements, located on said premises.

b. Any buildings or improvements now or hereafter on the Leased Premises are so damaged or destroyed by fire, theft, the elements, or any cause not the fault of Lessee or Authority, if applicable, that they cannot be repaired and restored as required by Section 8.01 of this lease at the cost not exceeding fifteen (15) percent of the cost of replacing all buildings and improvements if totally destroyed then, immediately preceding the calamity damaging or destroying the damaged or destroyed buildings or improvements, located on said premises.

Section 32.05 – WAIVER OF SUBROGATION

Authority and Lessee hereby mutually waive any and all rights of recovery against one another for real or personal property loss or damage occurring to the Leased Premises or any part thereof, or to any personal property therein, from perils insured against under fire and extended insurance and any other property insurance policies existing for the benefit of the respective parties so long as such insurance permits waiver of liability and

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contains a waiver of subrogation without additional premiums.

Section 32.06 – INSURANCES

Lessee shall, at Lessee's own cost and expense, secure and maintain during the entire term of this lease, required insurances. Such insurances shall be issued by an insurance company authorized to do business in the Virgin Islands insuring Lessee and Authority against loss and liability caused by or connection with Lessee's occupation and use of the Leased Premises under this lease and operations at the Airport Facility. The insurance requirements are minimum requirements and in no way limit the indemnity covenants in this Lease. Authority reserves the right to reasonably increase the limits or request additional coverage from time to time.

A. COMMERCIAL GENERAL LIABILITY INSURANCE

Policy shall include bodily injury, property damage and broad form contractual liability coverage and must cover use and occupancy of the Leased Premises and Facility. Policy shall not contain any restrictions of coverage with regards to operations on or near Leased Premises.

- (1) General Aggregate - \$15,000,000.00
- (2) Each Occurrence - \$10,000,000.00
(Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products Liability and Completed Operations Coverage)

B. COMPREHENSIVE AUTOMOBILE LIABILITY INSURANCE

Policy shall include bodily injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of this lease.

- (1) Each Occurrence – 1,000,000.00
(Combined Single Limit for Bodily Injury and Property Damage)

C. WORKERS' COMPENSATION INSURANCE WITH EMPLOYERS' LIABILITY

Lessee shall, at Lessee's own cost and expense, maintain workers' compensation and employers' liability insurance in accordance with applicable local and federal law. Lessee shall be responsible for ensuring its subcontractors and agents maintain workers'

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compensation and employers' liability insurance or shall provide for such coverages on their behalf under its own workers' compensation and employers liability insurance policy.

- a. Each Accident/Occurrence - \$1,000,000.00 (Minimum Limit)

Section 32.07 – FORM AND EVIDENCE OF INSURANCE COVERAGE

All such insurance policies or certificates required by this Article shall be issued by an insurance or surety company or companies of sound and adequate financial responsibility. Each insurance policy required by this Lease must be in effect at or prior to the commencement of this Lease and must remain in effect for the duration of the Lease. Failure to maintain the insurance policies as required by this Lease or to provide timely evidence of renewal will be considered a material breach of the Lease. Any insurance coverage that is written on a claims-made basis must remain in force for two (2) years after the termination or expiration of this Lease.

The Lessee shall deposit with Authority's Property Management Department a copy of such insurance policy or policies or a certificate of such insurance coverage on standard accepted coverage form (i.e., ACORD form). In the alternative, and at the option of Authority, and in lieu of the insurance in this Article required of the Lessee, the Lessee may provide Authority with satisfactory evidence of equal insurance protection by an adequate self-insurance program. Authority shall make available to the Lessee the insurance information denoted in Section 26.01 above upon request by the Lessee.

All such insurance of the Lessee shall name the Virgin Islands Port Authority as an additional insured to the full limits of the liability purchased by Lessee even if those limits of liability are in excess of those required by this Lease. Insurance policies shall also contain a waiver of subrogation endorsement in favor of Authority (or in favor of the Lessee if insurance of Authority).

All policies must be endorsed to provide that Authority's Property Management Department be notified at least thirty (30) days prior to any termination, cancellation, suspension, reduction, or any other material change in such insurance coverage by certified mail, return receipt requested or overnight delivery.

ARTICLE 33 - INDEMNITY AGREEMENT

Except as hereinafter provided, the use of the Leased premises by Lessee, its operators, agents, employees, guests, invitees, and licensees shall be at their sole risk. Authority shall not be liable for, and Lessee agrees to protect, defend and indemnify and hold Authority, including its officers, employees and agents and the property of Authority,

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including the Leased Premises and any buildings or improvements now or hereafter on said premises, free, safe and harmless from any and all liability, claims, losses, damages, or expenses resulting from Lessee's occupation, operation and use of said premises, specifically including, without limitation, any liability, claim loss, damage, or expense arising by reason of:

- a. The death or injury of any person, including Lessee or any person who is an employee or agent of Lessee, or by reason of the damage to, or destruction of any property, including property owned by Lessee or any person who is an employee or agent of Lessee, cause or allegedly caused by (1) the condition of said premises or some building or improvement on said premises, (2) some act or omission on said premises of Lessee or any person, in, on, or about said premises with or without the permission and consent of Lessee, or from any cause whatever while such person or property is in or on said premises;
- b. Any work performed on said premises or materials furnished to said premises at the instance or request of Lessee or any person or entity acting for or on behalf of Lessee; or
- c. Any damage to property or the environment, including but not limited to misuse of fuel, gas, chemicals or other hazardous substances or regulated wastes; or
- d. Lessee's failure to perform any provision of this lease or to comply with any requirement of law or any requirement imposed on Lessee or said premises by any duly authorized governmental agency or political subdivision.

In addition, Lessee does hereby release Authority from all claims, costs and liabilities which occur due to the willful misconduct or sole negligence of Lessee, its officers, employees, and agents.

This article shall survive the termination or expiration of this Lease. Compliance with the insurance requirements shall not relieve Lessee of its liability or obligation to indemnify Authority as set forth in this Article.

ARTICLE 34 - SUBORDINATION

This Lease shall be subject and subordinate to the provisions of any existing or future grant assurance or other agreement between Authority 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 transfer of federal

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rights or property to Authority or predecessor agency for airport purposes, or the expenditure of federal or state funds for the development of the Airport.

ARTICLE 35 - NON-DISCRIMINATION

The Lessee, for itself, its personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree that:

1. No person on the ground of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subject to discrimination in the use of said facilities; and
2. In the construction of any improvements 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 otherwise be subjected to discrimination; and
3. the Lessee shall maintain, use and operate the Leased Premises and service 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 VII 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, Virgin Islands Port Authority shall have the right to terminate the Lease and to re-enter and repossess said Leased Premises thereon and hold the same as if said Lease had never been made or issued. Any new improvements shall thereupon revert to and vest in and become the absolute property of the Virgin Islands Port Authority and its assigns, subject to the provisions of the Lease as to title to leasehold improvements in Section 8.02 hereof. 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.

ARTICLE 36 - INCREASED HAZARDS

The Lessee shall not do or permit to be done any act or thing upon the Leased Premises which (1) will invalidate or conflict with any standard multi-peril insurance policies covering the Leased Premises or any part thereof of the Facility, of (2) which in the opinion of Authority may constitute an extra hazard in the operations permitted by this Lease or (3) which will increase the rate of any fire insurance extended coverage or rental insurance on

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the Facility or any part thereof or upon the contents of any improvements thereon.

The Lessee shall not do or permit to be done any act or thing on the Leased Premises which shall or might subject Authority to any liability or responsibility for injury to any person or persons or damage to any property.

ARTICLE 37 - CONDEMNATION

Section 37.01 – EMINENT DOMAIN

Should, during the term of this Lease, title and possession of all of said Leased Premises be taken under the power of eminent domain by any public or quasi-public agency or entity, this Lease shall terminate as of 12:01 a.m. of the date legal title of said Leased Premises is taken by the agency or entity exercising the power of eminent domain and both Authority and Lessee shall thereafter be released from all obligations, except those specified in Section 31.03 of this Provision, under this Lease.

Section 37.02 – TERMINATION FOR PARTIAL TAKING

Lessee may terminate this Lease for any partial taking of this Lease by serving written notice of termination on Authority within ninety (90) days after Lessee has been deprived of actual physical possession of the portion of said Leased Premises taken by eminent domain. This Lease shall terminate as of 12:01 a.m. of the first day of the calendar month following the calendar month in which the notice of termination described in this section is served on Authority. On termination of this Lease pursuant to this eviction, all subleases, and subtenancies in or on said Leased Premises or any portions of said Leased Premises created by Lessee under this Lease shall also terminate and said Leased Premises shall be delivered to Authority free and clear of all such subleases and subtenancies. On termination of this Lease pursuant to this Section, however, both Authority and Lessee shall be released from all obligations, except those specified in Section 37.03 of this provision, under this Lease.

Section 37.03 – COMPENSATION AWARD

Any compensation or damages awarded or payable because of the taking of all or any portion of said Leased Premises by eminent domain shall be allocated between Authority and Lessee, after payment of all encumbrances and liens on the land and improvements, as follows:

1. All compensation or damages awarded or payable for the taking by eminent

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domain of any land that is part of the said Leased Premises shall be paid to and be the sole property of Authority free and clear of any claim of Lessee or any person claiming rights to said Leased Premises through or under Lessee.

2. All compensation or damages awarded or payable because of any improvements constructed or located in the portion of said Leased Premises taken by eminent domain where this Lease is terminated because of the taking by eminent domain, shall be allocated between Lessee and Authority as follows:

- a. That percentage of the compensation or damages awarded or payable because of the improvements that equals the percentage of the full term of this Lease that has, at the time of the taking, not expired shall belong to and be the sole property of Lessee.
 - b. That percentage of the compensation or damages awarded or payable because of the improvements that equals the percentage of the full term of this Lease that has, at the time of the taking, expired shall belong to and be the sole property of Authority.
 - c. The term "time of taking" as used in the subparagraph shall mean 12:01 a.m. of, the date title or the physical possession of the portion of said Leased Premises on which the improvements are located is taken by the agency or entity exercising the eminent domain power.
3. Improvement in this subsection refers to non-removable improvements.

Section 37.04 – RENT ABATEMENT FOR PARTIAL TAKING

Should, during the term of this Lease, title and possession of only a portion of said Leased Premises be taken under the power eminent domain by any public or quasi-public agency or entity and Lessee does not or cannot terminate this Lease, this Lease shall terminate as to the portion of said Leased Premises taken under eminent domain as of 12:01 a.m. of, whichever first occurs, the date title is taken or the date actual physical possession of the portion taken by eminent domain is taken by the agency or entity exercising the eminent domain power. Furthermore, the rent payable under this Lease shall, as of that time, be reduced in the same proportion that the value of the portion of said Leased Premises taken by eminent domain bears to the full value of said Leased Premises at that time.

ARTICLE 38 - NON-LIABILITY OF INDIVIDUALS

VIRGIN ISLANDS PORT AUTHORITY
THATCH FARM LEASE AGREEMENT
BENOIT GROUP, LLC

Neither the officers of the Government of the Virgin Islands and the Virgin Islands Port Authority, nor any of them, nor any officers, agent, or employee thereof, shall be charged personally with any liability, or held liable to the Lessee under any term or provision of this Lease, of because of its execution, or because of any breach, or attempted or alleged breach thereof.

ARTICLE 39 - WAIVER OF REDEMPTION

The Lessee hereby waives any and all rights to recover or regain possession of the Leased Premises and all rights of redemption granted by or under any present or future law in the event it is evicted or dispossessed for any cause, or in the event Authority obtains possession of the Leased Premises in any lawful manner.

ARTICLE 40 - AUTHORITY'S OR LESSEE'S INABILITY TO PERFORM BEYOND ITS CONTROL/ FORCE MAJEURE

Except as otherwise expressly provided in this lease, should the performance of any act required by this lease to be performed by either Authority or Lessee be prevented or delayed by reason of any act of God, world-wide or regional pandemic, strike, lockout, labor trouble, inability to secure materials, restrictive governmental laws or regulations, or any other cause except financial inability not the fault of the party required to perform the act, the time for performance of the act will be extended for a period equivalent to the period of delay and performance of the act during the period will be excused; provided, however, that nothing contained in this section shall excuse the prompt payment of rent by Lessee as required by this lease or the performance of any act rendered difficult or impossible solely because of the financial condition of the party, Authority or Lessee, required to perform the act.

In the event that, pursuant to, or under authority of, any legislative act, resolution or rule, or any order or decree of any court or governmental agency (except Authority agency) board or officer, Authority cannot continue to perform the obligations herein contained, or no longer maintains, operates or controls the leased properties, then in that event, this Lease shall become null and void, and shall be of no further legal effect, and Authority shall suffer no liability thereof.

ARTICLE 41 - MISCELLANEOUS PROVISIONS

Section 41.01 – INTERPRETATION / SAVING CLAUSE

VIRGIN ISLANDS PORT AUTHORITY
THATCH FARM LEASE AGREEMENT
BENOIT GROUP, LLC

The language in all parts of this Lease shall in all cases be construed simply according to its fair meaning and not strictly for or against Authority or Lessee. There shall be no inference or presumption against Authority that unclear and/or ambiguous language shall be construed against the drawer of the instrument. This Lease shall be construed, and performance thereof shall be determined according to the laws of the Virgin Islands. If any provisions of this Lease, or the application, should be rendered or declared invalid by any Court Action or by reason of any existing law, the remaining parts or portions of this Lease shall remain in full force and effect.

Section 41.02 – HEADINGS AND TITLES

The headings and titles of the articles and sections of this Lease are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope or intent of any provisions of this Lease and shall not be construed to affect in any manner the terms and provisions of this Lease, or the interpretation or construction thereof.

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date first above written.

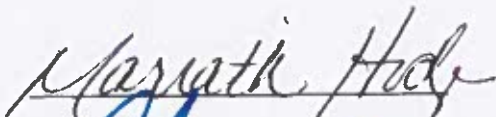
VIRGIN ISLANDS PORT AUTHORITY

By: 
Carlton Dowe
Executive Director

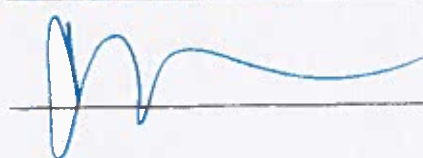
BENOIT GROUP, LLC

By: 
EDDY BENOIT
Managing Member

WITNESSES FOR AUTHORITY:

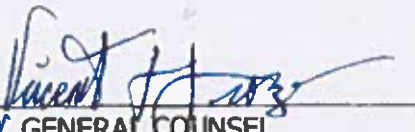



WITNESSES FOR LESSEE:

VIRGIN ISLANDS PORT AUTHORITY
THATCH FARM LEASE AGREEMENT
BENOIT GROUP, LLC

APPROVED FOR LEGAL SUFFICIENCY

By: 
GENERAL COUNSEL
VIRGIN ISLANDS PORT AUTHORITY

Dated: October 18, 2023

APPROVED:

By: 
CHAIRMAN, GOVERNING BOARD
VIRGIN ISLANDS PORT AUTHORITY

Dated: Oct. 18, 2023



APPROVED
Albert Bryan
Governor of the V.I.

DISAPPROVED
Albert Bryan
Governor of the V.I.

09/10/2025
DATE

VIRGIN ISLANDS PORT AUTHORITY
THATCH FARM LEASE AGREEMENT
BENOIT GROUP, LLC

ACKNOWLEDGEMENTS

TERRITORY OF THE VIRGIN ISLANDS)
DISTRICT OF ST. THOMAS & ST. JOHN) SS:

On this 19th day of October, 2023 before me the undersigned officer,
personally came and appeared, **CARLTON DOWE**, who acknowledged himself to be the
EXECUTIVE DIRECTOR of the **VIRGIN ISLANDS PORT AUTHORITY**, and as such,
being authorized so to do, executed the foregoing instrument for the purposes therein
contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.


Notary Public

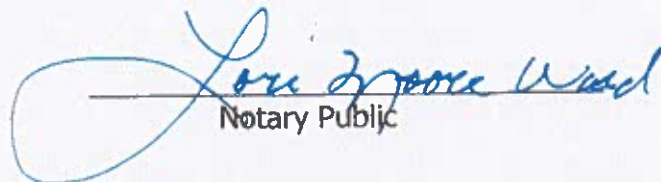
NOTARY PUBLIC
Julice L. Harley
My Commission Exp:
At the Pleasure of the Lieutenant Governor
St. Thomas/St. John USVI District

TERRITORY OF THE VIRGIN ISLANDS)
DISTRICT OF ST. THOMAS & ST. JOHN) SS:

On this 28th day of September, 2023 before me the undersigned officer,
personally came and appeared, **EDDY BENOIT**, who acknowledged himself to be the
MANAGING MEMBER of **BENOIT GROUP, LLC** and as such, being authorized so to do,
executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.




Notary Public

VIRGIN ISLANDS PORT AUTHORITY
THATCH FARM LEASE AGREEMENT
BENOIT GROUP, LLC

CORPORATE RESOLUTIONS

BENOIT GROUP, LLC

I, Eddy Benoit, Managing Member of BENOIT GROUP, LLC (hereinafter called the "Company"), a Limited Liability corporation, do hereby certify that the following is a true and correct copy of resolutions duly adopted by the board of Directors of the Company at a meeting thereof duly called and held on 9/28/2023, at which a quorum was present and acting throughout:

RESOLVED, that this Company enter into a Lease with the Virgin Islands Port Authority, respecting the Premises at Parcel 68A Estate Lindbergh Bay, St. Thomas, VI which premises are more particularly described in the aforesaid lease; and be it further

RESOLVED, that the form of the aforementioned Lease as submitted to this meeting be and the same hereby is approved and that the Managing Member of the Company be and he/she hereby is authorized and directed to execute and deliver to the Virgin Islands Port Authority the Lease substantially in the form presented to and approved at this meeting, with such changes therein as may be approved by the officer of this Company executing the same, his execution thereof to be conclusive evidence of such approval; and be it further

RESOLVED, that the Managing Member of this Company be, and he/she hereby is authorized and directed to do and perform all such acts and things and to sign all

VIRGIN ISLANDS PORT AUTHORITY
THATCH FARM LEASE AGREEMENT
BENOIT GROUP, LLC

such documents and certificates and to take all such other steps as may be necessary or advisable and convenient and proper to carry out the intent of the foregoing resolutions and fully to perform the provisions of said Lease.

And I do further certify that said resolutions have not been in any ways revoked, amended, annulled, or rescinded and that the same are in full force and effect and that the instrument annexed hereto is a true and correct copy of the form of the Lease submitted to and approved at said meeting,

And I do further certify that the officers of the Company as of the date of these presents following:

Managing Member: Eddy Benoit

Vice President: _____

Secretary: _____

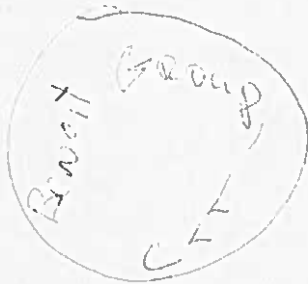
Assistant Secretary: _____

Treasurer: _____

Assistant Treasurer: _____

WITNESS my hand and seal of the Company this 28 day of September

2023



E. Benoit
Secretary (Corporate Seal)

Signature(s)

Name

EDDY BENOIT

Position

Member

Date

July 29 2025

**I DECLARE, UNDER
PENALTY OF PERJURY,
UNDER THE LAWS OF THE
UNITED STATES VIRGIN
ISLANDS, THAT THIS
OFFICER HAS AGREED BY
RESOLUTION TO THE
CHANGES MADE IN THIS
APPLICATION.**

Yes

Daytime Contact

Name

Mrs. Knolah Nicholls Thomas

Telephone

(1) 340-690-5093

Email

Expertbusinessvi@gmail.com

**I DECLARE, UNDER
PENALTY OR PERJURY,
UNDER THE LAWS OF THE
UNITED STATES VIRGIN
ISLANDS THAT ALL
STATEMENTS CONTAINED
IN THIS APPLICATION,
AND ANY ACCOMPANYING
DOCUMENTS, ARE TRUE
AND CORRECT, WITH
FULL KNOWLEDGE THAT
ALL STATEMENTS MADE
IN THIS APPLICATION ARE
SUBJECT TO
INVESTIGATION AND
THAT ANY FALSE OR
DISHONEST ANSWER TO
ANY QUESTION MAY BE
GROUNDS FOR DENIAL,
SUBSEQUENT
REVOCATION OF
REGISTRATION, OR
OTHER FINES AND**

Yes

**PENALTIES PURSUANT TO
THE FRAUDULENT CLAIMS
STATUTE AS SET FORTH IN
14 V.I.C. § 843.**



THE UNITED STATES VIRGIN ISLANDS
OFFICE OF THE LIEUTENANT GOVERNOR

TREGENZA A. ROACH
Lieutenant Governor

Commissioner of Insurance
Chairman, V.I. Banking Board

July 30, 2025

Knolah Nicholls Thomas
P O Box 12016
St Thomas VI 00801
United States

THE BENOIT GROUP LLC

Dear Sir/Madam:

I, TREGENZA A. ROACH, Lieutenant Governor for the United States Virgin Islands, do hereby certify that THE BENOIT GROUP LLC a Foreign Limited Liability Company, has filed a(n) Application of Authority in this office and has fulfilled the applicable requirements set forth in law. By virtue of the authority vested in this office, I hereby issue this letter evidencing the filing is effective on the date shown below.

Business Identification Number: FC0134857

Registration Date: July 30, 2025

Your company's annual report is due by June 30 of next year and each consecutive year thereafter.

Thank you for being a valued member of the United States Virgin Islands business community. I wish you continued success in your endeavors.

Sincerely,

A handwritten signature in dark ink, appearing to read "Tregenza A. Roach", with a stylized flourish at the end.

Tregenza A. Roach
USVI Lieutenant Governor



THE GOVERNMENT OF THE VIRGIN ISLANDS
DEPARTMENT OF LICENSING AND CONSUMER AFFAIRS
BUSINESS LICENSE

KNOW ALL BY THIS PRESENT

That, in accordance with the applicable provisions of Title 3 Chapter 16 and Title 27 V.I.C. relating to the licensing of businesses and occupations, and compliance having been made with the provisions of 10 V.I.C. Sec. 41 relating to the Civil Rights Act of the Virgin Islands, the following license is hereby granted.

Licensee: THE BENOIT GROUP LLC	
Trade Name: THE BENOIT GROUP LLC	
Mailing Address	Physical Address
8000 NISKY SUITE 233 ST THOMAS ST. THOMAS VI 00802	8000 NISKY SUITE 233 ST THOMAS ST. THOMAS VI 00802
Business No: 69276	License No: 1-69276-1L
Types of License(s) Holding Company	

As provided by law, the authorized licensing authority shall have the power to revoke or suspend any License issued hereunder, upon finding, after notice and adequate hearing, that such revocation or suspension is in the public interest; provided, that any persons aggrieved by any such decision of this office shall be entitled to a review of the same by the Territorial Court upon appeal made within (30) days from the date of the decision; provided, further, that all decisions of this office hereunder shall be final except upon specific findings by the Court that the same was arrived at by fraud or illegal means.

2025

If a renewal is desired, the holder is responsible for making application for same without any notice from this office. It is the responsibility of the Licensee to notify the Department in writing within (30) days, when a license is to be cancelled or placed in inactive status. Failure to do so will result in the assessment of penalties as authorized by law.

Valid from 07/30/2025 until 07/31/2026
Printed on 07/30/2025
Issued at St. Thomas, V.I.
Fee 260.00

H. Nathalie Hodge
Commissioner, Department of Licensing and Consumer Affairs

THIS LICENSE MUST BE PROMINENTLY DISPLAYED AT PLACE OF BUSINESS



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

7/23/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
McGriff, A Marsh & McLennan Agency LLC Company
999 S. Shady Grove Rd
Memphis, TN 38120

www.mcgriff.com

INSURED

The Benoit Group, LLC
Dorchester Management II, LLC
6780 Roswell Rd., Suite 200
Sandy Springs GA 30328

CONTACT NAME	Memphis Certificates	FAX (A/C. No.)	(901) 530 1963
PHONE (A/C. No. Ext.)	(901) 694 3333		
E-MAIL ADDRESS:			
INSURER(S) AFFORDING COVERAGE			
INSURER A:	Admiral Insurance Company	NAIC #	24856
INSURER B:	See Attached		
INSURER C:	Zenith Insurance Company		13269
INSURER D:	Zurich American Insurance Company		16535
INSURER E:	Beazley Excess and Surplus Ins. Inc.		17520
INSURER F:			

COVERAGES

CERTIFICATE NUMBER: 86365043

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDC SUBR INSD, W/O	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS MADE ☒ OCCUR ☒ Terrorism Included LIMIT AGGREGATE LIMIT APPLICABLE POLICY ☐ PER ☒ EACH OTHER	☒	CA00005740801	5/15/2025	5/15/2026	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (if applicable) \$ 100,000 MED EXP (Any one person) \$ Excluded PERSONAL & ADULTERY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMPOUND \$ 2,000,000 \$
A	☐ AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED ☐ AUTOB ONLY ☐ HIRE ☒ AUTOB ONLY ☐ SCHEDULED AUTOB ☐ NON-OWNED ☒ AUTOMOBILE	☒	CA00005740801	5/15/2025	5/15/2026	COMBINED SINGLE LIMIT (if applicable) \$ 1,000,000 BODILY INJURY (if applicable) \$ BODILY INJURY (if applicable) \$ PROPERTY DAMAGE (if applicable) \$ General Aggregate \$
B	☐ UMBRELLA LIAB ☒ OCCUR ☒ EXCESS LIAB ☐ CLAIMS MADE ☐ DEB ☒ RE TERRORISM	☒	See Attached	5/15/2025	5/15/2026	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ALLOYMENT/COMPARTMENTALIZATION OTHER TERMS/EXCLUSIONS (Mandatory in MD) If you describe other DESCRIBE HERE OF OPERATIONS/COVER	☐ Y/N ☒ N/A	M1339503	1/1/2025	1/1/2026	☒ PER STAFF ☐ EMP LL FATAL ACCIDENT \$ 1,000,000 LL DISEASE - EMPLOYEE \$ 1,000,000 LL DISEASE - POLICY LIMIT \$ 1,000,000
D	Crime Coverage		MPL038635207	1/1/2025	1/1/2026	See Attached
D	Employment Practices Liability		MPL038635207	1/1/2025	1/1/2026	See Attached
C	Environmental Liability		D38A09250101	5/15/2025	5/15/2026	See Attached

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: Hamilton on the Park 1201 Stonecourt, Urbana, IL 61801
Additional Named Insured: TDC Hamilton on the Park, LP
Certificate holder is included as Additional Insured on a primary/non contributory basis where required by contract.
Waiver of Subrogation included where required by written contract.

CERTIFICATE HOLDER

R4 HIPL Acquisition, LLC ISAOA
and R4 Capital, LLC
155 Federal St., Suite 1400
Boston MA 02110

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Jerry Martin

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ACORD 25 (2016/03)

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06/06/2025 10:22:20, Boston, Location: 11/23/2025 10:22:20, 01 PDF, Page: 1 of 2
This document is a certificate and does not constitute an offer of insurance.



THE UNITED STATES VIRGIN ISLANDS

USVI Lieutenant Governor
Filed: July 29, 2025 05:24 PM
BID: FC0134857

Application of Authority

THE BENOIT GROUP LLC (FC0134857)

General Details

Handling Option	Standard Processing
Delayed Effective Date	
Type of Limited Liability Company	Limited Liability Company

Home Jurisdiction Details

Select a Reserved Name	No
Name in State or Country of Jurisdiction	THE BENOIT GROUP LLC
Country	United States
State	Georgia
Date Entity First Formed	April 29 2010

Business Addresses

Physical Address Principal Office or Place of Business	2170 Heathermoor Hill Dr, Marietta, Georgia, 30062, United States
Mailing Address Mailing Address	Mailing Address is the same as the Physical Address

Business Details

Term	Perpetual
Nature of Business/Purpose	Finance, Insurance, and Real Estate, Holding and Other Investments Offices

Tax Identification Number	27-2459154
Amount of Capital	1,000.00
Managed By	Member Managed
Members Liability	Members are not liable

Resident Agent

Resident Agent in USVI	Individual
Resident Agent Type	
Name	Clive RIVERS Esq
Physical Address	8000 Nisky Suite 233, St Thomas, United States Virgin Islands, 00802, United States
Mailing Address	Mailing Address is the same as the Physical Address
Resident Agent Consent Form	THE BENOIT GROUP CONSENT.pdf07/29/2025 5:11 PM

Principals

Managers/Members

Manager/Member	Individual
Name	Eddy BENOIT
Status	Active
Physical Address	2170 Heathermoor Hill Dr, Marietta, Georgia, 30062, United States
Mailing Address	Mailing Address is the same as the Physical Address
Position	Member

Documents

Certificate of Existence	The Benoit Group LLC Certificate of Existence.pdf07/29/2025 3:27 PM
Certified Charter Document	Benoit File.pdf07/30/2025 10:30 AM
Certificate of Good Standing	The Benoit Group LLC Certificate of Existence.pdf07/29/2025 3:27 PM



**THATCH FARM DEVELOPMENT
AGREEMENT
BETWEEN
THE VIRGIN ISLANDS PORT AUTHORITY
AND
BENOIT GROUP, LLC**

**VIRGIN ISLANDS PORT AUTHORITY
AFFORDABLE HOUSING DEVELOPMENT AGREEMENT
BENOIT GROUP, LLC**

PREAMBLE

THIS LEASE AGREEMENT made and entered into this 19 day of October, 20²³ by and between the VIRGIN ISLANDS PORT AUTHORITY, P. O. Box 301707, St. Thomas, Virgin Islands 00803 (hereinafter referred to as "AUTHORITY") and BENOIT GROUP, LLC, Marsh Creek Village, 6780 Roswell Road NE, Suite 200, Atlanta, GA 30328 (hereinafter referred to as "BENOIT").

WITNESSETH:

WHEREAS, AUTHORITY by Acts 2375 and 2405 ("hereinafter referred to as "the Acts") is charged with the responsibility of administration, management, and operation of public airport and marine facilities in the Virgin Islands; and certain real properties incidental thereto;

WHEREAS, Authority is the owner of the real property known as No. 68A Estate Lindberg Bay 4A Southside Quarter St. Thomas, V.I. (Hereinafter, the "Leased Premises"), which the Authority wishes to be developed as a housing community; and

WHEREAS, Authority, publicly solicited proposals and qualifications for the development of an affordable housing complex at Lindbergh Bay No. 68, St. Thomas, VI; and

WHEREAS, BENOIT was the sole proposer to the Authority's public invitation for qualifications and proposals for the development, management and operation of an Affordable Housing Community at No. 68 Estate Lindbergh Bay, St. Thomas, VI which, in the sole opinion of the Authority was qualified and met the objectives of the Authority to develop and operate the development; and

WHEREAS, the Governing Board of the Virgin Islands Port Authority at the meetings on _____ authorized the Executive Director to enter into and execute this DEVELOPMENT AGREEMENT and the Lease Agreement (hereinafter referred to as "AGREEMENT"); and

NOW THEREFORE, in consideration of promises made herein by the Parties it is agreed as follows:

**VIRGIN ISLANDS PORT AUTHORITY
AFFORDABLE HOUSING DEVELOPMENT AGREEMENT
BENOIT GROUP, LLC**

1. PREMISES

The Authority grants to BENOIT the right to develop and enter into a lease agreement for a period commensurate with the investment of the Affordable Housing Development, with the Authority.

- A. The real property identified for development and leasing to BENOIT is known as :

Estate Lindberg Bay No. 68 A
No. 4A Southside Quarter
St. Thomas, U.S. Virgin Islands
Consisting of 4.798 Acres as shown on
PWD No. D9-775-T69
Exhibit A attached hereto.

- B. Authority shall permit BENOIT to enter the premises from the effective date of this agreement for the purpose of making inspections, preparing construction plans and other activities related to the development of the premises.
- C. The parties shall enter into a lease Agreement for the premises for a term of Forty (40) years for the purpose of constructing and managing the Affordable Housing Development. Rent and other related terms shall be included in the lease agreement. The commencement date of the lease agreement shall be upon the first full month after the last occurrence of the following, 1) the approval by the Governor of the Virgin Islands; and 2) the commencement of construction.

2. PREMISES AVAILABILITY

The AUTHORITY shall provide access to the PREMISES to BENOIT, without any encumbrances within one hundred and Twenty (120) days (unless extended by agreement of parties).

- a. Within one hundred and eighty days (180) after the execution of this agreement BENOIT shall submit to VIPA, four (4) copies of

**VIRGIN ISLANDS PORT AUTHORITY
AFFORDABLE HOUSING DEVELOPMENT AGREEMENT
BENOIT GROUP, LLC**

preliminary / conceptual plans for the project, for pre-approval by VIPA.

- b. Within two (2) years after the approval by the Authority, BENOIT shall present the necessary and required permits and approvals from the federal and local government agencies to demolish and commence construction (hereinafter, Permits);
- c. Within two (2) years after the execution of the Lease Agreement BENOIT shall submit four (4) copies of the approved plans prepared by or certified by a U.S.V.I. licensed architect or engineer for construction of an affordable housing development for low and moderate residents and elderly residents. (hereinafter referred to as "PLANS"),

All necessary and required permits and approvals from federal and/or local authorities to demolish and commence construction (hereinafter referred to as "PERMITS"), shall be submitted to AUTHORITY, within two (2) years after the rezoning of the Premises, including:

- i. Approval/Permit — Demolition and Major Land Permit (V.I. Department of Planning & Natural Resources)
- ii. Approval/Permit -Form 7460 (Federal Aviation Administration);
- iii. Major construction Permit
- iv. Submission of evidence of construction financing of equity and/or debt, substantiated in the form of a certified letter from a financial institution stating the readiness and availability of committed construction financing in an amount sufficient to finance the construction envisioned by PLANS and PERMITS to AUTHORITY.

3. REQUIRED INVESTMENT

Lessee shall, at Lessee's sole cost and expense, construct a multi-building affordable housing complex with no less than 100 residential units on the Leased Premises at a cost of no less than Fifty Million Dollars (50,000,000.00) in a manner and according to the approved plans referred in Section 2 of this agreement. Within 180 after the completion of construction and the receipt of a Occupancy Permit,

**VIRGIN ISLANDS PORT AUTHORITY
AFFORDABLE HOUSING DEVELOPMENT AGREEMENT
BENOIT GROUP, LLC**

BENOIT shall submit to Authority a statement verified by an officer of the BENOIT, stating the cost of construction of the project.

4. LEASE

- a. **AUTHORITY will grant to BENOIT a Forty (40) year lease to commence upon the approval of the Governor of the Virgin Islands or upon the commencement of the construction of the housing development designed in the "PLANS", for Parcel 68-A Lindberg Bay, St. Thomas, United States Virgin Islands, as is more particularly delineated in Schedule B to this AGREEMENT (the "PREMISES") and in the form of that draft lease contained in Schedule C to this AGREEMENT (the "LEASE").**
- b. **It is agreed and understood that RENT and other leasehold provisions shall be set forth in the Lease Agreement (LEASE). Such Lease shall be subject to the approval of the Governor of the U. S. Virgin Islands, pursuant to T. 29 V.I.C. 543(6).**
- c. **AUTHORITY will permit BENOIT to commence occupation of the PREMISES from the COMMENCEMENT DATE (as defined in the LEASE) in accordance with the terms of the LEASE and the parties shall be bound by the covenants and provisions as if the LEASE had actually been executed, and until execution of the LEASE both parties shall be bound by the covenants and provisions therein specified as if the same had actually been granted.**

4 DEVELOPMENT FEES

In lieu of annual or monthly rental fee, BENOIT shall pay the following to AUTHORITY:

A. GROUND LEASE FEE

At the financial closing of the financing for the project, as described in Section 2, BENOIT shall pay Authority Three Hundred Thousand Dollars (\$300,000.00);

**VIRGIN ISLANDS PORT AUTHORITY
AFFORDABLE HOUSING DEVELOPMENT AGREEMENT
BENOIT GROUP, LLC**

B. TRANSFER FEE

BENOIT shall pay a Transfer Fee to the Authority in an amount equal to Twenty percent (20%) of any Developers Fee paid to BENOIT, its subsidiary or affiliate entity or any other Developer of the Premises. Said Transfer Fee shall be paid as follows:

- a. Twenty Five percent (25%) is payable at the financial closing of the funding; and
- b. Twenty Five percent (25%) payable upon the completion of the construction and receipt of the building occupancy permit from the Department of Planning and Natural Resources; and
- c. Fifty percent (50%) payable within sixty (60) days after the stabilization of the tenancies in the housing development. Stabilization shall be upon establishment of 85% of the unit rentals.

c. LEASE COMPENSATION

In addition to the aforementioned fees, the Authority shall be paid fifteen percent (15%) of the net revenues of earnings from the Gross Revenues collected from the revenue generating activities on the premises. Payment of the Annual Lease Compensation shall commence on the sixth anniversary of the lease commencement date.

5. INSURANCE

BENOIT, at its sole cost and expense, shall maintain the following insurance policies:

A. While construction work is being performed at the Leased Premises:

1. Builder's Risk "All Risk" insurance in such amount as Authority shall reasonably require but in no event less than one hundred percent (100%) of the replacement cost value of the completed Improvements (excluding footings and foundations) and one hundred percent (100%) of the replacement cost value of all tenant improvements and betterments which Lessee is required to insure pursuant to any Lease. Such policy shall be written on a Builder's Risk Completed Value Form (100% non-reporting) or its equivalent and shall include coverage for loss by collapse, theft, flood, hurricane and earthquake (provided, however,

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that flood and earthquake coverage may be sub-limited to \$5,000,000) and shall include permission to occupy. Such insurance policy shall also include coverage for:

- (i) loss suffered with respect to materials, equipment, machinery, and supplies whether on-site, in transit, or stored off-site and with respect to temporary structures, hoists, sidewalks, retaining walls, and underground property, and
- (ii) plans, specifications, blueprints and models in connection with any restoration following a casualty.

The above shall include permission to occupy and include coverage for business interruption insurance, soft costs and delay in construction, on an actual loss sustained basis with coverage for ingress/egress and civil authority. If the insurance required under this Section is not obtained by blanket insurance policies, the insurance policy shall be endorsed to also provide guaranteed building replacement cost to the Improvements and such tenant improvements in an amount to be subject to the consent of Authority, which consent shall not be unreasonably withheld.

2. Payment and Performance Bond. During the construction, BENOIT or its contractors and subcontractors shall furnish Performance Bond in an amount at least equal to 100% of the contract price of the as security for the faithful performance of the construction contract and also a Payment Bond in an amount equal to 100% of the contract price as security for the payment of all persons performing labor on the construction project and furnishing materials in connection with this Agreement. All bonds shall be executed by sureties that are licensed in the United States Virgin Islands by the Lieutenant Governor's offices of Banking and Insurance.

3. BENOIT shall cause the architect and the engineer to obtain and maintain Architect's or Engineer's, as the case may be, Professional Liability insurance during the period commencing on the date of the architect's agreement or the engineer's agreement, respectively, and expiring no earlier than three (3) years after occupancy of the project.

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Such insurance shall be in an amount equal to at least \$1,000,000 per occurrence.

4. Once same are installed, Boiler & Machinery coverage, with a \$2,000,000 minimum limit for all mechanical and electrical equipment with exclusions for testing removed. Such coverage shall include, without limitation, all tenant improvements and betterments which BENOIT is required to insure.

If placed separately from the Builder's Risk policies, coverage shall meet the coverage requirements of the Builder's Risk policy and include a Joint Loss Agreement.

5. Commercial General Liability insurance naming the BENOIT, as named insured; Owned (if any), Hired and Non Owned Auto Liability; and Umbrella Liability coverage for Personal Injury, Bodily Injury, Death, Accident and Property Damage, including XCU, and blanket contractual liability, providing in combination no less than \$10,000,000 per occurrence and in the annual aggregate per project and naming AUTHORITY as additional insureds on a primary and non-contributory basis.

Umbrella/Excess coverage must be follow-form of the underlying policies.

6. Workers Compensation Insurance as required by Virgin Islands law and Employers Liability Insurance with a minimum of \$1,000,000.00 bodily injury by accident, each accident; \$500,000.00 bodily injury by disease policy limit; \$100,000.00 bodily injury for each employee.

7. BENOIT shall ensure that the construction manager and/or general contractor maintain Commercial General Liability coverage for Personal Injury, Bodily Injury, Death, Accident and Property Damage, including XCU, and blanket contractual liability, products and completed operations and Owned, (if any), Hired and Non Owned Automobile Liability insurance with limits of no less than \$10,000,000 all naming the construction manager and/or general contractor as named insureds. Coverage may be provided through primary and umbrella liability coverages. Such insurance shall name BENOIT and AUTHORITY as additional insureds on a primary and non-contributory basis.

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Umbrella/Excess coverage must be follow-form of the underlying policies. BENOIT shall also ensure that all trade contractors and subcontractors to such trade contractors maintain similar coverage with limits appropriate for their respective operations. All parties engaged in work on the Improvements shall maintain statutory Workers Compensation and Disability insurance in force for all workers on the job as required by law.

8. Environmental, Asbestos and Lead Abatement Coverage. With respect to the demolition and removal of existing improvements, including the removal of asbestos, lead paint, the removal/replacement of underground tanks or use of toxic chemicals and substances, BENOIT shall maintain or cause to be maintained adequate coverage on a primary and non-contributory basis, in an amount not less than \$5,000,000 on a per claim basis for sudden or accidental pollution including transportation and non-owned disposal facilities. This insurance must be maintained for a period of at least 6 years after completion of the work to be performed and name AUTHORITY as an additional named insured.

6. TERMINATION

- a. If AUTHORITY fails to provide the PREMISES in timeframe indicated in Clause 2 of this AGREEMENT, for any reason other than force majeure (unless the parties shall agree to an extension), BENOIT may by notice in writing terminate this AGREEMENT provided, BENOIT shall have first given thirty (30) days' notice to AUTHORITY to provide the PREMISES, time being of the essence, and AUTHORITY has failed to do so prior to the expiration of the NOTICE PERIOD.
- b. If the PREMISES has been made available to BENOIT in accordance with) paragraphs 1(A) and 2 above and no substantial work has commenced on the premises within two (2) years from the date hereof, for any reason other than force majeure (unless the parties shall agree to an extension), AUTHORITY may by notice in writing terminate this Agreement, provided AUTHORITY shall have first given ninety (90) days notice and demand to BENOIT to commence demolition or construction, whichever is

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imminent, time being of the essence, and BENOIT has failed to do so prior to the expiration of the notice period.

7. DISPUTE RESOLUTION

Any controversy or claim arising out of or relating to this Agreement, or breach thereof, shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association and judgment upon the award rendered by the arbitrator(s) may be entered in the Courts of the United States Virgin Islands. Such arbitration may be conducted by an impartial arbitrator or by three (3) arbitrators, if such number is requested, mutually agreed upon by the parties. The arbitration proceedings shall be held in the U.S. Virgin Islands.

8. REPRESENTATIONS OF AUTHORITY

- a. AUTHORITY will commission and deliver detailed survey of the PREMISES no later than ninety (90) days of this agreement;
- b. AUTHORITY will coordinate BENOIT's access to the PREMISES for surveys, testing, or any other purpose as needed to complete the obligations under Clause 2 hereof;
- c. AUTHORITY has the power and authority to enter into, deliver and perform the terms and provisions of this AGREEMENT and has taken all necessary action to authorize its execution and delivery;
- d. This AGREEMENT constitutes legally valid and binding obligations of AUTHORITY, enforceable against it in accordance with its terms; and
- e. The performance of the obligations in this AGREEMENT by AUTHORITY will not violate, conflict with, or constitute a default under any provision of law or contract.

9 REPRESENTATION OF BENOIT

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- a. BENOIT is duly incorporated, validly existing and in good standing under the laws of the UNITED STATES VIRGIN ISLANDS;
- b. BENOIT has the power to and authority to enter into, deliver and perform the terms and provisions of this AGREEMENT and has taken all necessary action to authorize its execution and deliver;
- c. This AGREEMENT constitutes legally valid and binding obligations of BENOIT, enforceable against it in accordance with its terms; and
- d. The performance of the obligations and this AGREEMENT by BENOIT will not violate, conflict with, or constitute a default under any provision of law or contract.

9. UPDATES

Upon the signing of this agreement, BENOIT shall meet with AUTHORITY every three (3) months to provide status updates on the progress of the development activities and other items outlined in Section 2.

10. LEGAL COSTS

Each party will be responsible for its own legal costs in connection with this AGREEMENT.

11. NOTICES

Whenever in this AGREEMENT it is required that BENOIT send notice to AUTHORITY for any purpose; or whenever it is required that AUTHORITY notify BENOIT, for any purpose, such notice shall be deemed sufficient and completed when sent and delivered certified mail, return receipt requested, addressed to AUTHORITY to the attention of:

EXECUTIVE DIRECTOR
VIRGIN ISLANDS PORT AUTHORITY
P. O. BOX 301707
ST. THOMAS, VIRGIN ISLANDS 00803-1707

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**Cc: Office of Legal Counsel
VI Port Authority
P.O. Box 307107 St. Thomas,
V.I. 00803-1707**

and addressed to

BENOIT at the attention of:

**Torian R. Priestly
Benoit Group, LLC
Marsh Creek Village
6780 Roswell Road NE, Suite 200
Atlanta, GA 30328**

and to such other respective address as the parties may designate in writing from time to time. In lieu of certified mail, personal delivery or other mutually agreeable method of communication with receipt confirmation is deemed sufficient.

12. GOVERNING LAW

This AGREEMENT is governed by the laws of the United States Virgin Islands. The parties agree that the courts of the United States Virgin Islands shall have exclusive jurisdiction in connection with this AGREEMENT.

13. CONFIDENTIALITY

This AGREEMENT is confidential and as between the parties and neither party shall disclose the same to any person other than the party's professional advisers or bankers without the prior consent of the other party, unless required to by statute or court or law.

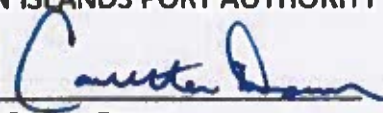
14. SURVIVAL OF TERM

The granting of the LEASE Agreement shall not in prejudice or affect the operation of any of the provisions of this AGREEMENT which contemplate or are capable of operation after the grant and accordingly all such provision shall continue in full force and effect after the granting of the LEASE.

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IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date first above written.

VIRGIN ISLANDS PORT AUTHORITY

By: 

Carlton Dowe
Executive Director

BENOIT GROUP, LLC

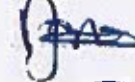
By: 

Eddy Benoit
President

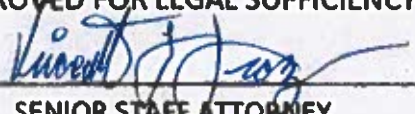
WITNESSES FOR AUTHORITY




WITNESSES FOR BENOIT GROUP, LLC

 Angela A. Sene
 Corencia Hamilton

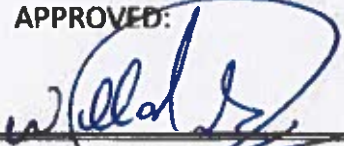
APPROVED FOR LEGAL SUFFICIENCY

By: 

SENIOR STAFF ATTORNEY
VIRGIN ISLANDS PORT AUTHORITY

Dated: Oct-18, 2023

APPROVED: 

By: 

CHAIRMAN, GOVERNING BOARD
VIRGIN ISLANDS PORT AUTHORITY

Dated: Oct 18, 2023

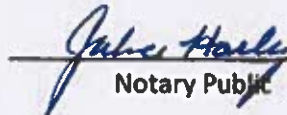
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ACKNOWLEDGEMENTS

TERRITORY OF THE VIRGIN ISLANDS)
DISTRICT OF ST. THOMAS & ST. JOHN) SS:

On this 19th day of October, 2023 before me the undersigned officer,
personally came and appeared, **CARLTON DOWE**, who acknowledged himself to be the
EXECUTIVE DIRECTOR of the VIRGIN ISLANDS PORT AUTHORITY, and as such, being
authorized so to do, executed the foregoing instrument for the purposes therein
contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

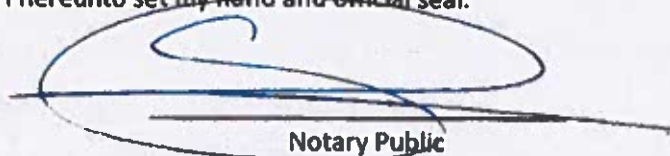

Notary Public

NOTARY PUBLIC
Julie L. Harley
My Commission Exp:
At the Pleasure of the Lieutenant Governor
St. Thomas/St. John USVI District

TERRITORY OF THE VIRGIN ISLANDS)
DISTRICT OF ST. THOMAS & ST. JOHN) SS:

On this day 22 of June, 2023 before me the undersigned officer,
personally came and appeared, **EDDY BENOIT**, who acknowledged himself to
PRESIDENT of **BENOIT GROUP, LLC** and as such, being authorized so to do, executed
the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.


Notary Public



Clive C. Rivers
Notary Public
St. Thomas/St. John, USVI District
NP-64-19
My Commission Expires: October 25, 2023