

**LEASE**

THIS LEASE ("Lease") is between THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION, a public body corporate (Commission), and \_\_\_\_\_ (Lessee), \_\_\_\_\_ (address).

WHEREAS, the Commission is a public body corporate, created and existing under Article 28 of the Annotated Code of Maryland that is engaged in performing governmental functions of acquiring, developing, maintaining and operating public parks, facilities and recreation areas within Montgomery County and Prince George's Counties.

WHEREAS, the Commission is the fee simple owner of \_\_\_\_\_, located at \_\_\_\_\_, Maryland (Property).

WHEREAS, the Lessee has submitted a written request to the Commission to use part of the Property (Leased Premises) for \_\_\_\_\_.

WHEREAS, the Commission has agreed to enter into a Lease with Lessee for the Leased Premises.

**NOW, THEREFORE**, for and in consideration of the covenants, conditions, terms and provisions contained in this Lease, the parties agree as follows:

1. **Recitals.** The recitals set forth above are incorporated herein by reference and made a material part of this Lease.

2. **Demise of Leased Premises.** The Commission leases to the Lessee, the Leased Premises \_\_\_\_\_ as shown on and described on Attachment A. The Leased Premises are the \_\_\_\_\_ (land, buildings, structures, improvements).

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3. **Term.** This Lease commences on \_\_\_\_\_ and expires on \_\_\_\_\_, unless the Lease is terminated earlier in accordance with the provisions of this Lease. The Commission has the sole option to extend the term of this Lease for one or more terms. The Lessee must submit a written notice of its desire to extend the term of this Lease to the Commission not less than 30 days before the expiration of this Lease. If the Lessee holds over after the expiration of the term of the Lease, the tenancy shall be a tenancy from month to month, at a monthly rent of 120% of the rent due for the last month under this Lease.

4. **Rent.** The Lessee shall pay to the Commission a monthly rent of \$\_\_\_\_\_ per month, payable in advance, without notice or demand, beginning on the first day of commencement of this Lease and continuing on the same day of each month for the entire term of this Lease. If the Lessee fails to pay the rent by the day the rent is due, the Lessee must pay the Commission a late penalty of 10% of the amount due. The Commission may increase the rent based on the Consumer Price Index ("CPI") or another economic indicator, at the sole and subjective discretion of the Commission. The Commission must provide written notice to the Lessee of any increase at least 30 calendar days before the new rent becomes effective. If the Lessee presents a check to the Commission that a bank returns unpaid, the Commission may require the Lessee to make payment by certified check or money order. In addition, the Lessee shall pay to the Commission a returned check fee of \$35 for each returned check, plus any other fees, costs, charges and expenses incurred in collecting the payment.

The Lessee shall make all payments to the Commission at:

Property Management Office, Montgomery County Parks

The Maryland-National Capital Park and Planning Commission  
9500 Brunett Avenue  
Silver Spring, Maryland 20901-3299

5. **Security Deposit.** Lessee shall pay the Commission the sum of \$\_\_\_\_\_ upon signing this Lease as security for the payment by the Lessee of any fees, rent, charges, expenses and costs, and the full and complete performance under this Lease. The Commission shall return the security deposit to the Lessee, without interest, within 30 days after expiration or termination of this Lease, provided however, that the Lessee is not in default under any provision or term of this Lease. If Lessee is in default of any provision or term of this Lease, the Commission may apply the security deposit to satisfy the default and any fees, rent, charges, expenses and costs owed by Lessee to the Commission.

6. **Use of Leased Premises.** Lessee shall use the Leased Premises solely for \_\_\_\_\_ and for no other purpose.

7. **Restrictions on Use of Leased Premises.** The Lessee shall not:

- (a) Use the Leased Premises in violation of any Commission law, regulation and practice and any Federal, State and local law and regulation;
- (b) commit waste on the Leased Premises;
- (c) use the Leased Premises for any purpose that is unlawful, unsafe, hazardous or in violation of any law or regulations;
- (d) place, dispose of or store any material or substance on the Leased Premises that is illegal, controlled, hazardous or toxic, and not permit any other person to bring, place, dispose of or store any material or substance that is illegal, controlled, hazardous or toxic;

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- (e) allow any person to park a trailer, recreational vehicle, boat, commercial vehicle, truck, or equipment on the Leased Premises;
- (f) allow any person to park who is not authorized to use the Leased Premises;
- (g) use the Leased Premises as a storage area for equipment or materials;
- (h) allow any motor vehicle on the Leased Premises with expired license plates, or registration;
- (i) use the Leased Premises for repair of motor vehicles or equipment; and
- (j) obstruct a sidewalk, driveway, exit, or entrance, or area in the Leased Premises.

8. **Pesticides.** The Lessee shall comply with any Commission law, regulation and practice, and any Federal, State, and local law and regulation governing the use of pesticides, including but not limited to storage, inventory, purchase and disposal, and application. Lessee shall not use any pesticide that is prohibited by any Commission law, regulation and practice, and any Federal, State, and local law or regulation. Lessee shall obtain prior written approval from the Director of Parks or the Director's designee before application of any pesticide on the Leased Premises.

9. **Hazardous Materials.**

(a) The Lessee shall not use or store any asbestos, hazardous or toxic materials or substances, (hereinafter "hazardous material"), as defined in any Federal, State, Commission or local laws, regulations and rules.

(b) If the Lessee causes or permits the release of any hazardous material, as defined above in this paragraph, in or on the Leased Premises, the Lessee

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shall indemnify, defend and hold the Commission harmless from any and all actions, claims, demands, costs, damages and expenses of any kind, including: (1) attorneys fees, (2) diminution in value of the Leased Premises, and (3) damages for the loss or restriction on use of the Leased Premises, which are made against or incurred by the Commission arising during or after the Term of this Lease. The Lessee is liable during the Term of this Lease and as long as Lessee has possession of the Leased Premises, whichever period is longer. The Lessee is not liable for the release of hazardous materials on the Premises prior to the commencement of this Lease.

10. **Lessee - Maintenance and Repair.** The Lessee shall:

(a). maintain the Leased Premises, including all buildings, structures and improvements in good condition;

(b). perform all exterior, interior, structural, nonstructural, ordinary and extraordinary repairs, maintenance and replacements, including but not limited to equipment, fixtures, personal property, furnishings, appliances, plumbing, heating, air conditioning, ventilating, communications, electrical, roofs, gutters, water systems, sewer systems, septic systems, gas systems, doors, windows, glass and mechanical systems;

(c). cut, maintain, mulch, fertilize and seed the grass, shrubbery, and trees;

(d). remove and dispose of leaves, trash, solid waste, refuse, rubbish and debris; and

(e). keep all of the buildings, structures and improvements in a state of good repair, maintenance and cleanliness.

11. **Utilities and Services.** The Lessee shall promptly pay all fees, taxes, costs and charges for all services, including electricity, gas, water systems, septic

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systems, sewer systems, telephone, refuse, cable, communications, janitorial and other services for buildings, structures, improvements and activities used by Lessee on the Leased Premises. If the Lessee must use a service paid for by the Commission, the Lessee shall pay the Commission, the Lessee's share of all fees, taxes, costs and charges of the services as reasonably determined by the Commission. If the Commission places any buildings, structures or improvements on the Leased Premises after the commencement of the Lease, which are used by the Commission, the Commission shall pay all fees, taxes, costs and charges for the services. If either party wishes to establish separate metering of a service at the party's sole cost and expense, the other party shall cooperate in that process.

12. **Reimbursement to Commission.** If the Lessee fails in the performance, to the Commission's satisfaction, of any of Lessee's obligations under this Lease, and Lessee's failure continues for 10 days after written notice from the Commission, the Commission may cure the default on behalf of the Lessee. The Lessee shall reimburse the Commission, upon demand of any sums, amounts, costs, fees, charges or expenses incurred by the Commission to cure Lessee's default.

13. **Commission Access to Leased Premises.** The Commission shall have access to the Leased Premises for the purpose of: (a) inspecting, maintaining, and repairing the Leased Premises, (b) enforcing the Lease, (c) accessing adjacent parkland, and (d) the safety, improvement or preservation of the Leased Premises. The Commission shall provide \_\_\_\_\_ notice to the Lessee.

14. **Public Access to Leased Premises.** The public shall not have access to the Leased Premises without the consent of Lessee, which consent the Lessee shall not unreasonably withhold or delay. The public may use the roads, including the portion of

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any the roads that pass through the Leased Premises, for ingress and egress to the park or facility.

15. **Liens.** Lessee shall not permit any liens to be imposed or maintained against the Leased Premises for any labor, service or material furnished to Lessee. If any lien is asserted against the Leased Premises or Lessee's leasehold interest in the Premises, Lessee shall promptly at Lessee's sole cost and expense have the lien discharged by payment, bond or otherwise.

16. **Signs.** Lessee shall not erect, place or install any sign on the Leased Premises without obtaining the written approval in advance from the Director of Parks or the Director's designee. Lessee may place a temporary sign associated with a special event without prior written approval of the Director of Parks or the Director's designee, so long as Lessee removes the sign within 48 hours after posting of the sign.

17. **Insurance.** Lessee shall maintain insurance coverage for the Leased Premises, including all buildings, structures and improvements. This insurance coverage shall be the primary coverage. The insurance must comply with the following provisions:

- (a) Comprehensive General Liability insurance
  - General Aggregate - \$1,000,000.
  - Occurrence Based Deductible allowed - \$1,000.
  
  - Coverage and Limits
    - Premises and operations - \$1,000,000.
    - Products and completed operations - \$1,000,000.
    - Independent contractors - \$1,000,000.
    - Contractual-Leases - \$1,000,000.
    - Explosion, collapse, underground hazards - \$1,000,000.
    - Personal injury and advertising injury - \$1,000,000.
    - Real Property and Personal Property Damage - \$500,000.
    - Contractual Indemnity-Hold Harmless - \$1,000,000.
    - Fire Damage (any one fire) - \$50,000.
    - Medical expense (any one person) - \$5,000.

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- (b) Automobile Liability  
Combined Single Limit - \$1,000,000.  
Includes owned, hired and non-owned motor vehicles
- (c) Excess Umbrella Liability - \$1,000,000.
- (d) Worker's Compensation  
Coverage required by the Maryland Law
- (e) The insurance company must be licensed to do business in Maryland and

must be acceptable to the Commission. Lessee must provide the Commission with a certificate of insurance before occupancy of the Leased Premises and must provide the Commission with a renewal certificate of insurance on or before expiration of the existing certificate. The certificate must provide for not less than 45 days advance written notice to the Commission in the event of termination, modification or cancellation.

(f) All insurance policies must include the Lessee as the named insured and the Commission as an additional insured. All insurance policies must waive all rights of subrogation against the Commission.

18. **Indemnification - Lessee.** Lessee shall indemnify, defend and hold harmless the Commission against and from all claims, liabilities, obligations, damages, fines, penalties, demands, costs, charges, judgments and expenses, including, but not limited to, reasonable attorneys' fees, that are made against or incurred by the Commission arising from the Lessee's negligence, wrongful conduct, negligence performance or failure to perform any of the Lessee's obligations under this Lease.

19. **Indemnification - Commission.** The Commission shall indemnify and hold harmless the Lessee against and from all claims, liabilities, obligations, damages, fines, penalties, demands, costs, charges, judgments and expenses, that are made

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against or incurred by the Lessee arising from the Commission's negligence, wrongful conduct, negligent performance or failure to perform any of the Commission's obligations under this Lease.

20. **Alterations to Leased Premises.** Lessee shall not make any alterations, additions or improvements to the Leased Premises without obtaining the written approval in advance from the Director of Parks or the Director's designee. Lessee shall comply with all applicable Commission, State, Federal and local laws and regulations.

21. **Reports to Commission.** The Lessee shall promptly notify the Lessee's insurance carrier and the Commission of any damage or personal injury on or about the Leased Premises, which occurs by any cause, including, but not limited to negligence, accident, fire, water, flood, wind, explosion, wrongful act and vandalism. Lessee shall notify the Park Police at 301-949-3010 and the Property Management Office at 301-495-2520.

22. **Assignment and Subletting.** Lessee shall not assign this Lease or sublet or allow any person or legal entity to use any part of the Leased Premises without prior written consent of the Commission as to the terms and provisions of the assignment or sublease and the identity of the assignee or sublessee. If the Commission consents to a subletting, the Lessee and the Sublessee shall be joint and severally obligated and liable to the Commission under the terms of the Lease. The Lessee must submit to the Commission a fully executed copy of the sublease not less than 15 days after the Lessee and Sublessee execute the sublease.

23. **Termination.** The Commission may terminate this Lease when the Commission determines that: (a) Lessee has defaulted in the performance of this Lease, or (b) Lessee is not complying with any provision of this Lease, or (c) Lessee's

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default has contributed to the curtailment of an essential service, or (d) Lessee has failed to make satisfactory progress in the prosecution of its obligations under this Lease. Prior to termination, the Commission shall send Lessee written notice specifying the default or failure. The notice shall provide that Lessee has a period of not less than 30 calendar days from the date of the notice, to cure the default or failure, or to make progress satisfactory to the Commission in curing the default or failure. Upon expiration of the period specified in the cure notice, the Commission may issue a notice of termination, unless the Commission determines that the default or failure has been cured or that progress satisfactory to the Commission has been made in curing the default or failure.

### 24. **Surrender of Leased Premises.**

(a). On or before the last day of the term, or upon any earlier termination of the Lease as provided herein, Lessee shall peaceably surrender the Leased Premises including all buildings, structures and improvements in broom clean condition and good order and repair and otherwise in the same condition as upon commencement of the Lease, except for: (1) ordinary wear and tear, and (2) loss by fire or other casualty not caused by the Lessee.

(b). Lessee shall remove all of Lessee's equipment, vehicles and personal property. Lessee may remove Lessee's personal property that is affixed to the Leased Premises, provided that the personal property is removed without substantial injury to the Leased Premises. The injury is not substantial if the Lessee promptly restores the Leased Premises to the condition existing prior to the installation of the personal property and the restoration is to the satisfaction of the Commission. The Lessee may

not remove any permanent fixture, which is property, materials or improvements that have become part of the Leased Premises.

25. **The Commission's Remedies upon Expiration or Termination.** The Commission shall have the right and option upon expiration or termination of the Lease to: (a) re-enter the Premises, (b) make any repairs or maintenance that may be necessary, (c) expel Lessee or anyone claiming through Lessee, and (d) remove any property from the Leased Premises. Lessee expressly consents to all of the foregoing actions by the Commission and waives any right to object, contest or file any legal action against the Commission. Lessee shall remain liable for Lessee's negligence, wrongful conduct, negligent performance or failure to perform any of the Lessee's obligations under this Lease, plus court costs and reasonable attorney's fees.

26. **Quiet Enjoyment.** So long as the Lessee performs all of Lessee's obligations under this Lease, the Lessee shall have quiet and peaceful use of the Premises, subject to the provisions of this Lease, without interference by the Commission or any party claiming by, through or under the Commission.

27. **Compliance With Laws.** Lessee shall promptly comply with all Commission laws, regulations and practices and applicable Federal, State and local laws and regulations.

28. **Notices.** The parties shall send all notices, requests, demands or other communications in writing by: (a) personal delivery, or (b) by certified mail or registered mail, postage prepaid, return receipt requested, to the Commission or Lessee, at the respective addresses set forth below:

The Commission: Property Management Office  
M-NCPPC  
9500 Brunett Avenue  
Silver Spring, Maryland 20901

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

The Lessee: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Either party may change its address as provided herein.

29. **No Partnership.** The Commission is not a partner, joint venturer or associate of Lessee in the Lessee's use of the Leased Premises.

30. **Audit.** Lessee shall keep an accurate set of books and records of all income, sales, revenue and expenses from its use of and activities on the Leased Premises. Lessee shall keep all supporting records and documents including but not limited to Federal, State and local tax returns and tax records, bank records, cash register tapes, sales slips, and other sales records. Lessee shall retain and preserve all books, records and documents for at least seven years after the end of each year of this Lease. All books, records and documents shall be subject to inspection and audit by the Commission and its officers, employees, agents and representatives upon reasonable advance notice to Lessee.

31. **Forms.** Within 30 days after filing an income tax form or return with the Internal Revenue Service, U. S. Department of the Treasury, Lessee shall send a fully executed and dated copy of the tax form or return to the Secretary-Treasurer and the Property Management Office of the Commission.

32. **Reports.** On or before \_\_\_\_\_ each calendar year, the Lessee shall file with the Commission the Lessee's annual report covering the preceding (fiscal or

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calendar) year from \_\_\_\_\_. The annual report shall include but not be limited to the following information and data: (a) a list of the events, activities and programs conducted, (b) a list of the improvements completed and the cost of each improvement, (c) a list of the revenues from admission fees, sales, concessions, advertising, signs, donations, contributions, raffles, sponsorships and other sources, (d) a list of the taxes, fees, charges and expenses paid, (e) the names of the officers, directors and employees of Lessee, and (f) other information requested by the Commission.

33. **Periodic Reviews.** At the end of each five years, the Commission shall review the use of the Leased Premises under this Lease, Lessee's performance under this Lease and other matters related to this Lease.

34. **Non-Waiver.** The failure by the Commission to insist upon the performance of any provision, condition or term of this Lease, or the failure of the Commission to exercise any right or remedy shall not constitute a waiver of provision, condition, term, right or remedy by the Commission. The provision, condition, term, right or remedy shall continue in full force and effect, unless waived in writing by the Commission.

35. **Applicable Law.** This Lease shall be construed in accordance with the laws of the State of Maryland and enforced in a court of competent jurisdiction in Montgomery County, Maryland.

36. **Non-Discrimination.** Lessee shall not discriminate against any participant in or applicant for its programs, against any employee or applicant, or against any contractor because of age, sex, race, creed, color, national origin or disability. Lessee shall ensure that applicants, participants, employees and contractors

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are treated without regard to age, sex, race, creed, color, national origin or disability. If the Lessee is determined to be in violation of any Federal, State or County nondiscrimination law by the final order of an agency or court, the Commission may terminate or suspend this Lease in whole or in part.

37. **Entire Agreement.** This Lease contains the entire agreement between the parties. This Lease may only be modified by a written amendment signed by the parties.

38. **Waiver of Jury.** The Lessee waives any right to a trial by jury in any legal action relating to this Lease.

39. **Obligations Surviving Lease.** Any obligations and liabilities of the Lessee shall survive the expiration or termination of this Lease.

40. **Permits.** Lessee shall obtain all permits and licenses required by the Commission, Federal, State, and local laws and regulations.

41. **Severability.** If any provision of this Lease is determined to be invalid or illegal by a court or an administrative agency or body, that provision shall be severed from this Lease and shall not affect the remainder or any other provision of this Lease.

42. **Independent Contractor.** The Lessee is an independent contractor. The Lessee and its agents, officers, employees, assigns, contractors and representatives are not agents or employees of the Commission.

43. **Police Services.** The Commission Park Police has primary jurisdiction over this Leased Premises.

44. **Successors and Assigns.** This Lease is binding upon the parties and their successors, agents, officers, employees, assignees, contractors, representatives and sublessees.

45. **Obligations Survive Lease.** Any obligation, duty or liability of the Lessee under the Lease shall survive expiration or termination of this Lease.

46. **Taxes - Fees.** Lessee shall pay any taxes, fees, assessments, or charges attributable or related to Lessee's use of the Leased Premises.

**SIGNATURE PAGE FOLLOWS**

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**IN WITNESS WHEREOF**, the Commission and the Lessee have executed this Lease on the dates written below.

**[NAME OF LESSEE]**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature)

Typed Name: \_\_\_\_\_

Title: \_\_\_\_\_

WITNESS

Date: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature)

Typed Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

Date: \_\_\_\_\_

by: \_\_\_\_\_  
Oscar S. Rodriguez  
Executive Director

ATTEST

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Patricia Colihan-Barney  
Secretary-Treasurer