

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and General Release ("Agreement") is hereby entered into by and among: (a) **City of Fernandina Beach**, "Plaintiff"; and (c) **VRL Architects, Inc.** ("**VRL or Defendant**"); This Agreement shall take effect upon the date of mutual execution of Plaintiff and VRL (the "Effective Date").

Background Recitals

- A. **WHEREAS**, Plaintiff has asserted certain claims for construction defect relating construction and repair of the property (the "Dispute") located at 25 North 4th Street, Fernandina Beach, Florida. The property is known as the Nassau County Public Library ("the Property").
- B. **WHEREAS**, VRL performed certain work during the original construction of the Property and desire to resolve any and all claims that Plaintiff may have against them related to the Property and the Dispute.
- C. **WHEREAS**, in entering into this Agreement, the Parties desire to resolve any and all claims, defenses, demands, debts, obligations, judgments, actions, causes of action, liens, and liabilities between them, including, but not limited to, any and all claims, offsets, debts or defenses that were asserted in the Lawsuit and any and all claims, offsets, debts or defenses that could have been asserted in the Lawsuit.

WHEREAS, the parties desire to enter into a settlement agreement regarding the Dispute and the parties hereby agree as follows:

1. **Settlement Amount and Payment Terms.** In full and final settlement of all issues relating to the Dispute pending between the Parties, including all claims raised in the Dispute, the parties hereby agree that the XL Catlin AXA XL will pay Plaintiff Thirty-two Thousand, Seven hundred and sixteen dollars and seventy-seven cents (\$32,716.77). Such settlement amounts should be made payable to City of Fernandina Beach and should be sent to:

Tammi Bach
City Attorney
City of Fernandina Beach
204 Ash Street
Fernandina Beach, Florida 32034

Such settlement amounts are due and owing within thirty (30) days of the VRLs receipt of this fully executed Agreement.

1. **General Release from Plaintiff.** Upon the Effective Date Plaintiff fully and completely release and forever discharge the Defendant and their respective past and present parent

companies, related and affiliated companies, subsidiaries, predecessors, successors, and assigns, and each entity's respective present and past directors, officers, partners, attorneys, agents, employees, members, managers, shareholders, stockholders, insurers, including XL Catlin AXA XL, and reinsurers, from any and all lawsuits, arbitrations, causes of action, claims, liens, demands, debts, defenses, and costs, of any nature whatsoever, whether based on contract, tort, or other theory of recovery (including, but not limited to statutory causes of action), including but not limited to claims for property damage, including loss of use and personal property, medical expenses, personal injury, bodily injury, loss of income, mental anguish, pain and suffering, breach of the duty to defend, breach of the duty to indemnify, additional insured rights/status, unfair claims handling or any other insurer misconduct, bad faith (statutory and common law), breach of contract And, without limiting the foregoing, any other losses or damages, whether compensatory (general and special), punitive or exemplary, or for attorneys' fees and costs (whether past or future, whether claimed to be due and owing under any statute, the common law, contract or insurance policy, including but not limited to 627.428 Fla. Stat., § 626.9373 and/or the confession of judgment doctrine), whether known or unknown, suspected or unsuspected, foreseen or unforeseen, liquidated or unliquidated, accrued or unaccrued, which were or could have been asserted, now or in the future, against the Defendant directly or indirectly attributable to the construction and/or repair of the Property, the sale of the Property to the Plaintiff, their habitation of the Property, any aspects of the transactions represented thereby concerning the Property, any consideration for the transactions between the parties and all damages and causes of action flowing therefrom, including, without limitation, those claims or causes of action that were brought or could have been brought in the Lawsuit. **THIS IS A GENERAL RELEASE OF ANY AND ALL OF PLAINTIFF'S CLAIMS AGAINST THE DEFENDANTS FROM THE PRESENT DATE TO THE END OF TIME ARISING OUT OF OR RELATING TO THE CONSTRUCTION, REPAIR, SALE, AND/OR HABITATION OF THE PROPERTY. THIS RELEASE IS ONLY MEANT TO RELEASE THE DEFENDANT FOR THE SCOPE OF WORK OF VRL.**

2. **Warranty of Exclusive Rights.** Plaintiff represents and warrants that they have the sole right and exclusive authority to execute the Agreement and receive the sum specified in it, and that they have not sold, assigned, transferred, conveyed, or otherwise disposed of any of the claims or causes of action released in this Agreement.

3. **No Admission of Wrongdoing/Liability.** Plaintiff agrees and acknowledges that they accept the payment referenced in paragraph one above as a full and complete compromise of matters involving the Dispute and the Property, and that such payment shall not be considered an admission of any liability or wrongdoing by the Defendant. It is further understood and acknowledged by all parties that this Agreement does not constitute an admission of liability or wrongdoing on the part of the Defendant and that this Agreement is purely an act of compromise.

4. **Tax Consequences.** Plaintiff agrees that if it is later determined by the Internal Revenue Service that taxes of any type should have been paid in connection with any benefit Plaintiffs receive pursuant to this Agreement, that Plaintiff will be solely responsible for paying such taxes.

5. **Adequate Consideration.** Plaintiff acknowledges that the consideration received by Plaintiff in connection with this Agreement is fair, adequate and substantial and consists only

of the terms set forth in this Agreement.

6. **Warranty of Voluntary Agreement.** The parties warrant that they have entered this Agreement voluntarily and of their own accord without reliance on any inducement, promise, or representations by any other party.

7. **Warranty of Understanding and Advice of Counsel.** The parties state that they have carefully read this Agreement, know its content, and freely and voluntarily agree to all of its terms and conditions. Each party warrants that it has obtained the advice of counsel with regard to this Agreement.

8. **Governing Law.** It is hereby agreed by the parties that this Agreement shall be governed by the laws of the State of Florida, regardless of any conflicts of law provision requiring reference to the rules of, decisions in, and/or laws of another state or sovereign nation.

9. **Execution in Counterparts.** This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed to be one and the same instrument. Delivery of an executed counterpart of this Agreement by email and/or facsimile shall be equally as effective as delivery of a manually executed counterpart of this Agreement.

10. **Merger, Amendments, and Waiver.** This Agreement constitutes the entire agreement between the Parties regarding the subject matter of this Agreement. It supersedes all prior and contemporaneous agreements, representations, and understandings between the Parties related thereto. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by all the parties. No waiver of any of the provisions of this Agreement by a party shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver by a party shall be binding unless executed in writing by the party against whom enforcement of the waiver is sought.

11. **Incorporation of Recitals.** The parties warrant and represent that the above-stated Background Recitals are true and accurate statements in all material respects and reflect the intent of the parties in entering into this Agreement. The Background Recitals are incorporated by reference into the terms of the Agreement.

12. **Warranty Acknowledgement.** In entering into this Agreement, Plaintiff acknowledges and agrees that they will not make any additional warranty claims (or any other claims) to the Defendant, or their respective past and present parent companies, related and affiliated companies, subsidiaries, predecessors, successors, and assigns, and each such entity's present and past directors, officers, partners, attorneys, agents, employees, members, managers, or shareholders and stockholders.

13. **Confidentiality.** Except as required by law, Plaintiff agrees to keep the terms of this Agreement confidential. This covenant does not, however, preclude Plaintiffs from providing testimony or information pursuant to a subpoena or other legal process in connection with any legal proceedings or in connection with any investigations that may be conducted by governmental authorities. Additionally, this covenant does not preclude Plaintiff from disclosing the terms and facts of this Agreement to a tax advisor, or attorney, reinsurers, agents, and all insurance reporting

entities for the sole purpose of obtaining tax and/or legal advice. However, should the Plaintiffs violate this provision; the Plaintiff agrees to payback XL Catlin AXA XL the amount of the settlement as detailed in Paragraph 1.

14. **No Party is Drafter.** Should any provision of the Agreement require interpretation or construction, each party acknowledges participation in the negotiation of this Agreement and agrees that no provision of this Agreement shall be construed against or interpreted to the disadvantage of any party hereto by any court or other governmental or judicial authority by reason of such party having or being deemed to have structured, dictated, or drafted such provision.

15. **Successors.** This Agreement is binding upon the parties' successors and assigns.

IN WITNESS WHEREOF, this Agreement has been signed by the parties as shown below.

City of Fernandina Beach

By: _____

Printed Name: _____

Title: _____

DATED: _____

APPROVED AS TO FORM AND LEGALITY:



CITY ATTORNEY