

Parcel I.D. # \_\_\_\_\_

GROUND LEASE AND DEVELOPMENT AGREEMENT

THIS GROUND LEASE AND DEVELOPMENT AGREEMENT (this "Agreement") is made and entered into this 23<sup>rd</sup> day of April, 1993, by and between THE NATIONAL 4-H COUNCIL, a non-profit corporation organized under the laws of the State of Ohio, located at 7100 Connecticut Avenue, Town of Chevy Chase, Montgomery County, Maryland (the "Lessor"), and TOWN OF CHEVY CHASE, MONTGOMERY COUNTY, MARYLAND, a non-profit corporation organized under the laws of the State of Maryland, located at 4301 Willow Lane, Town of Chevy Chase, Montgomery County, Maryland (the "Lessee").

BACKGROUND

A. Lessor is the owner of a certain parcel of land consisting of Lots one to nine, inclusive, and including parcel 1, in Block 5, Chevy Chase, Section 4 Subdivision, and recorded in the Land Records of Montgomery County in Plat Book 2, Plat 104 containing approximately 12.5 acres (the "Lessor's Parcel"), also known as 7100 Connecticut Avenue, Town of Chevy Chase, Montgomery County, Maryland, in the R-60 Zone, a portion of which is more particularly shown on Exhibit "A" and described in this Agreement as the "Leased Premises."

B. Upon approval of the transactions contemplated hereinbelow, Lessor wishes to lease to Lessee, and Lessee wishes to lease from Lessor, the Leased Premises for the purposes and subject to the terms and conditions set forth hereinbelow, including, but not limited to, the construction of certain garage

facilities improvements (the "Improvements") pursuant to appropriate construction contracts and under the supervision of an architect or engineer.

**AGREEMENTS**

NOW, THEREFORE, in consideration of the premises, the promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee agree as follows:

**ARTICLE I.**

**LEASED PREMISES**

Section 1.01. Creation of Leasehold Estate. For the consideration hereafter set forth, Lessor hereby leases to Lessee and Lessee hereby takes, accepts; and hires the Lease Premises, all upon and subject to terms, covenants, conditions, and provisions set forth in this Agreement and further subject to:

(a) The easements of record affecting the Leased Premises described on Schedule 1 and in Article VII; and

(b) Building regulations and zoning ordinances and regulations and any amendments thereto now or hereafter in force and effect and having applicability to the Leased Premises.

Section 1.02. Lease of Land Only. Lessor and Lessee hereby agree that this Agreement is a lease of land only, that during the term of this Agreement and any extensions thereof, Lessee owns and shall continue to own, free of all claims of Lessor of every nature, all buildings and improvements, foundations,

footings, utilities, paving, fixtures, plants, apparatus, appliances, and building equipment.

ARTICLE II.

TERM

Section 2.01. Initial Term. This Ground Lease and Development Agreement is specifically conditioned upon Lessee obtaining Montgomery County Board of Appeals' approval for Lessee's Improvement and use. The Lessee shall be responsible for filing for and obtaining all necessary approvals from the Montgomery County Board of Appeals modifying Lessor's existing special exception to authorize the construction and use of the Improvement for storage, repair and maintenance of Town vehicles and equipment. The term of the leasehold estate under this Agreement shall commence upon the date of receipt of approval from the County Board of Appeals to construct and use the Improvement as described in this Agreement and shall be effective for a ten (10) year term which shall expire at twelve o'clock midnight on \_\_\_\_\_, 2003 (the "Initial Term"), unless sooner terminated as provided by this Agreement. In the event, Lessee does not receive Montgomery County Board of Appeals' approval, or such approval is on terms and conditions unacceptable to the Lessee, this Ground Lease and Development Agreement shall be null and void and be of no further force and effect.

Section 2.02. Extended Term.

(a) Subject to the provisions of this Section 2.02, Lessee shall have and is hereby granted the option (the "Renewal Option") to renew the term for five (5) additional five (5) year periods (the "Renewal Period(s)"). Each of the Renewal Option periods shall automatically be exercised by Lessee unless written notice of Lessee's interest in not renewing the term is provided to Lessor no later than sixty (60) days prior to the expiration of the Initial Term and each subsequent Renewal Period. The Renewal Period shall be upon substantially the same terms, covenants and conditions as set forth herein with respect to the Initial Term. Time is of the essence for purposes of this Section 2.02.

(b) The Renewal Option may not be exercised by Lessee if (1) the Agreement is not in full force and effect, (2) Lessee is in default beyond applicable notice and cure periods under this Agreement, or (3) Lessee has assigned this Lease to a non-affiliate.

**ARTICLE III.**

**RENT**

Section 3.01. Annual Rental. Lessee covenants and agrees to pay to Lessor when due without notice or demand and without deduction or setoff except as may be expressly provided in this Agreement rental of Ten Dollars (\$10.00) per year payable upon execution of this Agreement and the anniversary date thereof for

each year of the Initial Term and each year of the Renewal Period(s).

Section 3.02. Rent Not Net to Lessor. It is the purpose and intent of Lessor and Lessee that all rentals payable pursuant to the provisions of this Article III shall not be net to Lessor. However, all costs, expenses, and obligations of any kind relating to the maintenance and operation of the Leased Premises, including all alterations, repairs, and replacements (except as otherwise expressly provided in this Agreement), which may arise or become due during the term of this Agreement shall be paid by Lessee, and Lessor shall be indemnified and saved harmless by Lessee from and against such costs, expenses, and obligations.

#### ARTICLE IV.

##### PAYMENT OF IMPOSITIONS

Section 4.01. Impositions. Lessee shall pay or cause to be paid, all real property taxes, assessments, water and sewer charges, public utilities charges, excises, levies, license and permit fees, charges for rubbish and trash removal and other governmental charges of every kind and nature during the term of this Agreement assessed, levied, imposed upon, becoming due or payable out of, or in respect of, or becoming a lien on the Leased Premises or any part thereof, solely because of Lessee's use or occupancy of the Improvement, including any and all late fees, penalties, and interest charges imposed thereon, all of which are collectively referred to in this Agreement as

"Impositions," and any of the same being referred to as an "Imposition."

Section 4.02. Adjustments. Section 4.01 notwithstanding:

(a) If by law any Imposition may at the option of the payor be paid in installments (whether or not interest shall accrue on the unpaid balance of such Imposition), Lessee may pay the same in installments and in such event shall pay such installments and only such installments as may become due during the term hereof as the same respectively become due, including interest thereon accrued to the date of such payment;

(b) If any Imposition relating to a fiscal period of the taxing authority, a part of which period is included within the term of this Agreement, and a part of which is included in the period of time not within the term of this Agreement, such Imposition shall be adjusted between Lessor and Lessee so that Lessee shall pay that portion of such Imposition which that part of such fiscal period included in the period of time of the term of this Agreement bears to such fiscal period and Lessor shall pay the remainder thereof;

(c) Lessee shall not be obligated to pay any franchise, corporate, capital stock, capital levy, transfer, estate, inheritance income, or excess profits tax imposed upon Lessor or any of its successor or assigns;

(d) Lessee may contest the validity or amount of any Imposition, in which event Lessee shall so notify Lessor in writing, and in such case Lessee shall not, in any instance in

which it can contest the validity or amount of such Imposition without first paying the same, be required to pay, dispose of, or remove such Imposition, so long as it shall, in good faith, at its own expense, contest and diligently pursue to completion the same or the validity thereof by appropriate proceedings in its own name or in the name of Lessor, if necessary. Lessee's delay in paying such Imposition until final determination of such proceeding shall not be deemed an Event of Default;

(e) Lessee may, in its name, or in the name of Lessor, if required, and at its own expense, seek, where appropriate, rebates or refunds on Impositions paid by Lessee and any such rebates or refunds shall belong to Lessee; and

(f) If the Leased Premises are not a separate parcel for tax purposes, Lessee shall pay its proportionate share of the increase in real estate taxes, if any, to the larger tax parcel of which the Leased Premises are a part solely attributable to the Improvement; provided, that Lessee's proportionate share, if any, shall be determined from the worksheets of the county assessor, with Lessee being responsible for real property taxes solely attributable to the value of the Improvement.

Section 4.03. Lessor's Parcel. Lessor shall pay or cause to be paid all taxes, assessments, water and sewer charges, and any other governmental charges assessed or imposed upon Lessor's Parcel; subject, however, to Lessee's obligations in respect of the Improvement. In the event Lessee shall be required by this Article IV to make any payments for assessments, charges, and

taxes which are Lessor's obligation under this Section 4.03, Lessee shall request (in writing and with specificity as to the purpose of such payment) the consent of Lessor thereby permitting Lessee to make such payment, and Lessor agrees to reimburse Lessee therefor based upon receipt of reasonable documentation and invoices from Lessee. If Lessor fails to respond to Lessee's request within ten (10) days, Lessor's consent shall be deemed to have been given.

#### ARTICLE V.

##### INSURANCE

Section 5.01. Fire; Extended Coverage. Lessee, at its sole cost and expense, shall keep or cause to be kept the Improvement insured during the term of this Agreement, against loss or damage by fire and against loss or damage by other reasons as are covered by endorsements commonly known as "extended coverage" in the amount of not less than the replacement value of the Improvement (exclusive of the cost of excavations, foundations, underground utilities, and footings below ground level and subject to reasonable and customary deductibles and co-insurance).

Section 5.02. Bodily Injury; Death; Property Damage. Lessee, at its sole cost and expense, shall maintain or cause to be maintained bodily injury, death, and property damage liability insurance against claims for bodily injury, death, or property damage occurring on, in, or about the Leased Premises or on, in, or about streets, property, and passageways adjoining the Leased

Premises, such insurance to afford minimum protection, during the term of this Agreement, of not less than One Million Dollars (\$1,000,000) in respect of personal liability, and of not less than One Million Dollars (\$1,000,000) in respect of automobile insurance. Such insurance shall be subject to reasonable and customary deductible and co-insurance provisions.

Section 5.03. Other Risks Insurance. Lessee, at its sole cost and expense, shall maintain or cause to be maintained workmen's compensation insurance at least in the minimum amount as required by law.

Section 5.04. Insurance Standards. All insurance provided for in this Article V shall be effected under valid and enforceable policies (which may cover the Leased Premises and other locations) issued by insurers of recognized responsibility which are licensed to do business under the laws of the State of Maryland. All such policies shall contain a standard waiver of subrogation endorsement and an obligation of the insurer to notify Lessor at least thirty (30) days prior to the cancellation or expiration of such policies.

Section 5.05. Beneficiaries. All insurance required under this Article V shall be furnished for the account and benefit of the following parties, as their respective interests may appear: (a) Lessee; and (b) Lessor (as an additional named insured as to such insurance).

Section 5.06. Certificates of Insurance. Upon the Effective Date and thereafter upon the issuance of any new or

replacement policies, original certificates of insurance in respect of the insurance required by this Article V shall be furnished by Lessee to Lessor.

Section 5.07. Insurance Proceeds; Adjustment of Losses; Application of Insurance Proceeds. The loss, if any, under any policies of insurance required under Article V shall be adjusted with the insurance companies by Lessee, in the case of any particular casualty resulting in liability, damage, or destruction. The proceeds of any such insurance, as so adjusted, shall be payable as follows:

(A) with respect to any loss not exceeding Two Hundred Fifty Thousand Dollars (\$250,000) in the aggregate, such loss shall be paid to Lessee, who shall hold the proceeds in trust for the purpose of paying the costs of the liability or of repair or restoration; and

(B) with respect to losses exceeding Two Hundred Fifty Thousand Dollars (\$250,000) in the aggregate, the loss shall be paid to a commercial bank selected by Lessor (the "Insurance Trustee"). Lessee shall be responsible for the fees and charges of the Insurance Trustee. All insurance proceeds, less any cost of recovery, shall be held by the Insurance Trustee to pay the costs of the liability or of repair or restoration as follows:

(1) Destruction of Building(s). In the event the Improvement shall be damaged or destroyed in whole or in part by fire or other cause, all insurance proceeds received by the Insurance Trustee on account of such damage or destruction, less

the actual cost, fees and expenses, if any, incurred in connection with adjustment of the loss, shall be applied by the Insurance Trustee to pay or reimburse Lessee for the payment of the cost of the aforesaid restoration repairs, replacement, rebuilding, or alterations, including the cost of temporary repairs or for the protection of property pending the completion of permanent restoration, repairs, replacements, rebuilding, or alterations (all of which temporary repairs, protection of property, and permanent restoration, repair, replacement, rebuilding, or alterations are hereinafter collectively referred to as the "Restoration"), and shall be paid out from time to time as such Restoration progresses upon the written request of Lessee which shall be accompanied by the following:

(a) A certificate signed by Lessee or an authorized representative of Lessee and by the architect or engineer in charge of the Restoration (selected by Lessee and approved by Lessor), dated not more than thirty (30) days prior to such request, setting forth the following:

(i) That the sum then requested either has been paid by Lessee, or is justly due to contractors, subcontractors, materialmen, engineers, architects, or other persons who have rendered services or furnished materials for the restoration therein specified, the names and addresses of such persons, a brief description of such services and materials, the several amounts so paid or due to each of said persons in respect thereof, that no part of such expenditures has been or is being

made the basis, in any previous or then pending request, for the withdrawal of insurance money or has been made out of the proceeds of insurance received by Lessee, and that the sum then requested does not exceed the value of the services and materials described in the certificate.

(ii) That, except for the amount, if any, stated pursuant to the foregoing subclause (a)(i) in such certificate to be due for services or materials, there is no outstanding indebtedness known to the persons signing such certificate, after due inquiry, which is then due for labor, wages, materials, supplies, or services in connection with such Restoration.

(iii) That the cost, as estimated by the person signing such certificate, of the Restoration required to be done subsequent to the date of such certificate in order to complete the same does not exceed the insurance money, plus any funds deposited by Lessor or Lessee pursuant to Subsection 5.07(B) above to defray such cost and remaining in the hands of the Insurance Trustee after payment of the sum requested in such certificate.

(b) An opinion of counsel (who may be selected by Lessee) or a title company or official search or other evidence, satisfactory to Lessor, showing that there has not been filed with respect to the Leased Premises or any part thereof or upon Lessee's leasehold interest therein any vendor's, mechanic's, laborer's, materialman's, or other similar lien which will not be

discharged by payment of the amount then requested or which have not been bounded as provided in Section 7.02.

(c) Waivers of lien with respect to each person referred to in the foregoing Subsection 5.07(B)(1)(b) or, in lieu of any such waiver, proof that the right of the person in question to file a lien has expired.

Upon the compliance with the foregoing provisions of this Subsection 5.07(B), the Insurance Trustee shall, out of such insurance money and such other funds, pay or cause to be paid to Lessee or the persons named pursuant to Subsection 5.07(B)(1)(b) in such certificate the respective amounts stated therein to have been paid by Lessee or to be due to them, as the case may be.

If the insurance money and other funds deposited pursuant to Subsection 5.07(B)(2) at the time available for the purpose, less the actual cost, fees, and expenses, if any, incurred in connection with the adjustment of the loss, shall be insufficient to pay the entire cost of such Restoration, Lessee will pay the deficiency.

Upon receipt by the Insurance Trustee of satisfactory evidence of the character required by Subsection 5.07(A)(1)(a) or Subsection 5.07(A)(1)(b) that the Restoration has been completed and paid for in full and that there are no liens of the character referred to therein, any balance of the insurance money held by the Insurance Trustee shall be paid to Lessee.

ARTICLE VI.

EASEMENTS AND ADDITIONAL RIGHTS

Section 6.01. Lessee's Easements. Lessor hereby grants to Lessee, as appurtenances to the Leased Premises and for the term of this Agreement, the following nonexclusive easements and rights provided Lessee is not in default under this Agreement:

(a) Access; Ingress and Egress. The right and easement for ingress and egress to access the Leased Premises over and on Lessor's private roadway now existing as depicted on the Site Plan and in any future form as modified by Lessor.

(b) Parking and Driveway Easement. The right and easement to use the parking and driveway areas on Lessor's Parcel as outlined on Schedule 2. Such parking areas and driveways are also shown and located on the Site Plan contained in Schedule 2.

(c) Utilities. The easement and right to use, maintain, repair, and replace any existing electric, gas, water, and telephone lines or wires and the right to locate on Lessor's Parcel any additional electric and/or telephone lines or facilities which are reasonably necessary to service the Improvement in the future.

(d) Other. Such other easements and rights that may be necessary or appropriate in furtherance of the construction of the Building(s) as contemplated by the Site Plan.

Section 6.02. Lessor's Easements. Lessee hereby acknowledges the following reservation of rights of Lessor with

respect to the Leased Premises and hereby grants to Lessor the following easements and rights:

(a) Access; Ingress and Egress. The right of Lessor to use, operate, maintain, repair, alter and modify Lessor's private roadway now existing as depicted on the Site Plan and in any future form.

(b) Parking and Driveway. The right of Lessor to use, operate, maintain, repair, alter and modify the parking and driveway areas now existing as depicted on the Site Plan and in any future form on Lessor's Parcel as outlined on Schedule 3.

(c) Utilities. The right of Lessor to use, operate, maintain, repair, alter and modify any existing electric, gas, water, and telephone lines or wires and any additions, replacements or substitutions thereof, on Lessor's Parcel, and the easement and right to locate on the Leased Premises any additional such lines and wires or related facilities which are necessary to service Lessor's Parcel in the future.

Section 6.03. Relocation of Easements. In the event that any of the easements granted under this Article VI become unusable, after notice to Lessor and the consent of Lessor, which consent shall not be unreasonably withheld, Lessee shall have the right to relocate such easements to locations which do not materially interfere with the use of the remainder of Lessor's Parcel.

Section 6.04. Binding Effect of Easements. The easements, rights, conditions, restrictions, and limitations under this

Article VI (and any other conditions, limitations, rights, and restrictions contained in this Agreement) shall be deemed covenants running with the land and shall be binding upon Lessor, Lessee, and the heirs, successors, administrators, and assigns of Lessor and Lessee, respectively, and any subsequent owner of the Leased Premises, the Improvement, or Lessor's Parcel, or any portion thereof.

#### ARTICLE VII.

##### MAINTENANCE AND REPAIR

Section 7.01. Covenant of Repair. Lessee shall, at its own cost and expense put, keep, replace, and maintain in repair and good, safe, and substantial order and condition the Leased Premises, the Improvement, and all appurtenances thereto, both inside and outside, structural and nonstructural, extraordinary and ordinary; and shall use reasonable precautions to prevent waste, damage, or injury to the Leased Premises. Unless otherwise expressly provided in this Agreement, Lessor shall not be required to furnish any services or facilities or to make any improvements, repairs, or alterations in or to the Improvement during the term of this Agreement.

Section 7.02. Mechanics Liens. Lessor shall not under any circumstances be liable for the payment of any expenses incurred or for the value of any work done or material furnished in connection with Lessee's construction and maintenance of the Improvement, and Lessee shall be solely and wholly responsible to contractors, laborers, and materialmen furnishing and performing

such labor and material. If, because of any act or omission (or alleged act or omission) of Lessee, any mechanic's or other lien, charge, or order for the payment of money shall be filed against the Lessor, the Leased Premises, any portion of the Improvement or any materials in connection therewith, whether or not such lien, charge, or order is valid (or enforceable or such), Lessee shall, at its own cost and expense, cause the same to be cancelled and discharged of record or bonded within ten (10) days.

Section 7.03. Damage or Destruction. The obligations under this Article VII shall expressly include the obligation of Lessee to repair, replace, or rebuild the Building(s), in the event the Improvement shall be damaged or destroyed in whole or in part by fire or other cause, at least to the extent of the value and as nearly as possible to the character of the Improvement existing immediately prior to such occurrence, and otherwise put the balance of the Leased Premises in good order and condition with no material visible evidence of such damage or destruction remaining subject to the provisions of Article VIII. Lessor shall in no event be called upon to repair, replace, or rebuild any such portion of the Improvement, nor to pay any of the costs or expenses thereof by and/or in excess of the insurance proceeds provided for under Article V. Except as expressly otherwise provided in this Agreement, neither this Agreement nor the leasehold estate demised hereunder shall terminate or be affected in any manner by reason of damage to or total, substantial, or

partial destruction of the Improvement, at the commencement of the term or thereafter erected thereon or therein, or by reason of the untenability of the Lease Premises, or any part thereof, for or due to any reason or cause whatsoever.

**ARTICLE VIII.**

**CONSTRUCTION AND MARKETING OF PROJECT**

Section 8.01. Prior to Lessee filing a building permit, Lessee shall submit a copy of the plans and specifications to Lessor for review and approval. Lessor shall have thirty (30) days from submission to notify Lessee in writing of any objections. The Improvement when constructed and the Leased Premises will be in compliance with all applicable permits and authorizations and building and zoning laws and all other applicable laws, ordinances, orders, rules, regulations, and requirements of all applicable federal, state, and municipal governments, departments, commissions, boards, and officers, and the requirements of any lender financing such construction for Lessee, and Lessee, at Lessee's own cost and expense, shall procure all necessary licenses and permits for the construction of the Project. Lessee shall use its best efforts to notify Lessor of Lessee's intention to commence any such construction at least thirty (30) days before commencement of any such work or delivery of any materials.

Section 8.02. Commencement of Construction. Lessee shall commence construction of the Improvement within thirty (30) days after receipt of building permits for the Improvement and shall

diligently proceed with the construction as aforesaid and that the same, when completed, will be certified by the architect or engineer and all proper municipal authorities.

Section 8.03. Additional Construction. Upon Lessee's completion of the Improvement, Lessee shall have the right to develop and improve the remaining portion of the Leased Premises or any portion thereof in accordance with a new site plan approved by Lessor and in accordance with the standards set forth in this Agreement.

Section 8.04. Lessee shall protect the privacy of the occupants of those properties adjoining the Improvement and for this purpose, shrubbery shall be provided, planted and maintained by Lessee in accordance with the landscaping plan submitted by Lessee and approved by the Montgomery County Board of Appeals.

#### **ARTICLE IX.**

##### **USE OF PROPERTY**

Section 9.01. Lessee will not use or allow the Leased Premises or any part thereof to be used or occupied for any use (a) contrary to the provisions of this Agreement, or (b) for any unlawful purpose or in violation of any certificate of occupancy or certificate of compliance covering or affecting the use of the Leased Premises or any part thereof and Lessee will not suffer any act to be done or any condition to exist on the Leased Premises or any part thereof or any article or substance to be brought therein, which may be dangerous or a hazardous substance, unless safeguarded as required by law, or which may, in law,

constitute a nuisance, public or private, or which may make void or voidable any insurance then in force with respect thereto, unless consented by Lessor, in writing.

Section 9.02. For purposes of this Agreement, hazardous materials includes all petroleum products, including, but is not limited to, diesel fuel, gasoline, oil and antifreeze. Lessee, is authorized to use the premises for the storing of certain vehicles and related equipment. Lessee is also authorized to use the Leased Premises or Improvement for the repair of any equipment maintained on the Leased Premises or in the Improvement, including the regular maintenance of the vehicles. However, Lessee shall not cause to occur on the Leased Premises or in the Improvement any act that could result in the presence of environmental waste.

Lessee shall comply with all applicable federal, state and local laws and regulations regarding the maintenance and disposal of any hazardous materials as defined above. The Town will obtain and maintain at its own expense, if required by federal, state or local law or regulation, licenses and permits for the maintenance and repair of the motor vehicles or other equipment.

Lessee's access to the use of the premises shall not be limited in terms of the time of day in which Lessee may have access to the property. Lessee agrees, however, that its employees, contractors and representatives entering the Lessor's Parcel will at all times display proper identification and that its employees, contractors and representatives will not loiter

upon Lessor's Parcel or the Leased Premises for any period of time longer than necessary. Lessor shall have the right to deny access to any employee, contractor or representative that in Lessor's reasonable judgment may be a threat to the safety of Lessor's customers or employees.

Section 9.03. Assignment of Contracts. At Lessor's request, Lessee shall assign or cause to be assigned to Lessor, in writing, any contracts and agreements of any kind whatsoever entered into by Lessee with respect to the performance of this Agreement and the construction contemplated hereby.

#### ARTICLE X.

##### ENTRY BY LESSOR

Lessee will permit Lessor and its authorized representatives to enter the Leased Premises and the Improvement at all reasonable times and upon reasonable notice for the purpose of (a) inspecting the same and (b) making any repairs thereto, required by applicable Federal, State or County laws, should Lessee not make such repairs within a reasonable time after being advised of the need for such repair by the applicable governmental agency. Nothing in this Article X shall imply any duty upon the part of Lessor to do any such work; and performance thereof by Lessor shall not constitute a waiver of Lessee's default in failing to perform the same.

ARTICLE XI.

LESSOR ACQUIRES BUILDING(S) AT TERMINATION

Upon expiration of the term of this Agreement, any extension hereof, or upon earlier termination, all right, title, and interest of Lessee in and to the Improvement and any construction or building materials related thereto, then on or appurtenant to the Leased Premises owned or held by Lessee shall pass to and vest in Lessor absolutely without other or further consideration or conveyance by Lessee; provided, that Lessee shall, if requested so to do by Lessor, make, execute, and deliver good and sufficient instruments, of conveyance evidencing such transfer to Lessor; and provided further, that Lessor shall assume and indemnify and hold harmless Lessee from and against all claims and amounts becoming payable on account of such Improvement after the date on which title thereto has passed to Lessor other than (a) claims arising out of alleged torts occurring prior to expiration or termination, (b) Impositions, payment of which was deferred to permit Lessee to contest the same, and (c) every claim, lien, and encumbrance, the incurring of which is prohibited by this Agreement, all of which said items (a), (b), and (c) shall be and remain the responsibility of Lessee. Lessee shall also then transfer to Lessor all plans, drawings, specifications, contracts, agreements, purchase orders, and all other instruments, materials or papers relating to the Improvement then in Lessee's possession.

ARTICLE XII.

ASSIGNMENT

Section 12.01. Restrictions on Assignment and Subleasing.

(a) Lessee shall not assign or transfer this Agreement or any interest of Lessee under this Agreement, in whole or in part without the prior written consent of Lessor, except to any legal entity directly or indirectly controlling, controlled by, or under common control with Lessee.

(b) Any sublease of this Agreement in whole or in part, is hereby prohibited.

Section 12.02. Instrument of Transfer. If Lessee shall assign or transfer this Agreement as permitted by this Article XII, the assignee or transferee shall assume all obligations on the part of Lessee to be performed, by a recordable assignment and assumption agreement or other instrument of transfer, in form and content reasonably satisfactory to Lessor.

Section 12.03. No Release. No assignment or transfer under this Article XII shall release Lessee from the performance of the obligations of Lessee under this Agreement during the remainder of the term of this Agreement and during any renewal term thereof as to which the originally named Lessee or any assignee or transfer shall have exercised.

Section 12.04. Collection of Rent. If this Agreement is assigned or transferred as permitted by this Article XII, Lessor shall collect the annual rent from the assignee or transferee.

**ARTICLE XIII.**

**DEFAULT**

Section 13.01. Events of Default. The occurrence of any one or more of the following events shall be an "Event of Default":

(a) If Lessee shall fail to make the due and punctual payment of any rents payable under Article III when and as the same shall become due and payable, and such failure shall continue for a period of fifteen (15) days after such due date;

(b) If Lessee shall fail to perform or comply with any of the representations, covenants, agreements, terms, or conditions contained in this Agreement other than those referred to in the foregoing Subsection 13.01(a), and such failure shall continue for a period of thirty (30) days after written notice thereof from Lessor to Lessee, provided, that Lessee's time to cure such failure shall be extended for such additional time as shall be required for the purpose if Lessee shall proceed with due diligence during such thirty (30) day period to cure such failure and is unable by reason of the nature of the work involved, to cure the same within the said thirty (30) days, and if such extension of time shall not subject Lessor or Lessee to any liability, civil or criminal, and the interest of Lessor in this Agreement shall not be jeopardized by reason thereof.

Section 13.02. Termination. Upon the occurrence of any uncured Event of Default, Lessor at any time thereafter may give written notice to Lessee specifying one or more such Events of

Default and stating that this Agreement and the leasehold estate hereby demised shall expire and terminate on the date specified in such notice, which shall be at least ten (10) days after the giving of such notice, unless Lessee shall cure such Event of Default before the date specified in such notice.

Section 13.03. Surrender, Re-entry. Upon any expiration or termination of this Agreement as a result of an Event of Default pursuant to this Article XIII, Lessor, upon or at any time after any such expiration or termination, may proceed to recover possession under the laws of the State of Maryland.

Section 13.04. Survival of Obligations. No such expiration or termination of this Agreement as a result of an Event of Default pursuant to this Article XIII shall relieve Lessee of its liability and obligations under this Agreement accrued to the date of such expiration and termination. In the event of any such expiration or termination, whether or not the Leased Premises or any part thereof shall have been relet, Lessee shall pay to Lessor the rent and all other charges required to be paid by Lessee up to the time of such expiration or termination of this Lease.

Section 13.05. No Waiver. In addition to the general provision of 20.08, no failure by Lessor to insist upon the strict performance of any covenant, agreement, term, or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial rent during the continuance of any such breach, shall constitute a

waiver of any such breach or of such covenant, agreement, term, or condition. No covenant, agreement, term, or condition of this Agreement to be performed or complied with by Lessee, and no breach thereof, shall be waived, altered, modified or terminated except by a written instrument executed by Lessor. No waiver of any breach shall affect or alter this Agreement, but each and every covenant, agreement, term, and condition of this Lease shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

Section 13.06. Remedies. In the event of any breach by Lessee of any of the covenants, agreements, terms, or conditions contained in this Agreement, Lessor, in addition to any and all other rights, shall be entitled to enjoin such breach and shall have the right to invoke any right and remedy allowed at law or in equity or by statute or otherwise for such breach.

#### **ARTICLE XIV.**

##### **QUIET ENJOYMENT**

Lessee, upon paying the rent and other charges required by this Agreement and observing and keeping all representations, warranties, covenants, agreements, and conditions of this Agreement, on its part to be kept, shall quietly have and enjoy the Leased Premises during the term of this Agreement, without hindrance or molestation by Lessor or anyone claiming by, or through, Lessor.

**ARTICLE XV.**

**CONSENTS BY LESSOR**

Section 15.01. Covenant to Act Reasonably. Lessor covenants, that in any case where the provisions of this Agreement require the consent or approval of Lessor, that it will not unreasonably withhold or delay such consent or approval; and in any case where Lessee is required to do anything to the satisfaction of or satisfactory to Lessor, Lessor shall not unreasonably decline to express its satisfaction with such action of Lessee.

Section 15.02. Resolution of Disputes. If a dispute or disagreement shall arise between Lessor and Lessee as to whether or not the withholding by Lessor of consent or approval is unreasonable, or as to whether any act, forbearance, time limit, or any other similar matter or thing in question required to be reasonable (or not to be unreasonable) is reasonable (or not unreasonable), such dispute or disagreement shall first attempted to be resolved by an agreement between Lessor and Lessee.

Section 15.03. Deemed Consent. Wherever in this Agreement, Lessee is required to submit and duly submits to Lessor any matter for consent, approval, or expression of satisfaction and Lessor shall not within thirty (30) days of such submission, if no other time therefor is specified in this Agreement, or within the time so specified if a different time is specified, have responded to such submission, then Lessor shall be deemed to have

consented, approved, or expressed such satisfaction as of the date of expiration of such period.

**ARTICLE XVI.**

**NON-MERGER**

There shall be no merger of this Agreement, or of the leasehold estate created by this Agreement thereby, with the fee estate in and to the Leased Premises by reason of the fact that this Agreement, or the leasehold estate created by this Agreement, 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 and to the Leased Premises, or any portion thereof, and no such merger shall occur unless and until all persons at the time having any interest in the fee estate and all persons having any interest in this Agreement or the leasehold estate created by this Agreement shall join in a written instrument effecting such merger.

**ARTICLE XVII.**

**MEMORANDUM OF LEASE**

At Lessor's request and at Lessor's expense, Lessee and Lessor shall execute a memorandum of this Agreement containing a description of this Agreement in requisite form for recordation under the laws of the State of Maryland.

**ARTICLE XVIII.**

**INDEMNIFICATION**

Section 18.01. Lessee's Right to Indemnification. Lessor undertakes and agrees to hold Lessee harmless against any and all

losses, costs, liabilities, claims, obligations, and expenses, including reasonable attorneys' fees, actually incurred or suffered by Lessee arising from (i) a breach, misrepresentation, or other violation in any material respect of any of Lessor's representations, warranties, covenants, or agreements contained in this Agreement; (ii) all liabilities of Lessor; and (iii) all liens, charges, or encumbrances on the Leased Premises caused by Lessor. The foregoing indemnity is intended by Lessor to cover all acts, suits, proceedings, claims, demands, assessments, adjustments, costs, and expenses with respect to any and all of the specific matters set forth in this indemnity and shall be without limitation as to amount.

Section 18.02. Lessor's Right to Indemnification. Lessee undertakes and agrees to hold Lessor harmless against any and all losses, costs, liabilities, claims, obligations, and expenses, including reasonable attorneys' fees, actually incurred or suffered by Lessor arising from (i) a breach, misrepresentation, or other violation in any material respect of any of Lessee's representations, warranties, covenants, or agreements contained in this Agreement; (ii) the use and operation of the Leased Premises; and (iii) all liabilities of Lessee. The foregoing indemnity is intended by Lessee to cover all acts, suits, proceedings, claims, demands, assessments, adjustments, costs, and expenses with respect to any and all of the specific matters set forth in this indemnity and shall be without limitation as to amount.

Section 18.03. If any claim or proceeding covered by the above provisions shall arise, the party who seeks indemnification shall promptly give written notice (including any relevant documents) thereof to the other party, in no event more than ten (10) days after the party learns of the existence of the claim or proceeding.

**ARTICLE XIX.**

**GENERAL PROVISIONS**

Section 19.01. Notices. All notices, requests, demands and other communications pertaining to this Agreement shall be in writing and shall be deemed duly given and made when served either by personal delivery (which shall include delivery by commonly recognized overnight couriers) to the party for whom it is intended or two (2) business days after being deposited, postage prepaid, certified or registered mail, return receipt requested (or such form of mail as may be substituted therefor by postal authorities), in the United States mail, addressed as follows:

If to Lessor:                   The National 4-H Council  
  7100 Connecticut Avenue  
  Chevy chase, Maryland 20815  
  Attn: \_\_\_\_\_

With an informational copy to:

Baker & Hostetler  
Edward J. Beckwith, Esquire  
1050 Connecticut Avenue, N.W.  
Suite 1100  
Washington, D.C. 20036

If to Lessee:                   Town Manager  
                                  Town of Chevy Chase  
                                  4301 Willow Lane  
                                  Chevy Chase, Maryland 20815

With an informational copy to:

Martin J. Hutt, Esquire  
3 Bethesda Metro Center  
Suite 380  
Bethesda, Maryland 20814

either party may change its address for notices by written notice to the other given pursuant to this Section 20.01.

Section 19.02. Expenses. Except as otherwise expressly provided in this Agreement, all expenses involved in the preparation and consummation of this Agreement shall be borne by the party incurring same whether or not the transactions contemplated herein are consummated.

Section 19.03. Integration; Merger; Entire Agreement. This Agreement supersedes in all respects all prior and contemporaneous oral and written negotiations, understandings, and agreements between Lessor and Lessee with respect to the providing space on Lessor's Property to Lessee for its vehicles.

Section 19.04. Amendment; Modification. Neither this Agreement nor any term or provision hereof may be altered or amended in any manner except by an instrument in writing signed by the party against whom the enforcement of any such change is sought.

Section 19.05. Binding Effect; Successors. Subject to Article XII, this Agreement shall be binding upon and inure to

the benefit of any and all permitted successors and assigns of the parties hereto.

Section 19.06. No Third Party Beneficiaries. Nothing in this Agreement, whether expressed or implied, is intended to:

- (i) confer any rights or remedies on any person other than Lessor and Lessee and their respective successors and permitted assigns;
- (ii) to relieve or discharge the obligation or liability of any third party; or
- (iii) to give any third party any right of subrogation or action against any Lessor or Lessee.

Section 19.07. Headings and Captions. The headings and captions of the Articles, Sections, Subsections, Schedules and Exhibits have been included for convenience of reference only, and shall in no way limit or affect the meaning or interpretation of the specific provisions of this Agreement.

Section 19.08. Waiver; Consent. Unless otherwise specifically agreed in writing to the contrary: (i) the failure of either party at any time to require performance by the other of any provision of this Agreement shall not affect such party's right thereafter to enforce the same, (ii) no waiver by either party of any default by the other shall be taken or held to be a waiver by such party of any other preceding or subsequent default, and (iii) no extension of time granted by either party for the performance of any obligation or act by the other party shall be deemed to be an extension of time for the performance of any other obligation or act hereunder.

Section 19.9. Number and Gender. Whenever the context so requires, words used in the singular shall be construed to mean or include the plural and vice versa, and pronouns of any gender shall be construed to mean or include any other gender or genders.

Section 19.10. Governing Law. This Agreement is to be construed and governed by the laws of the State of Maryland, except for the choice of law rules utilized in that jurisdiction.

Section 19.11. Severability. If any term of this Agreement is illegal or unenforceable at law or in equity, the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby. Any illegal or unenforceable term shall be deemed to be void and of no force and effect only to the minimum extent necessary to bring such term within the provisions of applicable law and such term, also so modified, and the balance of this Agreement shall then be fully enforceable.

Section 19.12. Counterparts. This Agreement may be signed in any number of counterparts with the same effect as if the signature on each such counterpart were on the same instrument. Each of the counterparts, when signed, shall be deemed to be an original and all of the signed counterparts together shall be deemed to be one and the same instrument.

IN TESTIMONY WHEREOF, the undersigned have each caused their respective duly authorized officers to execute and deliver this Agreement on the date first written above.



**FIRST AMENDMENT TO  
GROUND LEASE AND DEVELOPMENT AGREEMENT**

THIS FIRST AMENDMENT TO GROUND LEASE AND DEVELOPMENT AGREEMENT (this "**Amendment**") is made as of December 18, 2020 (the "**Effective Date**"), by and between THE NATIONAL 4-H COUNCIL, an Ohio non-profit corporation (the "**Lessor**"), and TOWN OF CHEVY CHASE, MONTGOMERY COUNTY, MARYLAND, a municipal corporation and body politic of the State of Maryland (the "**Lessee**").

RECITALS:

WHEREAS, Lessor and Lessee entered into that certain Ground Lease and Development Agreement dated as of April 23, 1993 (the "**Agreement**"), pursuant to which Lessor leased to Lessee and Lessee leased from Lessor a portion of the Lessor's Parcel located at 7100 Connecticut Avenue, Chevy Chase, Maryland, which portion is described in the Agreement as the "**Leased Premises**"; and

WHEREAS, the Agreement states that the Leased Premises are shown on Exhibit "A" to the Agreement, but Lessor and Lessee inadvertently failed to attach Exhibit A to the Agreement at the time they executed the Agreement; and

WHEREAS, Lessor and Lessee desire to amend the Agreement in order to identify the Leased Premises by attaching what was intended to be Exhibit "A" to the Agreement.

NOW, THEREFORE, for Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration each to the other paid, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee hereby agree as follows:

1. LEASED PREMISES. Effective for all purposes as of the Effective Date, the Agreement is hereby amended to provide that the Leased Premises shall consist of the area shown outlined in red on Exhibit "A" attached hereto.

2. GENERAL PROVISIONS. Section 19.01 of the Agreement is hereby amended by deleting the name and address of Lessee's person of contact and inserting the following in lieu thereof:

Ronald M. Bolt  
Bolt Legal, LLC  
10410 Kensington Parkway, Suite 222  
Kensington, Maryland 20895

3. RATIFICATION. Except as modified by or where inconsistent with this Amendment, the Agreement is hereby ratified and confirmed. Where inconsistent, the terms of this Amendment shall supersede and take precedence over the Agreement. Capitalized terms used herein, but not otherwise defined, shall have the meanings attributed to such terms in the

Agreement. The Agreement, as amended hereby, shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

4. COUNTERPARTS. This Amendment may be executed in any number of counterparts and by each of the parties hereto in separate counterparts, all such counterparts together constituting but one and the same instrument. This Amendment shall not be effective unless and until the same has been executed and delivered by all parties hereto whether in one or more counterparts. To facilitate execution of this Amendment, the parties may execute and exchange counterparts of signature pages by telephone facsimile or portable document format (.pdf) or by affixing its signature hereto by means of an electronic signature tool, application, or software (e.g., DocuSign). Each such electronic signature of a party shall be treated as an original as if personally signed by that party.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Lessor and Lessee have caused this Amendment to be executed as of the Effective Date.

LESSOR:

THE NATIONAL 4-H COUNCIL,  
an Ohio non-profit corporation

By: Jennifer D. Sirangelo

Name: Jennifer Sirangelo

Title: President and CEO

LESSEE:

TOWN OF CHEVY CHASE, MONTGOMERY  
COUNTY, MARYLAND, a municipal corporation  
and body politic of the State of Maryland

By: Todd Hoffman

Name: Todd Hoffman

Title: Town Manager

**EXHIBIT A**  
**LEASED PREMISES**

