

DISTRIBUTION

County Board  
Sheriff  
County Administrator  
Risk Management

STATE OF ILLINOIS )  
                                  ) SS  
COUNTY OF LAKE )

COUNTY BOARD, LAKE COUNTY, ILLINOIS

ADJOURNED REGULAR JUNE, A.D., 2006 SESSION

AUGUST 1, A.D., 2006

MADAM CHAIR AND MEMBERS OF THE COUNTY BOARD:

Your Law & Judicial and Financial & Administrative Committees present herewith a Joint Resolution authorizing a lease agreement with the Great Lakes Disaster Training Facility, Inc. for use of approximately 7 1/2 acres of the approximately eighty-one (81) acre parcel of County owned property located at 15900 Russell Road, and generally known as the Sheriff's Shooting Range parcel; and request its adoption. *(per amendment at L+J Committee)*

Respectfully submitted,

	Aye	Nay
<u>Audrey Nyon</u> Chairman		
<u>Randy White</u> Vice-Chairman	✓	
<u>Pamela D. Heath</u>	✓	
<u>Carol Calabrese</u>	✓	
<u>Susan L. Greenhut</u>	✓	
<u>Steve E. Park</u>		✓

	Aye	Nay
<u>[Signature]</u> Chairman		X
<u>[Signature]</u> Vice-Chairman		X
<u>Ann Flanagan</u>		✓
<u>Robert Johnson</u>		
<u>Steve Gluh</u>		✓
<u>Carol Calabrese</u>		✓

Law & Judicial  
Committee

Financial & Administrative  
Committee

## RESOLUTION

WHEREAS, the County, along with other regional law enforcement agencies and first responders, have a need to obtain training in order to properly fulfill their duties of protecting and serving the public; and

WHEREAS, training opportunities within northeastern Illinois are generally not available, thus requiring agencies to send their personnel to facilities outside of the area in order to obtain the necessary training; and

WHEREAS, as a result, the County and other agencies incur increased costs for travel and housing expenses, as well as the additional time not available for duty due to increased travel time; and

WHEREAS, the County owns approximately eighty-one (81) acres of land located at 15900 Russell Road and depicted on Exhibit A attached hereto, a portion of which is currently improved and used for training invitees in the use of pistols and other firearms and tactical and other police training and is known as the Sheriff's Shooting Range;

WHEREAS, the Great Lakes Disaster Training Facility, Inc., hereinafter the "Foundation" is a not-for-profit corporation established to provide training opportunities for law enforcement and first responders; and

WHEREAS, the Foundation has approached Lake County about entering into a long-term lease in order to develop a Disaster Training Facility on the remainder of the County's eighty-one acre parcel located at 15900 Russell Road that is not being used as the Sheriff's Shooting Range; and

WHEREAS, the County does not have any immediate or long-term plans for the use of this eighty-one (81) acre parcel apart from its continued use of a portion of the parcel as the Sheriff's Shooting Range; and

WHEREAS, Section 5-1049.1 of the Illinois Counties Code, 55 ILCS 5/5-1049.1, authorizes the County Board to enter into agreements to lease lands owned by the County for \$1 per year if the County Board determines that the lease will serve the public health purposes or public safety purposes as described in subsection (j) of Section 10 of the Illinois Emergency Management Agency Act; and

WHEREAS, the Foundation has made presentations to the Law & Judicial and Financial & Administrative Committees to provide details about their proposed operations and to request that direction be given to staff to develop said lease agreement; and

WHEREAS, staff was directed by the Law & Judicial and Financial & Administrative Committees to prepare said lease agreement and forward it to the Committees for their consideration; and

WHEREAS, the staff, working with the Foundation, has developed a 60 year lease agreement with a 39 year renewal in accordance with the direction provided by the Committees; and

WHEREAS, the Law & Judicial and Financial & Administrative Committees have reviewed the lease agreement and herewith forward it for consideration by the County Board; and

WHEREAS, the Lake County Board has determined that entering into a long-term lease with the Great Lake Disaster Training Facility, Inc will serve public health purposes or public safety purposes as described in subsection (j) of Section 10 of the Illinois Emergency Management Agency Act.

NOW, THEREFORE, BE IT RESOLVED, by this County Board of Lake County, Illinois, that the Chair of the County Board is hereby authorized to execute a lease agreement with the Great Lake Disaster Training Facility, Inc., for the long-term lease of up to seventy-four (74) acres of the County's approximately eighty-one (81) acre parcel of property located at 15900 Russell Road, in substantially the same form of lease as is attached hereto as Exhibit B, with such final revisions to the form of the lease and the final configuration of the leased premises as may be approved by the Chair of the County Board, in consultation with the County Administrator and the State's Attorney's Office.

DATED, at Waukegan, Lake County, Illinois, on this 1st day of August, A.D., 2006.

07/18/2006

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THE COUNTY OF LAKE, ILLINOIS,

as ground lessor

and

GREAT LAKES DISASTER TRAINING FACILITY, INC.,

as ground lessee

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GROUND LEASE AND OPERATING AGREEMENT

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Dated as of \_\_\_\_\_

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## GROUND LEASE AND OPERATING AGREEMENT

THIS GROUND LEASE AND OPERATING AGREEMENT (this "Agreement"), is entered into by and between the COUNTY OF LAKE, ILLINOIS, a unit of local government of the State of Illinois (the "County"), and GREAT LAKES DISASTER TRAINING FACILITY, INC., an Illinois not-for-profit corporation (the "Foundation").

### RECITALS

A. Recognizing the magnitude of risks facing the health, safety and welfare of the public today and in the future, the Foundation and the County believe there is both need and demand for modern facilities to provide for the comprehensive and coordinated training of public health and safety related entities.

B. The County and the Foundation believe that all disciplines serving the public, including police, fire, public works and other governmental or private units, must react as a coordinated unit and therefore be trained as a team.

C. The County and the Foundation believe that the creation of an interdisciplinary training facility would allow space for the sharing of techniques and coordination of action within and between all of the various disciplines servicing the public's needs.

The Foundation desires to relieve government of the direct capital burden to construct and operate a comprehensive disaster training facility by providing a privately-funded disaster training facility (the "Facility") to serve the training and education needs of the County governmental agencies, regional governmental agencies and statewide agencies including police, fire, public works as well as private entities that provide services to governmental agencies in connection with the health, safety and welfare of the public.

E. The Foundation and the County believe that a Facility will provide coordinated training, based upon criteria and curricula to be established by police, fire and public works entities working in cooperation with the Foundation and its instructors.

F. The Foundation and the County believe the Foundation's Facility will also serve to complement other governmental facilities and fulfill the governmental mandates for training established by various state and federal agencies, as well as to provide a comprehensive response to various insurance company rating requirements.

G. The Foundation and the County desire to relieve stress on government financial budgets through a more cost-efficient, well-placed facility for coordinated training, thereby establishing the County as a national leader in establishing an integrated, full-service complex and curriculum for the protection and service of the public in both disastrous and day-to-day events.

H. The County owns approximately eighty (80) acres of land, approximately    (    ) acres of which are unimproved land, which land the Foundation desires to lease from the County and the County desires to let to the Foundation upon the terms and conditions set forth herein.

The remaining approximately \_\_\_ ( ) acres of the eighty (80) acre parcel are currently being operated by the County's Sheriffs Department as a shooting range and training classroom (the "Shooting Range Area").

Section 5-1049.1 of the Counties Code states that "the county board may enter into agreements to lease lands owned by the county for \$1 per year if the county board determines that the lease will serve public health purposes or public safety purposes as described by subsection (j) of Section 10 of the Illinois Emergency Management Agency Act," 55 ILCS 5/5-1049.1 (West 2005), as of the Commencement Date.

The County and the Foundation desire to enter into this Agreement to establish a cost-efficient facility for coordinated training to place the County and other governmental entities and private entities in a position to combat disasters, to protect the health and safety of persons, to protect property and to provide emergency assistance to victims of disasters as described in subsection (j) of Section 10 of the Illinois Emergency Management Act. 20 ILCS 3305/10 (j) (West 2005) as of the Commencement Date.

L. All capitalized terms shall have the meanings set forth within this Agreement.

In consideration of the mutual covenants contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and the Foundation agree that the foregoing recitals are incorporated in and made a part of this Agreement and further agree as follows:

## ARTICLE 1

### LEASED PROPERTY; TERM; POSSESSION

1.1 Leased Property. Upon and subject to the conditions and limitations set forth below, the County leases, lets and demises unto the Foundation, and the Foundation rents from the County, the following property:

[NEW LEGAL, including everything but the Shooting Range Area]

as depicted on the ATLA/ACSM Land Title Survey attached hereto as Exhibit A hereto (the "Land"); together with all agreements, development rights, water rights, easements, rights of way, and other rights and benefits, appurtenances now or hereafter belonging or pertaining to any of the foregoing, subject, however, to the Permitted Exceptions (sometimes referred to herein collectively as the "Property").

1.2 Term. This Agreement shall remain in full force and effect for an initial term (the "Initial Term") commencing on the Commencement Date and ending at 11:59 p.m. local time on the last day of the sixtieth (60<sup>th</sup>) Lease Year (the "Expiration Date"), unless sooner terminated as hereinafter provided.

1.3 Options to Extend the Term. Provided the Foundation is not otherwise in default hereunder on the date it delivers its written request and on the date of the commencement of the Extension, upon written request to the County delivered no later than three hundred sixty-five (365) days prior to the expiration of the Initial Term, the Foundation and the County may agree to extend the Initial Term for an additional thirty-nine (39) years (the "Extension") from and after the expiration of the Initial Term. In the event the County elects not to extend the Term, the County shall provide a written explanation to the Foundation of the reason for its decision not to renew. The Initial Term and the Extension (if elected) shall be collectively referred to herein as the "Term".

1.4 Commencement Date. The Commencement Date shall be the date this agreement is fully executed as evidenced by the last date signed below.

1.5 Possession. The County shall deliver possession of the Property to the Foundation upon the Commencement Date free and clear of any right of possession of others, except as may be included in the Permitted Exceptions detailed on Exhibit B attached hereto.

1.6 Right to Terminate. Not earlier than 60 days before the Fifth (5<sup>th</sup>) anniversary of the Commencement Date, the Foundation shall provide the County with a written notification of the then status of the training and educational operations being conducted by the Foundation on the Property, which notification shall specifically reference this Section 1.6 of the Agreement (the "Foundation's Status Letter"). If the Foundation has not commenced the training and educational operations generally contemplated by the Use and this Agreement upon the Fifth (5<sup>th</sup>) anniversary of the Commencement Date, through no fault of the County in its capacity as landlord, not in its governmental capacity, then the County may terminate this Agreement by written notice to the Foundation within ninety (90) days after such Fifth (5<sup>th</sup>) anniversary of the Commencement Date, or within ninety (90) days after the receipt of the Foundation's Status Letter, whichever is later. Failure by the County to provide a written notice of termination within such ninety (90) day period as provided by this Section shall be deemed a waiver of the County's right to terminate this Agreement pursuant to this Section; provided, however, no such waiver shall be found unless a complying Foundation's Status Letter has been received by the County.

## ARTICLE 2

### USE

2.1 The Foundation shall use the Property and any contiguous parcels owned or controlled by the Foundation to construct, develop, maintain and operate a disaster training facility for the coordinated health, safety, welfare and disaster training of public officials, public employees, members of the general public, and private parties and their designees, and for no other purposes (the "Use").

2.2 The County agrees that the Shooting Range Area, legally described on Exhibit D hereto, shall not be used by the County for disaster training purposes other than those types of training conducted on the Shooting Range Area on or before the Commencement Date, including but not limited to training invitees in the use of pistols and other firearms and tactical and other police training for Sheriff's deputies.

2.3 In furtherance of the Use of the Property, the Foundation may use the Shooting Range Area, subject to the priority use by the County, generally consistent with the terms, conditions and charges applicable to municipal users.

2.4 The Foundation agrees its use of the Property and the design and construction of any improvements thereon, shall not interfere with the operation of the shooting range operated by the County Sheriff on the Shooting Range Area or the existing septic system serving the Shooting Range Area (provided, however, that the Foundation shall be entitled to replace, relocate, or redesign the septic system on the Property upon the written approval of the County, which approval shall not be unreasonably withheld).

2.5 The County shall have priority in participating in Foundation programs on the Property. Further, the Foundation shall give priority in participating in Foundation programs on the Property to units of local governments or first-responder organizations based in Lake County, Illinois, over governments or organizations based outside Lake County, Illinois.

2.6 The Foundation shall use and operate the Property in compliance with all applicable Federal, State and County ordinances, regulations, laws and orders.

### ARTICLE 3

#### FACILITY NAME

The County shall have the right within sixty (60) days following the Commencement Date to designate the official name of the Facility, which name shall be the intellectual property of the Foundation and shall be used to refer to the Facility on its signs, advertising or official publications. Such name shall be subject to the prior written approval of the Foundation, which approval shall not be unreasonably denied, delayed or conditioned. As of the date hereof, and until the County designates otherwise, the Facility shall be officially known as: "The Great Lakes Disaster Training Facility".

### ARTICLE 4

#### RENT

4.1 Annual Rent. The Foundation shall pay to the County, as and for rent for the Property, the amount of One Dollar (\$1.00) per annum during the Term (the "Annual Rent"), which Annual Rent shall be due and payable upon the Commencement Date and annually on each and every anniversary of the Commencement Date throughout the Term. Alternatively, the Foundation may, at its sole and exclusive option and upon notice to the County, prepay the Annual Rent applicable to the Initial Term and any extension, respectively. Annual Rent and all other amounts payable to the County hereunder shall be payable in such currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts and shall be paid to the County at the address set forth herein or to such other Person or address as the County from time to time may designate in a written notice delivered to the Foundation. The Foundation's obligation to pay Annual Rent is independent of any other covenant in this Agreement.

4.2 Additional Rent. All amounts which the Foundation is required to pay pursuant to this Agreement (other than Annual Rent), together with any fine, penalty, interest and costs which may be added for nonpayment or late payment thereof, shall constitute additional rent (referred to herein as "Additional Rent"). If the Foundation fails to pay any Additional Rent due under this Agreement, then the County shall have the right to pay the same and shall have all of the rights, powers and remedies with respect thereto as are provided herein or by law in the case of nonpayment of Annual Rent. Annual Rent and Additional Rent are collectively referred to herein as "Rent".

4.3 Net Lease. This Agreement is a net lease, and the Foundation shall pay all costs, charges, taxes, assessments and other expenses of every character, foreseen or unforeseen, for the payment of which the Foundation is or shall become liable by reason of its estate, right, title or interest in the Property, or that are connected with or arise out of the possession, use or occupancy of the Property or any portion thereof, including, without limitation, those specifically referred to in this Agreement. The Rent and all other amounts payable hereunder shall be paid (except as otherwise expressly provided in this Agreement) without notice, demand, counterclaim, setoff, deduction or defense and without abatement, suspension, deferment, diminution or reduction. Any amount due to the County hereunder shall bear interest from the date such payment is due to the date of payment at the lesser of (a) the maximum rate of interest permitted by applicable law or (b) the prime rate of interest published, from time to time, by the Wall Street Journal or any substitute or similar index then in effect, plus two percent (2%), per annum (the "Default Rate").

## ARTICLE 5

### TAXES; PERMITTED CONTESTS

5.1 Taxes Payable by Foundation. Subject to the Foundation's right to contest pursuant to Section 5.3 hereof, in addition to the payment of Annual Rent, the Foundation shall promptly pay, as and when the same shall become due and payable, all taxes (including without limitation, real estate taxes, personal or other property taxes, payroll taxes and all sales, value added, use and similar taxes), assessments (including without limitation, all assessments for public improvements or benefits, whether or not commenced or completed prior to the date hereof and whether or not to be completed within the Term), water, sewer or other rents, rates and charges, excises, levies, license fees, permit fees, inspection fees and other authorization fees and other charges, in each case whether general or special, ordinary or extraordinary, or foreseen or unforeseen, of every character (including all interest, additions to tax and penalties thereon), that may be assessed, levied, confirmed or imposed on or in respect of or be a lien upon (a) the Property or any part thereof or any rent therefrom or any estate, right or interest therein or (b) any acquisition, occupancy, use, leasing or possession of or activity conducted on the Property or any part thereof or any gross receipts thereof or of the rent therefrom (all of the foregoing being referred to collectively as "Taxes"). Notwithstanding the foregoing or any other provision of this Agreement, the Foundation's obligation to pay Taxes shall be limited only to such Taxes which accrue upon or after the Commencement Date and that relate to the Term regardless of when such Taxes become due and payable. The obligation of the Foundation to pay Taxes herein shall survive the expiration or earlier termination of this Agreement.

5.2 Tax Exemption. Notwithstanding anything contained in Section 5.1 to the contrary, for so long as no Event of Default has occurred and is continuing, the County, not in its governmental capacity, but solely in its capacity as a landlord hereunder, covenants and agrees to provide reasonable assistance to the Foundation in obtaining and maintaining an exemption from the payment of Taxes for the Property and the Lake County Board shall not object to the Foundation's attempt to obtain and maintain an exemption from the payment of Taxes on any contiguous parcels owned or controlled by the Foundation, to the extent permitted by law.

5.3 Permitted Contests by the Foundation. The Foundation at its expense may contest and through appropriate legal proceedings conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, of any Taxes or lien therefor, and may withhold payment of the same pending such contest if permitted by law, provided that (a) neither the Property nor any part thereof nor interest or estate therein would be in any danger (during such contest) of being sold, forfeited or lost and (b) the Foundation shall have furnished such security, if any, as may be required in the proceedings and/or as reasonably required by the County. The County, in its role as landlord and not in its governmental capacity, shall not formally object to the Foundation's position in such proceedings.

5.4 County Right to Pay. The County shall, at its option, have the right, without notice to the Foundation, at all times during the Term to pay any such Taxes not timely paid by the Foundation, and the amounts so paid, including reasonable expenses, shall be so much Additional Rent due immediately after any such payments by the County.

## ARTICLE 6

### UTILITIES

6.1 Foundation to Pay. The County shall have no obligation to provide utilities to the Improvements. The Foundation shall provide for all utilities to the Property and shall pay, or cause to be paid, all charges for public or private utility services, all public or private communication services, refuse disposal and all sprinkler systems and protective services at any time rendered to or in connection with the Property, any part thereof or any contiguous parcel owned or controlled by the Foundation. The County shall not in any way be liable or responsible to the Foundation for any cost or damage or expense which the Foundation may sustain or incur if either the quality or character of such service is changed or is no longer available or suitable for the Foundation's requirements.

6.2 Connection and User Fees. To the extent any water, sewer, or other municipal utilities are brought within proximity to the perimeter of the Property or should otherwise become available to serve the Property, the County, in its capacity as Landlord and not in its governmental capacity, shall permit the Foundation, at the sole expense of the Foundation, to make connection to such municipal utilities. Moreover, to the extent the Foundation wishes to make connection to any County sewer, water or other County utilities brought within proximity of the Property, the Foundation shall be subject to all generally applicable County terms, conditions, ordinances, priorities, connection fees, and user fees with respect to any such connection.

## ARTICLE 7

### CONSTRUCTION OF IMPROVEMENTS

7.1 Construction by Foundation. The Foundation may develop the Property in phases. Subject to applicable laws and ordinances, the Foundation may, from time to time during the Term and subject to Article 2, erect, construct or cause to be erected or constructed at the Property any number of permanent or temporary improvements, structures or facilities (above or underground). Such improvements, structures and facilities may be of either two categories.

First, those improvements, structures and facilities which by their nature and intended use are permanent or long-term in nature (such improvements, structures or facilities are referred to herein collectively as the "Permanent Improvements"). By way of example and not limitation of Permanent Improvements: permanent or long-term office space, permanent or long-term auditoriums and classrooms, concrete burn towers, a small firearms or long range shooting range, permanent or long-term roadway tracks and permanent or long-term water detention or retention facilities.

Second, these improvements, structures and facilities which by their nature and intended use are not permanent or long-term in nature but whose purposes are to further the Use of the Property as part of training and educational activities occurring on the Property by such improvements, structures or facilities, destruction, reconfiguration, collapse or similar uses which are in the nature of disposable props (such improvements, structures and facilities are referenced herein as "Trade Props"). By way of example and not limitation of Trade Props: temporary burn towers, rubble piles, climbing towers, items deposited or stored in water retention or detention facilities and improvements, structures or facilities to be burnt or demolished. Permanent Improvements and Trade Props are sometimes collectively referred to herein as "Improvements".

7.2 Plans Approval. Prior to the commencement of any construction for any Permanent Improvements at the Property by the Foundation, the Foundation shall submit plans and specifications ("Plans") for the Permanent Improvements to the County, as landlord hereunder and not in its governmental capacity, for approval, which approval shall not be unreasonably withheld, delayed or conditioned. If the County does not approve the Plans, the County shall advise the Foundation in reasonable detail of the reasons for such disapproval. The County shall comment on the Plans (or any component thereof submitted to the County) and each revision thereof within forty-five (45) days after receipt from the Foundation. In the event that the County does not disapprove of the Plans (or any component thereof submitted to the County) within said forty-five (45) day period, the Plans shall be deemed approved by the County as landlord hereunder and not in its governmental capacity. The Foundation shall, upon the County's approval, as Landlord, of applicable Plans, obtain all necessary permits to proceed with the construction of Permanent Improvements.

Notice, but no prior approval by the County, as landlord hereunder and not in its governmental capacity, shall be required relating to the commencement of the initial construction of, removal of, or significant modification to any Trade Props.

7.3 Laws and Ordinances. In addition to the other terms set forth in this Agreement and not in lieu or contradiction thereof, any Permanent Improvements constructed by the Foundation shall be constructed and completed in a good and workmanlike manner and in compliance with all laws, ordinances, regulations or orders of any federal, state, local or other public authority relating directly or indirectly to the Property, including, without limitation, applicable building codes. Any Trade Props shall be constructed, maintained, and operated by the Foundation in such as manner so as to provide for a safe training environment.

7.4 Insurance. The Foundation shall obtain all insurance, as required by Section 15.1(b) hereof, in connection with any construction at the Property.

7.5 Improvement Ownership. Upon the expiration or earlier termination of this Agreement, all Permanent Improvements shall, without further written evidence, documentation or expense to the County, become the sole property of the County. The Foundation agrees to execute all documentation and take all steps reasonably requested by the County to effectuate or evidence the conveyance of ownership of such Permanent Improvements to the County. Upon the expiration or earlier termination of this Agreement, at the election of the County, the Foundation shall either remove all Trade Props and restore the Trade Prop Site or convey ownership of the Trade Props to the County.

7.6 Access to Shooting Range Area. The Foundation shall maintain an access route, which may be gravel, from Russell Road to the Shooting Range Area as shown on Exhibit A or as such alternative location as may be agreed by the parties.

7.7 Shooting Range Fence. The Foundation shall construct and maintain as part of the Permanent Improvements, a fence approved by the County, such approval not to be unreasonably delayed, denied or conditioned, at the border between the Property and the Shooting Range Area.

## ARTICLE 8

### MAINTENANCE, REPAIRS AND REPLACEMENTS

8.1 Maintenance and Repairs. The Foundation, at its expense, shall keep and maintain the Property and all Improvements now or hereafter constructed or located thereon, including all additions, and all facilities, fixtures, machinery, apparatus, installations, equipment and other property now or hereafter located in good and clean order and condition provided the condition of the Trade Props shall be generally consistent with their intended use. The County shall not be liable to any contractors, subcontractors, laborers, materialmen, suppliers or vendors for services performed or material provided on or in connection with the Property or any part thereof. The County shall not be required to maintain, alter, repair, rebuild or replace the Property, the Improvements, or any facilities, fixtures, machinery, apparatus, installations, equipment and other property now or hereafter located on the Property during the Term.

8.2 Replacements. The Foundation shall, at its sole cost and expense, promptly make all necessary repairs and replacements, ordinary as well as extraordinary, foreseen as well as unforeseen, structural as well as non-structural, in and to the Permanent Improvements,

including, but not limited to the entire interior and exterior of the Permanent Improvements, any equipment now or hereafter located in or on the Property, all foundations, floors, floor coverings, roofs, structures, windows, glass, plate glass, ceilings, skylights, walls, doors, electrical systems, lighting fixtures and equipment, plumbing systems and fixtures, sprinkler systems, heating, ventilating and air conditioning systems, loading docks, areas and doors, rail space areas, fences and signs, connections, pipes, mains, water, sewer and connections, and all other fixtures, machinery, apparatus, equipment and appurtenances now or hereafter belonging to, connected with or used in conjunction with the Property provided the condition of the Improvements shall be generally consistent with their intended use. All such maintenance, repairs and replacements shall be sufficient for the proper maintenance and operation of the Property.

## ARTICLE 9

### CHANGES AND ALTERATIONS BY THE FOUNDATION

The Foundation shall have the right, at any time and from time to time, to make, at its sole cost and expense, changes and alterations in, to or of any Improvements, subject, however, in all cases related to the Permanent Improvements to the following:

(a) Prior to the commencement of any such changes or alterations to any Permanent Improvements at the Property, the Foundation shall submit to the County, as landlord hereunder and not in its governmental capacity, Plans for any changes or alterations, for approval, which approval shall not be unreasonably withheld, delayed or conditioned. If the County does not approve any Plans, the County shall advise the Foundation in reasonable detail of the reasons for such disapproval. The County shall comment on the Plans (or any component thereof submitted to the County) and each revision thereof within forty-five (45) days after receipt from the Foundation. In the event that the County does not disapprove of the Plans (or any component thereof submitted to the County) within forty-five (45) days after the County's receipt of the Plans submitted by the Foundation, the Plans shall be deemed approved herein. The Foundation shall, upon County approval, as landlord hereunder and not in its governmental capacity, of applicable plans, obtain necessary permits to proceed with the changes or alterations to the Permanent Improvements.

(b) Any change or alteration of any Permanent Improvement shall when completed, be of such a character as not to reduce the value and utility of any Permanent Improvement below its value and utility immediately before such change or alteration.

(c) No prior approval by the County, as landlord hereunder and not in its governmental capacity, shall be required relating to any changes or alterations to, for or relating directly or indirectly to any Trade Props.

## ARTICLE 10

### FUNDING AND RESERVES

10.1 Capital Raising Activities. The Foundation may obtain and expend funds to support its goals and satisfy its obligations hereunder by any legal means, and may accept charitable gifts and expend such capital for all purposes contemplated by this Agreement, whether received from private or public sources.

10.2 Funding and Assistance by the County. To assist and support the Foundation's goals and fund raising for the design, construction, maintenance and operation of any of the Improvements, and whenever requested by the Foundation from time to time during the Term, the County shall, in good faith, consider, at no material cost or expense to the County, the Foundation's request that the County render assistance to the Foundation by: (a) creating special revenue districts; (b) issuing bonds, so long as such bonds are not general obligation bonds; (c) joining in applications requesting funding from the federal government, other state or local governmental entity or any other public or private source; and (d) actively assisting the Foundation's marketing the Facility.

10.3 County Facility Usage Credits. In consideration of the County's agreement to lease the Property to the Foundation, in each calendar year during the Term of this Lease, the Foundation agrees that the County shall be entitled to receive 350 individual trainee per person hours of facility usage on the Property for the training and educational needs of the County (including employees of any County department, agency, or County elected official). The County may elect to utilize its 350 hours of facility usage credits in the following manner, or any combination thereof: 1) for County-sponsored and supervised training, instruction or programming, on such dates and times as the parties may reasonably agree, in which case the Foundation shall not be entitled to receive any remuneration from the County, or 2) for training, instruction, or programming that is sponsored and supervised by or through the Foundation, in which case the Foundation and County shall agree to reasonably prorate the cost of such programming between a facility usage cost (which shall be provided at no cost to the County) and a cost attributable to instruction or materials provided to participants in conjunction with such programming (which component cost shall be paid by the County). The County shall have the sole discretion to select the Foundation training, instruction, or programming that it may wish to utilize or receive pursuant to this Section 10.3 in conjunction with its facility usage credits. The County shall be entitled to carry forward up to 50 hours of unused facility usage credits from one calendar year to the next, unless the Foundation or its representative authorizes the carrying forward of additional unused hours of credit. Moreover, the Foundation shall otherwise offer and make available to the County all of its training, programs and services at a fee or cost no greater than that paid by other governmental units for such training, programs and services. The facility usage credits set forth in this Section 10.3 shall not be assignable in whole or part by the County. The Foundation shall meet, from time to time, at the request of the County, to review the fees and costs to be paid by the County in the training and educational needs of County personnel. The Foundation shall make available to the County on a "open book" basis all records and accounts of the Foundation.

10.4 Reserve Deposits. The Foundation shall designate and maintain a separate reserve account (the "Reserve Account") into which five percent (5%) of the Foundation's Net Revenue from its Facilities' operations shall be deposited from time to time. The Reserve Account shall be used by the Foundation for the ongoing maintenance, repair and replacement of the Improvements at the Facility and the continuing operation of the Facility and training and education of all employees thereof. The Foundation shall deliver to the County within sixty (60) days following each January 1st of each year, a written accounting of the amount and use of the Reserve Account funds for the purposes set forth in this Section.

## ARTICLE 11

### CONFLICTS

No County board member or County officer shall be permitted to simultaneously act as a member, officer or employee of the Foundation. The Foundation shall in writing to the County disclose whenever an interest of a Foundation board member potentially conflicts with an interest of any government representative. Notwithstanding the disclosure by the Foundation of a potential conflict, whenever the County concludes that a conflict exists between a County board member or officer and a Foundation member, officer or employee, then upon the County's written notice to the Foundation, the Foundation shall use its best efforts to eliminate or otherwise remediate such conflict to the extent permitted by applicable law.

## ARTICLE 12

### RECIPROCAL WAIVER AND INDEMNITY

12.1 Except where caused by the criminal or willful and wanton conduct of the County, its board members, agents, officers, contractors or employees, the Foundation agrees that the County shall not be liable to the Foundation, its members, officers, directors, agents, employees, invitees, licensees and other persons claiming by, through, or under the Foundation for any damage either to Person or property or resulting from the loss of use thereof sustained by the Foundation or such other Persons due to the Foundation's use or operation of the Property or due to the Property becoming out of repair or due to the happening of any act or neglect of any other Person directly or indirectly with respect to the Property. This provision shall apply particularly (but not exclusively) to damage: (a) which is consequential damage; (b) caused by fire, explosion, falling plaster, falling concrete, steam, gas, electricity, water or rain which may leak from any part of the Property or from the street, sub-surface or from any other place or resulting from dampness, structural defects or failures or any other cause; (c) without distinction as to the Person whose act or neglect was responsible for damage; or (d) whether the damage was due to any of the causes specifically enumerated above or to some other cause of any entirely different kind.

The Foundation shall indemnify, defend and hold the County and each of its board members, employees, agents, officers, representatives, successors and assigns harmless against, of and from any and all liabilities, obligations, mechanics' liens, damages, penalties, claims, costs, charges and expenses, including, without limitation, reasonable attorneys' fees, expert witness' fees, and consultants' fees, costs and expenses, which may be imposed upon, incurred by

or asserted against the County or any of its board members, employees, officers, agents, representatives, successors and assigns by reason of any of the following occurrences during the Term: (a) any work or thing done by the Foundation, or any of its officers, board members, directors, agents, contractors, employees, licensees or invitees, on or about all or any part of the Property; (b) any use, nonuse, possession, occupation, condition, operation, maintenance or management of all or any part of the Property or any of the Foundation's equipment; (c) any negligent or tortious act of the Foundation, or any of the Foundation's occupants, agents, contractors, employees, licensees or invitees; (d) any thing arising out of the possession, use, storage or disposition of Hazardous Substances during the Term in, about or from the Property or (e) any failure by the Foundation to perform its obligations under this Agreement.

If any claim is made or action brought against the County by reason of any claim covered by this Article, the Foundation shall, promptly on the County's request and at the Foundation's sole cost and expense, resist or defend such action or proceeding using counsel of the Foundation's choosing reasonably satisfactory to the County. To the extent of the proceeds received by the County under any insurance insuring against such claim or from any third party, the Foundation's obligation to indemnify and save harmless the County against the hazard, which is the subject of such insurance, shall be deemed to be satisfied pro tanto; provided, however, that it is understood that payment shall not be a condition precedent to recovery upon the foregoing indemnity.

12.2 Except where caused by the criminal or willful and wanton conduct of the Foundation, its board members, agents, officers, contractors or employees, the County agrees that the Foundation shall not be liable to the County, its members, officers, directors, agents, employees, invitees, licensees and other persons claiming by, through, or under the County for any damage either to Person or property or resulting from the loss of use thereof sustained by the County or such other Persons due to the use or operation of the Shooting Range Area or due to the Shooting Range Area becoming out of repair or due to the happening of any act or neglect of any other Person directly or indirectly with respect to the Shooting Range Area. This provision shall apply particularly (but not exclusively) to damage: (a) which is consequential damage; (b) caused by fire, explosion, falling plaster, falling concrete, steam, gas, electricity, water or rain which may leak from any part of the Shooting Range Area or from the street, sub-surface or from any other place or resulting from dampness, structural defects or failures or any other cause; (c) without distinction as to the Person whose act or neglect was responsible for damage; or (d) whether the damage was due to any of the causes specifically enumerated above or to some other cause of any entirely different kind.

The County shall indemnify, defend and hold the Foundation and each of its board members, employees, agents, officers, representatives, successors and assigns harmless against, of and from any and all liabilities, obligations, mechanics' liens, damages, penalties, claims, costs, charges and expenses, including, without limitation, reasonable attorneys' fees, expert witness' fees, and consultants' fees, costs and expenses, which may be imposed upon, incurred by or asserted against the Foundation and each of its board members, employees, officers, agents, representatives, successors and assigns by reason of any of the following occurrences during the Term: (a) any work or thing done by the County, or any of its officers, board members, directors, agents, contractors, employees, licensees or invitees, on or about all or any part of the Shooting Range Area; (b) any use, nonuse, possession, occupation, condition, operation,

maintenance or management of all or any part of the Shooting Range Area or any of the County's equipment; (c) any negligent or tortuous act of the County, or any of the County's occupants, agents, contractors, employees, licensees or invitees; (d) any thing arising out of the possession, use, storage or disposition of Hazardous Substances during the Term in, about or from the Shooting Range Area or (e) any failure by the County to perform its obligations under this Agreement.

If any claim is made or action brought against the Foundation by reason of any claim covered by this Article, the County shall, promptly on the Foundation's request and at the County's sole cost and expense, resist or defend such action or proceeding using counsel of the County's choosing reasonably satisfactory to the Foundation. To the extent of the proceeds received by the Foundation under any insurance insuring against such claim or from any third party, the County's obligation to indemnify and save harmless the Foundation against the hazard, which is the subject of such insurance, shall be deemed to be satisfied pro tanto; provided, however, that it is understood that payment shall not be a condition precedent to recovery upon the foregoing indemnity.

Nothing contained in this Agreement is intended to limit application of any of the provisions of the Illinois Local Governmental and Governmental Employees Tort Immunity Act, 745 ILCS 10/1-101, *et seq.* as amended, to any claim against the County or any of its Board Members, employees or officers.

12.3 The provisions of this Article 12 shall survive the expiration or early termination of this Agreement.

## ARTICLE 13

### INSPECTION

The County or its authorized representatives, solely in the County's capacity as landlord hereunder and not in its governmental capacity, may enter the Property and the Improvements or any part of either thereof at all reasonable times for any purpose (provided that no such entry shall be made without reasonable advance notice, except in case of an emergency where notice shall be given as soon as practicable under the circumstances, nor shall such entry unreasonably interfere with the conduct of the Foundation's activities). The County, as landlord hereunder and not in its governmental capacity, shall not have any duty to make any such inspection and shall not incur any liability or obligation for not making any such inspection. No such entry shall constitute an eviction of the Foundation.

## ARTICLE 14

### LIENS

14.1 No Liens. Subject to Section 14.2 hereof, the Foundation shall not, except as may be required in connection with the County's creation of a special revenue district or the issuing of specific obligation bonds as set forth in Section 10.2, directly or indirectly create or permit to be created or to remain, and will promptly discharge, any mortgage, lien, encumbrance or charge

on, pledge of, or conditional sale or other title retention agreement with respect to the Property, the Foundation's interest therein or the Rent or any other sum payable under this Agreement, other than (a) this Agreement and any assignment, mortgage or sublease permitted hereby, (b) any other lien affecting the Property, which lien is expressly subject and subordinate to this Agreement and the County's rights hereunder or results solely from any act or failure to act of the County, or any liability or obligation on the part of any Person claiming by, through or under the County (other than the Foundation or any Person claiming by, through or under the Foundation), (c) Permitted Exceptions, and (d) liens of mechanics, materialmen, suppliers or vendors, or rights thereto incurred in the ordinary course of business.

14.2 Foundation Right to Contest. The Foundation shall have the right to contest in good faith and with reasonable diligence, the validity of any such lien or claimed lien if the Foundation shall first give to the County an amount equal to one hundred twenty percent (120%) of the amount of the lien or claimed lien which, together with interest earned thereon, shall be held by the County as security to insure payment thereof and to prevent any sale, foreclosure or forfeiture of the Premises by reason of non-payment thereof. The amount so deposited with the County shall be held by the County in an interest bearing account established at a federally insured banking institution until satisfactory removal of said lien or claim of lien. All interest and increments earned on such account shall be the sole property of and shall be paid to the Foundation. On any final determination of the lien or claim for lien, the Foundation will immediately pay any judgment rendered, with all proper costs and charges, and will, at its own expense, have the lien released and any judgment satisfied. Should the Foundation fail to diligently contest and pursue such lien contest, the County may, at its option, use the sums so deposited to discharge any such lien upon the renewal of such lien or encumbrance the County shall pay all such sums remaining on deposit to the Foundation.

14.3 County Right to Cure. The County shall not be liable to any contractors, subcontractors, laborers, materialmen, suppliers or vendors for services performed or material provided on or in connection with the Property or any part thereof. However, if the Foundation shall fail to contest the validity of any lien or claimed lien or fail to give security to the County to insure payment thereof, or shall fail to prosecute such contest with diligence, or shall fail to have the same released and satisfy any judgment rendered thereon, then the County may, at its election (but shall not be so required) remove or discharge such lien or claim for lien (with the right, in its discretion, to settle or compromise the same), and any amounts advanced by the County, including reasonable attorneys' fees, for such purposes shall be so much Additional Rent due from the Foundation to the County herein.

## ARTICLE 15

### INSURANCE

15.1 Coverage Required. The Foundation shall procure and maintain, or cause to be maintained, at all times during the Term, at the Foundation's sole cost and expense, and until each and every obligation of the Foundation contained in the Agreement has been fully performed, the types of insurance specified below so long as each such insurance is generally available in the marketplace, irrespective of the Foundation's claims history in the Use of the Property, with insurance companies reasonably approved by the County and authorized to do

business in the State of Illinois covering all operations under this Agreement, whether performed by the Foundation or by contractors. For purposes of this Article, "contractors" shall mean the Foundation and contractors, subcontractors and materialmen of any tier providing services, material, labor, operation or maintenance on, about or adjacent to the Property, whether or not in privity with the Foundation.

(a) In General. As of the Commencement Date, the Foundation shall procure and maintain throughout the Term the following kinds and amounts of insurance:

(i) Worker's Compensation. Worker's Compensation and Employer's Liability Insurance, in statutory amounts, covering all employees who provide a service under this Agreement.

(ii) Commercial Liability Insurance (Primary and Umbrella). Commercial Liability Insurance or equivalent with limits of not less than Six Million Dollars (\$6,000,000) per occurrence combined single limit, for bodily injury, personal injury, and property damage liability. Products/completed operation, independent contractors, broad form property damage and contractual liability coverage is to be included. The County shall be named as an additional insured on a primary non-contributory basis on such policy, on a primary, non-contributory basis for any liability, arising directly or indirectly from this Agreement.

(iii) Automobile Liability Insurance. In the event and prior to the time the Foundation may own or operate any vehicles on the Property, Automobile Liability Insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence combined single limit, for bodily and property damage. The County is to be named as an additional insured on a primary non-contributory basis.

(iv) Contents Insurance. Insurance against fire, sprinkler leakage, vandalism, and the extended coverage perils for the full insurable value of all contents of the Foundation within the Property, and of all office furniture, trade fixtures, office equipment, merchandise and all other items of the Foundation's property on the Property.

(v) Property Insurance. Insurance on all Permanent Improvements (and to the extent commercially available at reasonable expense and terms, the Trade Props) against loss by fire and lightning, the risks covered by what is commonly known as extended coverage, malicious mischief and vandalism, and all other risks of direct physical loss in an amount equal to the full replacement value on the replacement form basis, of such Improvements. The Foundation further agrees that if and when obtainable, the Foundation will procure and maintain earthquake and flood insurance on the Improvements for not less than one hundred percent (100%) of the full insurable value of Improvements above foundation. The Foundation shall also obtain for the benefit of the County and the

Foundation such other insurance or amounts reasonably required by the County, from time to time, all in amounts and under terms that are reasonable.

(vi) On-Site And Off-Site Pollution Liability Insurance. Pollution Liability Insurance for on and off-site pollution or environmental contamination in such form as the County may reasonably approve with limits of not less than One Million Dollars (\$1,000,000) per occurrence. The County shall be named as an additional insured on such policy, on a primary non-contributory basis.

(b) Construction. In addition, during any construction, the Foundation shall also procure and maintain, or cause to be maintained, the following kinds and amounts of insurance:

(i) All Risk Builders Risk Insurance. The Foundation or contractor shall provide All Risk Blanket Builder's Risk Insurance to cover the materials, supplies, equipment, machinery and fixtures that are or will be part of the Facility. Coverage extensions shall include the following: right to partial occupancy, material stored off-site and in-transit, boiler and machinery, earthquake, flood (including surface water backup), collapse, water damage, debris removal, faulty workmanship or materials, testing, mechanical-electrical breakdown and failure, deletion of freezing and temperature exclusions, business interruption, extra expense, loss of revenue, loss of rents and loss of use of property, as applicable, the County shall be named as loss payee.

(ii) Professional Liability. When any architects, engineers, or consulting firms perform work in connection with this Agreement, Professional Liability Insurance shall be maintained with limits of Two Hundred Fifty Thousand (\$250,000).

(c) Licenses of the Facility. All licensees and business invitees of the Facility must, prior to entering the Property and at all times while on the Property, procure and maintain the following types of insurance, delivering certificates of same to the Foundation and the County to such party designated by the County, from time to time, prior to entering the Property:

(i) Worker's Compensation. Worker's Compensation and Employer's Liability Insurance, in statutory amounts, covering all employees of any User.

(ii) Commercial Liability Insurance (Primary and Umbrella). Commercial Liability Insurance or equivalent with limits of not less than One Million Dollars (\$1,000,000) per occurrence, combined single limit, for bodily injury, personal injury, and property damage liability. Products/completed operation, independent contractors, broad form property damage and contractual liability coverage is to be included. The County and the Foundation shall be named as additional insureds.

(iii) Automobile Liability Insurance. Automobile Liability Insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence

combined single limit, for bodily and property damage. The County and the Foundation are to be named as additional insured.

15.2 Policies. All insurance policies shall be written with insurance companies having an A.M. Best Company rating of at least A-Class and a financial backing rating of at least "VII", and shall be in form satisfactory to the County. All insurance policies shall name the County as an additional insured and loss payee as their respective interests may appear and shall provide that they may not be terminated or modified without sixty (60) days' advance written notice to the County. All policies shall also contain an endorsement that the County, although named as an additional insured, shall nevertheless be entitled to recover for damages caused by the negligence of the Foundation. The minimum limits of insurance specified in this Section shall in no way limit or diminish the Foundation's liability under this Agreement. The Foundation shall furnish to the County, not less than thirty (30) days prior to the expiration of each such policy, true and correct photocopies of all insurance policies required under this Article, together with any amendments and endorsements to such policies, certificates of insurance, and such other evidence of coverages as the County may reasonably request, and evidence of payment of all premiums and other expenses owed in connection therewith. In addition to any other rights of the County under this Agreement, upon the Foundation's default in obtaining or delivering the policy for any such insurance or the Foundation's failure to pay the charges therefor, the County may, at its option, on or after the tenth (10<sup>th</sup>) day after written notice thereof is given to the Foundation, procure or pay the charges for any such policy or policies and the total cost and expense (including attorneys' fees) thereof shall be immediately paid by the Foundation to the County as Additional Rent upon receipt of a bill therefor with interest thereon at the Default Rate.

15.3 Miscellaneous Insurance Provisions. The County and the Foundation further agree as follows:

(a) The Foundation and contractors expressly understand and agree that any insurance coverages and limits furnished by the Foundation and contractors shall in no way limit the Foundation's and contractor's liabilities and responsibilities specified under the Agreement, or contracts executed relating to the Property, or by law.

(b) The failure of the County to obtain such evidence from the Foundation or contractors before permitting the Foundation or contractors to commence work shall not be deemed to be a waiver by the County, and the Foundation or contractors shall remain under continuing obligation to maintain the insurance coverage.

(c) Any and all deductibles on referenced insurance coverages shall be borne by the Foundation and contractors.

(d) The Foundation expressly understands and agrees that any insurance maintained by the County shall apply in excess of and not contribute with insurance provided by the Foundation or contractor under the Agreement.

(e) If the Foundation or any contractors desire additional coverage, higher limits of liability, or other modifications for their own protection, the Foundation and

such contractors shall be responsible for the acquisition and cost of such additional protection.

(f) The Foundation agrees, and shall cause each contractor in connection with the Property to agree, that all insurers shall waive their rights of subrogation against the County.

(g) The Foundation and contractors shall not violate or permit to be violated any of the conditions or provisions of any of the insurance policies, and the Foundation and contractors shall so perform and satisfy or cause to be performed and satisfied the requirements of the companies writing such policies so that at all times companies of good standing, satisfactory to the County shall be willing to write and continue such insurance.

(h) The County shall not be limited in the proof of any damages which the County may claim against the Foundation and contractors arising out of or by reason of the Foundation's and contractor's failure to provide and keep in force insurance, as aforesaid, to the amount of the insurance premium or premiums not paid or incurred by the Foundation and contractors and which would have been payable under such insurance, but the County shall also be entitled to recover as damages for such breach the uninsured amount of any loss, to the extent of any deficiency in the insurance required by the provisions of this Agreement, and damages, costs and expenses of suit suffered or incurred by reason of damage to, or destruction of, any of the Improvements occurring during any period when the Foundation or contractors shall have failed or neglected to provide insurance as aforesaid.

(i) The insurance required by this Agreement, at the option of the Foundation or contractors, may be effected by blanket or umbrella policies issued to the Foundation or contractors covering the Property and other properties owned or leased by the Foundation or contractors, provided that the policies otherwise comply with the provisions of this Agreement and allocate to the Property the specified coverage, without possibility of reduction or coinsurance by reason of, or damage to, any other premises covered therein.

(j) The Foundation and contractors shall provide and keep in force such other insurance in such amounts as may from time to time be reasonably required by the County or a holder of a mortgage against such other insurable hazards as at the time are commonly insured against in the case of prudent owners of properties similar to the Property based on commercial industry standards, and in that connection the County may require changes in the forms, types and amounts of insurance required pursuant to this Section or add to, modify or delete other requirements; and in any event, if under applicable Legal Requirements, liability may be imposed upon the County on account of the use or operation of the Property or other improvements, insurance within limits reasonably satisfactory to the County shall be maintained by the Foundation and contractors against any such liability.

(k) The required insurance to be carried shall not be limited by any limitations expressed in the indemnification language herein or any limitation placed on the indemnity therein given as a matter of law.

15.4 Insurance Review. The County and Foundation agree within sixty (60) days after the fifth (5<sup>th</sup>) anniversary of the Commencement Date (and every five years thereafter during the term) and, in addition, prior to the use or occupancy of any Permanent Improvement, to meet to discuss: (a) the adequacy of the policy limits set forth in this Article 15 and the possible increases thereof and (b) whether any of the specific types of insurance identified in this Article 15 are no longer commercially available in the marketplace (irrespective of the Foundation's claims history in the Use of the Property) and, if so, what type of replacement insurance (or other assurance) the Foundation should be required to obtain for the benefit of the County. In the event the parties cannot agree to appropriate insurance policy limits adjustments, the parties shall jointly select a licensed insurance broker with at least ten (10) years with commercial insurance policies and issues to conduct a review of the policy limits set forth in this Article 15 to determine whether, based on market conditions, claims history, the rate of inflation, and other relevant factors the policy limits set forth herein should be raised (but in no event lowered) to provide reasonable and adequate protection to the County. In the event the parties cannot agree as to the continuing availability in the marketplace of any of the specific types of insurance identified in this Article 15 (irrespective of the Foundation's claims history in the Use of the Property), the parties shall jointly select a licensed insurance broker with at least ten (10) years with commercial insurance policies and issues to conduct a review of the specific types of insurance required in this Article 15 to determine whether any required type of insurance is no longer commercially available in the marketplace (irrespective of the Foundation's claims history in the Use of the Property), and, if so, what type of replacement insurance (or other assurance) is generally being provided in the marketplace in lieu of the type of insurance specified in Article 15, which replacement insurance (or other assurance) shall be procured by the Foundation for the benefit of the County.

## ARTICLE 16

### DAMAGE TO OR DESTRUCTION OF IMPROVEMENTS

In the event of any damage to or destruction of any Permanent Improvements that occurs prior to the last five (5) Lease Years of the Term, the Foundation shall, at its expense from available insurance proceeds, make necessary repairs and replacements as provided in Article 8. In the event of any damage to or destruction of any Permanent Improvements during the last five (5) years of the Term, the Foundation may, if the County agrees in writing, terminate this Agreement within sixty (60) days after the occurrence of the damage or destruction so long as any and all insurance proceeds available are assigned or otherwise paid over to the County.

## ARTICLE 17

### TAKING OF PROPERTY

17.1 Foundation to Give Notice. In case of a Taking or the commencement of any proceedings or negotiations that might result in a Taking, the Foundation shall promptly give

notice thereof to the County, generally describing the nature of such proceedings or negotiations and the nature and extent of the Taking that might result therefrom. The County and the Foundation may appear in such proceedings or negotiations and be represented by their respective counsel.

17.2 Partial Taking. In case of a Taking, other than a Total Taking, this Agreement shall remain in effect as to the portion of the Property remaining after such Taking, without any abatement of Rent or any other sum payable hereunder.

17.3 Application of Awards. Any awards and payments or portions thereof received by or payable to the County or the Foundation on account of a Taking (less the actual reasonable costs, fees and expenses incurred in the collection thereof, for which the Person incurring the same shall be reimbursed from such award or payment; together with any interest or other income earned on such awards from the investment thereof and any other interest paid on any such awards prior to disbursement hereunder) shall be applied as follows:

(a) All such awards and payments actually received on account of a Taking (other than a Total Taking) shall be applied as follows:

(i) subject to subparagraph (ii) below, such awards and payments shall be paid over, (A) first, to the Foundation to pay the cost of the reconstruction or restoration of the Improvements remaining on the portion of the Property remaining after such Taking and, (B) second, ratably to the Foundation and the County, or as they may direct, to compensate the Foundation for the Fair Market Value of the portion of the Improvements so taken and to compensate the County for the Fair Market Value of the Land unencumbered by this Agreement.

(ii) the balance, if any, of such awards and payments not required to be held or applied in accordance with the foregoing subparagraph (i), after deduction and payment to the County of any such amounts paid or payable in respect of the County's interest in the Land, shall be retained by the County.

(b) All such awards and payments received on account of a Total Taking shall be applied ratably to the County and the Foundation to compensate the Foundation for the Fair Market Value of the Improvements and to compensate the County for the Fair Market Value of the Land unencumbered by this Agreement.

17.4 Total Taking. In case of a Total Taking, the Foundation's rights to possession under this Agreement shall terminate upon the final effectiveness of such Total Taking.

## ARTICLE 18

### ASSIGNMENTS, SUBLEASES, MORTGAGES

18.1 Assignments, Subleases, Mortgages by the Foundation. The Foundation shall not assign this Agreement or any interest hereunder, nor shall the Foundation sublet or permit the use or occupancy of the Property or any part thereof by anyone other than directly by the Foundation, or in conjunction with an accredited trade school, college or university, without the

prior written consent of the County. No assignment or subletting shall relieve the Foundation of its obligations hereunder, and the Foundation shall continue to be liable as a principal and not as a guarantor or surety, to the same extent as though no assignment or sublease had been made, unless specifically provided to the contrary in the County's consent. Consent by the County pursuant to this Article shall not be deemed, construed or held to be consent to any additional assignment or subletting, but each successive act shall require similar consent of the County. The County shall be reimbursed by the Foundation for all reasonable costs or expenses incurred pursuant to any request by the Foundation for consent to any such assignment or subletting. In the consideration of the granting or denying of consent, the County may, at its option, take into consideration: (i) the reputation and financial stability of the proposed subtenant or assignee; and (ii) any other factors which the County shall deem reasonably relevant.

18.2 Assignments by the County. The County may sell, convey, assign or otherwise transfer the County's interest in the Property. The County shall be permitted to mortgage, encumber, or transfer as security for indebtedness its interest in the Property and/or this Agreement provided this Agreement shall be superior in right to any such mortgage or encumbrance. Notwithstanding anything to the contrary contained in this Section, any sale, assignment or transfer of the County's interest in the Property or this Agreement shall not release the County of its obligations under this Agreement.

## ARTICLE 19

### EVENTS OF DEFAULT; TERMINATION

Except as otherwise provided in this Agreement, if any one or more of the following events ("Event(s) of Default") shall occur:

- (a) if the Foundation shall fail to pay (i) Rent on the date the same becomes due and payable hereunder and such failure shall continue for thirty (30) Business Days after the Foundation shall have received notice of such failure from the County; or
- (b) if the Foundation shall cease to be a not-for-profit charitable entity as described in Section 501(c)(3) of the United States Internal Revenue Code, or similar charitable or other tax-exempt entity; or
- (c) if any insurance required to be maintained in respect of the Property by the Foundation pursuant to Article 15 shall be canceled or terminated or shall expire (and if commercially reasonable replacement insurance complying with the provisions of Article 15 has not been effected prior to such cancellation, termination or expiration), or shall be amended or modified, except, in each case, as permitted by Article 15; or
- (d) if the Foundation shall fail to perform or comply with any term of this Agreement (other than those referred to in subdivisions (a) or (b) above or (e) below) and, in any such case, such failure shall continue for more than sixty (60) calendar days after the Foundation's receipt of notice of such failure from the County, provided that, in the case of any such failure that is susceptible of cure but that cannot with diligence be cured within such sixty (60) day period, if the Foundation shall promptly have

commenced to cure the same and shall thereafter prosecute the curing thereof with diligence, the period within which such failure may be cured shall be extended for such further period as shall be reasonably necessary for the curing thereof with diligence; or

(e) if the Foundation shall (i) be generally not paying its debts as they become due, (ii) file, or consent by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy, for liquidation or to take advantage of any bankruptcy or insolvency law of any jurisdiction, (iii) make a general assignment for the benefit of its creditors, (iv) consent to the appointment of a custodian, receiver, trustee or other officer with similar powers over itself or of any material part of its properties, (v) be adjudicated insolvent or be liquidated or (vi) take action for the purpose of any of the foregoing; or

(f) if a court or governmental authority of competent jurisdiction shall enter an order appointing, without consent by the Foundation, a custodian, receiver, trustee or other officer with similar powers with respect to the Foundation or with respect to any material part of its property, or if an order for relief shall be entered in any case or proceeding for liquidation or reorganization or otherwise to take advantage of any bankruptcy or insolvency law of any jurisdiction, or ordering the dissolution, winding-up or liquidation of the Foundation, or if any petition for any such relief shall be filed against the Foundation and such petition shall not be dismissed within one hundred eighty (180) days; or

(g) if the Foundation ceases to conduct training and educational operations generally contemplated by this Agreement for a period of one hundred eighty (180) consecutive days.

then and in any such event (regardless of the pendency of any proceeding that has or might have the effect of preventing the Foundation from complying with the terms of this Agreement), the County may at any time thereafter, during the continuance of any such Event of Default, give a written termination notice to the Foundation specifying a date (not less than sixty (60) days from the date of giving such notice) on which this Agreement shall terminate, and on such date the Term of this Agreement shall expire. All costs and expenses incurred by or on behalf of the County (including, without limitation, attorneys' fees and expenses) occasioned by any default by the Foundation under this Agreement shall constitute Additional Rent hereunder.

Any other term of this Agreement to the contrary notwithstanding, provided the Foundation has applied for and maintained all necessary and appropriate federal and state environmental permits relating to the use of the Property, then, in the event of an alleged violation of any such permit, the Foundation shall have one hundred eighty (180) days to cure or contest such permit violation and it shall not be an Event of Default so long as the Foundation has either: 1) commenced and continued to use its best efforts to cure the violation and to maintain such permit and, in fact successfully cured such violation (and maintained such permit) within the one hundred eighty (180) day period, or such extended cure period as the County may agree to in writing for good cause shown in writing by the Foundation, or 2) within the one hundred eighty (180) day period, challenged and diligently continues to challenge such alleged

violation in the appropriate court or administrative forum and provided the County with a financial assurance, in such amount and form as the County may reasonably require, to protect the County's interest during such challenge and in the event of an adverse outcome against the Foundation.

## **ARTICLE 20**

### **CONSENT TO JURISDICTION; WAIVER**

Venue shall lie in the Circuit Court of the Nineteenth Judicial Circuit, Lake County Illinois, and the United States District Court, Northern District of Illinois.

## **ARTICLE 21**

### **REPOSSESSION**

If an Event of Default shall have occurred and be continuing, the County, whether or not the Term shall have been terminated pursuant to Article 19, may enter upon and repossess the Property or any part thereof by legal process, summary proceedings, ejectment or otherwise. The County shall be under no liability for or by reason of any such entry, repossession or removal. No such re-entry or repossession of the Property or any part thereof by the County shall be construed as an election by the County to terminate this Agreement unless notice of such termination be given to the Foundation pursuant to Article 19 or unless the termination of this Agreement be decreed by a court of competent jurisdiction.

## **ARTICLE 22**

### **LIMITATIONS ON LIABILITY**

Notwithstanding any other provisions of this Agreement, the County's liability under this Agreement (whether during the Term or following any expiration or termination of this Agreement) shall be limited to liability that arose or accrued during the period in which the County had legal title to the Property and, moreover, shall be limited to the County's interest in the Property.

## **ARTICLE 23**

### **NO WAIVER BY THE COUNTY**

No failure by the County to insist upon the strict performance of any term hereof or to exercise any right, power or remedy consequent upon a breach thereof, and on acceptance of full or partial rent during the continuance of any such breach, shall constitute a waiver of any such breach or of any such term. No waiver of any breach shall affect or alter this Agreement, which shall continue in full force and effect, or the rights of the County with respect to any other then existing or subsequent breach. No foreclosure, sale or other proceedings under any mortgage or other security arrangement with respect to any portion of or interest in the Property shall discharge or otherwise affect the obligations of the Foundation hereunder.

## ARTICLE 24

### REMEDIES CUMULATIVE

Each right, power and remedy of the County provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by the County of any one or more of the rights, powers or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the County of any or all such other rights, powers or remedies.

## ARTICLE 25

### MODIFICATION, ACCEPTANCE OF SURRENDER

No modification, amendment, termination or surrender to the County of this Agreement and no surrender of the Property or any part thereof or of any interest therein shall be valid or effective unless agreed to and accepted in writing by the County, and no act by any representative or agent of the County, and no act by the County, other than such a written agreement and acceptance duly executed by an authorized representative of the County, shall constitute an agreement thereto or acceptance thereof.

## ARTICLE 26

### NO MERGER OF TITLE

There shall be no merger of this Agreement nor of the leasehold estate created by this Agreement with the County's estate in the Property by reason of the fact that the same Person may acquire or own or hold, directly or indirectly; (a) this Agreement or the leasehold estate created by this Agreement or any interest in this Agreement or in any such leasehold estate, and (b) the fee estate or any other leasehold estate in the Property or any part thereof or any interest in such fee estate or leasehold estate, and no such merger shall occur unless and until every Person having any interest in (i) this Agreement or leasehold estate created by this Agreement and (ii) the fee estate or any other leasehold estate in the Property or any part thereof shall join in a written instrument effecting such merger and shall duly record the same.

## ARTICLE 27

### DEFINITIONS

As used in this Agreement, the following terms have the following respective meanings, applicable both to singular and plural forms of the terms so defined:

Additional Rent: the meaning specified in Section 4.2.

Annual Rent: the meaning specified in Section 4.1.

Business Day: any day, other than a Saturday or Sunday, on which national banks generally are open for business in Chicago, Illinois.

Commencement Date: the meaning specified in Section 1.5.

County: the body politic that is Lake County, Illinois.

Default Rate: the meaning specified in Section 4.3.

Environmental Laws: any Federal, state, foreign or local statute, law, rule, regulation, ordinance, code, guideline, policy, treaties, and rule of common law now or hereafter in effect, and any judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree or judgment, relating to the environment, Hazardous Materials, employee health and safety, including, without limitation, CERCLA; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Safe Drinking Water Act, 42 U.S.C. § 3803 et seq.; the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et seq.; the Emergency Planning and the Community Right-to-Know Act of 1986, 42 U.S.C. § 11001 et seq.; the Hazardous Material Transportation Act, 49 U.S.C. § 1801 et seq.; the Occupational Safety and Health Act, 29 U.S.C. § 651 et seq.; and any state and local or foreign counterparts or equivalents, in each case as amended from time to time.

Events of Default: the meaning specified in Article 19.

Expiration Date: the meaning specified in Section 1.2.

Extension: the meaning specified in Section 1.3.

Facility: the meaning specified in Recital D.

Fair Market Value: of any property, the amount (in cash) that a bona fide, willing buyer and a bona fide, willing and unrelated seller would, respectively, pay and accept for the purchase of such property.

Foundation: the Great Lakes Disaster Training Facility, Inc., an Illinois not-for-profit corporation.

Hazardous Materials: (a) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, urea formaldehyde foam insulation, dielectric fluid containing levels of polychlorinated biphenyls, and radon gas; (b) any chemicals, materials or substances defined as or included in the definition of "hazardous substances", "hazardous waste", "hazardous materials", "extremely hazardous substances", "restricted hazardous waste", "toxic substances", "toxic pollutants", "contaminants", "pollutants" or words of similar import, under any applicable Environmental Law; and (c) any other chemical, material or substance, the exposure to, or release of which is prohibited, limited or regulated by any governmental authority.

Hazardous Material Claims: the meaning specified in Article 31.

Improvements: the meaning specified in Section 7.1.

Initial Term: the meaning specified in Section 1.2.

Land: the meaning specified in Section 1.1.

Lease Year: any successive 12-month period during the Term following the Commencement Date, commencing with the first full twelve (12) calendar months thereof; provided, however, if the Commencement Date occurs on a day other than the first day of a calendar month, the first Lease Year also shall include the period from the Commencement Date to the last day of the calendar month in which the Commencement Date occurs.

Legal Requirements: all laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of all governments, departments, commissions, boards, courts, authorities, agencies; officials and officers, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Foundation or to the Property or any part thereof.

Net Revenue: gross training revenue reflecting cash actually received on a calendar year basis.

Permanent Improvements: the meaning specified in Section 7.1.

Permitted Exceptions: as set forth on Exhibit B attached hereto.

Person: a corporation, a limited liability company, an association, a partnership, an organization, a trust, an individual, a government or political subdivision thereof or a governmental agency.

Plans: the meaning specified in Section 7.2.

Property: the meaning specified in Section 1.1.

Rent: the meaning specified in Section 4.2.

Reserve Account: the meaning specified in Section 10.4.

Taking: a temporary or permanent taking by final court order or conveyance to government or political subdivision thereof or governmental agency during the Term of all or any part of the Property, or any interest therein or right accruing thereto, including, without limitation, any right of access thereto existing on the date hereof, as the result of or in lieu of or in anticipation of the exercise of the right of condemnation or eminent domain.

Taxes: the meaning specified in Section 5.1.

Term: the meaning specified in Section 1.3.

Total Taking: a Taking of the fee of, or a perpetual easement upon, the entire Property or any other Taking of so substantial a portion of the Property that, in the Foundation's good faith judgment, the Property is no longer economically useful to the Foundation.

Trade Props: the meaning specified in Section 7.1.

Use: the meaning specified in Article 2.

## ARTICLE 28

### NOTICES

All notices and other communications which are required to be, or which may be given under this Agreement shall be in writing, and shall be delivered at the addresses or to the telecopier numbers set out hereinbelow. Notice may be given by personal delivery, by recognized overnight courier, or by United States certified or registered mail, return receipt requested, postage prepaid, in the manner set forth below. Notice shall be deemed to have been duly given (a) if by personal delivery, on the first to occur of the date of actual receipt or refusal of delivery by any person at the intended address, as set forth below, (b) if by facsimile transmission, when the facsimile transmission was transmitted so long as confirmation of delivery was received and a copy of the notice was mailed by U.S. mail, postage prepaid, within three (3) days after facsimile transmission, (c) if by mail, on the third (3rd) Business Day after being deposited in the United States certified or registered mail, return receipt requested, postage prepaid. Notices shall go to the parties at the following addresses and telecopier numbers, respectively:

If to the Foundation:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_  
Facsimile: \_\_\_\_\_

with a copy to:

McDermott Will & Emery LLP  
227 West Monroe Street  
Chicago, Illinois 60606  
Attention: Fred I. Feinstein, P.C.  
Telephone: (312) 372-2000  
Facsimile: (312) 984-7700

If to the County:

County of Lake  
ATTN: County Administrator  
18 North County Street, 9<sup>th</sup> Floor  
Waukegan, IL 60085  
Telephone: (847) 377-3600  
Facsimile: (847) 360-6732

With a copy to:

Lake County States Attorney  
ATTN: Chief Deputy, Civil Division  
18 North County Street, 3<sup>rd</sup> Floor  
Waukegan, IL 60085  
Telephone: (847) 377-3050  
Fax: (847) 360-0661

By notice complying with the foregoing requirements of this Article, each party shall have the right to change the address or addresses for all future notices and communications to such party, but no notice of a change of address shall be effective until actually received.

## **ARTICLE 29**

### **SHORT FORM OR MEMORANDUM**

The County and the Foundation shall execute and deliver a short form or memorandum of the basic lease provisions (as opposed to operating provisions) of this Agreement in the form set forth on Exhibit C, and the Foundation shall at its expense cause such short form or memorandum and any instruments amendatory thereof to be recorded in the Office of the Recorder of Deeds of Lake County, Illinois.

## **ARTICLE 30**

### **QUIET ENJOYMENT**

The County covenants that if, and so long as, no Event of Default shall have occurred and be continuing, the Foundation shall be entitled to quiet enjoyment of the Property without claim, hindrance or molestation by the County or any Person claiming by, through or under the County.

## **ARTICLE 31**

### **ENVIRONMENTAL MATTERS**

County and Foundation recognize and agree that the use of the Property will include the presence of Hazardous Materials, smoke and noise.

From and after the Commencement Date, no Hazardous Materials, under any Federal, state or local law, ordinance or regulation dealing with or otherwise pertaining to toxic or hazardous substances, wastes or materials shall be used, generated, manufactured, stored, released, or disposed of in, on, under or about the Property or be transported to or from the Property, except as such Hazardous Materials may be required to be used, stored or transported in connection with the Use permitted by Article 2 hereof and then only to the extent and in the manner permitted by law after obtaining all necessary permits and licenses therefor. In no event however shall gasoline or automobile oil be offered for sale on the Property. The Foundation

shall not permit any contamination by or discharge or release of Hazardous Materials on the Property except at a time and in a manner as may be authorized or approved by appropriate State or Federal permit.

The Foundation shall immediately advise the County in writing of the occurrence of: (a) any discharge, release, or disposal of any Hazardous Materials in, on, under or about the Property; (b) any occurrence or condition on any real property in the vicinity of the Property which would cause the Property to be subject to any restrictions on the ownership, occupancy, transferability or use thereof under any Environmental Laws; (c) any enforcement, clean up or other governmental or regulatory actions being instituted or threatened against the Property or against the Foundation with respect to any Environment Law; (d) any violation or non-compliance with Hazardous Substances Laws with respect to the Property; or (e) any claim made or threatened by any third party against the Property, relating to damage, contribution, cost recovery, compensation, loss or injury resulting from Hazardous Materials (collectively, "Hazardous Material Claims").

The County shall have the right to participate in, as a party if it so elects, any legal proceedings initiated in connection with any Hazardous Material Claims and to have its attorneys' fees and costs incurred in connection therewith paid by the Foundation. The Foundation shall indemnify, defend, and hold harmless the County and each of its board members, officers, agents, employees, representatives, successors and assigns, from and against any damage, expense or liability directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge or disposal by the Foundation of Hazardous Substances on, under or about the Property first present in violation of the terms of this Agreement on or after the Commencement Date and during the Term, including, without limitation: (a) all foreseeable consequential damages; (b) the costs of any required or necessary repair, cleanup or detoxification of the Property, and the preparation and implementation of any closure, remedial or other required plans; and (c) all costs and expenses incurred by the County in connection with clauses (a) and (b), including, but not limited to, attorneys' fees. Any loss, damage, cost, expense or liability incurred by the County and each of its employees, agents, representatives, successors and assigns for which the Foundation is responsible or for which the Foundation has indemnified the County shall be paid to the County on demand as Additional Rent, with interest thereon at the Default Rate from the date incurred by the County and each of its employees, agents, representatives, successors and assigns until paid by the Foundation.

The County shall (at its sole cost) cause a Phase I environmental assessment of the Property to be conducted, as defined by the American Society for Testing and Materials and meeting the minimum requirements for a Phase I environmental audit set forth in the Illinois Environmental Protection Act, within thirty (30) days of the Commencement Date and shall promptly provide a copy to the Foundation. The Foundation shall have the right to inspect the Property prior to the Commencement Date in order to determine whether any Hazardous Materials exist on the Property and/or have been properly removed or remediated. During the Term, the Foundation shall immediately remediate any release, discharge or contamination of Hazardous Materials on the Property; this obligation shall survive the termination or expiration of the Lease. Not less than thirty (30) days prior to the expiration or termination of the Lease, the Foundation shall (at its sole cost) cause a Phase I environmental assessment of the Property to be conducted, as defined by the American Society for Testing and Materials and meeting the

minimum requirements for a Phase I environmental audit set forth in the Illinois Environmental Protection Act and shall provide a copy promptly to the County and shall remove and remediate Hazardous Materials from the Property; this obligation shall survive the termination or expiration of the Lease.

## ARTICLE 32

### ZONING AND OTHER GOVERNMENTAL APPROVALS

This Agreement is contingent upon the Foundation (and the County, as landlord hereunder and not in its governmental capacity) jointly applying for and obtaining a zoning classification or zoning approvals to permit the Use defined under Article 2.1. The County, not in its governmental capacity but solely in its capacity as landlord hereunder, covenants and agrees to reasonably assist the Foundation in obtaining approvals or permits from other governmental or quasi-governmental entities so as to allow the Use during the Term of this Agreement or zoning approvals to permit the use permitted under Article 2.1. The Foundation acknowledges that the County, in its governmental capacity, has made no representation that any such application will be approved. Any such application is subject to all procedures, hearings, reviews and requirements otherwise applicable to applicants in unincorporated Lake County.

In the event a zoning classification reasonably satisfactory to the County or Foundation required for the Use during the Term of this Agreement is not in place on the twelfth (12<sup>th</sup>) month anniversary of the Commencement Date, either the County or the Foundation may elect prior to the fifteenth (15<sup>th</sup>) month anniversary of the Commencement Date to terminate this Agreement by written notice one to the other in which event this Agreement shall become null and void.

## ARTICLE 33

### MISCELLANEOUS

33.1 This Agreement supersedes all prior agreements and negotiations between the County and the Foundation and sets forth all promises, inducements, agreements, conditions, and understandings between and among the County and Foundation relative to the subject matter hereof, and there are no promises, agreements, conditions, or understandings, either oral or written, expressed or implied, between or among the County and Foundation, other than as are herein set forth.

33.2 Except as herein otherwise provided, no subsequent alteration, amendment, change, or addition to this Agreement shall be binding upon the County and Foundation unless reduced in writing and signed by the County and Foundation or their permitted successors in interest or their permitted assigns.

33.3 None of the covenants, terms or conditions of this Agreement, to be kept and performed by either party, shall in any manner be altered, waived, modified, changed or abandoned, except by a written instrument, duly signed, acknowledged and delivered by the other party.

33.4 To the extent permitted by law, the terms of this Agreement are binding upon and inure to the benefit of the parties and their respective heirs, legal representatives, successors and assigns. Nothing in this Agreement shall be deemed to or be construed as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto or any other relationship, other than that of landlord and tenant.

33.5 The Article headings are for convenience only. All grammatical changes required to make the provisions of this Agreement apply to the past, present and future, and in the plural sense where appropriate, and to corporations, associations, partnerships or individuals, male or female, shall be assumed as though in each case fully expressed.

33.6 This Agreement shall be governed by the laws of the State of Illinois. If any covenant, provision or condition of this Agreement or the application thereof to any Person or to any circumstances, shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such covenant, provision or condition to persons, firms or corporations or to circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby. Each covenant, provision or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

33.7 If any date for performance hereunder falls on a Saturday, Sunday or legal holiday designated by the State of Illinois, such date of performance shall be extended to the next business day.

33.8 The Foundation's obligations hereunder to pay Rent and to defend, indemnify and hold the County harmless shall expressly survive the expiration or termination of this Agreement or the earlier termination of the Foundation's right of possession.

33.9 [Intentionally left blank].

33.10 Time is of the essence of this Agreement, and all provisions herein relating thereto shall be strictly construed.

33.11 The Foundation shall deliver to the County prior to the approval of this Agreement by the Lake County Board:

(a) Certified resolutions of the board of directors of the Foundation executing this Agreement on behalf of the Foundation authorizing the execution and delivery of this Agreement;

(b) A certificate of incumbency executed by the secretary of the Foundation on behalf of the Foundation identifying the names, offices and signatures of the officers of the Foundation authorized to execute this Agreement on behalf of the Foundation; and

(c) A current certificate of good standing issued by the Illinois Secretary of State.

33.12 This Agreement may be executed in any number of counterparts, each of which, taken together, shall constitute one and the same instrument.

\* \* \*

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date hereof.

THE COUNTY OF LAKE, ILLINOIS,  
a body politic

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

ITS: \_\_\_\_\_

DATE: \_\_\_\_\_

GREAT LAKES TRAINING FACILITY, INC.,  
a not-for-profit corporation

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

ITS: \_\_\_\_\_

DATE: \_\_\_\_\_

EXHIBIT A  
[ATLA SURVEY]

EXHIBIT B

[PERMITTED EXCEPTIONS]

1. Rights of way for drainage tiles, ditches, feeders and laterals, if any.
2. Rights of the public and the State of Illinois in and to so much of the land as dedicated for road purposes by instrument dated April 25, 1939 and recorded October 3, 1939 as Document 468491.
3. Monument record recorded May 11, 1976 as Document 1766125.
4. Rights of the public, the State of Illinois and the Municipality in and to that part of the land, if any, taken or used for road purposes (limited to Route \_\_\_\_).
5. Easement in favor of Commonwealth Edison Company and Illinois Bell Telephone Company, and its/their respective successors and assigns, to install, operate and maintain all equipment necessary for the purpose of serving the land and other property, together with the right of access to said equipment, and the provisions relating thereto contained in the grant recorded/filed as Document \_\_\_\_\_.
6. The rights expressly granted the County and reservations expressly stated in the Lease Agreement.

EXHIBIT C

[SHORT FORM MEMORANDUM]

EXHIBIT D

[LEGAL DESCRIPTION/ALTA SURVEY OF SHOOTING RANGE AREA]

EXHIBIT E

[TO BE INSERTED]