

LEASE AGREEMENT

BETWEEN

**MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION**

AND

MONTGOMERY COUNTY REVENUE AUTHORITY

Dated _____, 2006

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LEASE AGREEMENT

THIS LEASE AGREEMENT (“Lease”) is made and entered into as of _____, 2006 (“Effective Date”), by and between MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION, a body corporate and politic (“Landlord”) located at 9500 Brunett Avenue, Silver Spring, Maryland 20901, and MONTGOMERY COUNTY REVENUE AUTHORITY, a body corporate and politic (“Tenant”), located at 101 Monroe Street, Rockville, Maryland 20850.

RECITALS:

- R-1. Landlord has park jurisdiction within that part of the Maryland-Washington Metropolitan District which includes Montgomery County, Maryland (the “County”) as provided in Maryland Code Ann. Art. 28.
- R-2. Landlord is the owner of the fee simple title in and maintains, develops and operates, for the benefit of the public, the public golf courses known as Needwood Golf Course, Northwest Golf Course, Little Bennett Golf Course and Sligo Golf Course (individually referred to by name, and collectively, the “Park Golf Courses” or “Leased Premises”), located throughout the County.
- R-3. Tenant is the owner of the fee simple title, or holds a possessor interest in and maintains, develops and operates, for the benefit of all of the citizens of the County, five golf courses which it operates for the benefit of the public (the “Tenant Golf Courses”), and which are located throughout the County.
- R-4. Pursuant to the policy of the Montgomery County Planning Board to seek partnerships, and to realize efficiencies from the provision of a single system of golf, Landlord desires to lease to Tenant and Tenant desires to lease from Landlord, the Leased Premises so that Tenant will be the designated operator of most publicly operated golf courses in the County, including over those which Landlord has authority. The Leased Premises and the Tenant Golf Courses will be operated by Tenant as a single system of public golf.
- R-5. With the intention of ultimately entering into a long term lease for the maintenance and operation of the Park Golf Courses, Landlord and Tenant previously entered into i) that certain Letter of Intent (the “LOI”) dated April 14, 2006, that set forth the substantive business terms to be included in the long term lease, and ii) that certain Operating Agreement (the “Operating Agreement”) dated April 14, 2006, for the operation of the Park Golf Courses for an interim period from April 15, 2006 through October 31, 2006.
- R-6. Due to its short term nature, under the Operating Agreement the Landlord agreed to provide maintenance for stormwater management facilities on the Park Golf Courses. It was the parties understanding that certain repairs and retrofits would be made by Landlord to the stormwater facilities. Upon completion of such repairs for a specific stormwater management facility serving only a particular

Park Golf Course, maintenance for any stormwater management facility serving only a Park Golf Course will ultimately transfer to the Tenant.

- R-7. Landlord and Tenant also recognize that there is certain work that needs to be performed with respect to some of the monitoring equipment at some of the Park Golf Courses, and that Landlord will complete that work as described in this Lease.
- R-8. This Lease is entered into pursuant to and in accordance with MD Code, Art. 28, §5-110.

NOW, THEREFORE, in consideration of the foregoing, and of other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

1. DEFINITIONS.

For purposes of this Lease, the following terms shall have the meanings indicated:

- 1.1. “Annual Base Rent” shall have the meaning described in Section 4.1 hereof.
- 1.2. “Applicable Law” means any and all federal, state or local laws, orders, ordinances, codes and regulations applicable to the parties and this Lease. Applicable Law includes conditions of permits issued by any Governmental Authority with respect to operations at the Leased Premises, and binding decisions of Maryland State and Federal courts with jurisdiction.
- 1.3. “Assignee” shall have the meaning described in Section 8.1.
- 1.4. “Audubon Program” shall have the meaning described in Section 5.6.2(B).
- 1.5. “Bank of America” means Bank of America, N.A.
- 1.6. “Casualty” shall have the meaning described in Section 11.1.
- 1.7. “Council” means the County Council of Montgomery County, Maryland.
- 1.8. “County” means Montgomery County, Maryland.
- 1.9. “County Self-Insurance Program” shall have the meaning described in Section 10.7.
- 1.10. “Days” means calendar days, unless specific reference is made to business days.
- 1.11. “Director of Parks” means the Director of Parks for Landlord or the Director’s designee.

- 1.12. “Effective Date” shall be that date described in the first paragraph of this Lease.
- 1.13. “Equipment” means equipment and/or personality used solely at the Leased Premises for the ongoing operations thereof, which are not considered Improvements to the Leased Premises, such as furniture and furnishings, golf carts, grounds maintenance equipment, vehicles, and office equipment.
- 1.14. “Force Majeure” means the following events or circumstances, to the extent that they cause the delay of performance of any obligation hereunder incurred by the claiming party and such delay is beyond the reasonable control of the party claiming the Force Majeure:
- Strikes or lockouts (excluding the general contractor’s workforce) or impracticability in procuring materials or suitable substitute materials or failure of utilities necessary for performance;
 - Acts of God, tornadoes, hurricanes, floods, drought, sinkholes, fires and other casualties, landslides, earthquakes, and abnormally inclement weather for the area;
 - Acts of war, terrorism, blockades, insurrection, riots, civil disturbances, or national calamities; and
 - Other acts or circumstances to the extent they would otherwise customarily constitute a Force Majeure event.
- 1.15. “Golf Master Plan” shall have the meaning described in Section 6.1.
- 1.16. “Golf System” means the operation by Tenant of public golf courses in the County under Tenant’s branding “Montgomery County Golf.”
- 1.17. “Governmental Authorities” means public officials, agencies, municipalities, counties and courts having jurisdiction and regulatory control over the Leased Premises.
- 1.18. “Gross Revenue” means all cash receipts, revenue and income actually received by Tenant and derived from golf and related activities on the Leased Premises during a specified period determined in accordance with generally accepted accounting principles, including, without limitation, any sales or rentals of Inventory whether such Inventory is used or consumed at a Park Golf Course or elsewhere and whether or not such revenues are received at a Park Golf Course or elsewhere. Gross Revenue does not include any additional or special charges in connection with certain fund raising events held in connection with recognized non-profit organizations which are not received by the Tenant as revenues and which, without any withholding of funds by Tenant for itself, are paid to,

or to be paid to such recognized non-profit organization in furtherance of its mission.

- 1.19. “Hazardous Material(s)” means any hazardous or toxic substances, waters, materials, pollutants and contaminants which now or hereafter are included in or regulated by any federal, state or local law, regulation, rule or ordinance, including, but not limited to, those substances, wastes, materials, pollutants and contaminants listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302) and amendments thereto, or such substances, wastes, materials, pollutants and contaminants that are or become regulated under any applicable federal, state, or local law, ordinance, or regulation including, but not limited to, the Resource Conservation and Recovery Act, the Toxic Substances Control Act, the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA” or “Superfund”), the Clean Air Act, and the Clean Water Act.
- 1.20. “Holy Cross Hospital Parking Lease” means that certain lease dated _____, by and between Landlord and _____, as amended for non-exclusive parking at the Sligo Golf Course which expires on December 31, 2006.
- 1.21. “Impositions” means all real estate taxes, governmental levies, and obligations for any and all other governmental, quasi-governmental, utility and similar charges, general and special, ordinary and extraordinary, unforeseen as well as foreseen, of any kind and nature whatsoever, which shall during the Term hereof, be made, assessed, levied or imposed upon, or become due and payable in connection with, or a lien upon, the Leased Premises, or any part thereof, any Improvements, or upon this Lease. Notwithstanding the foregoing and to the extent applicable, in no event shall the term “Impositions” be deemed or construed to include, and Tenant shall not be obligated to pay, any (i) income, profits, earnings, inheritance, devolution, gift, franchise, corporate, gross or other receipts, excise, capital levy, or estate taxes, or any other taxes with similar effect, which are attributable to or chargeable to Landlord, or (ii) tax on the rental paid to Landlord under any existing or future laws of the United States of America, or of any other country, or of any jurisdiction therein.
- 1.22. “Improvements” means all buildings, structures, fixtures, golf course areas, roadways, utilities and features used in connection with the creation, operation, maintenance and repair of the Leased Premises and as shown on Exhibit A attached hereto. “Improvements” shall include any capital Improvements added to the Park Golf Facilities by Tenant and which would ordinarily be considered to be real property improvements.

- 1.23. "Installment Payment Inventory" is that inventory to include Equipment and Inventory sold to Tenant in accordance with the Operating Agreement and described on Exhibit D and as referenced in Section 4.1.1(A).
- 1.24. "Institutional Lender" means a savings bank, savings and loan association, commercial bank, trust company, insurance company, pension fund or other lender or issuer of investment grade bonds which Landlord or Tenant uses for financing public facilities.
- 1.25. "Inventory" means all stock, merchandise, materials, goods, food and similar items purchased for purchase, sale, use or consumption at any of the Park Golf Courses by patrons of such Park Golf Courses.
- 1.26. "Joint Facilities" means those portions of a Park or a Park Golf Course serving the needs of both a Park and a Park Golf Course.
- 1.27. "Landlord" means the Maryland-National Capital Park and Planning Commission.
- 1.28. "Landlord's Default" means a failure by Landlord to perform or comply with the Landlord's covenants, agreements or obligations in this Lease, as more specifically set forth in Section 14.
- 1.29. "Landlord's Employees" shall have the meaning described in Section 18.23.
- 1.30. "Lease" means this Lease Agreement or the leasehold estate created hereby, as the context requires.
- 1.31. "Lease Commencement Date" means November 1, 2006; provided however that Landlord shall have obtained approval of the Lease from the Council and the Non-disturbance Agreement from Bank of America. If such approvals have not been obtained, the Lease shall terminate and be of no further force or effect. Additionally, the Tenant shall have obtained approvals of M&T Bank relative to the Lease. If the M & T Bank approval has not been obtained, the Lease Commencement Date shall be that date on which such approval has been received, and in such case, the parties shall execute a written acknowledgement of the Lease Commencement Date. In the event that the Lease Commencement Date shall be a date other than November 1, 2006, the Operating Agreement shall automatically, without the necessity of further written documentation, either terminate or be extended so that the Lease Commencement Date shall coincide with the expiration of the Operating Agreement.
- 1.32. "Lease Year" means with respect to the first Lease Year, the period from the Lease Commencement Date through the next succeeding October 31.

November 1 – October 31 of each succeeding twelve months shall also be a Lease Year.

- 1.33. “Leased Premises” means all of the Park Golf Courses, more particularly shown on the attached Exhibit “A”, together with any easements, rights-of-ways, licenses, and appurtenances appertaining to said land, however specifically excluding that portion of Sligo Golf Course (a) designated as the “Demised Premises” in that Lease Agreement dated May 13, 1980, by and between Landlord and A.C. Acquisitions, LLC (successor in interest to WDON, Inc.), as amended, and (b) designated as the “Premises” in that Radio Tower Lease dated March 19, 1993, by and between Landlord and Bonneville Corporation (successor in interest to Capitol Kids’ Radio Company), as amended (collectively, the “Tower Property”), which Tower Property is more particularly shown on the attached Exhibit “B”. Leased Premises includes that parking area covered by the Holy Cross Hospital Parking Lease. Landlord and Tenant agree that at the time of Lease execution, Exhibit A shall be an aerial reflecting the Park Golf Courses. After adoption of the Golf Master Plan (defined herein), the parties agree that the exact boundaries of the Leased Premises may be adjusted and Tenant may at its election have surveys of the Leased Premises prepared, the cost of which shall be shared equally by Landlord and Tenant. Tenant shall provide Landlord with a copy of the surveys.
- 1.34. “Leasehold Mortgage” means one or more mortgages securing an Institutional Lender and encumbering Tenant’s leasehold interest or estate in the Leased Premises.
- 1.35. “Leasehold Mortgagee” means the Institutional Lender under any Leasehold Mortgage.
- 1.36. “Liability Insurance” shall have the meaning described in Section 10.1.2.
- 1.37. “Little Bennett Debt” means the current financing of the Little Bennett Golf Course owed to Bank of America by Landlord and which is secured by revenues received by Landlord from the Little Bennett Golf Course.
- 1.38. “Net Revenue” means Gross Revenues less the cost of goods sold.
- 1.39. “New Lease” means a lease of the Leased Premises entered into by Landlord with a Leasehold Mortgagee or its designee after a termination of this Lease, in accordance with Section 9.3.
- 1.40. “Notice of Landlord’s Default” means a written notice given in accordance with Section 14.2.
- 1.41. “Notice of Tenant’s Default” means a written notice given in accordance with Section 13.2.

- 1.42. "Notice of Termination" means a written notice given in accordance with Section 13.3.1.
- 1.43. "Park" means that area of land designated as a park within Landlord and/or County system of parks.
- 1.44. "Park Golf Course" or "Park Golf Courses" means one or more of the four golf courses referred to in the recitals and more specifically to include Little Bennett Golf Course, Needwood Golf Course, Northwest Golf Course and Sligo Golf Course.
- 1.45. "Park Regulations" mean the adopted Rules and Regulations governing public use of Landlord park and recreation facilities in Prince George's and Montgomery Counties.
- 1.46. "Park System" means the County system of parks.
- 1.47. "Percentage Rent" means the amounts payable by Tenant pursuant to Section 4.2 hereof.
- 1.48. "Percentage Rent Threshold" is the sum of Five Million Six Hundred Thousand Dollars (\$5,600,000.00) described in Section 4.2.1 hereof, and which is allocated among the four Park Golf Courses as follows: Northwest – Two Million One Hundred Thousand Dollars (\$2,100,000.00); Needwood – One Million Eight Hundred Thousand Dollars (\$1,800,000.00); Little Bennett – One Million Two Hundred Thousand Dollars (\$1,200,000.00); and Sligo – Five Hundred Thousand Dollars (\$500,000.00).
- 1.49. "Permitted Encumbrances" means the permissible encumbrances on the Leased Premises as of the Lease Commencement Date, as shown on Exhibit "C."
- 1.50. "Property Insurance" shall have the meaning described in Section 10.1.1.
- 1.51. "Reconstruction Work" shall have the meaning described in Section 10.6.
- 1.52. "Rent" means all sums payable by Tenant under this Lease, whether Annual Base Rent, Percentage Rent, or any other charge or expense provided for herein.
- 1.53. "Stormwater Management Facilities" means those facilities located on or adjacent to the Park and used for the purposes of quantity and quality control of storm water.
- 1.54. [INTENTIONALLY OMITTED]

- 1.55. "Tenant" means the Tenant or lessee under this Lease from time to time. The initial Tenant is identified on page 1 hereof.
- 1.56. "Tenant's Default" means any of the events set forth in Section 13 hereof.
- 1.57. "Term" means the Initial Term of this Lease, as set forth in Section 3.1, and, if exercised, the Renewal Term.
- 1.58. "Tower Property" shall have the meaning described in Section 2.9.
- 1.59. "Tower Property Leases" shall have the meaning described in Section 2.9.
- 1.60. "Tower Property Tenants" shall have the meaning described in Section 2.9.
- 1.61. "Utility Easements" means the easements described in Section 7.1.

2. PURPOSE/LEASED PREMISES.

- 2.1. Purpose. The purpose of this Lease is to add the Leased Premises to Tenant's system of daily-fee golf in the County, which is accessible and affordable to the public and serves the golfing community of the County while realizing improved course maintenance, operating and cost efficiencies and the benefits of consistent operations and programming in a successful public golf system. Landlord and Tenant recognize that Tenant is the designated operator of the Golf System with exclusive right to use, operate, and possess the Park Golf Courses (except as otherwise expressly provided herein). Landlord will not act in a manner to frustrate or to provide public facilities in competition with the Golf System. If Landlord desires to open another public golf course on property owned, leased or controlled by Landlord, it will not do so unless (1) Tenant is the operator on terms and conditions to be mutually agreed upon by the parties; or (2) Tenant, in its reasonable opinion, agrees that such public golf facility will not compete with the Golf System based upon a feasibility analysis prepared by an appropriate experienced consultant, the cost of which shall be paid by the Landlord. Notwithstanding anything to the contrary herein, the golf course at Fairland Regional Park will be specifically excluded from the requirement set forth in this paragraph.
- 2.2. Demise. For and in consideration of the rental herein promised to be paid by Tenant and the covenants, conditions and agreements herein contained on the part of Tenant to be kept and performed, Landlord does hereby let and rent to Tenant and Tenant does hereby take and hire as tenant from Landlord, for the Term, at the rental, and upon the terms and conditions set forth in this Lease, the Leased Premises, together with all rights, advantages, privileges, ways, easements and appurtenances to the same belonging or in any way appertaining. Additionally, Landlord hereby grants Tenant, its agents, employees, contractors, subtenants, licensees, invitees and customers the right to use applicable Joint Facilities in connection with Tenant's operation of the Leased Premises. Landlord agrees to

keep the Joint Facilities in a good condition and state of repair and open and available to Tenant, its agents, employees, contractors, subtenants, licensees, invitees and customers at no additional charge, unless otherwise provided in this Lease, in connection with the operation of the Park Golf Courses as part of the Golf System.

2.3. Bill of Sale, Assignment of Warranties and Service Contracts. Simultaneously with the execution of this Lease, Landlord hereby sells, transfers, grants, assigns and conveys, free of all encumbrances, restrictions and liens, all of its right, title and interest in and to the Equipment and the Installment Payment Inventory. Landlord further grants, transfers and assigns to Tenant all warranties of any nature whatsoever for the existing Improvements, Equipment and the Installment Payment Inventory with full power and right to enforce, make claims and bring actions under such warranties. The service contracts for the existing Improvements and Equipment attached hereto as Exhibit F are hereby assigned and transferred to Tenant. Landlord is responsible for all actions, payments and obligations under such service contracts arising prior to April 15, 2006 and Tenant assumes all responsibility for actions, payments and obligations arising from April 15, 2006 through the earlier of the expiration of the term of the service contract or the termination of this Lease.

2.4. Warranty of Title. Landlord leases the Leased Premises to Tenant free of all encumbrances, restrictions, or liens of any kind, except for the Permitted Encumbrances. Landlord represents and warrants that Landlord is entering into this Lease in its capacity as the owner of the Leased Premises.

2.5. Approvals/Non-Disturbance Agreement.

This Lease is entered into pursuant to and in accordance with MD Code, Art. 28, §5-110 and other than approval by the Montgomery County Planning Board and the Montgomery County Council, Landlord represents that no other approvals are required for it to enter into this Lease. Landlord has obtained approval and a non-disturbance agreement, the terms of which are acceptable to Tenant, from Bank of America to the terms of this Lease a copy of which is attached hereto as Exhibit E.

2.6. Quiet Enjoyment. Landlord covenants that if and so long as Tenant is not in default beyond applicable grace periods under the terms hereof, Tenant shall be entitled to quietly hold, occupy and enjoy the Leased Premises and all rights relating thereto, during the Term, without hindrance, ejection or molestation by Landlord or by any other party claiming by, through or under Landlord, subject nevertheless to the terms and conditions of this Lease.

2.7. Accessibility. Tenant shall develop and/or maintain programs that encourage broad access to public golf, including programs such as First Tee and use of the Golf System by public high school teams for practice and tournament play at reduced fees. Tenant shall cooperate with Landlord, the County Department of

Recreation and other County agencies in developing other collaborative opportunities for members of lower income and other disadvantaged communities to have access to public golf opportunities. The parties recognize that all such programs will be subject to funding for implementation.

- 2.8. Licenses or Concessions. Tenant shall have the right to grant licenses and concessions for Inventory and food and beverage and golf-related uses allowed under this Lease within the Leased Premises. Such licensees or concessionaires may distribute their products anywhere within the Leased Premises. Any license or concession shall be at all times subject to this Lease. Tenant may also, subject to Applicable Law and licensing, sell beer and wine upon the Leased Premises as is customary in the operation of food and beverage service in connection with golf course operation. Tenant acknowledges that Little Bennett was financed with tax-exempt bonds and that there are limitations on the grant of licenses and concessions to private parties to operate at Little Bennett that must be complied with as long as such bonds are outstanding.
- 2.9. Tower Property. Tenant acknowledges and agrees that a portion of the Sligo Golf Course (the "Tower Property") has been leased by Landlord to A.C. Acquisitions, LLC and Bonneville Corporation (collectively, the "Tower Property Tenants") under their respective leases (the "Tower Property Leases") for the installation, operation and maintenance of a radio-transmitting tower. The Tower Property is specifically excluded from this Lease. Landlord shall directly or through the Tower Property Tenants maintain the Tower Property and any and all improvements thereon in good order and condition and shall make or cause to be made all necessary repairs, alterations and/or replacements thereto. Any maintenance, repair, or operation of the Tower Property must be conducted in a manner that does not materially interfere with golf operations of the Sligo Golf Course and that does not damage the course. In addition, Landlord may, in accordance with specific requirements in the Tower Property Leases, allow the Tower Property Tenants to, trim and maintain the trees in the immediate area surrounding the Tower Property in order to provide for reception from the towers; provided however, any trimming shall be in keeping with the landscape standards consistent with the trees on the Sligo Golf Course and must be conducted in a manner that does not interfere with golf operations. Any vehicles used in the performance of any work on or about the Tower Property must travel only upon paved paths and roads and not upon any grass or green areas and Landlord must advise Tower Property Tenants of this requirement. Tenant shall allow access to Landlord and the Tower Property Tenants as provided herein in order to exercise their rights and meet their obligations with respect to the Tower Property Leases and this Lease. Furthermore, Landlord covenants that it will comply with its obligations and enforce the use, maintenance and repair obligations of the Tower Property Tenants under the Tower Property Leases. Landlord covenants that it will promptly repair, or cause the Tower Property Tenants to promptly repair, to substantially as good a condition as prior to such damage, any damage to the Sligo Golf Course by reason of the presence of the Tower Property or any entry in connection with the Tower Property Leases. Landlord agrees that it will

indemnify and hold the Tenant harmless from and against any loss, damage, cost, injury or liability arising out of the Tower Property Leases or the presence of the Tower Property.

- 2.10. Holy Cross Hospital Parking Lease. Landlord has entered into a lease for non-exclusive use of certain parking spaces at the Sligo Golf Course. The Holy Cross Hospital Parking Lease expires on December 31, 2006. Landlord hereby assigns to the Tenant to hold as a sublease, the Holy Cross Hospital Parking Lease, which is deemed to be an approved sublease whether as assigned or if Tenant enters into a new sublease. Landlord will, within fifteen (15) days of Lease Commencement Date assign and deliver to Tenant any security deposit or prepaid rents posted pursuant to the Holy Cross Hospital Parking Lease. Landlord will be responsible for performance of any Landlord obligations up to the time of lease assignment; Tenant will be responsible for performance of landlord obligations arising after the assignment of the Holy Cross Hospital Parking Lease.
- 2.11. Signage. Tenant shall install signage approved by Landlord, at the entrance to each of the Park Golf Courses that identifies such Park Golf Course as being located within the Park System. Landlord shall not have the right to add additional signage to the Leased Premises; however, signage installed by Landlord in areas of the Park outside of the Park Golf Course boundaries shall be installed and maintained in good condition at Landlord's expense. Tenant may install, at its sole cost and expense, way-finding, directional and other signage customary for golf courses on the Leased Premises, and directional signage in locations outside of the Leased Premises. All signage installed by Tenant on the Leased Premises shall be maintained in good condition and repair by Tenant. Landlord and Tenant shall work together toward the installation of directional signage to the Leased Premises in locations outside of the Leased Premises.
- 2.12. Right to Enter. Landlord and its authorized officers, employees, agents, contractors, subcontractors and other representatives shall have the right, at such times as may be reasonable under the circumstances, upon reasonable prior written notice (except emergencies) to enter upon the Leased Premises for the following purposes:
 - 2.12.1. To inspect the Leased Premises at reasonable intervals during regular business hours (or at any time in case of emergency) to determine whether Tenant has complied and is complying with the terms and conditions of this Lease with respect to the Leased Premises.
 - 2.12.2. To perform maintenance and make repairs and replacements in any case where Tenant is obligated to do so, or where Landlord, in its reasonable judgment, determines that it is necessary to do so in order to preserve the structural safety of the Leased Premises or to correct any condition likely to cause injuries or damages to persons or property, and in such case, Tenant has failed after reasonable notice to make such repairs or

replacements, in which event Tenant shall reimburse Landlord for the cost thereof promptly upon demand.

2.12.3. To perform maintenance and make repairs and replacements in any case where Landlord is obligated to do so.

During any period of entry pursuant hereto, Landlord shall use commercially reasonable efforts under the circumstances (whether an emergency or otherwise) to minimize disruption to Tenant's business operations. Any such entry shall be conducted in a manner that does not damage the Leased Premises.

2.13. Security and Traffic Control.

(A) Throughout the Term, Landlord's Park Police Division shall provide routine security patrols of the Leased Premises and the rest of the Park at which the Leased Premises are located, at no cost to Tenant.

(B) Tenant shall provide supplemental security and signage (e.g., no parking on the grass) for special events such as tournaments and outings at the Leased Premises, if appropriate. Tenant shall consult with the Chief of Park Police to determine the level of police services needed for such events. If Tenant elects to employ police to provide additional security, Tenant shall afford Landlord's Park Police the first right to provide such security, at the rate then in effect under Landlord's contract with the Fraternal Order of Police Lodge 30. Tenant in its sole discretion may elect to hire unarmed private security companies to provide additional security, but shall in all cases consult with Landlord's Park Police Division for coordination of security services with the Park Police. Landlord shall be responsible for providing security services and directing traffic for Landlord-sponsored events held in areas of the Park other than the Leased Premises, and shall use reasonable efforts to direct traffic for such events in such a manner as to not materially interfere with the operation of the Leased Premises.

3. TERM OF LEASE; CONDITION OF PREMISES.

3.1. Term. The term of this Lease shall commence on the Lease Commencement Date and shall continue through October 31, 2036 unless sooner terminated in accordance with the provisions of this Lease (the "Initial Term"). Tenant shall have the option to renew the term of the Lease for one (1) ten (10)-year renewal period on the same terms and conditions contained herein (the "Renewal Term"), except that only Percentage Rent, and not Annual Base Rent, shall be payable during the Renewal Term. This option to renew may be exercised by Tenant at its discretion and if Tenant issues debt in connection with the Golf System or makes capital repairs or improvements in connection with the Golf System, which debt, or the depreciation of which requires that the Initial Term of this Lease extend beyond October 31, 2036, such renewal option shall be automatically exercised at

such time as the debt is issued or the capital repairs or improvements are made. Additionally, Landlord and Tenant agree that if Tenant desires to expand or modify the Golf System, or if Tenant desires to make capital improvements or repairs to facilities in the Golf System, either for which it plans on having debt issued to pay for such capital improvements, or the full depreciation of which improvements (whether paid by debt or cash) will extend beyond the expiration of this Lease as extended by the Renewal Term, if such capital improvements and the continued operations of the Golf System is in the public interest, Landlord and Tenant will in good faith negotiate a new lease upon substantially similar terms and conditions to enable the Golf System to remain as a unified system of publicly operated golf courses.

3.2. As-Is.

3.2.1 Landlord and Tenant acknowledge that as of April 15, 2006, there was existing corrective work that was required pursuant to Applicable Law at the Park Golf Courses. Landlord covenants and agrees that it will promptly seek funding for and complete all work that, as of April 15, 2006 was required for compliance with Applicable Law and permits. This work is limited to i) bringing the stormwater facilities into compliance with the stormwater facility inspections reports for the 11 ponds at the Park Golf Courses, and ii) all work necessary to bring the Park Golf Courses into compliance and allow for continuing compliance pursuant to various water appropriation permits at Northwest and Little Bennett Golf Courses, specifically including but not limited to installation of properly operating equipment to monitor the water level, flow, and appropriation of water from Little Bennett Creek and pond, and removal of the old weir at Northwest Golf Course as described in Exhibit G and unfinished construction items related to such system at Northwest Golf Course (collectively, the “Corrective Work”). After completing the Corrective Work related to water appropriations permits, Landlord shall apply to the State of Maryland to add Tenant’s name to the water appropriations permits, at which time Tenant shall assume responsibility for compliance with the water appropriation permits. Thereafter, Tenant may pursue either the transfer of any such permits or the issuance of new permits in Tenant’s name.

3.2.2 Landlord and Tenant agree that the Corrective Work required at Little Bennett must be completed by March 1, 2007, and that if any condition that existed as of April 15, 2006 prohibits the Tenant from operating the Little Bennett Golf Course at the standard to which it was designed, or materially increases the costs of operating Little Bennett at the standard to which it was designed, Tenant shall at any time, notwithstanding Section 12.2, have the exclusive right to elect to return Little Bennett Golf Course to Landlord and subject to Landlord’s restrictions as set forth in Section 12.2, unless Landlord, at its own cost and expense, prior to such return shall have remedied the condition that is the basis for such election. In such circumstance, Tenant shall continue to be obligated to pay Annual Base Rent, but the Percentage Rent Threshold following return of Little Bennett shall not be adjusted as provided for return of any Park Golf Course under Section 12.2 of this Lease until the fiscal year beginning July 1, 2026 for the Percentage Rent payment due on November 1, 2027, at which time the Percentage Rent Threshold shall be adjusted as set forth in Section 12.2.

3.2.3 Other than the Corrective Work, Tenant shall occupy and accept the Leased Premises "AS IS" from Landlord. "AS IS" shall mean the physical condition of the Park Golf Courses as of April 15, 2006. The Landlord has no duty or liability whatsoever to remove or ameliorate any conditions, except as expressly provided for in this Lease.

3.2.4 [INTENTIONALLY OMITTED].

3.2.5 Until the Corrective Work involving stormwater facilities is completed, Landlord shall provide all maintenance of the stormwater facilities and equipment. Thereafter, following completion of such Corrective Work in accordance with Applicable Law, Tenant shall assume responsibility for management, maintenance and operation of such stormwater management facilities and equipment in accordance with Section 5.7.1, and shall at that time Tenant shall pursue either the transfer of any stormwater permits for such facilities or the issuance of new permits in Tenant's name.

3.2.6 Without any waiver of Landlord's immunities to third parties under the laws of the State of Maryland, Landlord shall indemnify and hold Tenant harmless from any and all claims arising from events and conditions existing or occurring at or with respect to one or more of the park Golf Courses, prior to April 15, 2006, including but not limited to, compliance with Applicable Law and permits and conditions related thereto, environmental liabilities, except to the extent such event or condition was caused or aggravated by Tenant, its agents, employees or contractors. Without any waiver of Tenant's immunities to third parties under the laws of the State of Maryland, Tenant shall indemnify and hold Landlord harmless from any and all claims arising from events and conditions occurring after April 15, 1006, including but not limited to environmental liabilities, except to the extent such event or condition is caused or aggravated by Landlord, its agents, employees or contractors, existed as of April 15, 2006, or is the responsibility of Landlord as provided in this Section 3.2. In the event it cannot be determined through an independent investigation and analysis whether an environmental condition of the Leased Premises is as a result of an occurrence prior to or after April 15, 2006, then (a) if such environmental condition is discovered during the Initial Term, the responsibility for remediating the environmental problem shall be shared equally by Landlord and Tenant, and (b) if such environmental condition is discovered after the Initial Term, it shall be deemed to have occurred after April 15, 2006.

3.2.6 Tenant agrees not to commit waste on the Leased Premises and not to knowingly use the Leased Premises for any unlawful purpose or in violation of any certificate of occupancy, nor suffer any dangerous article to be brought on the Leased Premises unless safeguarded as required by Applicable Law. Tenant agrees to comply reasonably, promptly, and effectively with all Applicable Laws of all Governmental Authorities; **provided however, that if the failure to comply with Applicable Law is due to a condition that existed as of April 15, 2006 that required correction to be in compliance with Applicable Law, including the Corrective Work, the Landlord shall be responsible for causing the correction of such condition to enable the Park Golf Course to be in compliance with Applicable Law.** Landlord and Tenant each agrees to give notice promptly to the other party of any notice from any Governmental Authorities, person, group or organization in respect of the Leased Premises including,

without limitation, any notice pertaining to air and water quality, Hazardous Materials, waste disposal, air emissions, and other environmental matters, and any direction of any public agency that imposes any duty upon Landlord or Tenant with respect to the use or occupancy of the Leased Premises. Tenant may, in good faith, dispute the validity of any complaint or action taken pursuant to or under color of any of the foregoing, defend against the same, and in good faith, diligently conduct any necessary proceedings to prevent and avoid any adverse consequence of the same.

4. RENT.

4.1. Annual Base Rent.

4.1.1. During the first six (6) Lease Years of the Term, Tenant covenants and agrees to pay unto Landlord, in legal tender of the United States of America, annual base rent (“Annual Base Rent”) in the amount of Four Hundred Eighty Thousand Dollars (\$480,000.00) per Lease Year. Annual Base Rent for the initial Lease Year will be paid on November 1, 2006; provided, however, Tenant shall receive credit for all payments made under the Operating Agreement. Thereafter, all payments of Annual Base Rent will be made in advance on October 15th of each succeeding Lease Year beginning November 1, 2007 as follows:

- (A) Landlord and Tenant have agreed that Landlord shall sell, and Tenant shall purchase, the Equipment and the Inventory listed together on Exhibit D attached hereto (the “Installment Payment Inventory”), for a total purchase price of One Million Eighty Thousand Dollars (\$1,080,000.00). One Hundred Eighty Thousand Dollars (\$180,000.00) of each Annual Base Rent payment set forth above is in consideration for, and allocated to the purchase price of, the Installment Payment Inventory, which pursuant to Section 2.4 has been conveyed to Tenant free and clear of debt and liens. Annual Base Rent will terminate after the sixth (6th) payment; and
- (B) Until such time as the Little Bennett Debt is paid in full and released, all Annual Base Rent shall be first used by Landlord to pay amounts due and payable in accordance with the debt service payment schedule towards payment of the Little Bennett Debt.

4.1.2. Tenant reserves the right to prepay the Annual Base Rent in an amount equal to the then effective “payoff amount” to pay the Little Bennett Debt in full. Such prepayment of Annual Base Rent shall be calculated at the then net present value (at a discount rate of 3.37%) of the total then remaining unpaid Annual Base Rent payable during the first six (6) years of this Lease. Landlord shall promptly use such prepayment of rent to pay the Little Bennett Debt in full. The Annual Base Rent will then be recalculated based upon the net present value (at a discount rate of 3.37%) of \$2,880,000.00, less (i) the prepayment amount, and (ii) any Annual Base Rent already made to Landlord (including under the Operating Agreement),

which difference will then be apportioned and payable in equal annual installments over the remainder of the first six (6) Lease Years upon the same terms as the payment of Annual Base Rent, or at the election of Tenant, Tenant may pay such balance in full, upon which payment no further Annual Base Rent shall be due. Any premium, charge or penalty associated with a prepayment of the Little Bennett Debt (excluding however, any charges or costs of issuance associated with any debt issued by or on behalf of Tenant) shall be paid by Landlord in the event such prepayment is a result of either (i) the failure of Landlord, Tenant and Bank of America to enter into the Non-Disturbance Agreement as set forth in Section 2.5, or (ii) the failure of Tenant and M & T Bank to reach an agreement with regard to coordinating Tenant's existing bond covenants with the bond covenants for the Little Bennett Debt. Except as otherwise set forth above, any premium, charge, financing cost or penalty associated with a prepayment of the Little Bennett Debt will be paid by Tenant.

4.1.3. Landlord shall promptly and timely pay its obligations for the Little Bennett Debt and any other outstanding notes related to the Leased Premises or the Equipment and Installment Payment Inventory. Tenant, by entering into this Lease, is not obligating itself on any such debt. In the event of a default by Landlord on the Little Bennett Debt beyond applicable notice and cure periods, Tenant may, in its sole discretion (a) pay off such debt, (b) purchase the debt, or (c) otherwise remedy any outstanding default. Such payoff or costs of remedy, including any prepayment premium, charge or penalty, will be set off against other payments due from Tenant to Landlord under this Lease.

4.2. Percentage Rent.

4.2.1. Commencing on November 1, 2011, Tenant agrees to pay to Landlord during the Term an amount ("Percentage Rent") equal to the "Current Percentage" by which annual Net Revenues for the Leased Premises exceed Five Million Six Hundred Thousand Dollars (\$5,600,000.00) (the "Percentage Rent Threshold"). The Current Percentage shall be as follows: (i) Beginning November 1, 2011 (for fiscal year July 1, 2010-June 31, 2011) - 5%; (ii) Beginning November 1, 2012 (for fiscal year July 1, 2011-June 31, 2012) - 6%; (iii) Beginning November 1, 2013 (for fiscal year July 1, 2012-June 31, 2013) - 7%; (iv) Beginning November 1, 2014 (for fiscal year July 1, 2013-June 31, 2014) - 8%; (v) Beginning November 1, 2015 (for fiscal year July 1, 2014-June 31, 2015) - 9%; and (vi) Beginning November 1, 2016 (for each fiscal year beginning July 1, 2015 and thereafter) through the end of the Lease Term and the Renewal Term, if applicable - 10%. All payments of Percentage Rent will be made on November 1 of each year for the prior fiscal year and shall be accompanied by documentation supporting the basis for such rent calculation certified by an independent certified public accountant in accordance with generally accepted accounting principles. If a Park Golf Course is extracted from the Leased Premises by Landlord pursuant to Section 12.1 or closed by Tenant pursuant to Section 12.2, then the

Percentage Rent Threshold shall be reduced by the amount of Fiscal Year 2005 Net Revenues from the Park Golf Course being extracted as set forth in Section 1.48.

- 4.2.2. Tenant shall, at all times during the Term, prepare and maintain, in accordance with generally accepted accounting principles, adequate records which shall show (i) all use records for the Leased Premises, (ii) records supporting costs of goods sold, and (iii) all Gross Revenue received by Tenant, which records shall include, without limitation: (i) copies of all gross income, sales, retail or excise tax returns filed with any Governmental Authority; (ii) bank deposit records; (iii) such other records, if any, which would normally be examined by an independent certified public accountant pursuant to generally accepted auditing standards in performing an audit of gross receipts or costs of goods sold; and (iv) the records, if any, specified above of subleases, assignees, concessionaires or licensees, furnished to Tenant in connection with such operations. Tenant shall keep safe at the Leased Premises or Tenant's offices for a period ending not less than three (3) years after the close of each Fiscal Year, all of such records for each such Fiscal Year.
- 4.2.3. If Landlord receives any Revenues from or by reason of operations or sale of Inventory at any of the Park Golf Courses during the Term or from the Holy Cross Hospital Parking Lease, Landlord will promptly notify Tenant of such Revenues and shall promptly pay such Revenues to Tenant.
- 4.2.4. Tenant shall provide reports and financial information to Landlord as stated in Section 7.2 of this Lease.
- 4.3. Net Rent. It is the purpose and intent of Landlord and Tenant that the rent payable hereunder shall be net to Landlord and that except as expressly provided herein, all costs, expenses and charges of every kind and nature directly relating to the Leased Premises which may be attributed to, or become due during the term of this Lease shall be paid by Tenant.
- 4.4. All Sums Rent. All sums payable by Tenant to Landlord under this Lease, whether or not stated to be Annual Base Rent or Percentage Rent shall be paid by check, cash, or wire transfer, at the address for notices to Landlord, or for wire transfer in accordance with instructions from Landlord. Such sums shall be considered "Rent" for all purposes hereunder however described or denominated.
- 4.5. Impositions. Landlord promptly shall send to Tenant copies of any notices received by Landlord in respect of any Impositions. As part of the consideration for this Lease, and subject to all of the provisions hereof, at Tenant's own cost and expense, Tenant shall pay all Impositions (if applicable) directly to the applicable authority as the same become due and payable during the Term, and before the assessment of any fine, penalty, interest or other charge which may be added thereto for the nonpayment thereof; except that any Impositions (and/or

installments thereof) properly allocable to periods before the Lease Commencement Date or after the Term shall not be payable by Tenant and shall be paid by Landlord. Tenant shall have the right to receive directly any and all notices of Impositions. Notwithstanding the foregoing, if by law any Imposition may be paid, at the option of the taxpayer, in installments, then Tenant may pay the same in installments whether or not interest accrues thereon, and Tenant shall only be responsible for such installments (and/or portions thereof) properly allocable to the Term. Any rebate made on account of any Imposition paid by Tenant shall belong to and be paid to Tenant, for Tenant's account.

- 4.6. Right to Contest Impositions. If Tenant disputes the amount or validity of any Impositions payable by Tenant hereunder, then Tenant shall have the right, at its sole cost and expense, to contest and defend against the same, and in good faith to diligently conduct any necessary proceedings to prevent and avoid the same. In such event Tenant may postpone or defer payment of such Impositions and such postponement or deferral shall not be deemed a default hereunder; provided, however, that, during any such contest, Tenant shall (by the payment or bonding off of such disputed Imposition, including potential interest and penalties thereon, if necessary) prevent any foreclosure of or any divesting thereby of Landlord's title, reversion or other interest in or to the Leased Premises, and will further (by the payment or bonding off of such disputed Imposition, including potential interest and penalties thereon, if necessary) prevent the public sale or foreclosure of any lien for any such Impositions. Tenant's right to contest Impositions shall not be exercised in such a manner as to expose Landlord to any civil penalties. Tenant shall prosecute such contest or defense diligently and expeditiously. Tenant shall have the right, if permitted by law, to pay under protest any Impositions. Any rebate made on account of any Imposition paid by Tenant shall belong to and be paid to Tenant, for Tenant's account.
- 4.7. Tax exemption; assessments. The parties acknowledge that currently pursuant to Section 42-26 of the Montgomery County Code, under Chapter 601 of the 1992 Laws of Maryland, Tenant is not required to pay any tax or assessment on (i) any facility or any part of a facility; (ii) activities of Tenant in the operation and maintenance of any facility; (iii) any revenues from the operations or maintenance of any facility or project; or (iv) the bonds of Tenant or the interest on them, and in the event the tax laws change under which Tenant is required to pay such taxes, Landlord shall not be responsible for such taxes.
- 4.8. Prorations. Appropriate adjustments and prorations shall be made if the date of expiration or termination of this Lease is not on the last day of a calendar month; or if any payment of rent or any other amount hereunder by either Landlord or Tenant covers periods for which the party making such payment is not responsible under this Lease.

4.9. Utilities.

- 4.9.1. Electricity. During the term of this Lease, Tenant shall pay the utility company for the electricity supplied to the Leased Premises and used exclusively in connection with the Leased Premises. Landlord shall pay the utility company for all other electricity supplied to the remainder of the Park. Where there are shared utilities, the parties shall share the cost thereof on an equitable basis.
- 4.9.2. Water and Sewer. Throughout the Term, Tenant shall pay the Washington Suburban Sanitary Commission for all water and sewer service supplied to the Leased Premises and used exclusively in connection with the Leased Premises. Landlord shall be responsible for the cost of all water and sewer service supplied to the remainder of the Park. Where there are shared utilities, the parties shall share the cost thereof on an equitable basis.
- 4.9.3. Other. Throughout the Term, Tenant shall pay all other utility services supplied to the Leased Premises and used exclusively in connection with the Leased Premises.

5. USE AND OPERATIONS.

- 5.1. Compliance with Law. Landlord and Tenant each shall promptly give notice to the other of any notice received from Governmental Authorities in respect of the Leased Premises. During the Term, Tenant shall comply with all Applicable Laws in respect of the Leased Premises. Tenant may dispute in good faith the validity of any complaint or action taken pursuant to or under color of any of the foregoing, defend against the same, and, in good faith, diligently conduct any necessary proceedings to prevent and avoid any adverse consequence of the same. Tenant shall prosecute such contest diligently and expeditiously.
- 5.2. Compliance with Park Regulations. Tenant shall comply, and require its agents, employees, contractors, subtenants, concessionaires, licensees and invitees to comply, with the Park Regulations, as the same may be amended by Landlord from time to time, in their use and occupancy of the Leased Premises, provided however this obligation is only to the extent that such regulation or amendment does not interfere with Tenant's right to operate the Leased Premises in accordance with this Lease. In the event of any conflict between the Park Regulations and the provisions of this Lease, this Lease shall govern and such regulation shall be deemed to have been waived by the Director of Parks. Notwithstanding anything to the contrary in the Park Regulations, Landlord shall not close the Park while the Leased Premises are open for business or restrict use of Park infrastructure outside of the Leased Premises in a manner that unreasonably interferes with use and enjoyment of the Leased Premises or that results in reduction in use of such Leased Premises, except under emergency circumstances.

- 5.3. Landlord's Obligations Regarding Roads and Park Construction. Landlord shall use reasonable efforts to ensure that traffic in the Park for events scheduled in areas of the Park other than the Leased Premises does not unreasonably interfere with operations, activities, traffic or parking at the Leased Premises. Landlord shall ensure that construction in areas of the Park other than the Leased Premises does not unreasonably interfere with operations, activities, traffic or parking at the Leased Premises.
- 5.4. Licenses and Permits. Subject to Section 3.2, Tenant shall be solely responsible for securing, obtaining and maintaining in good standing all necessary permits and licenses from the applicable Governmental Authorities for the continued use, operation, repair, replacement, construction and/ or reconstruction of the Leased Premises.
- 5.5. Use. During the term of this Lease, Tenant shall use the Leased Premises for golf and related operations and activities, or such other uses as approved by the Landlord.
- 5.6. Operations. Tenant shall operate the Leased Premises in a manner consistent with Tenant's operations, as of the Effective Date, of other golf facilities in the Golf System, and as appropriate for the design, existing improvements, and Applicable Law on the Park Golf Courses, including but not limited to the following:
- 5.6.1. Little Bennett Debt Tax-Exempt Status. Landlord represents, and Tenant acknowledges, that activities at the Little Bennett Golf Course are restricted due to tax exempt financing on the facility. Tenant covenants and agrees that it will not enter into a written or oral management, use, operating or service agreement for any portion of the Little Bennett Golf Course that will constitute "private activity" as such activity is defined by the Internal Revenue Service. Nothing herein precludes Tenant from entering into licenses or concessions in connection with its operation of the Leased Premises, so long as it does not affect the tax exempt financing on the Little Bennett Golf Course, and otherwise complies with the provisions of this Lease. Nothing in this Section 5.6 is intended to otherwise limit the ability of Tenant to enter into contracts for services in connection with Tenant's operation and management of the Little Bennett Golf Course. All leases, use agreements, operating agreements, service agreements, or management agreements will be provided to Landlord thirty (30) days before they are scheduled to be executed; provided however, in the event thirty (30) days is not feasible, Tenant may request that Landlord review such agreements in less than thirty (30) days, upon which Landlord agrees not to unreasonably condition, withhold or delay its approval of such agreement, if Landlord's approval is necessary; and further provided that the foregoing shall not apply to any employment agreement which does not constitute a management contract for purposes of Rev. Proc. 97-13 or, if such employment agreement does constitute a management contract for purposes of Rev. Proc. 97-13, such employment

agreement complies with Rev. Proc. 97-13. Tenant will provide further assurances as may reasonably be requested by Landlord to evidence compliance with this Section 5.6.1, and without any waiver of Tenant's immunities under state law, Tenant shall indemnify and hold Landlord, its bondholders and trustees, harmless from any and all direct damages arising from its failure to comply with this covenant in connection with the Little Bennett Debt. Landlord shall not modify or amend the Little Bennett Debt without the consent of Tenant, which consent shall not be unreasonably conditioned, withheld or delayed. Additionally, Landlord shall not create debt on any of the other Park Golf Courses included within the Leased Premises, during the Term of this Lease. The rights and interest of the Tenant created by this Lease shall at all times be subordinate to the interest and liens create in connection to the tax-exempt financing on Little Bennett unless otherwise agreed by Landlord and Bank of America, or operation of law. At such time as the Little Bennett Debt is paid in full, the restrictions set forth in this Section 5.6.1 shall cease and expire and be of no further force or effect.

5.6.2. Environmental Stewardship. Landlord is a bi-county agency empowered by the State of Maryland to acquire, develop, maintain and administer a regional system of parks within Montgomery and Prince George's Counties, and to prepare and administer a general plan for the physical development of the two counties. The Leased Premises is located within the County Park System. The mission of Landlord includes the responsibility to protect and steward natural resources and to provide leisure and recreational experiences. Therefore, Landlord has operated the Leased Premises consistent with its mission and in compliance with sound environmental practices. For any Park Golf Course that requires work to bring it into compliance with sound environmental practices at the commencement of this Lease, Landlord shall promptly perform such work to make it consistent with sound environmental practices. Tenant shall continue to operate the Leased Premises in a manner consistent with the environmental guidelines and programs including as set forth below.

- (A) Tenant expressly agrees to implement and comply with Applicable Law governing pesticide use and to comply with all parts of Landlord's Administrative Procedures for Pesticide Safety and Integrated Pest Management and the Turfgrass Integrated Pest Management Manual and any amendments thereto. Tenant shall refrain from using any pesticide in a manner that is not allowed by any Applicable Law and shall abide by any and all restrictions imposed on specific use of certain pesticides.
- (B) The Little Bennett Golf Course is a participant in the Audubon Cooperative Sanctuary Program for Golf Courses (the "Audubon Program"). Therefore, Tenant agrees to work with the Audubon Cooperative Sanctuary System in maintaining Little Bennett's

current certification status with the Audubon Program. Should any of the above-referenced Applicable Laws and guidelines governing pesticide use on Little Bennett Golf Course be in conflict with the guidelines established by the Audubon Program, the more restrictive and environmentally sensitive Applicable Law or guideline shall govern.

5.7. Maintenance and Repairs.

5.7.1. Except as otherwise provided in this Lease, Tenant at its expense shall, throughout the Term, be responsible for the capital and ordinary maintenance of the Leased Premises so long as the Leased Premises are under the terms of the Lease or in the Golf System. Tenant at its expense shall maintain, repair and replace the Improvements and facilities within the Leased Premises in a good state of repair as appropriate for the types of improvements and at a standard consistent with its maintenance of other facilities in the Golf System. Tenant shall keep and maintain all common areas within the Leased Premises in a clean and orderly condition, free of dirt, rubbish, snow, ice and obstructions. Subject to the provisions of Section 3.2.5, Tenant shall maintain the Stormwater Management Facilities that serve the Leased Premises. For any Stormwater Management Facilities that serve areas outside of the Leased Premises, Landlord shall reimburse Tenant a prorated share of the costs of maintenance and repair. Tenant's share of the cost shall be that percentage determined by dividing the Park Golf Course area by the total area served by the Stormwater Management Facility. Landlord's reimbursement shall be the balance of the cost, which Landlord shall pay to the Tenant within thirty (30) days of invoice for such costs.

5.7.2. Landlord at its expense shall maintain and repair all portions of the Park except the Leased Premises including, without limitation, maintaining, repairing and making necessary alterations and replacements to roads (unless such roads are otherwise publicly maintained) and parking lots outside the Leased Premises (including keeping such roads and parking lots free of snow and ice).

6. IMPROVEMENTS.

6.1. Master Plan. Tenant has retained an independent consultant to prepare a draft capital improvement plan ("Golf Master Plan"), which shall be completed no later than March 1, 2007, which shall include Tenant's plans for short and long-term incorporation of the Leased Premises into the Golf System in order to accomplish the goal of a successful unified system of public golf in the County operated by Tenant. The Golf Master Plan shall include capital improvements proposed for the Leased Premises, including alterations, modifications, and additions to such facilities, and a financial plan with proposed sources of funding. The Golf Master

Plan is a non-binding document and any action by Tenant is subject to the provisions of Montgomery County Code Chapter 42.

- 6.2. Capital Improvements. Tenant shall not include any new capital improvements to the Leased Premises in its capital improvement plan request before the Council unless such capital improvements are (a) consistent with the use as set forth in this Lease, and (b) are included in the Golf Master Plan and presented to the Montgomery County Planning Board in accordance with its annual reporting requirements. Thereafter, Tenant shall proceed through its normal mandatory referral review process before the Montgomery County Planning Board in its regulatory capacity. Nothing in this Lease shall be deemed to waive any obligation of Tenant to appear before the Montgomery County Planning Board in its regulatory capacity. Any improvements to the Leased Premises shall be subject to Applicable Law, including applicable governmental approvals and permits. At the expiration or earlier termination of this Lease, all capital Improvements on the Leased Premises (whether such capital Improvements were on the Leased Premises prior to the Effective Date, or constructed during the Term of this Lease) shall remain upon and be surrendered with the Leased Premises and become the property of Landlord without cost to Landlord, unless the expiration or termination pertains to a Park Golf Course extracted by Landlord pursuant to Section 12.1, in which case Landlord shall pay for the improvements as stated in Section 12.1. Tenant covenants that upon such surrender of the Leased Premises, the Park Golf Courses shall be in compliance with Applicable Law, including permits issued by Governmental Authorities, for the continuing operations of the Park Golf Courses.
- 6.3. Needwood Irrigation. Landlord, at its sole cost and expense and in cooperation with Tenant, shall complete the design for the irrigation system upgrades to Needwood Golf Course. Tenant shall have the right to reasonably approve such design, and at its sole cost and expense, shall be responsible for implementing such upgrades in accordance with its Golf Master Plan.
- 6.4. Repairs and Alterations. Subject to compliance with Applicable Laws, and subject to other requirements under this Lease, Tenant shall have the absolute and unqualified right, at any time from time to time, as often and frequently as Tenant wishes, during the Term, to make such changes (structural or otherwise), renovations, reconstruction, repairs, alterations to the Leased Premises consistent with the permitted use as Tenant, in Tenant's sole and absolute discretion, shall deem appropriate, without the necessity of securing Landlord's permission or consent. Notwithstanding, Tenant shall not demolish, tear down or remove any capital improvements during the last five years of the Term without the prior consent of Landlord, unless such demolition, tearing down or removal has been otherwise approved as part of Tenant's mandatory referral review. Costs of such demolition, tearing down or removal shall be borne by Tenant and Tenant shall be entitled to the salvage value, if any, therefrom.

- 6.5. Mechanics' Liens; Compliance with Laws. Tenant's construction and repair of Improvements on the Leased Premises during the Term of this Lease shall be subject to the following conditions:
- 6.5.1. Tenant shall comply promptly and fully with all Applicable Laws, ordinances, rules, regulations and requirements of all Governmental Authorities but shall have the right, in its sole discretion, to contest in good faith any such laws, ordinances, rules, regulations and requirements; and
- 6.5.2. Tenant shall take all necessary steps to ensure that no mechanic's or materialmen's liens are filed against the Leased Premises as a result of any Improvements made by the Tenant. If any mechanic's lien is filed, Tenant shall discharge the lien within ten (10) days thereafter, at Tenant's expense, by paying off or bonding the lien.
- 6.6. Title to Improvements. All Improvements shall be Tenant's property throughout the Term; provided, however, that all right, title and interest in the Improvements automatically and immediately shall vest in Landlord upon the expiration or earlier termination of this Lease without the execution of any further instrument. Tenant agrees at the request of Landlord to execute any and all quit-claim conveyance as may be necessary to evidence such vesting of title.

7. COOPERATION AND REPORTING.

- 7.1. Cooperation in Obtaining Approvals. Subject to Applicable Law, upon the reasonable request of either Landlord or Tenant (the "requesting party"), the other party (the "non-requesting party") agrees to join in any easements, rights of way or other agreements for land owned by the Landlord and relating to the provision of utility service to the Leased Premises ("Utility Easements"), and to join in recordable agreements with Governmental Authorities and utility providers. The non-requesting party shall cooperate fully with the requesting party in assisting the requesting party to obtain Utility Easements. To this end, within thirty (30) days after written request from time to time from the requesting party, the non-requesting party shall, without requiring any additional consideration therefor, execute and return to the requesting party, or otherwise join in any such documents as are required for obtaining Utility Easements. The non-requesting party recognizes that the requesting party shall have the right, in its own behalf and not as agent for the non-requesting party, to undertake any and all of the actions in which the non-requesting party has agreed to cooperate. The foregoing notwithstanding, any instruments or agreements required of the non-requesting party shall be in form reasonably acceptable to the non-requesting party and shall not impose any additional expense or liability on the non-requesting party.

7.2. Reporting.

- 7.2.1. Tenant shall provide to the Secretary-Treasurer of Landlord, as to each Park Golf Course and as to the entire Golf System, Tenant's Income Statements and Budgeted Income Statements within thirty (30) days after the meeting at which the quarterly financial reports are presented to Tenant's Board of Directors.
- 7.2.2. Each fiscal year, Tenant shall provide to the Secretary-Treasurer of Landlord, as to each individual Park Golf Course and as to the entire Golf System, a Cash Flow Statement within thirty (30) days after the meeting at which the Annual Audit is presented to and approved by the Tenant's Board of Directors.
- 7.2.3. By July 1 of each year, Tenant shall provide to the Secretary-Treasurer of Landlord, as to each individual Park Golf Course and as to the entire Golf System, Tenant's Adopted Operating Budget and Adopted Capital Budget.
- 7.2.4. Each fiscal year, Tenant shall provide to the Secretary-Treasurer of Landlord, an Annual Audited Financial Report (prepared by a certified public accountant in accordance with generally accepted accounting principles) with respect to Tenant's operations during the preceding fiscal year of Tenant within thirty (30) days after the meeting at which the Annual Audit is presented to and approved by Tenant.
- 7.2.5. By August 1 of each year, Tenant shall provide to the Secretary-Treasurer of Landlord, for each individual Park Golf Course and as to the entire Golf System, a report of all rounds played at each such course during the prior fiscal year. The report will be broken out on a monthly basis and shall include such other information as may reflect individual course performance and utilization of Tenant golf programs.
- 7.2.6. Upon completion of the Golf Master Plan, and thereafter, no less than once each calendar year, Tenant shall appear before Montgomery County Planning Board and make a presentation of Tenant's operation of the Golf System during the preceding calendar year, including (1) significant activities conducted by Tenant in support of its obligations under this Lease, including (i) a schedule of fees charged at each Park Golf Course with a comparison to the market, (ii) number of rounds played at each Park Golf Course, and (iii) community outreach activities and programs to meet its commitments with regard to accessibility, including the participation rates; (2) a summary and representation of its compliance with the terms of this Lease; (3) any updates to the Golf Master Plan; (4) current capital improvement plan; and (5) any other information reasonably requested by Landlord.

8. ASSIGNMENT AND SUBLEASING.

- 8.1. Except as provided in Section 9.1 and otherwise herein, and provided that Landlord continues to own fee simple title to the Leased Premises, Tenant shall have no right to transfer or assign this Lease, in whole or in part, or sublet all or any part of the Leased Premises, by operation of law or otherwise, without the prior written consent of Landlord, which consent may be withheld in the sole and absolute subjective discretion of Landlord. Landlord agrees that any sublease entered into by Tenant upon the Leased Premises for parking is deemed approved. Any assignment, transfer, conveyance or subletting consented to by Landlord at all times shall be subject to this Lease and the prior right, title and interest of Landlord in and to the Leased Premises, and the assignee or transferee (the "Assignee") shall agree to assume and be bound by the terms of this Lease.
- 8.2. If Landlord determines to assign its interest in one or more of the Park Golf Courses, it shall first offer the Park Golf Course to the Tenant and shall engage in exclusive negotiations to convey such interest, as encumbered by this Lease, to Tenant at the then fair market value of such interest.
- 8.3. Effect of Assignment. Effective on the date of an assignment by Tenant, the Assignee shall be substituted as the "Tenant" in this Lease; the term "Tenant," as used in this Lease, shall mean the Assignee and not the assignor. Tenant shall not be relieved of any obligation or responsibility hereunder which accrued before the date of its assignment, but shall be relieved of any obligation or responsibility hereunder which accrued after the date of assignment. Notwithstanding the foregoing provisions of this Section 8, the consent by Landlord to any subletting shall neither be construed as a waiver or release of Tenant from any covenant or obligation of Tenant under this Lease, nor as relieving Tenant from obtaining the consent of Landlord to any further subletting or assigning.

9. ENCUMBRANCES.

- 9.1. Tenant's Power to Encumber. Tenant shall have the right at any time and from time to time to assign, mortgage, pledge and otherwise encumber its interest in the Leased Premises (which shall include, without limitation, the right to receive any and all pledges, fees, revenue, income, rents and other proceeds related thereto) to a Leasehold Mortgagee as security for a Leasehold Mortgage in connection with the Leased Premises or the Golf System or to refinance such a Leasehold Mortgage, provided that any such Leasehold Mortgage complies with the requirements of this Section 9. Any Leasehold Mortgage shall affect and encumber only the right, title and interest of Tenant in and to the leasehold estate under this Lease (which shall include, without limitation, the right to receive any and all pledges, fees, revenues, income, rents and other proceeds related thereto), and shall not be a lien or encumbrance upon the estate or interest of Landlord in the Leased Premises or any part thereof. Tenant shall provide a copy of the Leasehold Mortgage documents to Landlord's Secretary-Treasurer within thirty (30) days of placement thereof.

9.2. Protection of Leasehold Mortgagees. For each Leasehold Mortgage, if Landlord is given a copy thereof and a written notice specifying the name and address of the Leasehold Mortgagee(s) thereunder and the recording data pertaining to such Leasehold Mortgage, then the following provisions shall apply with respect to such Leasehold Mortgage for so long as it shall remain unsatisfied of record:

9.2.1. There shall be no material modification or voluntary surrender of this Lease (unless due to the expiration of the Term) without the prior written consent of the Leasehold Mortgagee(s).

9.2.2. Landlord shall, concurrently with the delivery to Tenant of any notice required or permitted hereunder, deliver to each Leasehold Mortgagee a true copy of any Notice of Tenant's Default, Notice of Termination, or other notices given to Tenant as provided for herein, and no such notice to Tenant shall be effective as to a Leasehold Mortgagee, until a copy of such notice is sent to such Leasehold Mortgagee. Each Leasehold Mortgagee shall thereupon have the period set forth below, after receipt of such notice by it or them, to remedy or cause to be remedied the defaults complained of, and Landlord shall accept such remedy by or at the instigation of any such Leasehold Mortgagee as if the same had been done by Tenant. Landlord and Tenant authorize the Leasehold Mortgagee to take any such action at the Leasehold Mortgagee's option and do hereby authorize entry upon the Leased Premises by the Leasehold Mortgagee for such purposes. If there is more than one Leasehold Mortgagee, the Leasehold Mortgagee under the Mortgage which is prior in lien shall have the prior right to remedy or cure any such default; and the period within which such other Leasehold Mortgagee(s) may remedy such defaults shall be extended for a single additional period of thirty (30) days for such subordinate Leasehold Mortgagees, collectively, within which to effect such remedy or cure. The foregoing notwithstanding, nothing contained in this Section 9.2.2 shall (i) relieve Tenant of its responsibilities or liabilities hereunder, or (ii) obligate Landlord to recognize more than one Leasehold Mortgagee at any time; which such recognized Leasehold Mortgagee shall be entitled to all of the rights of a Leasehold Mortgagee hereunder.

9.2.3. Notwithstanding any other provision of this Lease, if, before the expiration of thirty (30) days following receipt of Notice of Termination, any Leasehold Mortgagee shall have (1) notified Landlord in writing of its desire to nullify such Notice of Termination; (2) paid to Landlord all rent, late charges and other payments then due from Tenant hereunder but unpaid; and (3) complied or in good faith and with reasonable diligence and continuity, commence to comply within such thirty (30) days following receipt of the Notice of Termination with all of the other non-monetary requirements of this Lease as to which Tenant then is in default, and (4) shall continue to pursue such compliance to completion with reasonable diligence, then Landlord shall not be entitled to terminate this

Lease, and any Notice of Termination theretofore given shall be void and of no further force and effect, provided, however, that the Leasehold Mortgagee shall not be required during such thirty (30) day period to cure or discharge any lien, charge or encumbrance against the Tenant's interest in the Lease or the Leased Premises junior in priority to the lien of the Leasehold Mortgagee, except as required by the terms of Section 6.5 hereof.

- 9.2.4. In addition to the rights of Leasehold Mortgagees set forth in Section 9.2.3 above, each Leasehold Mortgagee shall have the right to postpone the date for the termination of this Lease as specified by Landlord in any Notice of Termination, for a period of not more than a total of six (6) additional months from the date specified in such Notice if, before the expiration of thirty (30) days following receipt of such Notice of Termination, such Leasehold Mortgagee (1) shall have notified Landlord in writing of its desire to postpone said termination date, (2) shall have paid to Landlord all rent, late charges and other payments then due from Tenant hereunder but unpaid, (3) shall have agreed to comply with and perform all of the terms, conditions and provisions of this Lease on Tenant's part to be complied with and performed, other than past non-monetary obligations that are in default and are not reasonably susceptible of being cured by the Leasehold Mortgagee; and (4) shall, promptly, and if not enjoined or stayed, take steps to acquire or sell Tenant's interest in this Lease by foreclosure or otherwise and shall prosecute the same to completion with reasonable diligence and in the exercise of which Leasehold Mortgagee may exercise any and all remedies available to it under the loan documents evidencing or securing the Leasehold Mortgage. If at the end of said six (6) month period any Leasehold Mortgagee shall be actively engaged in steps to acquire or sell Tenant's interest herein and shall have promptly commenced and complied with the requirements of the preceding sentence and such Leasehold Mortgagee is delayed or impeded in its efforts to acquire or sell Tenant's interest herein due to the pending nature of any proceeding brought by, for or against Tenant, including without limitation a voluntary or involuntary bankruptcy proceeding, then the time for completion by the Leasehold Mortgagee of its proceedings shall continue thereafter for so long as the Leasehold Mortgagee diligently and continuously proceeds to complete steps to acquire or sell Tenant's interest in the Lease by foreclosure of the Leasehold Mortgage or by other appropriate means. Notwithstanding Leasehold Mortgagee's right to acquire or sell Tenant's interest in this Lease by foreclosure or otherwise, Tenant shall request any Leasehold Mortgagee to include in the loan documentation, a requirement that notice of default of a Leasehold Mortgage for the Park Golf Courses be provided to Landlord as well as to Tenant and that the Leasehold Mortgagee, prior to any foreclosure, or sale in lieu of foreclosure, against Tenant's interest shall first offer the right to Landlord to cure the default by offering Landlord the opportunity to pay the outstanding balance of the Leasehold Mortgage. Refusal, or

unreasonable conditioning of such a provision (in Tenant's reasonable discretion), by a Leasehold Mortgagee to include such language shall not be a violation of this Lease. Nothing in this Section 9.2.4, however, shall be construed to extend the Lease beyond the original Term thereof in accordance with the Lease, nor to require the Leasehold Mortgagee to continue such foreclosure proceedings after the default has been cured. If the default shall be cured and the Leasehold Mortgagee shall discontinue such foreclosure proceedings, the Lease shall continue in full force and effect as if Tenant had not defaulted under the Lease.

- 9.2.5. If the Leasehold Mortgagee is complying with Section 9.2.4, upon the acquisition of the Lease by the Leasehold Mortgagee or its designee or any other purchaser at a foreclosure sale or otherwise and the discharge of any lien, charge or encumbrance against the Tenant's interest in the Lease or the Leased Premises which is junior in priority to the lien of the Leasehold Mortgage and which the Tenant is obligated to satisfy and discharge by reason of the terms of the Lease, the Lease shall continue in full force and effect as if Tenant had not defaulted under the Lease.
- 9.2.6. For the purposes of this Section 9.2, the granting of the Leasehold Mortgage by the Tenant shall not be deemed to constitute an assignment or transfer of the Lease, nor shall the Leasehold Mortgagee, as such, be deemed to be an assignee or transferee of the Lease so as to require the Leasehold Mortgagee, as such, to assume the performance of any of the terms, covenants or conditions on the part of the Tenant to be performed under the Lease. However, the purchaser at any sale of the Lease in any proceedings for the foreclosure of the Leasehold Mortgagee, or the assignee or assignment or transfer in lieu of the foreclosure of the Leasehold Mortgagee shall be deemed to be an assignee or transferee, and shall be deemed to have agreed to perform all of the terms, covenants and conditions on the part of the Tenant to be performed under the Lease from and after the date of such purchase and assignment, (and such purchaser shall have no liability for the performance of the same arising prior to such date) but only for so long as such purchaser or assignee is the owner of the Lease.
- 9.2.7. The Leasehold Mortgagee pursuant to foreclosure, assignment in lieu of foreclosure or other proceedings may, upon acquiring the Lease, without further consent of Landlord, sell and assign the Lease on such terms and to such persons and organizations as are acceptable to the Leasehold Mortgagee and thereafter the Leasehold Mortgagee shall be relieved of all obligations under the Lease; provided that such assignee has delivered to Landlord its written agreement to be bound by all the provisions of the Lease.
- 9.2.8. Notwithstanding any other provisions of the Lease to the contrary, any sale of the Tenant's interest in the Lease in any proceeding for the

foreclosure of the Leasehold Mortgagee, or the assignment or transfer of the Lease in lieu of the foreclosure of the Leasehold Mortgage shall be deemed to be a permitted sale, transfer or assignment of the Lease.

9.3. Leasehold Mortgagee's Right to New Lease. In the event of the termination of this Lease, or any succeeding Lease made pursuant to this Lease, including a New Lease, prior to its stated expiration date, as a result of Tenant's default or as a result of a rejection of the Lease by Tenant, Landlord shall, in addition to providing the applicable notices of default and termination as required by Section 9.2, provide the Leasehold Mortgagee with written notice (the "New Lease Notice") that the Lease has been terminated, together with a statement of all known unpaid sums which would at that time be due under the Lease as of the date of such notice but for such termination, and of all other defaults, if any, then known to Landlord. Landlord shall, subject to Applicable Law, upon the written request of a Leasehold Mortgagee or its nominee, enter into a new lease of the Leased Premises with such Leasehold Mortgagee or its nominee, for the remainder of the Term, effective as of the date of such termination, at the rent and upon the same terms, provisions, covenants and agreement as herein contained and provided however that the Lease shall be revised as appropriate to reflect the composition and existence of the new tenant (the "New Lease"). The New Lease shall be subject only to the same Permitted Encumbrances to title to which this Lease is subject on the Lease Commencement Date and to any other encumbrances created pursuant to the terms hereof (and Landlord shall have no obligation to cure or remove any encumbrance to title of the Leased Premises created or consented to in writing by Tenant), and to the rights, if any, of any parties then entitled to possession of all or part of the Leased Premises (but excluding Tenant); provided, however, that a grant of the New Lease shall be subject to the following conditions:

9.3.1. Said Leasehold Mortgagee or its nominee shall have made written request upon Landlord for such New Lease, within sixty (60) days after the date of its receipt of the New Lease Notice and such written request shall have been accompanied by tender of payment to Landlord of all sums then due to Landlord as specified in the New Lease Notice.

9.3.2. Said Leasehold Mortgagee or its nominee shall pay to Landlord at the time of the execution and delivery of said New Lease, any and all Rent which would, at the time of execution and delivery thereof, be due pursuant to this Lease but for such termination, and in addition thereto, all reasonable expenses (including reasonable attorney's fees), which Landlord shall have incurred by reason of such termination and the execution and delivery of the New Lease and which have not otherwise been received by Landlord from Tenant or other party in interest under the Lease (but expressly excluding any and all damages including punitive and consequential damages), less the net income (on a cash basis and excluding depreciation and other non-cash adjustments) received by

Landlord in respect of the Leased Premises after the termination of this Lease but prior to the execution and delivery of the New Lease.

- 9.3.3. Said Leasehold Mortgagee or its nominee shall perform all of Tenant's monetary obligations contained in this Lease.

Upon execution and delivery of such New Lease, in accordance with the provisions of this Section 9.3, the tenant under the New Lease shall accept the Lease Premises in its "as is" condition subject to the terms of the New Lease. The Leasehold Mortgagee shall have the right to assign a New Lease to an affiliate of the Leasehold Mortgagee.

- 9.4. Additional Protection for Leasehold Mortgagees. The following additional matters are included herein for the express protection of any Leasehold Mortgagee, as an intended third party beneficiary of this Lease.

- 9.4.1. The proceeds or award from any of Tenant's insurance policies may be held by any Leasehold Mortgagee(s) and distributed or applied pursuant to the provisions of the applicable Leasehold Mortgage; subject, however to the terms of this Lease.

- 9.4.2. From time to time, and within thirty (30) days of request, Landlord and Tenant shall execute, acknowledge and deliver to any or all Leasehold Mortgagees, an agreement among Landlord, Tenant and such Leasehold Mortgagee(s), prepared at the sole expense of Tenant, in form satisfactory to such Leasehold Mortgagee(s) and the Landlord, reaffirming the applicability of the provisions of this Section 9 to a particular Leasehold Mortgagee.

- 9.5. [INTENTIONALLY OMITTED]

10. INSURANCE.

Tenant shall provide and maintain either through the Montgomery County Self Insurance Fund or otherwise, at its election, insurance as follows:

- 10.1.1. Insurance against loss or damage by fire, windstorm, tornado and hail and all other hazards covered by the usual extended coverage and "all special causes of loss" endorsements ("Property Insurance"), including, without limitation, coverage for loss or damage by water, flood and subsidence, and excluding from such coverage normal settling only. Such Property Insurance shall be in the amount set forth in the "replacement cost" endorsement to the policy in question, which endorsement shall be attached to the policy, provided that such amount, in all events, shall be (i) sufficient to prevent Landlord and Tenant from becoming co-insurers under provisions of applicable policies of insurance, and (ii) in the amount not less than one hundred percent (100%) of the net replacement cost of the Improvements (net of footers, foundations and excavation), such net

replacement cost to be determined by the insurers from time to time, but not less frequently than required by the standard “replacement cost” endorsement, and no omission on the part of Landlord to request any such determination shall relieve Tenant of its obligation to have such net replacement cost determined as aforesaid. Such Property Insurance shall also include a demolition and clearing clause and extra expense and loss of use coverages with a sublimit of not less than Five Hundred Thousand Dollars (\$500,000.00) per occurrence.

10.1.2. Commercial general liability insurance (“Liability Insurance”) against liability for bodily injury and death and property damage, such Liability Insurance to be in an amount not less than One Million Dollars (\$1,000,000.00) for liability for bodily injury, death and property damage arising from any one occurrence and Three Million Dollars (\$3,000,000.00) from the aggregate of all occurrences within each policy year, with excess coverage or umbrella coverage of at least Five Million Dollars (\$5,000,000.00), and shall include the Leased Premises shall contain blanket contractual coverage and shall also provide the following protection:

- (A) completed operations;
- (B) personal injury protection; and
- (C) sprinkler leakage/water damage legal liability.

10.2. Workers’ compensation providing statutory benefits for all persons employed by Tenant at or in connection with the Premises.

10.3. Deficiencies in Coverage and Failure to Maintain Insurance. If Tenant or Landlord becomes aware of any reduction in the coverage provided under any insurance required under this Section 10, or in the protection afforded thereunder, Tenant or Landlord, as the case may be, shall promptly notify the other. If Landlord reasonably determines, based on uses of the Leased Premises, that additional types of coverages or higher limits may be required and to the extent that such additional coverages or higher limits are customarily required in connection with similar type projects to the Leased Premises, Tenant shall promptly obtain, to the extent generally available, such additional coverage or higher limit, including, without limitation, if required by then existing facts and circumstances, environmental impairment insurance.

10.4. Additional Insured - Notice of Cancellation. All policies of liability insurance described herein shall name Landlord as a loss payee and shall not be cancelled, modified or terminated upon less than thirty (30) days prior written notice to Landlord. The liability coverage shall further expressly provide for contractual liability coverage associated with the Tenant’s indemnification obligations under this Lease.

- 10.5. Insurance Does Not Waive Obligations. No acceptance or approval of any insurance agreement or agreements shall (a) relieve or release or be construed to relieve or release the Tenant or other person from any liability, duty, or obligation assumed by, or imposed upon it or (b) impose any obligation upon the additional insured(s)/loss payees.
- 10.6. Property Insurance Proceeds. During the Term, all sums payable for loss and damage to the Improvements arising out of casualties covered by the fire and extended coverage policies shall be used for the reconstruction, repair, or replacement of the damage (hereinafter referred to as "Reconstruction Work"), to a condition substantially comparable to its condition prior to the loss or damage and shall be payable directly to Tenant or its Leasehold Mortgagee, provided that the proceeds must be used to rebuild the Improvements subject to the Leasehold Mortgagee's customary requirements including without limitation the requirement that Tenant advance any equity required in addition to the insurance proceeds to complete the Reconstruction Work. If the insurance proceeds are insufficient to perform the Reconstruction Work, Tenant shall provide additional funds required to complete such Reconstruction Work.
- 10.7. Self-Insurance. Notwithstanding any other provision of this Lease to the contrary, for so long as Montgomery County Revenue Authority remains the Tenant under this Lease, or for so long as any entity to whom this Lease has been assigned in accordance with the express terms of this Lease is insured under the County Self-Insurance Program (as defined below), Tenant shall have the right to self-insure in accordance with the provisions of the Montgomery County Self-Insurance Program (the "County Self-Insurance Program") that are set forth in Section 20-37 of the Montgomery County Code 2004, as amended.

11. CASUALTY.

- 11.1. In the event that the Improvements, or any portion thereof, are damaged or destroyed by fire or other casualty (a "Casualty"), which is as a result of a negligent or intentional act of Tenant, Tenant shall be obligated to restore the Improvements to substantially the same condition as existed prior to such damage or destruction; provided that if the Casualty (a) is not as a result of a negligent or intentional act of Tenant, and (b) causes damage to the Improvements that would cost more than seventy-five percent (75%) of the original cost of construction to repair, Tenant shall have the right to terminate this Lease by giving Landlord written notice within thirty (30) days of the Casualty. If Tenant is obligated to restore the Improvements, Tenant shall continue to pay Rent as provided in Section 4 during such period and shall be obligated, at its sole cost and expense, to diligently commence and expeditiously pursue the repair of such damage so as to restore the Improvements to substantially the same condition as existed prior to such damage or destruction.
- 11.2. If Tenant elects to terminate this Lease, in accordance with Section 11.1, and if Landlord so requests, Tenant shall demolish and remove the Improvements from

the Leased Premises, and place the Leased Premises from which such Improvements were removed in a safe and sanitary condition, within one hundred twenty (120) days after the effective termination date; provided, however, that Tenant shall not be required to expend for such demolition, removal and restoration any amount in excess of any proceeds of insurance payments received by Tenant with respect to the Casualty. Upon completion of such removal, or if removal is not required, Landlord shall be entitled to all of the proceeds of any insurance policies which have not been applied by Tenant to the cost of any such required demolition, removal and restoration. Tenant's obligations under this Section 11 shall survive termination of this Lease.

- 11.3. If Tenant terminates this Lease under this Section 11, the parties' respective obligations to pay and/or rights to collect the Revenue and Rent due hereunder shall cease as of the date of such damage or destruction.

12. EXTRACTION AND CLOSURE OF PARK GOLF COURSES.

- 12.1. Right of Landlord to Extract a Park Golf Course. Landlord shall have the right, after six (6) months written notice to Tenant, to extract any of the Park Golf Courses from this Lease in the event Landlord (1) determines that it wants to change the use of such property; (2) compensates Tenant for the greater amount of (a) any outstanding debt associated with the improvements at such Park Golf Course, so that Tenant is released from its financial obligations as they relate to such Park Golf Course and revenues therefrom, and Tenant is able to meet its debt coverage pledge for any outstanding debt without such Park Golf Course continuing in the Golf System, or (b) the unamortized value of improvements (and capital repairs) made to such Park Golf Course by Tenant, and (c) reduced by such amount as Landlord may have invested for capital improvements in such Park Golf Course after the Effective Date of this Lease, or prior thereto if required in accordance with this Lease; and (3) has procured the necessary appropriation to compensate Tenant as required under this provision. Notwithstanding anything to the contrary herein, the closure of a Park Golf Course to effect a transfer of such Park Golf Course to Landlord shall not take effect between April 1 and October 31 of any given year without the consent of Tenant, which consent shall not be unreasonably withheld, conditioned or delayed. Landlord may not exercise any right to extract any of the Park Courses until the Little Bennett Debt has been paid and released in full.
- 12.2. Right Of Tenant To Close A Park Golf Course. Upon a determination by Tenant that any of the Park Golf Courses is adverse to the entire Golf System, Tenant shall have the right to extract any of the Park Golf Courses from the Lease and return such Park Golf Course to Landlord, in which event Landlord shall not operate such Park Golf Course in competition with Tenant as determined in accordance with Section 2.1. Other than as herein provided, Tenant may not exercise its right to close the Little Bennett Golf Course under this Section 12.2 until the Little Bennett Debt has been paid and released in full.

13. TENANT'S DEFAULT; LANDLORD'S REMEDIES.

13.1. Tenant's Default. Tenant shall be considered in default of this Lease ("Tenant's Default") if:

13.1.1. Failure to Observe Agreement. Tenant shall fail to observe, satisfy or perform any term, covenant or agreement contained in this Lease, and such failure shall for a monetary default continue unremedied for thirty (30) days after written notice thereof from the Landlord to the Tenant. If such default is not capable of being cured within such thirty (30) days, Tenant must nonetheless commence and duly and diligently to proceed with such cure to completion; or

13.2. Notice of Default; Cure Period. Upon the occurrence of a Tenant's Default, Landlord shall, prior to exercising any remedies hereunder, give to Tenant, pursuant to the notice provisions hereof, a "Notice of Tenant's Default," which Notice of Tenant's Default shall at the same time be given to any Leasehold Mortgagees of which Landlord has been notified in writing, and which shall provide in the case of a Tenant's Default described in Section 13.1 that Tenant shall cure such default within a period of thirty (30) days. With respect to any Tenant's Default other than a default in the payment of money, which default is of such nature that it cannot, by due diligence, be cured within the foregoing periods of time, if Tenant shall promptly commence the curing of such default and so long as Tenant is employing reasonable efforts to cure such default, then Tenant shall be entitled to a reasonable period to cure such default. There shall exist an Event of Tenant's Default if a Tenant's Default remains uncured after the giving of a Notice of Tenant's Default and the expiration of the foregoing periods to cure. Any Leasehold Mortgagees shall have the rights and periods of time within which to cure or commence to cure any Tenant's Default as are set forth in Section 9 hereof.

13.3. Remedies. If an Event of Tenant's Default exists and Landlord gives Tenant and any Leasehold Mortgagee a Notice of Tenant's Default in accordance with subsection 13.2, and Tenant and any Leasehold Mortgagees fail to cure the specified default within the time allowed by this Lease, then Landlord shall have the following rights:

13.3.1. Landlord may give to Tenant, pursuant to the notice provisions hereof, a notice ("Notice of Termination") which shall at the same time be given to any Leasehold Mortgagee and which shall provide that unless the default specified in the Notice of Tenant's Default (and again specified in the Notice of Termination) is cured (or a cure is commenced) within thirty (30) days following the giving of the Notice of Termination, then, upon the expiration of such thirty (30) day period, the term of this Lease shall expire and terminate. Upon the occurrence of all of the foregoing events, including the expiration of such thirty (30) day period, then unless such Tenant's Default shall have been cured and subject to the Leasehold

Mortgagee's rights under Section 9 hereof, including, without limitation, its right to a New Lease under Section 9.3 hereof, the Term of this Lease shall expire and terminate with the same force and effect as though the date so specified were the date herein originally fixed as the expiration date of the Term. The provisions of this subsection shall operate as a notice to quit, any other notice to quit or of Landlord's intention to re-enter the Leased Premises being hereby expressly waived. If necessary, Landlord may proceed to recover possession of the Leased Premises under applicable laws. If Landlord elects to terminate this Lease and/or elects to terminate Tenant's right of possession, everything in this Lease to be done and performed by Landlord shall cease without prejudice, and Tenant shall remain liable for (i) all rent and other sums accrued through the later of termination of this Lease or Landlord's recovery of possession and (ii) direct damages incurred by Landlord on account of such default.

13.3.2. No delay or failure by Landlord to exercise or enforce any of Landlord's rights or remedies or Tenant's obligations shall constitute a waiver of any such rights, remedies or obligations. Landlord shall not be deemed to have waived any default by Tenant unless such waiver expressly is set forth in a written instrument signed by Landlord. If Landlord waives in writing any default by Tenant, such waiver shall not be construed as a waiver of any covenant, condition or agreement set forth in this Lease except as to the specific circumstances described in such written waiver.

13.4. Landlord's Waiver of Distraint. Landlord hereby waives any and all rights Landlord now has or hereafter may have by reason of this Lease (or by reason of statute or common law) to distraint for rent upon the Leased Premises, or upon any property upon the Leased Premises, whether such property is the property of Tenant or is the property of any other person or entity.

13.5. Additional Cure Rights of Leasehold Mortgagees. The rights of any Leasehold Mortgagees and other provisions regarding default and termination as set forth in Section 9 shall apply in addition to any rights to cure set forth in this Section.

13.6. No Remedy Exclusive. It is understood and agreed that the remedies set forth in this Section 13 shall be cumulative and in addition to all other remedies which are or may be available to Landlord at law or in equity.

14. LANDLORD'S DEFAULTS.

14.1. Events of Landlord's Default. If default shall be made by Landlord in the performance of, or in compliance with, any of the other terms, covenants, or conditions contained in this Agreement, and Landlord shall fail to cure such default within thirty (30) days after receipt of written notice thereof from Tenant (or if such default is of such nature that it cannot, by due diligence, be cured within the such thirty (30) day period, then such longer period of time as is reasonably required for Landlord to process the cure to completion, provided

Landlord shall diligently commence the curing of such default within such thirty (30) day period and continuously process the same to completion), then such event shall constitute a “Landlord Default” under this Agreement.

- 14.2. Notice of Landlord’s Default; Cure Period. Tenant shall, prior to exercising any remedies hereunder, give to Landlord, pursuant to the notice provisions hereof, a notice of Landlord’s Default, and which shall provide that Landlord shall cure such default within thirty (30) days from the date of such notice (“Notice of Landlord’s Default”). With respect to any Landlord’s Default, if Landlord shall commence the curing of such default within the period specified in the Notice of Landlord’s Default, then Landlord shall be entitled to as long a period to cure such default as may be required by Landlord in the exercise of due diligence in endeavoring to cure such default.
- 14.3. Tenant’s Remedies. If a Landlord Default shall occur, then (i) Tenant may (but shall not be obligated to) make such payment or do such act as may be reasonably necessary to cure such Landlord Default, and charge the amount of the expense thereof to landlord, which amount shall be due and payable by Landlord upon demand, or (ii) Tenant may, without terminating this Agreement, bring an action in a court of law for injunctive relief and/or monetary damages suffered as a result of such Landlord Default.
- 14.4. No Waiver. No failure by Landlord or Tenant to insist upon the performance of any covenant, agreement, provisions or condition of this Lease or to exercise any right or remedy consequent upon a default by either party hereunder, and no acceptance of full or partial rent during the continuance of any Tenant default shall constitute a waiver of any such default or of such covenant, agreement, provision or condition. No waiver of any default shall affect or alter this Lease, but each and every covenant, agreement, provision and condition of this Lease shall continue in full force and effect with respect to any other then-existing or subsequent default hereunder.

15. INDEMNIFICATION.

- 15.1. By Tenant. Except to the extent caused by the negligence or willful misconduct or other wrongful conduct of Landlord, its agents, employees or contractors, and to the extent of insurance available to Tenant, without any waiver of Tenant’s immunities under state law, Tenant shall indemnify and save Landlord harmless against and from, and shall reimburse Landlord for, all liabilities, obligations, damages, fines, penalties, claims, demands, costs, charges, judgments, and expenses, including but not limited to reasonable attorneys’ fees, which may be imposed upon or incurred or paid by or asserted against Landlord or Landlord’s fee interest in the Leased Premises by reason of or in connection with any of the following:
 - (i) any occurrence on any part of the Leased Premises or occasioned by the use of Equipment under the exclusive control of Tenant; or

- (ii) any breach or default in the performance of any of Tenant's obligations under this Lease.

In case any action or proceeding is brought against Landlord by reason of any claims described in this Section 15.1 that are covered under the County Self-Insurance Program, Tenant, if Landlord gives Tenant reasonable notice thereof and requests Tenant to do so, shall, at Tenant's expense, defend such action or proceeding. Tenant's obligations under this Section shall survive the expiration or termination of this Lease.

15.2. By Landlord. Except to the extent caused by the negligence, willful misconduct or other wrongful conduct of Tenant, its agents, employees, contractors, licensees or invitees, and to the extent of its statutory liability, without any waiver of Landlord's immunities under state law, Landlord shall indemnify and save Tenant harmless against and from, and shall reimburse Tenant for, all liabilities, obligations, damages, fines, penalties, claims, demands, costs, charges, judgments, and expenses, including but not limited to reasonable attorneys' fees, which may be imposed upon or incurred or paid by or asserted against Tenant by reason of or in connection with any of the following:

- (i) any occurrence on any part of the Park outside of the Leased Premises or area that is not routinely used exclusively for golf purposes, including but not limited to the Tower Property, and Joint Facilities; or
- (ii) any breach or default in the performance of any of Landlord's obligations under this Lease.

16. **FORCE MAJEURE.**

Notwithstanding anything to the contrary contained in this Lease, all of the parties' obligations hereunder shall be subject to the provisions of this Section 16. For any Force Majeure resulting in a delay in either party's performance, provided that the claiming party is duly and diligently working to end the Force Majeure and minimize the impact of the Force Majeure, the performance of the party claiming Force Majeure shall be extended by one day for each day of delay in such party's performance attributable to the Force Majeure event. Any party claiming Force Majeure must provide the other party with immediate notice of the Force Majeure once the party knows of (or should have known of) the Force Majeure event. The notice must describe the Force Majeure event, the anticipated duration of the Force Majeure, and actions to be taken by the claiming party to end the Force Majeure and minimize its impact.

17. **REPRESENTATIONS, WARRANTIES AND COVENANTS.**

17.1. Tenant's Representations, Warranties and Covenants. To induce Landlord to enter into this Lease, Tenant represents, warrants, and covenants and agrees with Landlord that:

17.1.1. Tenant is a body corporate and politic and is an instrumentality of the County and a public corporation and has the full and unrestricted lawful power and authority to enter into and carry out the terms of this Lease. The execution, delivery and performance of this Lease and the consummation of the transactions contemplated hereby and thereby have been duly authorized and approved, and this Lease and all other agreements contemplated herein, documents contemplated hereby or thereby each will constitute a valid and binding agreement of the Tenant enforceable in accordance with its terms.

17.2. Landlord Representations and Warranties. To induce Tenant to enter into this Lease, Landlord represents and warrants to, and covenants and agrees with Tenant as follows:

17.2.1. Landlord is a body politic of the State of Maryland and has the full and unrestricted lawful power and authority to enter into and carry out the terms of this Lease in its capacity as owner of the Leased Premises. Subject to the approval of this Lease by the Montgomery County Council, the execution, delivery and performance of this Lease and the consummation of the transactions contemplated hereby and thereby have been duly authorized and approved, and this Lease and all other agreements, documents and instruments contemplated hereby or thereby, each will constitute a valid and binding agreement of the Landlord, enforceable in accordance with its terms.

17.2.2. Neither the execution and delivery of this Lease, nor the consummation of the transactions contemplated hereby or thereby will (i) conflict with, or result in a breach of, the terms, conditions or provisions of, or constitute a default under the Maryland Code, or any agreement or instrument to which it is a party; (ii) violate any agreement, restriction, easement, restrictive covenant, or instrument to which it is a party or to which it or any of its assets is subject; or (iii) constitute a violation of any applicable judgment, decree or order or, to Landlord's knowledge, any Applicable Law.

17.2.3. Except for the conditions set forth in Section 3.2.1 that require Corrective Work, to the best of Landlord's knowledge the Park Golf Courses are in compliance with Applicable Law, including permits issued by Governmental Authorities, for the continuing operations of the Park Golf Courses.

18. GENERAL CONDITIONS.

18.1. Disputes. Each of Landlord and Tenant hereby consents and submits to the jurisdiction of the Circuit Court of Montgomery County, Maryland for all purposes in connection with the resolution of controversies or disputes hereunder. Each of Landlord and Tenant irrevocably consents to the service of process or notice of motion or other application to any of the aforementioned court, and any papers in connection with any proceedings before such court, by the mailing of

copies thereof by certified or registered mail, postage prepaid, to the other party at its address designated in Section 18.6 of this Lease.

- 18.2. Use of Words and Phrases. Use of the singular shall include the plural and use of the plural shall include the singular as appropriate. Where this Lease requires the performance of obligations, such performance, unless otherwise stated, may be performed by the party or its contractor or agent on its behalf.
- 18.3. Approvals. Approvals and consents required from Landlord in this Lease do not substitute for regulatory approvals required under Applicable Law. Whenever consent or approval of Landlord or Tenant is required under this Lease, such consent or approval shall not be unreasonably withheld, conditioned or delayed, unless the provision requiring such consent or approval clearly states otherwise. Any time Tenant's or Landlord's approval or permission is required by this Lease, such approval must be in writing.
 - 18.3.1. Approvals by Landlord. Whenever consent or approval of Landlord is required under this Lease, only the Executive Director of Landlord or the Director of Parks (or a person designated by the Executive Director or the Director of Parks by written and personally signed notice to Tenant) may grant such consent or approval, unless the provision requiring such consent or approval clearly states otherwise. Tenant shall follow-up any request to Landlord for consent or approval with telephonic notice to Landlord's General Counsel that such request has been delivered to Landlord.
 - 18.3.2. Approvals by Tenant. Whenever consent or approval of Tenant is required under this Lease, only the Executive Director of Tenant (or a person designated by the Executive Director to grant consents and approvals under this Lease by written and personally signed notice to Landlord) may grant such consent or approval, unless the provision requiring such consent or approval clearly states otherwise.
- 18.4. Construction of Document. Both parties to this Lease are represented by counsel and this Lease reflects input from both parties. Therefore, in the event of a dispute over, or any ambiguity of, the terms of this Lease, the parties agree that common law rules of construction in favor of one party or against another party shall not apply.
- 18.5. No Partnership or Joint Venture. It is mutually understood and agreed that nothing contained in this Lease is intended or shall be construed in any manner or under any circumstances whatsoever as creating or establishing the relationship of partners or creating or establishing the relationship of a partnership or joint venture between the Landlord and the Tenant or as constituting Tenant as the agent or representative of the Landlord for any purpose or in any manner under this Lease, it being understood that Tenant is a separate entity.

- 18.6. Notice. Any notice or communication under this Lease by Landlord to Tenant or by Tenant to Landlord must be in writing and shall be sufficiently given or delivered if dispatched by either (a) certified mail, postage prepaid, return receipt requested, (b) nationally recognized overnight delivery service, or (c) hand-delivery (if receipt is evidenced by a signature of the addressee or authorized agent), and addressed:

in the case of a notice or communication to Tenant, as follows:

Montgomery County Revenue Authority
101 Monroe Street, Suite 410
Rockville, Maryland 20850
Attn: Executive Director

with a copy to:

County Attorney for Montgomery County
101 Monroe Street, Third Floor
Rockville, Maryland 20850
Attn: County Attorney

in the case of a notice or communication to Landlord, as follows:

The Maryland-National Capital Park and Planning Commission
9500 Brunett Avenue
Silver Spring, Maryland 20901
Attn: Director of Parks
with a copy to:

The Maryland-National Capital Park and Planning Commission
6611 Kenilworth Avenue
Riverdale, Maryland 20737
Attn: General Counsel

or addressed to such other address in respect to any of the foregoing parties as that party may, from time to time, designate in writing, dispatched as provided in this Section.

Such notice shall be deemed given upon receipt, or upon attempted delivery during normal business hours. All notices and approvals required in this Lease must be in writing to bind the submitting or receiving party.

- 18.7. Conflicts of Interest. No member, official, representative, or employee of Landlord or Tenant shall take any action regarding this Lease or any agreements relating to either which conflicts with, or is prohibited by, any ethical requirements to which they are subject.

- 18.8. Performance on Saturday, Sunday, or Holiday. Whenever the provisions of this Lease call for the performance of any act on or by a date that is not a business day, including the expiration date of any cure periods provided herein, then such payment or such performance shall be required on or by the immediately succeeding business day.
- 18.9. State Law. This Lease shall be interpreted in accordance with the laws of the State of Maryland.
- 18.10. No Brokers. Landlord and Tenant each warrants to the other that no broker or agent has been employed with respect to this Lease and each agrees to indemnify and hold the other harmless from any claim by any broker or agent claiming compensation in respect of this Lease based on an alleged agreement or undertaking by Landlord or Tenant, as the case may be.
- 18.11. Estoppel Certificate from Landlord. Upon thirty (30) days' prior written notice by Tenant or any Leasehold Mortgagee, from time to time, Landlord shall execute, acknowledge and deliver to Tenant or to any person designated by Tenant, a statement in writing certifying, to the extent accurate, (1) whether this Lease has been modified (and, if there have been modifications, identifying the same by the date thereof and providing a copy thereof), (2) whether any Notice of Tenant's Default or Notice of Termination has been given to Tenant, (3) whether to the knowledge of Landlord any Event of Tenant's Default exists hereunder, (4) whether Landlord has any specific knowledge of any claims against Tenant hereunder, (5) the Lease Commencement Date, expiration date, the then-current amount of Annual Base Rent and the date to which the Annual Base Rent has been paid by Tenant, (6) that this Lease is in full force and effect and that to the best of Landlord's knowledge there are no conditions existing which, with the passage of time or the giving of notice or both, would constitute a Tenant's Default, and (7) that the contemplated transfer or financing, if any, does not constitute a Tenant's Default under this Lease and that no consent of the party so certifying is required for such transfer or financing.
- 18.12. Memorandum of Lease. Concurrently with the execution of this Lease, Landlord and Tenant shall execute in recordable form for purposes of recordation, a short form of this Lease containing the names of the parties, a description of this Leased Premises, the Term of the Lease, a statement of the permitted uses hereunder of the Leased Premises, and such other provisions as Tenant may reasonably require. The parties shall also execute in recordable form additional memoranda reflecting any other date or matter pertaining to this Lease reasonably requested by Tenant. All costs, if any, of recording such memoranda shall be borne by Tenant. Prior to the last three hundred sixty-five (365) days of the Term (taking into consideration any Renewal Term) (or within thirty (30) days after the earlier termination of the Term, if applicable), Tenant shall execute and deliver to Landlord a release of memorandum of lease, in recordable form, and execute such other documentation as Landlord may reasonably request in connection therewith.

- 18.13. Entire Agreement. This Lease cannot be changed or terminated orally. This Lease and the Exhibits attached hereto contain the entire agreement between the parties and is intended by the parties to be an integration of all agreements between the parties concerning the terms of this Lease. Any agreement hereafter made shall be ineffective to change, modify or discharge this Lease in whole or in part, unless such agreement is in writing and signed by the parties hereto.
- 18.14. No Merger. The fee title of Landlord and the leasehold estate of Tenant shall at all times be separate and apart, and shall in no event be merged, notwithstanding the fact that this Lease or the leasehold estate created hereby, or any interest in either thereof, may be held directly or indirectly by or for the account of any person who shall own the fee estate in the Leased Premises or any portion thereof; and no such merger of estates shall occur by operation of law, or otherwise, unless and until all persons at the time having any equity or secured financing interest of record in this Lease or the leasehold estate, shall join in the execution of a written instrument effecting such merger of estates and record such instrument among the land records of Montgomery County, Maryland.
- 18.15. Severability. If any provision of this Lease or the application thereof to any person or situation shall, to any extent, be held invalid or unenforceable, the remainder of this Lease, and the application of such provision to persons or situations other than those as to which it shall have been held invalid or unenforceable, shall not be affected thereby, and shall continue to be valid and shall be enforced to the fullest extent permitted by law.
- 18.16. Obligations to Run With Land. The parties hereto covenant and agree that all of the conditions, covenants, agreements, rights, privileges, obligations, duties, specifications and recitals in this Lease contained, shall be construed as covenants running with the land, and as extending to, inuring to the benefit of, and being binding upon Landlord and Tenant and their successors and assigns, to the same extent as if said successors and assigns were herein named as original parties hereto, all to the end that this Lease shall always bind the owner and holder of any interest whatsoever in or to the Leased Premises, and the Improvements thereon.
- 18.17. Gender; Number; Multiple Parties. Words of any gender used in this Lease shall be held to include any other gender; words in the singular number shall be held to include the plural; and words in the plural shall be held to include the singular; all when the sense requires. If Landlord or Tenant is composed of more than one person or entity, then such person(s) or entity(ies) shall be jointly and severally liable for all obligations of Landlord or Tenant hereunder, as the case may be.
- 18.18. Captions for Convenience. The captions and titles, and the Section and Paragraph headings (including the index and table of contents) are inserted only for convenience, and are in no way to be construed as part of this Lease, or as a limitation on the scope of the particular provisions to which they refer.

- 18.19. Counterparts. This Lease may be executed in multiple counterparts, each of which shall constitute an original and all of which together shall constitute one agreement. The cover sheet of each such counterpart shall indicate the total number of counterparts executed by the parties, and the recipient of such counterpart.
- 18.20. Waiver of Jury Trial. Landlord and Tenant each waives trial by jury in any action or proceeding brought by either of them against the other or on any claim, cross-claim or counterclaim in respect thereof on any matters whatsoever arising out of, or in any way connected with, this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Leased Premises, and/or any claim, injury or damage under or in connection with this Lease.
- 18.21. Liability of Tenant. Tenant shall be liable for any violation of the terms and conditions of this Lease by Tenant, its assignees, licensees, concessionaires. However, notwithstanding anything to the contrary provided in this Lease, no member, official, directors, shareholder, representative or employee of Tenant or any affiliated organization or member thereof shall be personally liable with respect to any of the terms, covenants and conditions of this Lease.
- 18.22. Liability of Landlord. Notwithstanding anything to the contrary provided in this Lease, no member, official, representative or employee of Landlord shall be personally liable with respect to any of the terms, covenants and conditions of this Lease.
- 18.23. Landlord's Employees. The parties hereto acknowledge that Tenant has no obligation to sustain or offer employment to any of Landlord's employees that are employed in connection with the Leased Premises ("Landlord's Employees"), nor does Tenant assume any obligation or liability to employ or continue the employment of any Landlord's Employees after the Effective Date. Landlord understands that Tenant may hire on its own terms and conditions and as its own employees some of the Landlord's Employees from and after the Effective Date; it being acknowledged and agreed by Tenant that any offers of employment to such employees shall be expressly conditioned upon the occurrence of the Effective Date. Notwithstanding whether Tenant does employ any Landlord's Employee, Tenant shall have no liabilities of any kind in connection with any such employees arising from their employment by Landlord. Any Landlord's Employees hired by Tenant shall enter into a new employment relationship with Tenant subject to terms and conditions established by Tenant, and Tenant shall have no responsibility for any payroll taxes, accrued vacation pay, fringe benefits, unemployment, worker's compensation or other prepaid or deferred obligations for any employee of Landlord who enters into the employment of Tenant arising from any period before such employee enters into an employment relationship with Tenant, unless such transfer of benefits is in accordance with federal, state or local laws and regulations.

18.24. Non-Discrimination.

Landlord and Tenant agree to comply with the non-discrimination in employment policies in accordance with Applicable Law. Landlord and Tenant assure each other that in accordance with Applicable Law, it does not, and agrees that it will not, discriminate in any manner on the basis of race, color, religious creed, sex, marital status, national origin, ancestry, disability, sexual orientation or genetic status.

18.25. Limitations.

Limitations on Landlord Responsibilities and Obligations.

All financial responsibilities and obligations of Landlord pursuant to this Lease shall be subject to Landlord's adopted and approved budget for the specific responsibility and/or obligation. Commission shall, in accordance with its normal budgetary procedures, make timely application for, and use reasonable efforts to obtain, budget appropriations reasonably calculated to provide all funds necessary for Commission's performance of and compliance with all of the material terms, conditions and covenants contained in this Lease.

Limitations on Tenant Responsibilities and Obligations. Notwithstanding any other provision of this Lease, all responsibilities and obligations of Tenant pursuant to this Lease, except for its obligation to pay Annual Base Rent and Percentage Rent in accordance with Section 4 herein, shall be subject to both the availability of funds to cover such obligations and the approval of Tenant's board to make such expenditure for the specific purpose. Tenant shall, in accordance with its normal budgetary procedures, make timely application for, and use reasonable efforts to obtain, budget appropriations reasonably calculated to provide all funds necessary for Tenant's performance of and compliance with all of the material terms, conditions and covenants contained in this Lease.

18.26. Time. Time is of the essence with respect to each provision of this Lease.

18.27. Effective Date. The Effective Date of this Lease as inserted in the heading in Page 1 hereof shall be the date that this Lease is fully executed and delivered by both Landlord and Tenant.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be duly executed as of the date first above written.

MONTGOMERY COUNTY
REVENUE AUTHORITY

MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

By: _____
Keith Miller
Executive Director

By: _____
Trudye Morgan Johnson
Executive Director

Date: _____

Date: _____

Attested: _____
Patricia Colihan Barney,
Secretary-Treasurer

Approved for legal sufficiency.

Approved for legal sufficiency.

By: _____

By: _____