

GROUND LEASE

by and between

STATE OF MARYLAND,  
to the use of the  
DEPARTMENT OF NATURAL RESOURCES

and

MARYLAND ECONOMIC DEVELOPMENT CORPORATION

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GROUND LEASE

THIS GROUND LEASE (hereinafter referred to as "this Lease"), made this 9th day of May, 1996, by and between THE STATE OF MARYLAND, to the use of the DEPARTMENT OF NATURAL RESOURCES (hereinafter referred to as the "Landlord"), and MARYLAND ECONOMIC DEVELOPMENT CORPORATION, a body politic and corporate and a public instrumentality of the State of Maryland (hereinafter referred to as the "Tenant" or "MEDCO").

WITNESSETH

WHEREAS, the Landlord, MEDCO and the County Commissioners of Allegany County, Maryland (the "County") intend to develop a Hotel/Meeting ("Hotel/Meeting Center") and Jack Nicklaus Signature Golf Course (the "Golf Course"), as more particularly described herein (the "Project"), on a parcel of land owned by the Landlord and consisting of a portion of Rocky Gap State Park in Allegany County, Maryland (the "Park"); and

WHEREAS, the General Assembly of the State of Maryland endorsed the development of the Golf Course and Hotel/Meeting Center at the Park and appropriated certain State funds for such construction, because the Project will foster economic redevelopment and tourism in Western Maryland, and will provide a unique recreational facility for all citizens of the State of Maryland; and

WHEREAS, the Landlord hereby leases to MEDCO a parcel of land in the Park (as more particularly described herein), on which the Tenant shall cause to have constructed and operated the Project; and

WHEREAS, the construction of the Project shall be funded by the Tenant from the following sources: (a) \$31,300,000 Maryland Economic Development Corporation Revenue Bonds (Rocky Gap Golf Course and Hotel/Meeting Center Project) Series 1996 A and B (hereinafter defined as the "MEDCO Bonds"), the Series B of which is insured for principal only in the amount of Five Million Dollars (\$5,000,000) by the Maryland Industrial Development Financing Authority; (b) a Ten Million Nine Hundred Thousand Dollars (\$10,900,000) appropriation from the State of Maryland funded through general obligation bonds ("State Bonds"); (c) Four Million Five Hundred Thousand Dollars (\$4,500,000) appropriation from the County funded through general obligation bonds (the "County Bonds"); (d) a Three Million and 00/100 Dollars (\$3,000,000) loan from the Maryland Industrial and Commercial Redevelopment Fund (the "MICRF Loan"); and (e) a One Million Dollars (\$1,000,000) grant from the Maryland Industrial and Commercial Redevelopment Fund (the "MICRF Grant").

NOW THEREFORE, FOR AND IN CONSIDERATION of the mutual entry into this Lease by the parties hereto, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by each party hereto, the Landlord hereby leases to the Tenant and the Tenant hereby leases from the Landlord, in its "AS IS" condition, all of that real property, situate and lying in Allegany County, Maryland, which consists of approximately 260± acres of land in the Park, as more fully described on Exhibit A (hereinafter referred to as the "Land"), being a portion of the Park, including any and all improvements, rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging to or in any way appertaining to the Land. The Landlord grants to the Tenant easements for access as shown on the survey attached as Exhibit B, and shall grant to Tenant easements for utility lines (including utility lines for cable, telephone and electric) as more fully set forth in Section 16 below, all of which shall be deemed a portion of the Land and a non-exclusive right to use in common with the Landlord the "Maintenance Facility", as more fully described in Section 4.5.

SUBJECT TO THE OPERATION AND EFFECT of the permitted encumbrances identified on Exhibit C, attached hereto and incorporated herein and any other matters or instruments of record or in fact (the "Permitted Encumbrances"),

RESERVING UNTO THE LANDLORD easements for access through the Land as shown on the survey attached as Exhibit B for the purpose of allowing the Landlord and its agents access to the dam and sewage treatment plant and the water tower located in the Park, and allowing general public access to the handicapped trail, boating facility and fishing area in the Park and easements for utility lines as more fully described in Section 16 below.

TO HAVE AND TO HOLD the Land unto the Tenant, and its successors and assigns, for the term of years set forth herein,

UPON THE TERMS AND SUBJECT TO THE CONDITIONS which are hereinafter set forth:

Section 1. Definitions.

1.1. As used herein the following terms have the following meanings

1.1.1. "Audited Financial Statements" has the meaning given it by the provisions of Section 4.4.2.

1.1.2. "Bond Trustee" means any entity that from time to time serves as the Trustee under the Indenture.

1.1.3. "Deeds of Trust" mean the First Lien Leasehold Deed of Trust and the Second Lien Leasehold Deed of Trust

(as defined in Indenture) given by MEDCO to the Bond Trustee, to secure the MEDCO Bonds.

1.1.4. "Equipment" means all furniture, equipment, apparatus, machinery and personal property located on the Property and necessary for the proper operation and maintenance of the Property.

1.1.5. "Formal Opening Date" means the date of opening of the Project, as reasonably determined by the Tenant.

1.1.6. "Golf Course" or the "Golf Course Improvements" means an eighteen-hole Jack Nicklaus Signature Golf Course including the various improvements constructed by the Tenant for the Golf Course, as more fully described in the Golf Course Plans and Specifications prepared by Golden Bear International, Inc., dated January 23, 1990 (and all addendums and revisions as of the date hereof); and those plans and specifications prepared by Rauch, Walls and Lane, Inc. dated April 21, 1995, for the construction of an eighteen hole Jack Nicklaus Signature Golf Course and driving range (and all addendums and revisions as of the date hereof), including but not limited to infrastructure consisting of (i) drainage plans, (ii) irrigation systems, (iii) utility services, and (iv) ancillary structures including a maintenance facility, snack shack, starter hut, shelters, and restrooms (the "Golf Course Plans and Specifications").

1.1.7. "Hotel/Meeting Center" or "Hotel/Meeting Center Improvements" means a 220-guest room hotel/meeting center, with flexible meeting space, restaurant, golf course pro shop and other related facilities and amenities, including all the improvements which the Tenant shall have constructed for the Hotel/Meeting Center, as more fully described in the Hotel Plans and Specifications prepared by DNC Architects, Inc., dated July 21, 1995 (and all addendums and revisions as of the date hereof (the "Hotel/Meeting Center Plans and Specifications").

1.1.8. "Improvements" mean all improvements constructed for the Hotel/Meeting Center, the Golf Course, and all other buildings, structures or other improvements (including by way of example rather than of limitation, parking facilities, roads, walkways, terraces, truck-loading and dockage facilities and utility lines), and any and all alterations and additions thereto and replacements thereof, and any and all other improvements hereafter constructed on the Land in accordance with Section 6, together with all fixtures and Equipment.

1.1.9. "Indenture" means the Trust Indenture dated as of April 1, 1996 between MEDCO and the Bond Trustee.

1.1.10. "Interagency Agreement" means the Interagency Agreement of even date herewith, by and between MEDCO

and the Landlord, a copy of which is attached as Exhibit F (the "Interagency Agreement").

1.1.11. "MEDCO Bonds" means \$31,300,000 Revenue Bonds ( Rocky Gap Golf Course and Hotel/Meeting Center Project), Series 1996 A and B issued by MEDCO, the proceeds of which shall be used by MEDCO to pay for a portion of the costs of the acquisition, construction and equipping of the Project.

1.1.12. "Nicklaus Contract" means that certain Service Contract by and between the State of Maryland acting through the Department of General Services and Department of Natural Resources and Golden Bear International, Inc., dated February 10, 1988, attached and incorporated herein as Exhibit D.

1.1.13. "Operating Year" means the period commencing on the Formal Opening Date and terminating on March 31, 1999, and each successive period of twelve (12) months thereafter during the Term.

1.1.14. "Property" means the Land and the Improvements.

1.1.15. "Surcharge Revenue" has the meaning given it by the provisions of Section 3.2.

1.1.16. "Tenant" means MEDCO and its permitted successors and assigns as holder of the leasehold estate, as approved under the provisions of Section 12 of this Lease.

1.2. Any other term to which meaning is expressly given by the provisions of this Lease shall have such meaning.

## Section 2. Term.

### 2.1. Length.

2.1.1. Original Term. This Lease shall be for a term (the "Original Term") of approximately thirty five (35) years beginning the later date of (a) the effective date as set forth in Section 17.1 of this Lease, or (b) May 1, 1996 (the "Commencement Date") and terminating on April 30, 2031 (the "Termination Date"). In the event that MEDCO issues Additional Bonds, as permitted under the terms of the Indenture, and the Landlord approves the issuance of such Additional Bonds, the Original Term of this Lease shall be extended by a period equal to the difference between the latest maturity date of the Series A MEDCO Bonds and the maturity date of the Additional Bonds. In the event that the Original Term of this Lease is extended as a result of MEDCO's issuing Additional Bonds, such extension of the Original Term shall not limit or in any other way impact the Tenant's right to renew this Lease as described below in Section 2.1.2.

2.1.2. Renewal Terms. This Lease may be renewed for three (3) additional terms of five (5) years each (each of which is hereinafter referred to as a "Renewal Term") provided the Tenant notifies the Landlord in writing, by at least one (1) year before the end of the then-current term, that the Tenant elects to renew this Lease at the end of such current-term, in which event this Lease shall be so renewed (the Original Term and, if this Lease is renewed for any Renewal Term or otherwise, the period of any such renewal being hereinafter referred to as "the Term"); provided that, at the Landlord's option, such renewal shall not be effective if an uncured Event of Default exists at the end of the Original Term or at the end of any Renewal Term, as the case may be. Any such renewal shall be upon the terms and subject to the conditions which are set forth in the provisions of this Lease, except that the renewal right created by the provisions of this paragraph 2.1.2. shall not be effective during the third (3rd) Renewal Term, if any.

2.2. Surrender. The Tenant shall at its expense, at the expiration of the Term or any earlier termination of this Lease, promptly surrender to the Landlord possession of the Property in good order and repair (ordinary wear and tear and damage by casualty excepted) and broom clean.

### Section 3. Rent.

The Tenant shall make the following payments described in Section 3 to the Landlord as rent (collectively referred to as the "Rent") for the Land:

#### 3.1. Annual Rent.

3.1.1. While MEDCO or a Governmental Entity is the Tenant. For so long as MEDCO or any successor or assignee which is a governmental entity of the State is the Tenant under this Lease, MEDCO or such successor or assignee, shall pay to Landlord in arrears on the earlier to occur of thirty (30) days after the completion of the Audited Financial Statements as defined in Section 4.4.2. below or two hundred ten (210) days after the end of each Operating Year during the Term, an annual rent (the "Annual Rent") for each Operating Year initially equal to Two Hundred Thousand and 00/100 Dollars (\$200,000) per year, prorated for any Operating Year that does not consist of twelve months. The Annual Rent due and payable by MEDCO or such successor shall be increased annually in an amount equal to Fifty Thousand and 00/100 Dollars (\$50,000) per year. The Annual Rent due and payable by MEDCO is subject to the terms and conditions of the Interagency Agreement, and shall be subordinate to all payments required to be made by MEDCO or the Bond Trustee under the MEDCO Bonds and the Indenture. No Rent shall be due and payable for the period from the Commencement Date to the Formal Opening Date.

3.1.2. MEDCO's Successors and Assigns. In the event MEDCO transfers its interests as Tenant under this Lease in accordance with the provisions of Section 12 below, the Annual Rent due and payable by such Tenant shall begin at an amount equal to that which MEDCO would have been required to pay if the Annual Rent (commencing at Two Hundred Thousand Dollars (\$200,000) per year on March 31, 1999) had been adjusted annually by the Consumer Price Index, instead of being increased annually as described in Section 3.1.1. above. For purposes of this Lease, the Consumer Price Index ("CPI") shall be defined as the Consumer Price Index U.S. City Average for All Items for All Urban Consumers (Base Year 1982-1984 = 100 or such other base year as then in use), as published by the U.S. Department of Labor, Bureau of Labor Statistics. If the CPI is discontinued or revised during the Term hereof, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would have been obtained if the CPI had not been discontinued or revised. If the CPI is discontinued and no government index or computation replaces the same, the parties hereto shall in good faith agree upon a suitable substitute in order to carry out the provisions hereof and the intent of the parties. The Annual Rent shall be increased annually thereafter by the CPI. Annual Rent due under this provision shall be subordinate to any payments required under the Indenture and the MEDCO Bonds (to the extent the Indenture and MEDCO Bonds are still in existence). The Annual Rent shall be due and payable in arrears on the earlier to occur of thirty (30) days after the date of the Audited Financial Statements or two hundred ten (210) days after the end of each Operating Year during the Term.

3.2. Surcharge Revenue. The Tenant shall be responsible for imposing and collecting a surcharge on overnight guests of the Hotel/Meeting Center and patrons of the Golf Course, which surcharge is intended to be in lieu of such guests and patrons paying the fee charged by the Landlord to the general public for entrance into the Park. Patrons of the Golf Course shall pay a surcharge equal to One Dollar (\$1.00) per round of golf (the "Golf Surcharge"). Overnight guests of the Hotel/Meeting Center shall pay a surcharge equal to Three Dollars (\$3.00) per room, per night (the "Room Surcharge"). Revenue collected from the Golf Surcharge and Room Surcharge is hereinafter referred to as the "Surcharge Revenue". The Surcharge Revenue may only be increased by mutual agreement of the Landlord and the Tenant. During the first four (4) Operating Years the Surcharge Revenue will be treated as Revenue under the Indenture. If at the end of each of the third and fourth Operating Years the amount of the Surcharge Revenue collected exceeds \$400,000, the Tenant shall pay to the Landlord on the earlier to occur of thirty (30) days after completion of Audited Financial Statements for such Operating Year or two hundred ten (210) days following the end of each Operating Year all Surcharge Revenue collected in excess of \$400,000 per Operating Year. Beginning upon the commencement of the fifth Operating Year,

the Surcharge Revenue shall be paid to the Landlord as Rent, on a quarterly basis on the first of January, April, July and October of each calendar year during the Term, with any adjustment to be promptly made by Landlord or Tenant, as applicable, based on the Audited Financial Statements for the applicable Operating Year.

3.3. Where payable. The Tenant shall pay the Rent, in lawful currency of the United States of America, to the Landlord by delivering or mailing it to Department of Natural Resources, Accounting Division, Tawes State Office Building, B-4, 580 Taylor Avenue, Annapolis, Maryland 21401, or to such other address or in such other manner as the Landlord from time to time specifies by written notice to the Tenant.

3.4. Net Lease. This Lease shall be deemed and construed to be a "net lease" and, accordingly, except as is herein otherwise expressly provided, the Landlord shall receive the Annual Rent and the Surcharge Revenue and all other payments to be made by the Tenant hereunder free from any charges, assessments, impositions, expenses or deductions.

#### Section 4. Use and Operation of the Property.

4.1. Nature of Use. The Tenant shall throughout the Term occupy and use the Property for and only for the purpose of operating the Hotel/Meeting Center and the Golf Course, generally accessible to the public, and other reasonable and customary uses related thereto, including but not limited to operating initially or at a future date, such additional recreational facilities as mutually agreed by the Landlord and the Tenant. Tenant covenants and agrees that all uses shall be conducted to preserve the tax exempt status of the MEDCO Bonds, the County Bonds and the State Bonds. The Tenant hereby covenants and agrees that the Tenant shall, continuously throughout the Term, use and operate the Property for, and only for, the uses enumerated in the provisions of this Section 4.

4.2. Management and Operating Standards. The Tenant shall operate the Property in a sound and economical manner. The Project initially shall be operated and managed on behalf of MEDCO by Buena Vista Hospitality Group, Inc., a Florida corporation (the "Operator"). Any change in the Operator shall be subject to the prior written consent of the Landlord and the State of Maryland Board of Public Works, not to be unreasonably withheld or delayed. MEDCO and the Operator have entered into a Development and Management Agreement, attached hereto as Exhibit E (the "Management Agreement"), for the operation and management of the Property. The Management Agreement, any and all material amendments or modifications thereto, and any and all subsequent operating and/or management agreements entered into with subsequent operators and/or managing entities shall be subject to prior written approval of the Landlord and the State of Maryland Board of Public Works, which



approval shall not be unreasonably withheld or delayed, provided such operator has the financial capability and credit worthiness to assume responsibility for operating the Project and business experience as a nationally recognized resort/hotel and golf course manager. In the event the Landlord and the State of Maryland Board of Public Works fail to respond within forty-five (45) days to a request for approval as required in this Section, such request shall be deemed approved. The Landlord's rights to approve the Management Agreement and the Operator are not intended to limit or impair the Bond Trustee's remedy to appoint a receiver, which is set forth as a remedy in the Deeds of Trust. The Project shall be operated and managed in such a manner comparable with similar hotel/meeting center properties. In addition to the management standards set forth above, the Tenant shall cause the Golf Course to be operated, managed and maintained in compliance with the terms and conditions set forth in Section 7.1. of this Lease.

4.3. Compliance with law and covenants. The Tenant, in its construction, possession, operation and use of the Property shall comply promptly and fully with (a) all applicable laws, ordinances, notices, orders, rules, regulations and requirements of all federal, state and municipal governments and all departments, commissions, boards and offices thereof; and (b) all applicable requirements imposed by the provisions of any policy of insurance covering any or all of the Property and required by the provisions of Section 5 to be maintained by the Tenant, whether any of the foregoing are foreseen or unforeseen, or are ordinary or extraordinary. The Landlord's granting of this Lease does not constitute exception for or exemption from any permit requirements, including, without limitation, all applicable permits and regulations promulgated by the State of Maryland or the Department of Natural Resources. The Tenant shall be responsible for obtaining and keeping in force all applicable permits, licenses, inspections and approvals required for its construction, use, occupancy and operation of the Property.

4.4. Books, Records and Audits.

4.4.1. Tenant's Records. The Tenant shall prepare and keep, or cause to be prepared and kept, full, complete and proper books, source documents (including, without limitation, cash register tapes), records and accounts of Revenues (as that term is defined in the Indenture), including the collection of Revenues, Surcharge Revenue and operating costs for all business conducted on the Property, in accordance with generally accepted accounting principles.

4.4.2. Tenant Statements. Within 180 days of the end of the Operating Year, the Tenant shall cause financial statements of the Tenant with respect to the Property to be prepared with respect to such Operating Year in accordance with generally accepted accounting principles, consistently applied,

which financial statements shall be audited by, and accompanied by a report of, an independent public accountant ("Audited Financial Statements"). Copies of such financial statements and reports shall be delivered upon completion to the Landlord.

4.4.3. Right to Examine and Audit Books. The State of Maryland and the Landlord shall have the right, upon five (5) days notice, to examine, make extracts from, copy and audit all books, source documents, accounts, records and sales tax reports of the Tenant with respect to the Property. The Tenant shall make available to any auditor hired by the Landlord, within five (5) days following notice, all books, source documents, accounts and records of the Tenant related to the Project which the auditor deems necessary for purposes of making such audit.

4.5. Non-exclusive Right to Use Maintenance Facility. The Landlord grants to the Tenant a right to use on a non-exclusive basis the maintenance facility located in the Park in the general area noted on the survey attached hereto as Exhibit B-1 (the "Maintenance Facility"), together with the access road to the Maintenance Facility, for shared use with the Landlord, for the sole purpose of servicing and fueling vehicles and equipment used in connection with the Project. The Tenant shall promptly pay to Landlord upon demand, all costs for fuel used by the Tenant and a pro rata share of the costs of keeping the Maintenance Facility maintained and operational. The Tenant and the Landlord shall work cooperatively in scheduling use of the Maintenance Facility. The rights granted herein shall only be revoked upon termination of this Lease.

## Section 5. Insurance and Indemnification.

5.1. Insurance to be maintained by the Tenant. The Tenant shall keep the Property adequately insured at all times and shall maintain with responsible insurers with respect to the facilities and operations of the Property insurance of such types, in such amounts and against such risks as are customarily maintained for facilities of a comparable type and size and offering comparable services, including (without limitation) the following insurance to the extent that such insurance is customarily maintained: (i) full fire and extended coverage insurance on the Property providing for not less than full recovery of the insurable value (less reasonable deductibles and exclusions) of any damaged property; (ii) public liability and property damage insurance, including (without limitation) business automobile liability insurance and professional liability insurance in amounts estimated to fully indemnify (less reasonable deductibles and exclusions) the Tenant and the Landlord against the estimated loss or damage; and (iii) fidelity, comprehensive dishonesty, disappearance and destruction insurance. In addition, the Tenant shall obtain and maintain: a) "use and occupancy" insurance or "business interruption" insurance covering the loss of revenues by

reason of the total or partial suspension of or interruption in the operation of the Property caused by damage to or destruction of the Property; b) workers' compensation or employers' liability insurance as required by law; and c) during construction, maintain or cause to have maintained the insurance set forth in Section 6.2. below. The maintenance of insurance required by the terms and conditions of the Indenture shall fully satisfy the provisions herein, for so long as the Indenture is in effect.

5.2. Insureds. Each such policy shall name as insureds thereunder the Tenant, the State of Maryland, and the Department of Natural Resources.

5.3. Cancellation. Each such policy shall, by its terms, not be cancelable unless at least thirty (30) days prior thereto written notice thereof is given to the Landlord (which shall require that the Landlord be named on an endorsement to the policy).

5.4. Insurer. Each such policy shall be issued by an insurer of recognized responsibility licensed to issue such policy in Maryland.

5.5. Evidence. (a) At least ten (10) days before the Commencement Date, the Tenant shall deliver to the Landlord an original or a signed duplicate copy of each such policy, and (b) at least thirty (30) days before any such policy expires, the Tenant shall deliver to the Landlord an original or a signed duplicate copy of a replacement policy therefore. Such policies shall be endorsed to show receipt by the issuer of the premiums therefor.

5.6. Indemnification of Landlord. The Tenant shall defend, indemnify and hold harmless the State of Maryland and the Landlord against and from any and all liability or claims of liability (including but not limited to any injury to or death of any person, or damage to any property), arising out of the use, occupancy, conduct, operation or management of the Property during the Term by the Tenant, or its officers, directors, shareholders, partners, agents, contractors, servants, employees, subtenants, licensees, invitees or guests, including, but not limited to, (a) any work or thing done or not done on the Property during the Term, or (b) any breach or default by the Tenant in performing any of its obligations under the provisions of this Lease or the Interagency Agreement (for so long as MEDCO is the Tenant under this Lease) or (c) any negligent, intentionally tortious or other act or omission, and from and against all expenses and liabilities incurred in connection with any such claim or any action or proceeding brought thereon (including, by way of example rather than of limitation, the reasonable fees of attorneys, investigators and experts), all regardless of whether such claim is asserted before or after the expiration of the Term or any earlier termination of this Lease, but excluding any claim of liability arising from the activities of

the State of Maryland or the Landlord, for which the State of Maryland or the Landlord shall have sole responsibility. The Tenant's insurers shall not be subrogated under this indemnity. The Tenant shall also require through the Management Agreement that the Operator defend, indemnify and hold harmless the State of Maryland and the Landlord against and from liability or claims of liability (including but not limited to any injury to or death of any person, or damage to any property), arising out of the Operator's use, occupancy, conduct, operation or management of the Property.

5.7. Immunity. Nothing contained in this Lease shall be deemed to constitute a waiver of any immunity which the State of Maryland, the Landlord and MEDCO may be entitled to under the laws of the State of Maryland, as they may be amended from time to time.

## Section 6. Improvements to Property.

6.1. Construction of Improvements. The Tenant shall construct, or cause to have constructed, the Project on the Land. Any and all other improvements, alterations or additions which the Tenant desires to make to the Property, shall be developed, operated and utilized solely for the purposes and in furtherance of the intended and permitted uses set forth in Section 4 of this Lease and shall be subject to the prior approval of the Landlord, not to be unreasonably withheld. Notwithstanding the foregoing, the Tenant may, without having to obtain the Landlord's consent, make alterations, improvements and changes to the Property provided such changes do not affect the structural integrity or strength of the Improvements, reduce the value of the Improvements or adversely impact operation of the Project or the Park. Any Improvements made to the Property by the Tenant shall be made only in a good and workmanlike manner, and in compliance with all applicable laws, regulations and ordinances, and if approval of the Landlord is required, in substantial conformity with plans and specifications approved in advance by the Landlord. Any alteration, improvement or change made to the historic barn located on the Land shall also require the approval of the State of Maryland Historical Trust ("MHT"). All contact with MHT shall be coordinated through the Landlord.

6.2. Construction Contracts. All firms contracting or subcontracting for work in connection with making improvements, alterations, repairs and maintenance to the Property shall be registered and licensed to practice in the State of Maryland as required by the State of Maryland Department of Labor, Licensing and Regulation. All construction contracts entered into by the Tenant for work to be performed in connection with construction of Improvements on the Property shall provide that the contractor shall: a) carry workers' compensation or employers' liability insurance as required by law; b) carry comprehensive liability insurance (with broad form comprehensive general liability

insurance), Owner's Protective Liability Insurance, Builders "All Risk" Insurance (unless maintained by the Tenant) and other property insurance customarily obtained in similar circumstances protecting MEDCO, the State of Maryland and the Landlord; and c) defend, indemnify and hold harmless the State of Maryland and the Landlord from and against all claims, damages, losses and expenses arising from construction of improvements in connection with the Project, but excluding any claim of liability arising from the activities of the State of Maryland and/or the Landlord, for which the State of Maryland and/or the Landlord shall have sole responsibility. The maintenance of insurance required by the terms and conditions of the Indenture shall fully satisfy the provisions hereof, for so long as the Indenture is in effect.

6.3. Payment and Performance Bonds. MEDCO shall deliver or cause to be delivered, to the Landlord and the State of Maryland Board of Public Works for approval prior to the commencement of construction of the Project, "Payment and Performance Bonds" (as defined below). The Tenant shall also deliver Payment and Performance Bonds to the Landlord prior to commencement of other construction occurring on the Property if the estimated costs for labor, material and construction of any improvement is valued at or above Fifty Thousand Dollars and 00/100 (\$50,000). For purposes of this Lease, "Payment and Performance Bonds" shall be defined as payment and performance bonds in amounts not less than one hundred percent (100%) of the value of the improvements being constructed, which name the State of Maryland Board of Public Works as an obligee, conditioned on completion of the improvements in accordance with the approved plans and specifications (or such other assurances as may be satisfactory to the State of Maryland Board of Public Works). To the extent applicable, pursuant to Section 5-214 of Article 83A of the Annotated Code of Maryland, for so long as MEDCO is the Tenant under this Lease, MEDCO shall be exempt from the requirement of obtaining Payment and Performance Bonds for the construction of improvements, except in connection with the Project as specifically stated above.

6.4. Mechanics' Liens. The Tenant has no authority, express or implied to allow, or take any action resulting in, a mechanics', materialmens' or other such lien ("Mechanics' Lien") being placed on the Land. If a Mechanics' Lien is placed on the Property, the Tenant shall (a) promptly after it is filed or claimed, have released (by bonding or otherwise) any Mechanics' Lien filed or claimed against any or all of the Property, by reason of labor or materials provided for or about any or all of the Property, and (b) defend, indemnify and hold harmless the Landlord against and from any and all liability, claim of liability or expense (including, by way of example rather than of limitation, that of reasonable attorneys' fees) incurred by the Landlord on account of any such lien or claim.

6.5. Title to Improvements. Title to any and all Improvements constructed or placed in the Property after the commencement of this Lease shall be vested in the Tenant for so long as this Lease remains in effect. Upon the earlier to occur of the expiration or termination of this Lease, all right, title and interest in all Improvements then existing on the Property shall, at no cost to the Landlord, automatically and without further documentation, vest in the Landlord. Upon request by the Landlord, the Tenant shall execute and deliver to the Landlord such instruments as may be reasonably required by the Landlord in order to evidence the Landlord's ownership of the Improvements upon the expiration or sooner termination of this Lease.

Section 7. Repairs and Maintenance.

7.1. By the Tenant. The Tenant shall maintain, preserve and keep the Property in good condition and repair, safe and suitable for the uses intended herein. The Tenant shall make all necessary and proper repairs, replacements and renewals to conduct the operation of the Property in accordance with the terms of this Lease. The Tenant shall keep and maintain all of the Property free of accumulation of dirt and rubbish, and shall keep all roads and walkways (specifically including the access road shown as an easement for the benefit of the Tenant on the survey attached hereto as Exhibit B) free and clear of snow and ice. The Tenant shall also maintain, repair and keep the Equipment in good working order. The Tenant shall not remove any Equipment from the Property (except as required for off-site repair and maintenance), unless simultaneously with or prior to such removal the Equipment is replaced with other Equipment of value and utility at least equal to that of the removed Equipment. Notwithstanding the foregoing, the Tenant may remove and not replace Equipment that in accordance with customary industry practices is reasonably deemed to be obsolete and unnecessary for operation of the Project. All replacement equipment shall be deemed Equipment and shall be subject to the terms of this Lease. The Tenant shall pay all expenses, including without limitation, all extraordinary expenses of maintaining, repairing and replacing the Property to the extent required by the terms of this Lease. The Tenant shall maintain the Golf Course in good condition and repair, pursuant to standards developed by the United States Golf Association ("USGA") or a comparable organization should the USGA cease to exist. The Tenant shall also follow accepted maintenance practices and principles adopted by the Golf Course Superintendents Association of America to implement the Integrated Turf Management Program dated June, 1994 for compliance with the Maryland Department of Environment 401 Water Quality Certification. Except as otherwise described below, the Tenant shall operate, maintain and repair the Golf Course in a manner to ensure that the Golf Course may be promoted and marketed as a Jack Nicklaus Signature Golf Course, in accordance with the terms and conditions of the Nicklaus Contract. The Tenant shall not jeopardize or permit the Golf Course to forego, or decide to

eliminate the Jack Nicklaus Signature Designation from the Golf Course unless: (a) the Tenant first receives the prior approval of the Landlord (which approval shall not be unreasonably withheld or delayed); or (b) delivers to the Landlord notice of the Tenant's intention to stop marketing the Golf Course as a Jack Nicklaus Signature Golf Course, together with a copy of the report of the Management Consultant (as defined in the Indenture) concluding that it is in the Project's best economic interest to forego the Jack Nicklaus Signature Designation of the Golf Course.

7.2. By the Landlord. The Landlord agrees, subject to the availability of funds and staff through the State of Maryland's appropriation and budgetary process, to reasonably maintain areas of the Park not constituting a portion of the Land, in a condition equal to the condition of the Park as it exists at the commencement of this Lease, to the extent that the condition of the Park materially impacts upon the operation of the Project. The Landlord agrees that the Tenant shall not be responsible for the cost of repair, environmental remediation, or compliance with environmental remediation, or compliance with environmental laws or regulations pertaining to the six (6) underground storage tanks located within the Park and on or adjacent to the Land upon commencement of the Lease, and described in the Phase I Environmental Site Assessment of the Land prepared by Century Engineering, Inc. dated May 8, 1995, unless such repair or remediation is required as a result of an activity conducted by or on behalf of the Tenant. The Landlord also agrees, subject to the availability of funds through the State of Maryland's appropriations and budgetary process, to replace or repair the roof and siding on the historic barn located on the Land to the extent necessary for historic preservation, which repair work is scheduled to be performed by the Landlord during the 1997 fiscal year of the State of Maryland. The Tenant shall not be responsible for maintaining the historic barn in accordance with requirements of MHT (as defined in Section 6.1.) until such time as the Landlord completes the repairs to the historic barn as described above.

## Section 8. Impositions

8.1. Public Utility Charges. The Tenant shall pay all charges for electricity, gas, water, sewer and telephone and other communication services used, and other services rendered or supplied, upon or in connection with the Property and all other charges and expenses assessed against the Property, and shall indemnify and hold harmless the Landlord against and from any liability for such charges and expenses, but excluding any liability for such charges and expenses arising from activities of the Landlord or the State of Maryland.

8.2. Taxes. The Tenant shall pay, prior to the accrual of any interest or penalties thereon, all governmental impositions (including, without limitation, taxes of every kind and nature

whatsoever) and assessments, if any, lawfully levied or assessed upon or in respect of the Property, or upon any part thereof or upon any Revenues (as defined in the Indenture) therefrom. Nothing contained in this Section shall be construed to prevent the Tenant from contesting in good faith any governmental imposition or assessment with respect to the Property or the Revenues, provided that such contest shall not materially adversely affect the effective use or operation of the Property.

Section 9. The Landlord's Right of Entry. The Landlord and its agents shall be entitled to enter the Property at all reasonable times upon two (2) days prior notice (a) to inspect the Property, and (b) for any other purpose relating to the operation or maintenance of the Property, and (c) for fulfilling any other duties or obligations which the Landlord has under the terms of this Lease or otherwise as an agency of the State of Maryland, provided such entry does not adversely and materially interfere with the Tenant's use of the Property. Notwithstanding the foregoing, the Landlord shall not be required to provide the Tenant with notice prior to the entry onto the Property if the Landlord determines in its reasonable discretion that such entry is necessitated by an emergency or in connection with the Landlord's reservation of rights for access described in the granting clause of this Lease.

Section 10. Fire and other casualties.

10.1. Destruction of the Property.

10.1.1. In the event of any damage to or destruction to the Property or any part thereof occurring during the time the Indenture remains in effect, the proceeds from any insurance maintained by the Tenant under Section 5.1. shall be utilized as set forth in the Indenture. To the extent that the Indenture permits the Tenant to exercise discretionary authority in electing or determining the manner in which insurance proceeds shall be utilized, the Tenant shall consult with and receive the Landlord's approval, not to be unreasonably withheld, before making such election. In case of any damage to or destruction of the Property or any part thereof, occurring after the termination of the Indenture, the Tenant, at its sole cost and expense, shall promptly commence and complete the restoration, replacement or rebuilding of the Property as nearly as possible to its value, condition and character immediately prior to the damage or destruction, provided however, that if such damage or destruction occurs during the last three (3) years of the Original Term or any Renewal Term, or if seventy-five percent (75%) or more of the Property is destroyed, the Tenant shall have the option to terminate this Lease. If the Tenant elects to terminate this Lease as provided in this Section 10.1.1., proceeds from any casualty insurance maintained by the Tenant under Section 5.1. shall become the sole property of and shall be paid to the Landlord.



Notwithstanding any provision to the contrary herein contained, as long as the Tenant maintains insurance as required by Section 5 of this Lease, the Tenant's obligation to repair or restore the Property shall be limited to the amount of such insurance proceeds received for such repair and restoration.

10.1.2. In the event the Tenant terminates this Lease as set forth above in Section 10.1.1., (a) the Tenant shall pay to the Landlord all Rent payable by the Tenant hereunder and accrued through the date of such termination, (b) the Landlord shall repay to the Tenant any and all prepaid Rent for periods beyond such termination, (c) the Tenant shall, upon Landlord's request and to the extent that insurance proceeds are made available to the Tenant for such purpose, raze any damaged Improvements and restore the Land to a safe condition as requested by the Landlord, and (d) the Landlord may enter upon and repossess the Property without further notice.

#### Section 11. Condemnation.

11.1. Substantial Condemnation. If all or substantially all of the Property is taken by the exercise of any power of eminent domain or is conveyed to or at the direction of any governmental entity under a threat of such taking (each of which is herein referred to as a "Condemnation"), this Lease shall terminate on the date (hereinafter referred to as the "Vesting Date") on which the title to so much of the Property as is the subject of such Condemnation vests in the condemning authority.

11.2. Less than Substantial Condemnation. If less than substantially all of the Property is taken this Lease shall continue in full force and effect unless the Tenant (a) reasonably determines that its ability to use and occupy the Property, in substantially the same manner as contemplated in this Lease, has been and will continue to be substantially impaired after such Condemnation, and (b) notifies the Landlord thereof within thirty (30) days after the Vesting Date, in which event this Lease shall terminate on the date set forth in such notice (which date shall be at least thirty (30) days and not more than ninety (90) days after the date on which such notice is given).

11.3. Condemnation Proceeds. In the event a Condemnation occurs during the time the Indenture remains in effect, any proceeds payable to the Tenant from an award of damages given in connection with the Condemnation shall be utilized in accordance with the terms of the Indenture. To the extent the Indenture permits the Tenant to exercise discretionary authority in electing or determining the manner in which Condemnation proceeds shall be utilized, the Tenant shall consult with and receive the Landlord's approval before making such election. If a Condemnation occurs after the termination of the Indenture, any proceeds from an award in connection with such Condemnation shall be apportioned

between the Landlord and the Tenant as entitled to them by their interests in the Property and under the laws of the State of Maryland.

Section 12. Assignment and Subletting.

12.1. No Encumbrance on the Fee. The Landlord's fee simple interest in the Land may not be encumbered or subordinated by operation of this Lease or by any action taken by the Tenant.

12.2. Approval of Bond Trustee's Deeds of Trust. Pursuant to Section 10-305 of the State Finance and Procurement Article of the Annotated Code of Maryland, any sublease or assignment of a leasehold estate on property owned by the State of Maryland is subject to the prior approval of the State of Maryland Board of Public Works. The State of Maryland Board of Public Works hereby approves MEDCO's granting of the Deeds of Trust. The State of Maryland Board of Public Works also approves the assignment of this Lease to the Bond Trustee, in the event of a default under the MEDCO Bonds uncured within the applicable notice and grace periods under the MEDCO Bonds and the Indenture, which gives raise to an assignment, sublease or other transfer of the leasehold estate to the Bond Trustee pursuant to the terms of the Deeds of Trust, provided, however, that the Bond Trustee gives the Landlord a copy of any notice of default pursuant to Section 9.14 of the Indenture and notice of its intention to foreclose pursuant to Section 9.03 of the Indenture. Notwithstanding the foregoing, any assignment or other transfer of all or any part of the leasehold estate by MEDCO, the Bond Trustee, any Tenant other than MEDCO or any other party (including but not limited to a sale, assignment, sublease or transfer of the leasehold estate by the Bond Trustee to a third party as the result of a foreclosure under either of the Deeds of Trust), shall be subject to the prior approval of both the Landlord and the State of Maryland Board of Public Works, which approvals shall be granted if the prospective assignee of the Tenant's interest in the Lease satisfies the following criteria: a) is a "responsible bidder or offeror" as defined in Md. Code, State Finance & Procurement Article §11-101(r) and makes the certification required in Md. Code, State Finance & Procurement Article §13-222; b) provides working capital for the Project equal to at least six months worth of operating expenses as determined by the Project's budget for the most recent Operating Year; c) is capable of curing all uncured Events of Default existing at the time of the assignment of the Lease; d) has business experience equivalent or superior to the Tenant with regards to operating the Property as a first class hotel/resort and championship golf course; and e) has an Operator meeting the requirements of Section 4.2. of the Lease. In the event either the Landlord or the State of Maryland Board of Public Works fails to respond within forty-five (45) days to a request for approval as required in this Section, such request shall be deemed approved.

The Landlord and the State of Maryland Board of Public Works may also condition their consent to any assignment of this Lease upon the entry by such assignee into an agreement with (and in form and substance reasonably satisfactory to) the Landlord and the State of Maryland Board of Public Works, providing for such assignee's assumption of all of the Tenant's obligations hereunder.

The Landlord and the State of Maryland Board of Public Works may condition its consent of any sublease, upon being reasonably satisfied with the terms and conditions of any sublease agreement entered into by the Tenant. Sublease agreements shall not in any way conflict with the terms of this Lease, and shall require that the subtenant carry the same liability insurance and indemnify the State of Maryland and the Landlord to the same extent as required by the Tenant pursuant to the terms of this Lease. Unless otherwise specifically agreed to in advance by the Landlord and the State of Maryland Board of Public Works, the sublease agreement shall provide that it shall automatically terminate in the event this Lease expires or is earlier terminated.

### Section 13. Default.

13.1. Definition. It shall be an event of default ("Event of Default") if the Tenant fails (a) to pay any Rent or other sum which it is obligated to pay by any provision of this Lease, when and as due and payable hereunder and without demand therefore (acknowledging, however, that the Tenant's obligation to pay Annual Rent is subordinate to its obligations under the Indenture and, for so long as MEDCO is the Tenant under this Lease, shall be subject to the provisions of the Interagency Agreement), or (b) to perform any of its other obligations under the provisions of this Lease.

13.2. Notice to the Tenant; Grace Period. Anything contained in the provisions of this Section to the contrary notwithstanding, on the occurrence of an Event of Default the Landlord shall not exercise any right or remedy on account thereof which it holds under any provision of this Lease or applicable law unless and until

13.2.1. the Landlord has given written notice thereof to the Tenant, and

13.2.2. the Tenant has failed, (a) if such Event of Default consists of a failure to pay money (acknowledging, however, that the payment of Annual Rent is subordinate to payments required to be made under the MEDCO Bonds and the Indenture and, for so long as MEDCO is the Tenant under this Lease, shall be subject to the provisions of the Interagency Agreement), within ten (10) days after the Landlord gives such written notice to pay all of such money, or (b) if such Event of Default consists of

something other than a failure to pay money, within thirty (30) days after the Landlord gives such written notice to cure such Event of Default (or, if such Event of Default is not reasonably curable within such period of thirty (30) days, to begin to cure such Event of Default within such thirty (30) day period and to diligently pursue such cure thereafter until it is fully cured).

13.2.3. Notwithstanding the foregoing, no such notice of default shall be required to be given, and (even if the Landlord gives such notice) the Tenant shall be entitled to no such grace period in any emergency situation in which, in the Landlord's reasonable judgment, it is necessary for the Landlord to act to cure a non-monetary Event of Default.

13.3. The Landlord's Rights on Event of Default.

13.3.1. On the occurrence of any Event of Default, the Landlord may (subject to the operation and effect of the provisions of Section 13.2. and Section 14.3.), concurrently with or successively:

(a) bring suit for the collection of any amounts for which the Tenant may be in default or for the performance of any other covenant or agreement devolving upon the Landlord; and/or

(b) seek injunctive relief to prevent the Tenant from acting in a manner prohibited by the terms of this Lease; and/or

(c) exercise the right of self help and cure such Event of Default in any other manner; and/or

(d) pursue any combination of such remedies and/or any other right of remedy available to the Landlord on account of such Event of Default under this Lease and/or at law or in equity, except that so long as the Indenture remains in effect the Landlord shall not be permitted to terminate this Lease as a remedy for an Event of Default, except as described in (e) below; and/or

(e) terminate this Lease in the event the Tenant fails to pay to the Landlord the Surcharge Revenue as required by the terms and conditions of Section 3.2. of this Lease.

13.3.2. On the occurrence of an Event of Default, the Tenant shall, immediately on its receipt of a written demand therefore from the Landlord, pay to the Landlord, an amount sufficient to reimburse the Landlord for (a) all reasonable expenses (including, by way of example rather than of limitation, any and all repossession costs, management expenses, legal expenses and attorneys' fees) incurred by the Landlord (I) in curing or seeking to cure any Event of Default and/or (ii) in exercising or seeking to exercise any of the Landlord's rights and remedies under

the provisions of this Lease and/or at law or in equity on account of any Event of Default, and/or (iii) otherwise arising out of any Event of Default.

Section 14. Protection of Approved Mortgagees. The Bond Trustee and any other future holder of a leasehold deed of trust or leasehold mortgage encumbering the Property and approved in accordance with the provisions of Section 12 of this Lease ("Approved Mortgagees") will be afforded certain rights in connection with this Lease as set forth below.

14.1. Notices. If any Approved Mortgagees shall have delivered to the Landlord a written notice setting forth the name and address of such Approved Mortgagee, the Landlord thereafter shall give to such Approved Mortgagee a copy of each notice under Section 15 which the Landlord is required to give to the Tenant, such copy to be addressed to such Approved Mortgagee at the address last furnished to the Landlord by notice.

14.2. Approval of Amendments to Lease. The Landlord agrees to give Approved Mortgagees thirty (30) days notice of any intended amendment, modification, revocation, surrender, cancellation or termination of this Lease and shall not agree, consent or accept any surrender, cancellation or other termination by the Tenant or amendment to the Lease without the prior written approval of Approved Mortgagees, which approval to any amendment or modification of this Lease shall not be unreasonably withheld or delayed.

14.3. Notice of Default and Opportunity to Cure. The Landlord agrees to give Approved Mortgagees written notice of any default under this Lease. The Landlord shall also give such Approved Mortgagees thirty (30) days in which to cure such default, provided that such default is susceptible of cure by such Approved Mortgagee. The Landlord further agrees to give such Approved Mortgagee such time as may reasonably be required to obtain possession or to institute and complete foreclosure proceedings or otherwise acquire the Tenant's leasehold estate and to cure any default in the case of a default which is only susceptible of being cured by taking possession or foreclosing and obtaining title, or both. In such event, the Landlord shall not terminate this Lease while such remedies are being diligently pursued by an Approved Mortgagee.

14.4. Default. In the event of default under the Trustee's Deeds of Trust, the Trustee shall have the right, after giving notice to the Landlord to oust the Tenant and take possession of the Property in accordance with the terms of the Deeds of Trust. Such ouster shall not constitute a termination of this Lease, but shall be deemed an exercise of the assignment of the Lease, provided the Trustee executes and delivers to the Landlord an agreement in a form reasonably satisfactory to the

Landlord, providing for the Trustee's assumption of all of the Tenant's obligations under the Lease for the duration of the time that the Trustee is the Tenant under the Lease.

14.5. Transfer of Landlord's interest in the Property. The Landlord agrees to notify Approved Mortgagees of any assignment, transfer, conveyance or sale of the Landlord's interest in the Lease or fee simple ownership in the land and will furnish the Trustee with the name and address of such assignee, transferee, grantee or buyer.

Section 15. Notices.

Any notice required or permitted to be given hereunder shall be in writing and shall be deemed validly transmitted if served personally or if mailed by certified mail, return receipt requested, if to the Landlord: Office of the Secretary, Department of Natural Resources, Tawes State Office Building, Suite C-4, Annapolis, Maryland 21401 with an informational copy to: Attorney General's Office, Department of Natural Resources, Tawes State Office Building, C-4, Annapolis, Maryland 21401; and if to the Tenant: Executive Director, Maryland Economic Development Corporation, 36 South Charles Street, Suite 2410, Baltimore, Maryland 21201, with an additional informational copy to: John Stalfort, Esq., Miles & Stockbridge, a Professional Corporation, 10 Light Street, 8th Floor, Baltimore, Maryland 21202. Any address fixed as above may be changed by delivering notices set forth above. Notice shall be deemed to have been given (i) forty-eight (48) hours after being sent as certified mail, return receipt requested or (ii) the date on which such notice is personally served on a party.

Section 16. Easements. The Landlord and the Tenant acknowledge and understand that the Tenant shall require easements for utility lines (including lines for cable, telephone, electric, water and sewer) on land outside the boundaries of the Property but within the Park and that the Landlord shall require easements for utility lines (including lines for telephone, electric, water and sewer) on land within the boundaries of the Property. The exact location of the easements required by the Landlord and the Tenant, as described above (the "Easements"), have been taken into consideration during the design phase of the Project, but the exact location of the Easements will not be determined until construction proceeds. The Landlord and the Tenant agree that, upon completion of construction of the Project, the Landlord and the Tenant shall each execute and record agreements granting to one another the Easements, the location of which shall be based on a final as-built survey for the Project.

Section 17. General.

17.1. Effectiveness. This Lease shall become effective upon and only upon the last to occur of: (a) its execution and delivery by each party hereto, and (b) receipt of approval and execution of this Lease by the State of Maryland Board of Public Works; and (c) the issuance and sale of the MEDCO Bonds, as more fully described in the Indenture.

17.2. Amendment. This Lease may be amended by and only by an instrument executed and delivered by each party hereto.

17.3. Applicable law. This Lease shall be given effect and construed by application of the law of the State of Maryland. Any action or proceeding brought to enforce obligations under this Lease shall be brought in any appropriate court (federal or state) in the State of Maryland.

17.4. Waiver. The Landlord shall not be deemed to have waived the exercise of any right which it holds hereunder unless such waiver is made expressly and in writing (and no delay or omission by the Landlord in exercising any such right shall be deemed a waiver of its future exercise). No such waiver made as to any instance involving the exercise of any such right shall be deemed a waiver as to any other such instance, or any other such right.

17.5. Severability. No determination by any court, governmental body or otherwise that any provision of this Lease or any amendment hereof is invalid or unenforceable in any instance shall affect the validity or enforceability of (a) any other such provision, or (b) such provision in any circumstance not controlled by such determination. Each such provision shall be valid and enforceable to the fullest extent allowed by, and shall be construed wherever possible as being consistent with, applicable law.

17.6. Non Discrimination. The Tenant under the provisions of Title VII of the Civil Rights Act of 1964 agrees not to discriminate against any employee or applicant for employment because of sex, race, age, creed, color, religious affiliation, mental or physical disability, national origin, ancestry or marital status. The Tenant further agrees to post, in conspicuous places available to employees and applicants for employment, notices setting forth the above agreement not to discriminate. The Tenant will not discriminate in the conduct and operation of its business at the Property against any person or group of persons because of sex, race, age, creed, color, religious affiliation, mental or physical disability, national origin, ancestry or marital status.

17.7. Certificate of Corporation. In the event any successor or assign of MEDCO is a corporation, such Tenant shall,

to the extent required by applicable law, certify that it is a domestic or foreign corporation which is registered or qualified in accordance with the Corporations and Associations Article of the Annotated Code of Maryland and is in good standing and has filed all its annual reports with the State of Maryland Department of Assessments and Taxation. Such Tenant shall further certify that such Tenant has paid all taxes due to the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State of Maryland Department of Assessments and Taxation, and the State of Maryland Department of Labor, Licensing and Regulation and has paid all withholding taxes due to the State of Maryland. Such Tenant shall further agree to remain in good standing in the State of Maryland for the duration of the Term of this Lease. This section is not applicable to MEDCO as the Tenant, because MEDCO is a public instrumentality of the State of Maryland.

17.8. Recordation. In the event either party desires to have this Lease recorded in the County, the party requesting such recordation will be liable to pay any and all transfer taxes or recordation taxes. In the event this Lease is recorded, the Tenant agrees upon termination of this Lease to deliver to the Landlord a release document in recordable form.

17.9. Financial Disclosure. The Tenant agrees to comply with State Finance and Procurement Article, Section 13-221, of the Annotated Code of Maryland which requires that every business that enters into contracts, leases or other agreements with the State of Maryland under which the business is to receive from the State of Maryland or its units or both a total of \$100,000.00 or more during any calendar year, shall within thirty (30) days of the time when the \$100,000 is reached, file with the Secretary of State of Maryland a list containing the names and addresses of its resident agent, each of its officers, and any individual who is a beneficial owner of five percent (5%) or more of the contracting business. Pursuant to Section 5-214 of Article 83A of the Annotated Code of Maryland, MEDCO shall be exempt from the requirements of this Section.

17.10. No Contingent Fees. The Tenant warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the Tenant, to solicit or secure this Lease, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any fee or any other consideration contingent on the making of this Lease.

17.11. Political Contribution Disclosure. The Tenant shall comply with the provisions of Article 33, Sections 30-1 through 30-4 of the Annotated Code of Maryland, which require that every person that enters into contracts, leases, or other agreements with the State of Maryland, including its agencies, or



a political subdivision of the State of Maryland, involving a consideration of \$10,000 or more during a calendar year, shall, on or before February 1 of the following year, file with the Secretary of State of Maryland certain specified information to include disclosure of political contributions in excess of \$100 to a candidate for elective office in any primary or general election.

17.12. Disclaimer of Partnership Status. Nothing in the provisions of this Lease shall be deemed in any way to create between the parties hereto any relationship of partnership, joint venture or association, and the parties hereto hereby disclaim the existence of any such relationship.

17.13. Representations and Warranties. The representations and warranties made by MEDCO under Section 10.2 of the Interagency Agreement and the representations and warranties made by the State of Maryland under Section 10.1 of the Interagency Agreement are equally applicable to this Lease and are incorporated herein by reference.

17.14. Interagency Agreement. For so long as MEDCO is the Tenant under this Lease, the terms and conditions set forth in the Interagency Agreement shall govern, in addition to the terms and conditions set forth herein, MEDCO's use and occupancy of the Property.

17.15. Limitation on Liability. Notwithstanding anything herein contained to the contrary, any claim based on or in respect of any liability of MEDCO for (i) the payment of Rent, or (ii) the performance of any other covenant, agreement, obligation, term or condition contained in this Lease shall be enforced only against the assets and revenues of the Project and not against any other assets, properties or funds of a) MEDCO or any director, officer, or employee of MEDCO, or b) any other person, corporation or other entity affiliated with any of the foregoing. This provision shall survive the termination or expiration of this Lease.

IN WITNESS WHEREOF, each party hereto has executed and  
ensealed this Lease or caused it to be executed and ensealed on its  
behalf by its duly authorized representatives, the day and year  
first above written.

WITNESS:

MARYLAND ECONOMIC  
DEVELOPMENT CORPORATION, a body  
politic and corporate and a  
public instrumentality of the  
State of Maryland

Rosalind K. Fuller

BY: Hans F. Mayer (SEAL)  
Hans F. Mayer  
Executive Director  
1984  
MARYLAND ECONOMIC DEVELOPMENT CORPORATION

WITNESS:

THE STATE OF MARYLAND/  
DEPARTMENT OF NATURAL RESOURCES

Rosalind K. Fuller

BY: John R. Griffin (SEAL)  
John R. Griffin  
Secretary

Approved by the State of Maryland  
Board of Public Works on the  
1st day of May, 1996,  
by Agenda Item No. 31.

WITNESS:

STATE OF MARYLAND,  
BOARD OF PUBLIC WORKS

Sandra K. Reynold  
Sandra K. Reynold  
Secretary, Board of  
Public Works

BY: Parris N. Glendening (SEAL)  
Parris N. Glendening  
Governor

BY: Louis L. Goldstein (SEAL)  
Louis L. Goldstein  
Comptroller

BY: Richard N. Dixon (SEAL)  
Richard N. Dixon  
Treasurer

Approved as to form and  
legal sufficiency this  
2<sup>nd</sup> day of May, 1996.

Jodi R. O'Day  
Assistant Attorney General

This lease was prepared by an attorney licensed to practice law in  
the State of Maryland.

Jodi R. O'Day  
Attorney

STATE OF MARYLAND : COUNTY OF ANNE ARUNDEL : TO WIT:

I HEREBY CERTIFY THAT ON THIS 7<sup>th</sup> day of May, 1996,  
before me, a Notary Public for the state and county aforesaid  
personally appeared Hans F. Mayer known to me or satisfactorily  
proven to be the person whose name is subscribed to the foregoing  
Ground Lease, who acknowledged that he is the Executive Director of  
MARYLAND ECONOMIC DEVELOPMENT CORPORATION, a body politic and  
corporate and a public instrumentality of the State of Maryland,  
that he has been duly authorized to execute, and has executed, such  
instrument on its behalf for the purposes therein set forth, and  
that the same is its act and deed.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal,  
the day and year first above written.

Rosalind L. Fuller  
Notary Public

My commission expires on March 19, 1998.  
ROSALIND L. FULLER  
NOTARY PUBLIC STATE OF MARYLAND  
Commission Expires March 19, 1998

STATE OF MARYLAND : COUNTY OF ANNE ARUNDEL : TO WIT

I HEREBY CERTIFY THAT ON THIS 7th day of May, 1996, before me, a Notary Public for the state and County aforesaid, personally appeared John R. Griffin, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing Ground Lease, who acknowledged that he is the Secretary for the State of Maryland Department of Natural Resources, that he has been duly authorized to execute, and has executed, such instrument on its behalf for the purposes therein set forth, and that the same is its act and deed.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.

Russell L. Fuller  
Notary Public

My commission expires on March 19, 1998.  
NOTARIAL SEAL  
STATE OF MARYLAND  
Commission Expires March 19, 1998

STATE OF MARYLAND  
COUNTY OF ANNE ARUNDEL, TO WIT:

BEFORE ME THE UNDERSIGNED Notary Public of the State of Maryland, in and for the aforesaid County, personally appeared this 6th day of May, 1996 Sandra K. Reynold, Secretary of the Board of Public Works of the State of Maryland, who acknowledged the execution of the Ground Lease to be the true, lawful and voluntary act of the State of Maryland Board of Public Works.

Marion J. Bocher  
Notary Public

My commission expires on 12-1-99.

GROUND LEASE

by and between

THE STATE OF MARYLAND,  
to the use of the  
DEPARTMENT OF NATURAL RESOURCES

and

MARYLAND ECONOMIC DEVELOPMENT CORPORATION

EXHIBIT A

Metes & Bounds Description of the Land

ALL OF THAT LAND in Allegany County, Maryland, which is  
described as follows:



# Rauch, Walls and Lane, Inc.

Engineers • Design Planning • Surveyors

ALL that tract or parcel of land located in Allegany County, Maryland and more particularly described as follows:

**DESCRIPTION OF LEASE AREA FOR  
ROCKY GAP STATE PARK,  
IN THE TWENTY-FIRST ELECTION DISTRICT,  
ALLEGHENY COUNTY, MARYLAND  
IN THREE PARCELS.**

**Parcel One:**

Beginning for the same at a Point, said Point being the southwesterlymost corner of the herein described lease area and running from thence; (1) North 21 degrees 05 minutes 20.8 seconds West 1431.36 feet; thence (2) North 10 degrees 11 minutes 18.5 seconds East 1364.12 feet; thence (3) North 23 degrees 29 minutes 52.3 seconds East 875.04 feet; thence (4) North 39 degrees 50 minutes 45.2 seconds East 495.83 feet; thence (5) North 63 degrees 03 minutes 55.4 seconds East 568.17 feet; thence (6) North 80 degrees 00 minutes 52.1 seconds East 262.99 feet; thence (7) South 52 degrees 26 minutes 18.1 seconds East 764.16 feet; thence (8) South 00 degrees 00 minutes 00 seconds East 230.00 feet; thence (9) South 28 degrees 35 minutes 25.7 seconds East 242.17 feet; thence (10) by and with the arc of a curve deflecting to the left, which has a radius of 209.99 feet, for a length of 186.65 feet, the chord of which bears South 54 degrees 03 minutes 18.5 seconds East 180.57 feet; thence (11) South 79 degrees 31 minutes 11.3 seconds East 462.81 feet; thence (12) North 10 degrees 55 minutes 41.5 seconds East 518.78 feet; thence (13) North 47 degrees 27 minutes 39.7 seconds East 158.17 feet; thence (14) North 73 degrees 42 minutes 11.9 seconds East 146.50 feet; thence (15) North 32 degrees 17

minutes 30.3 seconds East 726.66 feet; thence (16) North 11 degrees 23 minutes 37.2 seconds East 532.31 feet; thence (17) North 50 degrees 57 minutes 37.1 seconds East 1651.73 feet; thence (18) South 24 degrees 26 minutes 00.0 seconds East 569.50 feet to the northwesterly side of the proposed Pleasant Valley Road right-of-way; thence by and with the northwesterly side of the said proposed Pleasant Valley Road right-of-way the following twenty-six courses and distances (19) by and with the arc of a curve deflecting to the left, which has a radius of 1930.93 feet, for a length of 175.31 feet, the chord of which bears South 23 degrees 23 minutes 25.1 seconds West 175.25 feet; thence (20) South 20 degrees 47 minutes 21.7 seconds West 122.00 feet; thence (21) by and with the arc of a curve deflecting to the right, which has a radius of 466.51 feet, for a length 113.33 feet, the chord of which bears South 27 degrees 44 minutes 55.5 seconds West 113.05 feet; thence (22) North 74 degrees 25 minutes 25.6 seconds West 27.97 feet; thence (23) by and with the arc of a curve deflecting to the right, which has a radius of 440.18 feet, for a length of 10.71 feet, the chord of which bears South 36 degrees 35 minutes 55.3 seconds West 10.71 feet; thence (24) South 26 degrees 53 minutes 47.2 seconds West 65.89 feet; thence (25) South 43 degrees 15 minutes 45.6 seconds West 472.87 feet; thence (26) by and with the arc of a curve deflecting to the left, which has a radius of 5965.00 feet, for a length of 137.62 feet, the chord of which bears South 42 degrees 36 minutes 20.1 seconds West 137.62 feet; thence (27) South 41 degrees 56 minutes 54.6 seconds West 657.22 feet; thence (28) South 41 degrees 07 minutes 14.5 seconds West 109.31 feet; thence (29) North 80 degrees 36 minutes 46.8 seconds West 36.67 feet; thence (30) South 38 degrees 33 minutes 30.3 seconds West 32.87 feet; thence (31) South 23 degrees 32 minutes 39.5 seconds West 79.75 feet; thence (32) South 21 degrees 38 minutes 54.5 seconds West 136.19 feet; thence (33) South 20 degrees 11 minutes 01.3 seconds West 149.36 feet; thence (33) South 20 degrees 28 minutes 57.5 seconds West 298.08 feet; thence (34) South 24 degrees 06 minutes 48.4 seconds West 338.83 feet; thence (35) South 16 degrees 57 minutes 51.3 seconds West 162.76 feet; thence (36) South 26 degrees 58 minutes 07.7 seconds West 178.90 feet; thence (37) South 41 degrees 36 minutes 43.2 seconds West 76.65 feet; thence (38) South 53 degrees 27 minutes 32.4 seconds

East 9.48 feet; thence (39) South 50 degrees 40 minutes 26.3 seconds West 110.67 feet; thence (40) South 66 degrees 56 minutes 44.2 seconds West 307.87 feet; thence (41) South 81 degrees 54 minutes 59.3 seconds West 43.56 feet; thence (42) North 21 degrees 50 minutes 03.5 seconds West 65.42 feet; thence (43) South 71 degrees 00 minutes 35.0 seconds West 20.02 feet to Maryland Highway No. U.S. 40/48; thence by and with the northwesterly side of the said Maryland Highway No. U.S. 40/48 the following nineteen courses and distances (44) continuing South 83 degrees 40 minutes 29.1 seconds West 24.92 feet; thence (45) North 09 degrees 01 minutes 17.0 seconds West 222.04 feet; thence (46) South 67 degrees 52 minutes 18.1 seconds West 145.00 feet; thence (47) South 12 degrees 30 minutes 24.5 seconds East 185.57 feet; thence (48) South 07 degrees 17 minutes 28.2 seconds East 45.00 feet to Parcel Three described below; thence by and with Parcel Three described below (49) South 10 degrees 11 minutes 55.4 seconds West 268.53 feet; thence (50) South 52 degrees 24 minutes 04.8 seconds West 109.35 feet; thence (51) South 56 degrees 29 minutes 35.4 seconds West 238.43 feet; thence (52) South 50 degrees 21 minutes 09.7 seconds West 457.59 feet; thence (53) South 88 degrees 23 minutes 00.8 seconds West 223.81 feet; thence (54) South 39 degrees 31 minutes 39.5 seconds West 417.53 feet; thence (55) South 03 degrees 14 minutes 22.9 seconds West 98.97 feet; thence (56) by and with the arc of a curve deflecting to the left which has a radius of 2438.10 feet, for a length of 30.52 feet, the chord of which bears South 44 degrees 52 minutes 15.6 seconds West 30.52 feet; thence (57) South 44 degrees 31 minutes 10.4 seconds West 1169.39 feet; thence (58) South 44 degrees 31 minutes 12.4 seconds West 141.63 feet; thence (59) South 44 degrees 31 minutes 11.9 seconds West 48.34 feet; thence (60) by and with the arc of a curve deflecting to the left, which has a radius of 450.00 feet, for a length of 270.42 feet the chord of which bears South 61 degrees 19 minutes 19.1 seconds West 266.37 byfeet; thence (61) South 44 degrees 30 minutes 54.8 seconds West 80.00 feet; thence (62) continuing South 44 degrees 30 minutes 54.8 seconds West 54.90 feet to the Place of Beginning; containing 230.320 Acres of Land, more or less.



**Parcel Two:**

Beginning for the same at a Point, said Point being the northerlymost corner of the herein described land; said Point also being on the southeasterly side of the proposed right-of-way line of a public road, known as Pleasant Valley Road; said Point also bears South 18 degrees 19 minutes 01.5 seconds East 143.17 feet from the end of the twenty-seventh course of the above described Parcel No. One; and from said Place of Beginning running (1) South 51 degrees 00 minutes 39.9 seconds East 466.88 feet; thence (2) South 00 degrees 14 minutes 30.0 seconds West 812.78 feet; thence (3) North 85 degrees 18 minutes 17.6 seconds East 924.90 feet; thence (4) South 51 degrees 15 minutes 00.0 seconds East 262.88 feet; thence (5) South 52 degrees 45 minutes 41.2 seconds West 80.25 feet to the northwesterly side of Maryland Highway No. U.S. 40/48; thence by and with the said northwesterly side of the said Maryland Highway No. U.S. 40/48 the following six courses and distances (6) continuing South 52 degrees 45 minutes 41.2 seconds West 313.84 feet; thence (7) South 71 degrees 50 minutes 46.0 seconds West 260.31 feet; thence (8) South 71 degrees 54 minutes 54.7 seconds West 587.76 feet; thence (9) by and with the arc of a curve deflecting to the left, which has a radius of 700.00 feet for a length of 273.41 feet, the chord of which bears South 79 degrees 51 minutes 26.1 seconds West 271.68 feet; thence (10) South 67 degrees 58 minutes 54.1 seconds West 106.78 feet; thence (11) South 73 degrees 32 minutes 35.2 seconds West 196.96 feet to the land, now or formerly of Arthur C. Howard and Doris J. Howard (Liber 216, Folio 47); thence by and with the said Arthur C. Howard and Doris J. Howard land (12) North 06 degrees 02 minutes 58.5 seconds West 293.30 feet; thence (13) North 42 degrees 25 minutes 33.6 seconds West 188.60 feet; thence; (14) North 50 degrees 31 minutes 08.7 seconds East 48.18 feet; thence (15) North 39 degrees 28 minutes 51.3 seconds West 9.00 feet; thence (16) North 50 degrees 31 minutes 08.7 seconds East 82.83 feet; thence (17) South 40 degrees 07 minutes 40.3 seconds East 201.98 feet; thence (18) North 49 degrees 58 minutes 57.2 seconds East 230.60 feet; thence (19) North 40 degrees 53 minutes 27.6 seconds West 144.79 feet; thence (20) North 56 degrees 17 minutes 41.9 seconds West 43.29 feet; thence (21) North 72 degrees 48 minutes 17.5 seconds West 42.63

feet; thence (22) South 50 degrees 31 minutes 08.7 seconds West 276.20 feet; thence (23) North 39 degrees 28 minutes 51.3 seconds West 9.00 feet; thence (24) South 50 degrees 31 minutes 08.7 seconds West 101.54 feet; thence (25) by and with the arc of a curve deflecting to the right, which has a radius of 305.00 feet, for a length of 283.09 feet, the chord of which bears South 77 degrees 06 minutes 33.9 seconds West 273.04 feet; thence (26) by and with the arc of a curve deflecting to the right, which has a radius of 41.00 feet, for a length of 33.43 feet, the chord of which bears North 52 degrees 56 seconds 42.7 seconds West 32.51 feet; thence (27) North 09 degrees 16 minutes 21.2 seconds West 93.72 feet to the proposed Pleasant Valley Road right-of-way; thence by and with the southeasterly side of the said proposed Pleasant Valley Road right-of-way the following ten courses and distances (28) by and with the arc of a curve deflecting to the left, which has a radius of 600.21 feet, for a length of 232.08 feet the chord of which bears North 33 degrees 51 minutes 27.0 seconds East 230.64 feet; thence (29) North 22 degrees 00 minutes 24.0 seconds East 56.28 feet; thence (30) South 60 degrees 35 minutes 09.4 seconds East 6.45 feet; thence (31) North 28 degrees 03 minutes 42.4 seconds East 41.06 feet; thence (32) North 22 degrees 10 minutes 35.6 seconds East 151.34 feet; thence (33) North 06 degrees 15 minutes 58.8 seconds East 41.20 feet; thence (34) North 22 degrees 00 minutes 24.0 seconds East 691.65 feet; thence (35) South 68 degrees 43 minutes 22.8 seconds East 50.00 feet; thence (36) North 27 degrees 07 minutes 58.7 seconds East 184.42 feet; thence (37) North 39 degrees 01 minutes 49 seconds East 150.56 feet to the Place of Beginning; containing 37.887 Acres of Land, more or less, and

**Parcel Three:**

Beginning for the same at a Hub and Tack found, said Hub and Tack being at the northwesterly intersection of the Right-of-Way for Through Highway I-68 ( National Freeway) leading from Cumberland to Flintstone and the Rocky Gap State Park Entrance Road, said Right-of-Way being recorded among the Land Records of Allegany County under Liber 0607, Page 974; said Hub and Tack also being at the end of the forty-eighth course of Parcel One described above; thence by and with the said Parcel One and from said Place of Beginning

running by and with the aforementioned Right-of-Way (1) North 10 degrees 11 minutes 55.4 seconds East 268.53 feet; thence by and with the new division line the following three courses and distances (2) North 82 degrees 42 minutes 31.8 seconds East 43.00 feet; thence (3) South 07 degrees 29 minutes 0.2 seconds East 183.45 feet; thence (4) South 52 degrees 24 minutes 04.8 seconds West 144.00 feet to the Place of Beginning, containing 16,932 Square Feet of Land, more or less.



RAUCH, WALLS AND LANE, INC.

By: Thomas D. Lane

Property Line Surveyor No. 340

GROUND LEASE

by and between

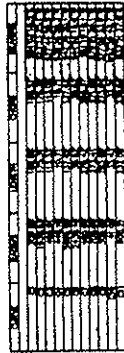
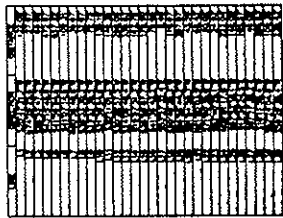
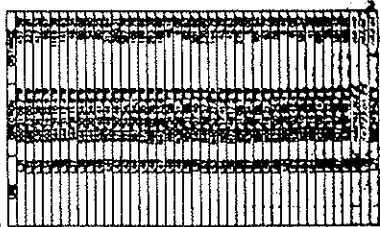
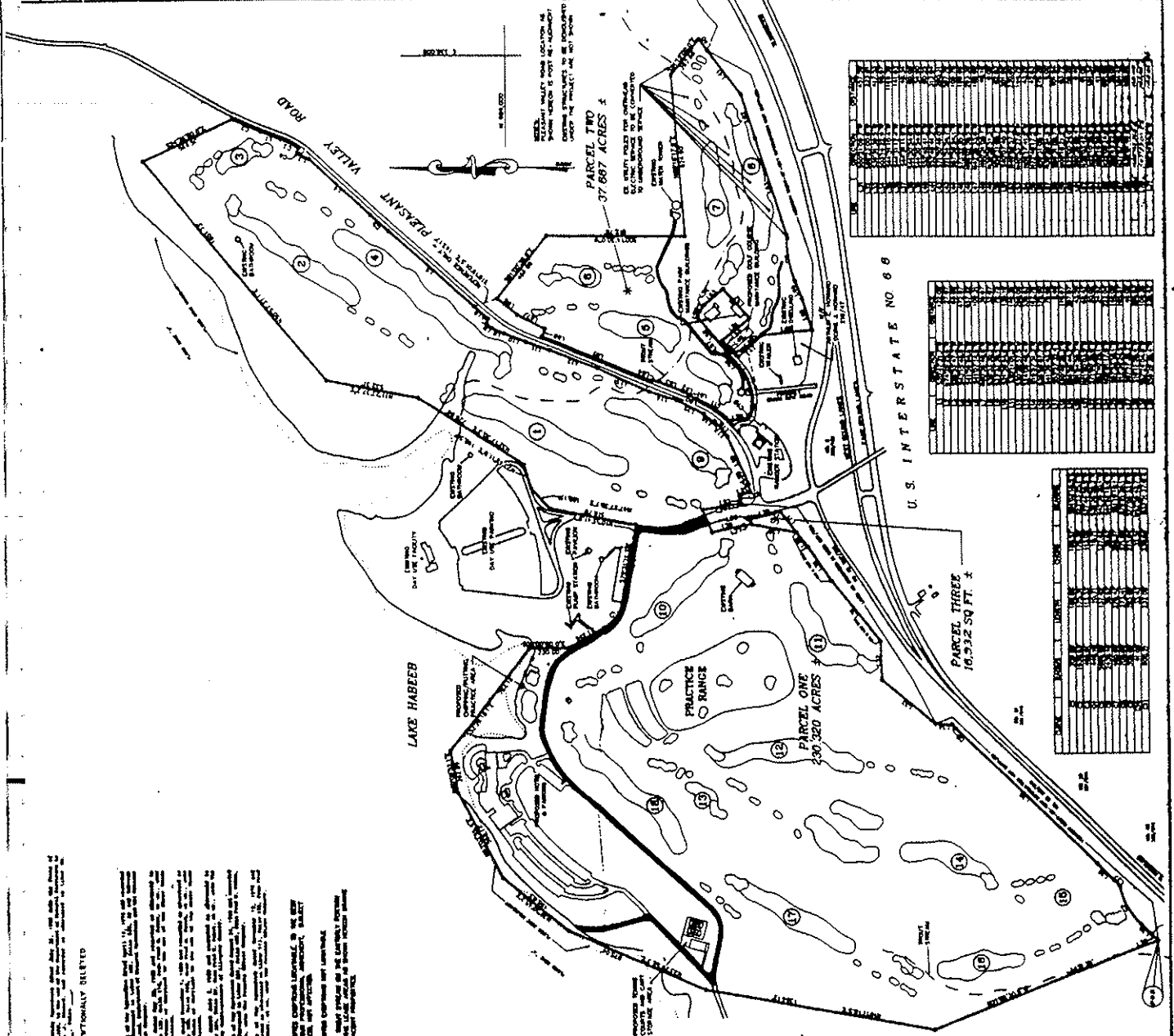
THE STATE OF MARYLAND,  
to the use of the  
DEPARTMENT OF NATURAL RESOURCES

and

MARYLAND ECONOMIC DEVELOPMENT CORPORATION

EXHIBIT B

Survey of the Land



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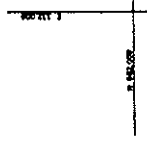
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LEGEND

LANDS ACRES

LEASING

PROPERTY



**GENERAL CONDITIONS**

The undersigned hereby certifies that the above described parcels are the property of RAUCH, WALLS & LANE, INC. and that the same are being offered for lease to the public by public auction on the date and at the place hereinabove specified. The undersigned further certifies that the above described parcels are not subject to any other lease, mortgage, or other encumbrance, and that the same are being offered for lease to the public by public auction on the date and at the place hereinabove specified. The undersigned further certifies that the above described parcels are not subject to any other lease, mortgage, or other encumbrance, and that the same are being offered for lease to the public by public auction on the date and at the place hereinabove specified.



Surveyor

State of Texas

Commission Expires

GROUND LEASE

by and between

THE STATE OF MARYLAND,  
to the use of the  
DEPARTMENT OF NATURAL RESOURCES

and

MARYLAND ECONOMIC DEVELOPMENT CORPORATION

EXHIBIT C

Schedule of Permitted Encumbrances

SCHEDULE B - SECTION I  
CONTINUED

Any Policy we issue will have the following exceptions unless they are taken care of to our satisfaction.

SPECIAL EXCEPTIONS:

1. DELETED.

*relates* 2. Deed dated July 15, 1940 from Equitable Trust Company to George E. Coffman and Loretta K. Coffman, his wife, and recorded among the Land Records of Allegany County, Maryland in Liber No. 187, folio 300. *As to parcel one.*

3. Deed dated December 14, 1935 from The Maryland-Virginia Joint Stock Land Bank of Baltimore to William E. Russell, widower, as it relates to reserved 20' Right of Way, and recorded as aforesaid in Liber No. 174, folio 150. *As to parcel one.*

4. Right of Way dated April 2, 1945, from Edward Raines and Carrie Raines, his wife, to The Potomac Edison Company and recorded as aforesaid in Liber No. 203, folio 695. *As to parcel one.*

5. That portion of the subject property lying in the bed of Beans Cove Road, as mentioned in the Deed dated July 12, 1962, from Lester Raines and Bessie B. Raines, his wife, to Charles L. Twigg and Janice E. Twigg, his wife, and recorded as aforesaid in Liber No. 348, folio 475. *As to parcel one.*

*relates* 6. Deed dated December 2, 1963 from Andrew N. McLuckie and Rebecca M. McLuckie, his wife, to the State of Maryland, for the use of the Department of Forests and Parks, in the State of Maryland, and recorded as aforesaid in Liber No. 366, folio 139. *As to parcel one.*

7. Deed dated November 8, 1955 from Andrew N. McLuckie, Rebecca McLuckie and Harry A. McLuckie to the State Roads Commission of Maryland (See Plat No. 15583) and recorded as aforesaid in Liber No. 274, folio 36. *As to Parcel two.*

8. Right of Way Agreement dated July 11, 1960 from Mildred F. Miller and Walter T. Miller, her husband, to The Potomac Edison Company and recorded as aforesaid in Liber No. 324, folio 294. *As to parcel one.*

SCHEDULE B - SECTION II  
CONTINUED

9. DELETED (PER SURVEY)

10. Right of Way Agreement dated July 11, 1960, from Andrew N. McLuckie and Rebecca M. McLuckie, his wife, to The Potomac Edison Company and recorded as aforesaid in Liber No. 324, folio 295. *Parcel two.*

*delete* 11. Deed dated December 14, 1935, from The Cumberland Real Estate Corporation to William E. Russell and The Maryland-Virginia Joint Stock Land Bank of Baltimore and recorded as aforesaid in Liber No. 174, folio 152. *AS TO parcel one.*

12. DELETED (PER SURVEY)

13. Right of Way Agreement dated November 27, 1941, from Charles Moses and Mildred F. Moses, his wife, to The Potomac Edison Company and recorded as aforesaid in Liber No. 192, folio 474. *AS TO PARCEL ONE.*

14. Right of Way Agreement dated September 3, 1951, from Boyd T. Bohrer and Laura M. Bohrer, his wife, to The Potomac Edison Company, and recorded as aforesaid in Liber No. 235, folio 269. *AS TO PARCEL ONE.*

15. Right of Way Agreement dated December 14, 1966, from Boyd T. Bohrer and Lenora M. Bohrer, his wife, to The Potomac Edison Company and recorded as aforesaid in Liber No. 405, folio 544. *AS TO PARCEL ONE.*

16. Right of Way Agreement dated August 10, 1951, from Cletus C. Smith and Sara E. Smith, his wife to The Potomac Edison Company and recorded as aforesaid in Liber No. 235, folio 277.

*delete* 17. Deed dated May 12, 1952 and recorded on May 20, 1966, from Cletus C. Smith and Sara E. Smith, his wife, to John E. Mellott and Vera D. Mellott, his wife, and recorded as aforesaid in Liber No. 396, folio 352. *AS TO PARCEL ONE*

18. Right of Way Agreement dated September 8, 1951, from Charles H. Moses and Mildred F. Moses, his wife, to The Potomac Edison Company and recorded as aforesaid in Liber No. 235, folio 272. *AS TO PARCEL ONE.*



SCHEDULE B - SECTION II  
CONTINUED

19. Right of Way Agreement dated \_\_\_\_\_, from Charles H. Moses, et ux. to The Potomac Edison Company and recorded as aforesaid in Liber No. 324, folio 294. *AS TO PARCEL ONE*
20. DELETED (PER SURVEY)
21. DELETED (PER SURVEY)
22. Right of Way Agreement dated December 15, 1966, from Mildred F. Moses Miller and Walter T. Miller, her husband to The Potomac Edison Company and recorded as aforesaid in Liber No. 405, folio 558. *AS TO PARCEL ONE*
23. Right of Way Agreement dated January 24, 1931, from Wilbert L. Mowen and Mary J. Mowen, his wife, to The Potomac Edison Company, and recorded as aforesaid in Liber No. 165, folio 186. *AS TO PARCEL ONE*
24. Right of Way Agreement dated September 3, 1951, from Wilbert L. Mowen and Mary J. Mowen, his wife, to The Potomac Edison Company and recorded as aforesaid in Liber No. 235, folio 273. *AS TO PARCEL ONE.*
25. DELETED (PER SURVEY)
26. Right of Way Agreement dated August 19, 1960, from Wilbert L. Mowen and Mary J. Mowen, his wife, to The Potomac Edison Company and recorded as aforesaid in Liber No. 326, folio 396. *AS TO PARCEL ONE.*
27. Right of Way Agreement dated December 15, 1966, from Wilbert L. Mowen and Mary J. Mowen, his wife, to The Potomac Edison Company and recorded in Liber No. 405, folio 560. *AS TO PARCEL ONE.*
- delete* 28. Deed and Memorandum of Agreement dated May 31, 1944, from Nola M. Murray and George E. Murray, her husband, to George Wittig McLuckie and Alice G. McLuckie, his wife, and recorded as aforesaid in Liber No. 200, folio 481. *AS TO PARCEL TWO.*
29. Deed dated August 22, 1966, from The State Roads Commission of Maryland, acting for and on behalf of the State of Maryland, and the State of Maryland, for the use of the Department of Forest and Parks, and recorded as aforesaid in Liber No. 401, folio 265. *AS TO PARCELS ONE and THREE.*
30. Agreement dated January 22, 1942, from Charles H. Moses, et ux. to The Potomac Edison Company and recorded as aforesaid in Liber No. 192, folio 474. *AS TO PARCEL ONE.*
- delete* 31. Deed of Easement dated June 29, 1983, from the State of Maryland to the use of the Department of Natural Resources to the City of Cumberland and recorded as aforesaid in Liber No. 536, folio 524.

SCHEDULE B - SECTION II  
CONTINUED

32. DELETED (PER SURVEY)
33. Right of Way Agreement dated October 18, 1873, from the State of Maryland for the use of the Department of Natural Resources to The Potomac Edison Company and recorded as aforesaid in Liber No.468, folio 291. *AS TO ALL PARCELS*
34. DELETED (PER SURVEY)
35. Deed dated July 14, 1981, from the State of Maryland, Department of Natural Resources to the State of Maryland to the use of the State Highway Administration of the Department of Transportation and recorded as aforesaid in Liber No. 525, folio 795. *AS TO ALL PARCELS*
36. DELETED.
37. Right of Way Agreement dated February 17, 1982, from the Department of Natural Resources to The Potomac Edison Company and recorded as aforesaid in Liber No. 531, folio 308.  
*AS TO ALL PARCELS*
38. DELETED.
39. DELETED (PER SURVEY)
40. Licensing Agreement dated July 25, 1990 from the State of Maryland, to the use of the Department of Natural Resources to Doris J. Howard, and recorded as aforesaid in Liber No. \_\_\_\_\_, folio \_\_\_\_.
41. This policy will specifically guarantee any past, present or future violations of the restrictions, building setback lines, easement areas, widening strips, partition walls or other limitations and restrictions will not work a forfeiture or reversion of the title and that the same have not been violated as of the date of this policy. (AS TO MORTGAGEE'S POLICY ONLY).
42. Right of Way Agreement dated April 14, 1976 and recorded as aforesaid in Liber 488, folio 555, by and between Maryland, Department of Natural Resources and the Potomac Edison Company.

*Deletions*

SCHEDULE B - SECTION II  
CONTINUED

43. DELETED (PER SURVEY)

44. DELETED (PER SURVEY)

45. Deed dated July 5, 1960 and recorded as aforesaid in Liber 324, folio 29, from Fred M. Pobst, et ux., unto The County Commissioners of Allegany County. *AS TO PARCEL ONE*

46. Right of Way Agreement dated August 24, 1960 and recorded as aforesaid in Liber 326, folio 468, from Fred M. Pobst, et ux, unto The Potomac Edison Company. *AS TO PARCEL ONE*

47. Right of Way Agreement dated November 13, 1979 and recorded as aforesaid in Liber 513, folio 433, from Fred M. Pobst, et ux, unto The Potomac Edison Company. *AS TO PARCEL ONE*

~~48.~~ *T/G/W and subj. to the Lease by - see ENDOUSEMENTS attached.*



GROUND LEASE

by and between

THE STATE OF MARYLAND,  
to the use of the  
DEPARTMENT OF NATURAL RESOURCES

and

MARYLAND ECONOMIC DEVELOPMENT CORPORATION

EXHIBIT D

Jack Nicklaus Contract

STATE OF MARYLAND

SERVICE CONTRACT

(I.D. No: 88-004 )

THIS CONTRACT, entered into this 10 day of February, 1988,  
by and between the

STATE OF MARYLAND,

acting through the:

DEPARTMENT OF GENERAL SERVICES  
301 West Preston Street  
Baltimore, Maryland 21201-2369

and the

DEPARTMENT OF NATURAL RESOURCES  
580 Taylor Avenue  
Annapolis, Maryland 21401-2397

hereinafter ("State"),

and

JACK NICKLAUS GOLF SERVICES  
a Division of  
GOLDEN BEAR INTERNATIONAL, INC.  
11760 U.S. Highway #1  
North Palm Beach, Florida 33401

hereinafter ("Company");

WHEREAS, the State of Maryland wishes to foster economic and recreational development throughout the State; and,

WHEREAS, the development of the substantial recreational potential of the State is a method of fostering economic development; and,

WHEREAS, the State owns substantial undeveloped land in its State park complex operated by the Department of Natural Resources; and,

WHEREAS, the State has determined that a portion of Rocky Gap State Park is suitable for the development of a golf course, resort, and conference center complex which would further the economic development of Western Maryland; and,

WHEREAS, by Chapter 121, Laws of 1987, the General Assembly has authorized the Department of Natural Resources to develop preliminary plans and other related documents for a golf course at Rocky Gap State Park; and,

WHEREAS, the State, wishes to engage Jack Nicklaus Golf Services to develop the golf course and associated activities as more fully set forth below.

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained be it agreed by and between the parties hereto as follows:

ARTICLE I -- NATURE OF CONTRACT

This Contract is for services as defined in COMAR 21.01.02.61, and is governed by the requirements of the State Finance and Procurement Article of the Annotated Code of Maryland, and Title 21 of the Code of Maryland Regulations.

ARTICLE II -- SCOPE OF WORK

A. Introduction. State intends to construct an 18-hole championship golf course in Western Maryland (the "Golf Course"). State wishes to retain Company to perform certain services in connection therewith, as hereinafter provided. For purposes of this agreement, the Golf Course does not include the following facilities: clubhouse, half-way house, shelter houses, sanitary facilities, drinking fountains, maintenance facilities, dams, bridges, cart paths, or any other facilities incidental to the Golf Course; provided that Company will consult with State and make recommendations with respect to the location and utilization of such facilities.

B. Design Services. State hereby engages Company to prepare a preliminary course routing plan for the Golf Course and to design the Golf Course, including preparation of cost estimates for the construction of the Golf Course and all plans, specifications, and drawings (the "Plan Documents") which are necessary to construct the Golf Course. The parties intend that, to the extent appropriate, the Plan Documents will consist of a general strategy plan, a contour plan, a clearing plan, a cut-and-fill plan, a grassing plan, and a bunker study plan. The Plan Documents will also include specifications supplemental to the above plans.

With the approval of State, the Company will arrange for the preparation of plans and specifications for the irrigation system for the Golf Course by a third party, without charge to State. Company will have no liability to State with respect to the design or installation of this system or the operation thereof.

Although Company will not be responsible for designing the storm drainage system for the Golf Course, Company will consult with State in relation to assembling the necessary information required for the design of this system. Company will have no liability to State with respect to the design or installation of this system or the function thereof.

The specifications for the mix of sand and organic materials for the tees and greens will be as recommended by the United States Golf Association, and testing of the mix will be performed by an independent testing laboratory recommended by the United States Golf Association. Company will have no liability to State with respect to the sand and organic materials used in the tees and greens or the performance thereof.

State will furnish to Company, at State's expense, such aerial photographs, topographical maps, certified surveys, soil reports, and other information relative to State's site as Company may require, and Company will be entitled to rely upon the accuracy thereof.

Except as otherwise provided herein, the Plan Documents are to remain the property of Company. Such reasonable number of copies of reproducible plans will be furnished to State as may be required in order to construct the Golf Course. Except as otherwise required by State law, State will not in any manner recreate, reproduce, publish, or distribute any of the Plan Documents or make any other use thereof without the prior written approval of Company.

C. Construction Consulting Services. State desires that Company consult with State in preparing for the construction of the Golf Course and render certain consulting services during the performance of the construction work on the Golf Course (the "Construction Work"), to assure that the Golf Course is constructed in accordance with the Plan Documents prepared by the Company.

1. Consultation Concerning Contracts. At the request of State, Company will consult with and make recommendations to State regarding the letting of contracts by State for the performance of the Construction Work. Company will not be a party to, nor will it be obligated under, any contracts entered into for the performance of the Construction Work, such obligations being solely the responsibility of State.

2. Consultation During Construction. Throughout the progress of the Construction Work, Company will assign one of its personnel to be on-site to consult with State, as requested by State, and to coordinate liaison between the design of the Golf Course and the performance of the Construction Work, to assure that Company's design concepts are implemented during the Construction Work. Company's principal, Jack Nicklaus ("Nicklaus"), and his project design assistant will also make occasional visits to the site during the



progress of the Construction Work. Company will not be responsible for supervising the work of any contractor, nor will Company be responsible for any contractor's improper performance or for any contractor's malfeasance or misfeasance.

D. Maintenance Consulting Services. Commencing with the grassing of the Golf Course and for a period of two years thereafter, Company will advise and consult with State concerning the maintenance and upkeep of the Golf Course. In connection therewith, Company will make visits to the Golf Course on a periodic basis, and will also visit the Golf Course during emergency situations when requested by State.

The consulting services to be rendered by Company hereunder will concern employment matters (including the selection of a course superintendent and a greenskeeper), equipment requirements, equipment maintenance procedures, turf maintenance procedures, and budget control procedures.

E. Golf Operations Consulting Services. Commencing with the execution of the agreement and continuing until the opening of the Golf Course for play, Company will advise and consult with State concerning the management and operation of the Golf Course. The Company agrees to consult with State regarding any proposed integration of the Golf Course with a hotel and conference center at the site, which may include a golf academy. In the event that State desires to proceed with such a facility in addition to the Golf Course, the parties may provide for participation of the Company in the marketing and management of the facility by separate agreement on such terms as may be mutually agreed by the parties.

F. Promotional Services. The Company agrees to consult with State for the purposes of developing a mutually acceptable strategy for using Nicklaus' role as a designer in the promotion of the Golf Course. Subject to Nicklaus' schedule, the Company agrees that Nicklaus will be involved in promotional services in a manner commensurate with similar agreements. State will not in any way use or permit the use of the name, likeness, or other identifying characteristic of Company (or of Nicklaus) in relation to the Golf Course (in brochures or other promotional material, in any public media advertisements or commercials, or otherwise) without the express written approval of Company prior to use. It is understood that such use must be limited to Nicklaus' role as designer of the Golf Course. State will submit a copy of any such proposed use to Company for approval prior to use, and any such use not disapproved by

Company within thirty (30) days after such submission will be deemed approved by Company. Although the Golf Course may be constructed in conjunction with an adjacent real estate development, State agrees that the name, likeness, or other identifying characteristic of Company or Nicklaus will not be used in the promotion of such development, it being understood that any such use must be covered by a separate agreement between Company and the developer of such development.

ARTICLE III -- COMPENSATION AND METHOD OF PAYMENT

For Company's services under this agreement, State will pay Company in accordance with the following fee schedule:

- A. \$200,000 at the time of execution of this agreement, which payment will include Company's preparation of the preliminary course routing plan for the Golf Course and cost estimates for construction of the Golf Course. (If State wishes to abandon the Golf Course project upon State's receipt of the preliminary course routing plan, then State's financial commitment to Company will be limited to the \$200,000 provided for above, plus any accrued expenses under paragraph E below. No additional work will commence on the remainder of the Plan Documents until the State notifies the Company in writing to proceed.)
- B. \$200,000 upon delivery of the contour plan.
- C. \$200,000 upon delivery of the balance of the Plan Documents.
- D. \$400,000 during the progress of the Construction Work, payable in monthly installments of \$20,000 each on or before the tenth (10th) day of each month following the commencement of the Construction Work until paid in full, provided that the entire fee will be due and payable in full upon grassing of the Golf Course.
- E. In addition to the fees for services set forth above, State will pay or reimburse Company for all reasonable expenses incurred by Company and its personnel for travel (including transportation costs, living accommodations, and meals), the rent, utilities, and transportation costs of its personnel on-site during the progress of the Construction Work, telephone, facsimile, and telex charges, postage and express delivery charges, and other related expenses in connection with performing Company's services hereunder, promptly upon Company's submission of periodic statements for such

expenses to State. The parties understand that to the extent travel may be required by Nicklaus, it may be necessary, due to his busy schedule, to make special arrangements and incur additional expenses for his travel (including use of private aircraft). For purposes of this clause, the term "reasonable" with respect to expenses (including transportation costs, living accommodations, and meals) for all Company personnel (except Nicklaus) will be construed to mean reimbursement commensurate with State regulations for State employees where possible. Where expenses exceed State employee allowances they will be reimbursed in an amount deemed reasonable and appropriate by the State. All commercial travel expenses for Company personnel (except Nicklaus) will be reimbursed at coach or equivalent rates.

Total reimburseable expenses under this clause shall not exceed \$100,000 without State's prior approval.

F. A standard billing format shall be followed including, but not limited to the Company's Federal Tax Identification Number of 59-2439293, or Social Security Number of \_\_\_\_\_, and the Contract Identifying Number set out above.

G. The parties agree that any amount due and payable under this contract that remains unpaid more than 45 calendar days after the receipt date shall accrue interest at the rate specified in Section 11-107(a) of the Courts and Judicial Proceedings Article, beginning on the 31st calendar day after the payment became due, or, if later, the receipt date. At the date of execution of this contract the above referenced interest rate is set at 10 percent per annum.

H. The parties agree that the payments to be made under section A through D of this Article represent a fair and equitable apportionment of the contract price to the work to be performed, and that absent default in the performance of the work for which such payment is due each payment shall be deemed to have been earned by Company at the time it is due from State.

#### ARTICLE IV - SCHEDULE OF DELIVERABLES

The Company shall deliver Plan Documents referenced in the Scope of Work in accordance with the following schedule:

- A. Routing Plan - 60 days from the date of execution of this agreement.
- B. Cost Estimates - 30 days after State's approval of the routing plan.
- C. Contour Plans - 60 days after State's notice to proceed with contour plans.
- D. Balance of Plan Documents - 30 days after approval of the contour plans.

ARTICLE V - COMPANY'S RIGHT TO RENEGOTIATE FEE FOR SERVICES

If construction of the Golf Course has not commenced within one year from the date of acceptance of all Plan Documents described in Article II, Scope of Work, above, then the Company will have the right to renegotiate its fee with State in accordance with prevailing market rates for similar services at that time. In determining such rates, the parties shall consider fees charged by the Company for similar projects and services. It is expressly understood by the Company, that any increase in fee resulting from such renegotiations may not exceed existing appropriations and must be approved by the Board of Public Works. It is expressly understood that any renegotiated fee which exceeds the existing appropriation for this contract is contingent upon approval of additional appropriations by the General Assembly. For purposes of this covenant, construction will be deemed to have commenced with the commencement of the State bidding process.

ARTICLE VI - INDEPENDENT CONTRACTOR

The Company is not an employee of the State but is an independent contractor as that term is normally defined. The Company shall be responsible for providing all supplies and materials necessary for performance of all work under the Contract, and for withholding any taxes and social security payments due in relation to the Contract. The Company is not an agent of any department of the State of Maryland, and cannot commit the State or any of its units to any expenditure of funds, or enter into any contractual obligation on behalf of the State.

ARTICLE VII - WARRANTY

The Company agrees to prosecute all work under this Contract continuously and diligently, and to meet all milestones contained in the Scope of Work and Schedule of Deliverables, Articles II and IV, above. The Company shall be responsible for the supervision and inspection of, and the technical accuracy and coordination of all data and work furnished by the Company pursuant to this Contract, and shall produce a product

meeting customary standards of quality and methodology.

ARTICLE VIII - MODIFICATIONS TO SCOPE OF WORK

The State, by written direction to the Company, may make additions and changes within the general subject matter of this Contract. Within fifteen (15) days of receipt of a Notice of Change, the Company shall advise the State of the effect, if any, such changes would have on budgeting, cost, delivery schedules, milestones or any other Contract provisions. If such effects are acceptable to the State, the State shall issue a Notice to Proceed With Changes, upon receipt of which, the Company shall immediately institute all such requested changes. Such directed additions or changes to the Scope of Work shall become part of the contractual obligation.

It is agreed and understood that if any substantial change is made in the Golf Course without the approval of the Company with respect to both design concept and construction execution, then thereafter State will not have the right to state or represent in any manner that the course, as so changed, was designed by Company, (or by Nicklaus).

ARTICLE IX - RETENTION OF RECORDS - AUDIT

The Company shall retain and maintain all records and documents relating to the services to be performed under this Contract for a minimum period of three years after payment of the final voucher by the State, and shall make them available for inspection and audit by the State.

The State shall have the right, during usual business hours, to examine and audit pertinent records of the Company to verify invoices submitted pursuant to this Contract.

ARTICLE X - SUBLETTING OR ASSIGNING OF CONTRACTS

The benefits and obligations hereunder shall inure to and be binding upon the parties hereto and their respective successors, provided that neither this agreement nor any rights hereunder may be assigned directly or indirectly by either party without first receiving the prior written consent of the other party. Notwithstanding the foregoing, Company may assign this agreement to another entity controlled by Nicklaus, and Company may assign its rights to payment of some or all of its compensation hereunder without such consent, and State agrees that Company's services hereunder may be performed in part by other entities under common control with Company. Furthermore, Company agrees that State may assign its rights hereunder to another entity controlled by or under common control with State; and the term "State", as used herein, will refer

to any such assignee of State, and any such assignee of State will be bound by all the terms and conditions of this agreement.

In the case of any subcontract, the Company agrees to bind the Subcontractor and every Subcontractor agrees to be bound by all terms of this Contract unless particular provisions are expressly waived in writing by the State.

#### ARTICLE XI - INDEMNITY/INSURANCE

The Company will be responsible for all damage to life and property due to its activities, or those of its agents, employees, or subcontractors, in connection with its performance under this Contract, and will be responsible for all work, both permanent and temporary, until all services under this Contract are declared accepted by the State. Company shall at all times have and maintain sufficient comprehensive liability insurance to cover its activities while performing this contract. In addition, it is the intent of the parties that the Company will be responsible for all damages arising out of its design services and construction consulting services described in this agreement to the extent that such damages may be attributable to the Company's negligence or malfeasance. To this end the Company agrees to maintain either professional liability or general comprehensive liability coverage in suitable amounts covering its own design and construction consulting services for a period of not less than 10 years from the date the Golf Course first becomes available for its intended use.

During construction of the Golf Course, State agrees to require its contractors and subcontractors to have and maintain comprehensive Liability Insurance in the following minimum amounts: for bodily injury, One Million Dollars (\$1,000,000) per occurrence, Five Hundred Thousand Dollars (\$500,000) per person; and for property damage, Five Hundred Thousand (\$500,000) per occurrence. State further agrees to require the contractors and subcontractors to name the Company and Nicklaus as co-insured parties with State.

After completion of the Golf Course and its opening for play by the public, State agrees to require any concessionaire or contractor responsible for the management and operation of the Golf Course to maintain comprehensive Liability Insurance in the following minimum amounts: for bodily injury, One Million Dollars (\$1,000,000) per occurrence, Five Hundred Thousand (\$500,000) per occurrence. State further agrees to require any such concessionaire or contractor to name the Company and Nicklaus as co-insured parties with State. State will require its concessionaire or contractor to supply

Company with a certificate of such insurance from the insurance carrier, which certificate will require the insurance carrier to give Company prior written notice of any cancellation of such insurance.

ARTICLE XII - ACCIDENT PREVENTION

The Company shall at all times exercise such precautions as may be necessary for the safety of its employees during the course of performance of this Contract, and shall comply with all applicable federal, state, and local safety laws and regulations.

ARTICLE XIII - COVENANT AGAINST CONTINGENT FEES

The Company warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the Company to solicit or secure this agreement, and that he has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any fee or any other consideration contingent on the making of this Contract. The Company further agrees that for breach of such warranty the State shall have the right to terminate this Contract without liability, or in its discretion, to deduct from the Contract price or consideration the full amount of such fee or other consideration.

ARTICLE XIV - NON-DISCRIMINATION

It is understood that the provisions of Title VII of the Civil Rights Act of 1964 are hereby included in this Contract to the end that no person in the United States shall, on the grounds of race, color, handicap, sex, religion, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination; under this Contract. It is further understood that the provisions of Article 49B, Sections 14 to 18 (Discrimination in Employment) of the Annotated Code of Maryland (1986 Replacement Volume), as may be amended from time to time, are incorporated by reference and are made a part of this Contract. Notice of such non-discrimination requirements shall be posted in conspicuous places available to employees and applicants for employment in connection with this Contract. Non-compliance with this Article shall be governed by the provisions of Section 13-406 of the State Procurement Article.

ARTICLE XV - SANCTIONS UPON IMPROPER ACTS

In the event the Company, or any of its officers, partners, principals or employees, is convicted of a crime arising out of or in connection with the procurement, performance, or payment of this Contract, the Contract shall, in the discretion of the

State, be terminated without liability. Such sanction shall be applicable, as appropriate and in the discretion of the State, to any such conviction during, or after the expiration of, the term of the Contract.

ARTICLE XVI - EMPLOYMENT OF STATE AND FEDERAL EMPLOYEES BY

CONTRACTING PARTY

No employee of the State of Maryland, or any department, commission, agency, or branch thereof, whose duties as such employee include matters relating to or affecting the subject matter of this Contract, shall, while such employee, become or be an employee of the party or parties hereby contracting with said State of Maryland, or any department, commission, agency or branch thereof.

For purposes of this Article, a member of the General Assembly shall not be considered an employee of the State of Maryland or of a department, commission, agency or branch thereof.

ARTICLE XVII - COST AND PRICE CERTIFICATION

As applicable to this contract, the Company shall submit cost and price information as required by and in accordance with Section 13-403 of the State Procurement Article.

ARTICLE XVIII - DISPUTES

This Contract is subject to the provisions of Title 17, State Finance and Procurement Article (Administrative and Civil Remedies) of the Code and COMAR 21.10.

Except as may otherwise be provided in the Act or aforesaid regulations, all disputes arising under or as a result of a breach of this Contract which are not disposed of by mutual agreement shall be resolved in accordance with this clause.

As used herein, "claim" means a written demand or assertion by one of the parties seeking, as a legal right, the payment of money, adjustment or interpretation of contract terms, or other relief, arising under or relating to this Contract.

(1) A voucher, invoice, or request for payment that is not in dispute when submitted is not a claim under this clause. However, where the submission is subsequently not acted upon in a reasonable time, or disputed either as to liability or amount, it may be converted to a claim for the purpose of this clause.

(2) A claim by a Company shall be made in writing and submitted to the procurement officer for decision. A claim by the State shall be the subject of a decision



by the procurement officer.

When a controversy cannot be resolved by mutual agreement, the Company shall submit a written request for final decision to the procurement officer. The written request shall set forth all the facts surrounding the controversy.

In connection with any claim under this clause, the Company, at the discretion of the procurement officer, may be afforded an opportunity to be heard and to offer evidence in support of his claim.

The procurement officer shall render a written decision on all claims within 180 days of receipt of the Company's written claim, unless the procurement officer determines that a longer period is necessary to resolve the claim. This decision shall be furnished to the Company, by certified mail, return receipt requested, or by any other method that provides evidence of receipt. The procurement officer's decision shall be deemed the final action of the State. If a decision is not issued within 180 days, the Procurement officer shall notify the Company of the time within which a decision shall be rendered and the reasons for such time extension.

The procurement officer's decision shall be final and conclusive unless the Company mails or otherwise files a written appeal with the Maryland State Board of Contract Appeals within 30 days of receipt of the decision.

Pending resolution of a claim, the Company shall proceed diligently with the performance of the Contract in accordance with the procurement officer's decision.

#### ARTICLE XIX - TERMINATION FOR DEFAULT

If the Company fails to fulfill its obligations under this contract properly and on time, or otherwise violates any provision of the contract, the State may terminate the contract by written notice to the Company. The notice shall specify the acts or omissions relied on as cause for termination. All finished or unfinished supplies and services provided by the Company, shall at the State's option, become the State's property. The State shall pay the Company fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by Company's breach. If the damages are more than the compensation payable to the Company, the Company will remain liable after termination and the State can affirmatively collect damages.

#### ARTICLE XX - TERMINATION FOR CONVENIENCE OF THE STATE

At any time after the State has issued a notice to the Company to proceed with

the contour plan as set forth in Article III A above, the performance of work under this contract may be terminated by the State in accordance with this clause in whole, or from time to time in part, whenever the procurement officer shall determine that such termination is in the best interest of the State. The State will pay all reasonable costs associated with this contract that the Company has incurred up to the date of termination and all reasonable costs associated with termination of the contract. However, the Company shall not be reimbursed for any anticipatory profits which have not been earned up to the date of termination.

**ARTICLE XXI - BRIBERY AFFIDAVIT**

Pursuant to Section 13-405(h) of the State Procurement Article, the individual executing this Contract on behalf of the Company solemnly declares and affirms, to the best of his knowledge, information and belief, that no officer, director or partner of the Company, or any of its employees directly involved in obtaining contracts with the State of Maryland or any political subdivisions thereof, has been convicted of bribery, attempted bribery, or conspiracy to bribe under the laws of any state or federal government.

**ARTICLE XXII - CORPORATE CERTIFICATION**

If the Company is incorporated, this Contract shall be void ab initio unless it is accompanied by an executed CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT as set out in Exhibit F to COMAR 21.07.01.

**ARTICLE XXIII - MULTI-YEAR RESTRICTION**

If the term of this Contract extends into future fiscal years of the State, this Contract shall terminate automatically upon the failure of the General Assembly to appropriate funds for such future performance.

**ARTICLE XXIV - EFFECTIVE DATE**

It is understood and agreed by the parties hereto that this Contract and any modification thereof shall not become effective or enforceable until executed by the State.

**ARTICLE XXV - LAW APPLICABLE**

This Contract shall be governed by the laws of the State of Maryland, and the parties hereby expressly agree that, except as provided in Article XVIII, the courts of the State of Maryland shall have exclusive jurisdiction to decide any question arising hereunder.

The Company will observe and comply with all federal, state, and local laws and

ordinances that affect, in connection with this Contract, the work to be performed, those employed or engaged in connection therewith, any material or equipment used, or the conduct of the work itself; and will procure and bear the expense of all necessary licenses, permits, and insurance.

ARTICLE XXVI - NOTICES AND PAYMENTS

Except as otherwise required by this contract all notices and other written communications between the parties and all payments to Company under this agreement will be made at the address for the receiving party set forth at the beginning hereof or at such other address as either party may hereafter specify for itself in writing from time to time to the other party. Written communications will be deemed made or given to a party when so addressed to the party and deposited in the United States mail, first-class postage prepaid.

ARTICLE XXVII - SEVERABILITY

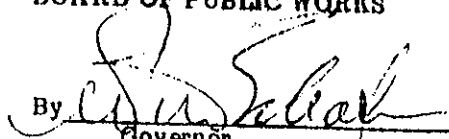
It is understood and agreed by the parties hereto that if any of these provisions shall contravene, or be invalid under, the laws of the particular state, county or jurisdiction where used, such contravention or invalidity shall not invalidate the whole agreement, but the Contract shall be construed as if not containing the particular provision or provisions held to be invalid in the said particular state, county, or jurisdiction, and the rights and obligations of the parties shall be construed and enforced accordingly. In the event that the affected provisions have a material adverse effect upon the rights or obligations of a party, such party shall have the option to renegotiate the terms of the contract.

ARTICLE XXVIII -- MERGER

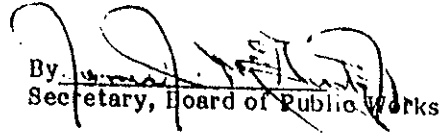
This Contract embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations referring to the subject matter, other than those contained herein or incorporated herein by reference.

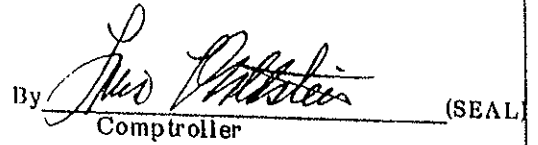
IN WITNESS WHEREOF, the parties have executed this Contract, I.D. No: 88-004, by causing the same to be signed on the day and year first above written.

BOARD OF PUBLIC WORKS

By  (SEAL)  
Governor

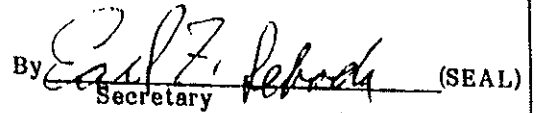
ATTEST

By   
Secretary, Board of Public Works

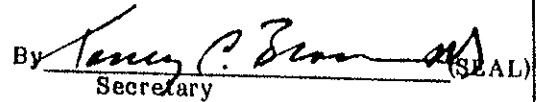
By  (SEAL)  
Comptroller

By  (SEAL)  
Treasurer

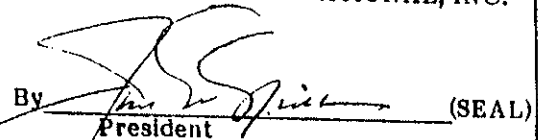
STATE OF MARYLAND  
DEPARTMENT OF GENERAL SERVICES

By  (SEAL)  
Secretary

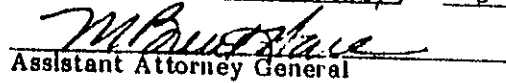
STATE OF MARYLAND  
DEPARTMENT OF NATURAL  
RESOURCES

By  (SEAL)  
Secretary

GOLDEN BEAR INTERNATIONAL, INC.

By  (SEAL)  
President

Approved as to form and legal sufficiency  
this 9th day of FEBRUARY, 19 88.

  
Assistant Attorney General

GROUND LEASE

by and between

THE STATE OF MARYLAND,  
to the use of the  
DEPARTMENT OF NATURAL RESOURCES

and

MARYLAND ECONOMIC DEVELOPMENT CORPORATION

EXHIBIT E

Management Agreement

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MARYLAND ECONOMIC DEVELOPMENT CORPORATION

and

BUENA VISTA HOSPITALITY GROUP, INC.

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DEVELOPMENT AND MANAGEMENT AGREEMENT

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\$31,300,000  
MARYLAND ECONOMIC DEVELOPMENT CORPORATION  
REVENUE BONDS  
(ROCKY GAP GOLF COURSE AND HOTEL/MEETING CENTER PROJECT)  
SERIES 1996 A AND B

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Dated as of May 9, 1996

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DEVELOPMENT AND MANAGEMENT AGREEMENT

THIS AGREEMENT is made and entered into as of this 9th day of May, 1996 by and between Maryland Economic Development Corporation (hereinafter referred to as "Owner") and Buena Vista Hospitality Group, Inc., a Florida Corporation (hereinafter referred to as "Operator").

WITNESSETH:

WHEREAS, Operator has engaged in the development, pre-opening and management of numerous and diverse hotels, resorts, golf courses, condominiums, restaurants, recreational facilities and inns, and, as a result, has developed unique and specialized knowledge and expertise in regard to such activities; and

WHEREAS, Owner is desirous of developing a resort in Cumberland, Maryland to be known as "Rocky Gap Lodge and Golf Resort", consisting of a hotel, containing approximately two hundred twenty guest rooms, an eighteen hole championship golf course, restaurants, meeting facilities and numerous recreational amenities (all hereinafter referred to as the "Property"); and

WHEREAS, Owner is desirous of engaging Operator to utilize its specialized knowledge and expertise in providing comprehensive services in the development, pre-opening and operation of the Property; and

WHEREAS, Operator is desirous of being engaged to perform said services for Owner.

NOW THEREFORE, in consideration of the Recitals and Mutual Covenants contained herein, and other good and valuable consideration, the receipt of which is hereby acknowledged, Owner and Operator agree, as follows:

ARTICLE I

DEFINITIONS

1.1 "Affiliates" All corporations, partnerships and other entities directly or indirectly controlled by, controlling or subject to direct or indirect common control by the same person and/or entity or entities, and each of their respective agents, employees, officers and directors.

1.2 "Compensation" The direct salaries and wages paid to any executive or other employee of Operator with respect to the Property together with all fringe benefits to which such employee is entitled, including employer's contribution to F.I.C.A., unemployment compensation or other employment taxes, workers' compensation, group life and accident and health insurance premiums, and other similar benefits, regardless of whether such persons are employees of Owner or of Operator. The parties agree that compensation shall be reasonable given industry standards.

1.3 "Commencement Date" The date of signature of this Agreement.

1.4 "Formal Opening Date" The date that the Property is first opened for business by Owner as determined by Owner in its sole discretion.

1.5 "Furnishings and Equipment" All furniture, furnishings, and equipment required for the operation of the Property, shops and concessions; including, without limitation, office furniture and equipment, safes, cash registers, and accounting, duplicating and communication equipment; specialized equipment, equipment required for the operation of the golf course, kitchens, entertainment



facilities, laundries, dry cleaning facilities, bars and cocktail lounges; special lighting and other equipment; and all other fixtures, equipment, apparatus and personal property needed for such purpose.

1.6 "Impositions" All taxes, assessments, water, sewer or other rents, rates and charges, levies, license fees, permit fees, inspection fees, and any other authorization fees and charges, which at any time may be assessed, levied, confirmed or imposed on the Property and operation thereof.

1.7 "Indenture" The Trust Indenture by and between Owner and the Trustee pursuant to which bonds are being issued to finance a portion of the costs of construction of the Property.

1.8 "Insurance Requirements" All terms of each insurance policy, and all orders, rules, regulations and other requirements of the National Board of Fire Underwriters (or any other body exercising similar functions) applicable to the Property and the operation thereof.

1.9 "Legal Requirements" All laws, statutes, ordinances, orders, rules, regulations, permits, licenses, authorizations, directions and requirements of all governments and governmental authorities that, now or hereafter, may be applicable to the Property and the operation thereof as described herein.

1.10 "Negligence" Operator shall be considered negligent to the extent that its actions represent a breach of the prevailing industry standards and customs.

1.11 "Operating Year" An Operating Year shall be the 12-month period beginning April 1 and ending the following March 31, except

for the first Operating Year, which shall be the period commencing on the Formal Opening Date and ending on March 31 of the following year.

1.12 "Records" All information regarding the Property, including, but not limited to accounting books and records, reservations, group booking files and personnel files.

1.13 "Trustee" The entity appointed as such under the Indenture. The Trustee is initially First Union National Bank, Philadelphia, Pennsylvania.

## ARTICLE II

### ENGAGEMENT OF OPERATOR

2.1 Engagement. Owner hereby engages and appoints Operator to act as its sole and exclusive agent in connection with the supervision, direction and control of the development in conjunction with design architects and engineers, pre-opening and management of the Property on behalf of Owner, as a first class facility in accordance with and in a manner consistent with the standards prescribed in this Agreement.

2.2 Relation of the Parties. In performing any services or taking any action pursuant to this Agreement, Operator shall act only as the agent or representative of Owner and nothing contained in this Agreement shall be construed as creating an employer-employee, tenancy, partnership, joint venture or any other relationship between the parties, hereto, except that of principal and agent.

ARTICLE III

TERM OF AGREEMENT

3.1 The term of this Agreement shall commence on the Commencement Date and shall expire five (5) years after the Commencement Date, subject to termination as provided herein; provided, however, that Owner shall have the right to terminate the Agreement at any time after the end of three (3) years after the Commencement Date by providing at least ninety (90) days prior notice to Operator.

ARTICLE IV

DUTIES AND RESPONSIBILITIES OF OPERATOR

4.1 Development Phase. In coordination with Owner, Operator shall perform the following services in connection with the development of the Property:

- a. Complete development of the feasibility and the design of the Property and the operating and marketing plans for the Property (including pro formas and statistical analyses) and revision of each, as may be necessary;
- b. Review and advise regarding preliminary budgeting and development costs regarding hotel/golf furnishings, fixtures and equipment as these items pertain to the construction costs;
- c. Review preliminary and final drawings and specifications to assist in budget coordination and optimizing design relative to the marketing and operation of the Property;

- d. Review working drawings and final specifications to ensure that minimum cost, operational value and guest preference requirements will be met;
- e. Meet with architects and contractors on periodic basis to perform site inspections and coordinate sequence of work and field changes during construction;
- f. Conduct operational analysis and provide recommendations regarding interior design and purchasing of furniture, fixtures and equipment; convention and meeting room layouts; food and beverage conceptualization and technical requirements; front desk technical layout; audio-visual requirements; paging and background music; room status systems; laundry systems; guest room televisions and movie systems; telephone systems; computer systems (including but not limited to internal accounting, reservations, food and beverages); design and function of recreational areas; and design and functions of golf course, pro shop, practice facilities and golf course maintenance facilities;
- g. Integrate Property into pre-existing and contemplated marketing and reservation systems and programs of Operator; and
- h. Provide such other development services as shall be necessary or reasonably requested by Owner.

4.2 Pre-Opening Phase. In coordination with Owner, Operator shall perform the following services in connection with the pre-opening of the Property:

- a. Continuation of services, as set forth in Paragraph 4.1 herein, as may be necessary in furtherance of the most advantageous and strategical opening and operation of the Property;
- b. Submission to Owner, no more than 45 days after the Commencement Date, of a pre-opening budget of costs to be incurred from the Commencement Date to the Formal Opening Date, subject to approval by Owner;
- c. Submission to Owner, at least one hundred eighty (180) days prior to the Formal Opening Date, of a pre-opening market plan (including a pre-sell strategy and pre-sell programs), to be continued on an ongoing basis, following the opening of the Property, subject to approval by Owner;
- d. Recruitment and supervision of an effective on-site sales and management team;
- e. Negotiation and consummation of arrangements with concessionaires, licensees and other intended participants in the operation and use of the Property;
- f. Submission to Owner, at least one hundred eighty (180) days prior to the Formal Opening Date, of an operational plan and budget for the Property, encompassing the first year of operation, subject to approval by Owner; and
- g. Submission to Owner, at least one hundred eighty (180) days prior to the Formal Opening Date, of a marketing plan and budget for the Property, encompassing the first

year of operation of the Property, subject to approval by Owner.

4.3 Operation Phase. In coordination with Owner, Operator shall perform the following services in connection with the operation of the Property:

a. Management Services

- (i) General. Operator shall establish and implement the day-to-day operating policies, standards of operation and quality of services, as well as other matters that affect the business of the Property and shall manage the Property in a manner consistent with the standards and procedures of a first class hotel and recreational facility consistent with the operation of other hotels and recreational facilities of the same or similar type, class and quality as the Property. In so doing, Operator shall consult with and keep Owner fully advised as to all major policy and procedural matters, relating to the Property.
- (ii) Annual Operating and Marketing Plan and Capital Budget. Operator shall prepare and submit to Owner, on or before the last day of the tenth month of each Operating Year, an operating and marketing plan and capital budget for the ensuing operating Year ("Annual Plan"). The Annual Plan shall include recommendations for replacement, renewals, alterations, additions and improvements. Each

Annual Plan shall be submitted to Owner for its review and approval. If Owner and Operator do not agree on the Annual Plan for any Operating Year, then the Annual Plan for the immediately preceding Operating Year shall remain in effect until Owner and Operator agree on a revised Annual Plan; provided, however, that, if Owner and Operator do not agree on the Annual Plan for the first Operating Year, such Annual Plan shall remain in effect until the parties agree on a revised Annual Plan. Operator shall diligently attempt to comply with the Annual Plan for each full Operating Year; provided, however, the aggregate expenditures made by Operator without Owner's prior approval shall not exceed the aggregate budgeted expenditures, as provided in the then applicable Annual Plan, by more than ten percent (10%). Notwithstanding the foregoing, Operator shall be entitled to make, upon prior notice to Owner, additional expenditures not provided in the then applicable Annual Plan to the extent necessary in case of emergencies or to comply with any applicable legal or insurance requirements.

b. Personnel

- (i) Operator shall hire, train, promote, discharge and supervise all on-site management personnel, including the general manager, the assistant

managers, department heads, and other key personnel of the Property, and through them shall supervise the hiring, training, promotion, discharge and work of all other on-site operating and service employees.

(ii) Each employee shall be the employee of Operator. Every person performing services in connection with this Agreement, including Operator, any agent or employee of Operator or its Affiliates or any agent or employee of Owner hired or supervised by Operator, shall be and is the agent of Owner. All compensation, taxes and employee benefits of all such employees and agents shall be paid for by Owner.

(iii) Operator will negotiate with any labor union lawfully entitled to represent any on-site employees at the Property, but, any collective bargaining agreement or labor contract resulting, therefrom, must be reviewed and approved by Owner prior to execution.

c. Sales and Marketing. Operator shall cause the Property to participate in sales and promotional campaigns and, as appropriate, activities involving complimentary rooms and food and beverages for travel agents, tourist officials and airline representatives. Operator shall have the right to grant complimentary rooms and food and beverages to the General Manager, his family, and personnel



employed by Owner and Operator when same is customary in the travel industry or in Operator's standard practice or policy; provided, however, that such complimentary services described herein shall not exceed a total of \$25,000 in an Operating Year without the prior approval of Owner and that such complimentary services are in the best interests of Owner.

Operator, on behalf of Owner, shall institute and supervise a sales and marketing program and shall coordinate and cooperate with the local and international sales and marketing programs of Operator and shall also coordinate with tour programs marketed by airlines, travel agents and government tourist departments, as maybe in the best interest of Owner.

- d. Maintenance and Capital Replacement. Owner recognizes the necessity of a program of replacement of furnishings, fixtures and equipment and the need to cause the Property to continue to be furnished, equipped, repaired, decorated, altered, improved and landscaped in accordance with the standards described herein. Both parties recognize that such items may not require expenditure for maintenance and repairs in any given year, but that average costs thereof shall be reflected in the Annual Budgets. Annual deposits (less any investment earnings remaining from prior deposits) beginning with the Operating Year ending March 31, 1999 into a reserve to be held by the Trustee of not less than three percent (3%)

of Gross Revenues (as defined in Section 5.2) of the Property for such Operating Year shall be established for such items but only to the extent moneys are available from the operation of the Property and then only in the sole discretion of Owner. In determining the Annual Budget, Operator will recommend Owner to approve as to whether such reserve should be increased, it being understood that Owner will endeavor to maintain such reserve in an amount sufficient to meet the standards established hereunder and that such reserve shall be funded solely from moneys resulting from the operation of the Property and not from any other moneys of Owner and then only in the sole discretion of Owner. If Owner should fail to deposit into the reserve the amounts required herein for three (3) consecutive years, Operator shall have the right to terminate this Agreement upon ten (10) days prior notice to Owner and Owner shall have no further obligations to Operator except as provided in Section 8.4. Operator shall make all repairs, decorations, revisions, alterations and improvements to the Property, as well as maintain its furnishings and equipment, as may be necessary for proper maintenance of the Property in good order, condition and repair. In so doing, Operator shall have the right to enter into agreements for the providing of such services, furnishings and equipment; provided, however, that Operator shall be required to obtain the consent of Owner

before entering into any agreement involving: (i) any structural repair or rehabilitation of the buildings, (ii) any fundamental change in the character of the buildings or landscape of the Property, (iii) reduction in the value of the Property, (iv) adverse impact to the operation of the Project or Rocky Gap State Park or (v) a term in excess of one year. Owner's consent shall not be required for the repair or replacement of any furnishings, fixtures and equipment provided for in the approved Annual Plan, requiring an expenditure of less than \$5,000.00 per Operating Year, or such other amount as agreed to by the parties from time to time, taking into account inflation and other economic factors. Consent of Owner to any expenditure in excess of any such amount must be in writing. Owner shall, upon presentation of a request satisfactory in all respects, advance necessary funds.

Operator shall have the right to make such alterations, additions or improvements in or to the Property, in accordance with the then approved Annual Plan, as are consistent with the standards established hereunder; provided, however, that Operator shall not expend in excess of \$5,000 per Operating Year for expenditures not included in the Annual Plan without the prior written approval of Owner. The cost of such alterations, additions or improvements shall be charged directly to current expenses of the Property and shall be

capitalized and amortized on the books of account of the Property in accordance with standard accounting practices, consistently applied.

In the event that, at any time during the term of this Agreement, repairs or additions to or changes in the Property shall be required by reason of any laws, ordinances, rules or regulations now or hereafter in force, or by proper and lawful order of any governmental or municipal power, department, agency, authority, or officer, such repairs or changes shall be made at the direction of Operator, with notice to, but without the consent of, Owner; provided that Operator shall use its best efforts to consult, in advance, with Owner with respect to such changes, additions or repairs.

- e. Accounting Services. Operator shall maintain a complete accounting system in connection with its management of the Property. The Records shall be kept in accordance with generally accepted accounting principles consistently applied and as reflected in the current edition of the Uniform System Accounts for Hotels and Recreational Facilities.

Operator shall cause a certified audit of the Property to be performed annually by a public accounting firm designated by Owner, and at least three (3) copies thereof shall be furnished promptly to each party but in no event more than 180 days of the end of the Operating Year.

On or before the twentieth (20th) day of each month, Operator shall furnish Owner with an unaudited operating statement, detailing the gross income received from rooms, golf operation, club operation, food and beverages and other sources, guest room occupancy percentages, average room rates, and total expenses paid, including management fees and other amounts paid to Operator, during the preceding month.

- f. Other Services. Operator shall perform or cause to be performed, the following other services for the Property (all of which shall be negotiated on a fair and reasonable basis), unless otherwise directed by Owner:
- (i) Negotiation and consummation of arrangements with concessionaires, licensees or other intended users of the facilities of the Property;
  - (ii) Entering into contracts for the furnishing of utilities, maintenance and other services to the Property;
  - (iii) Paying of all Impositions;
  - (iv) Institution, on behalf of Owner, after notification to Owner, of any and all legal actions or proceedings to collect charges, rent and other income due the Property or to dispossess guests or other persons in possession, therefrom, or to cancel or terminate any license or concession agreement for default, thereunder, by any licensee or concessionaire;

- (v) Supervision in conjunction with Owner of the placing of all insurance on the Property and on all Furnishings and Equipment against all risks usually covered in the case of similar properties, including, but without limitation, fire, boiler, elevator, plate glass, worker's compensation, liability and fidelity insurance, and all other usual insurance (which insurance shall also cover any liability of Operator);
- (vi) Placing and supervision of all advertising and promotional materials; and
- (vii) Supervision and management of the operation of all public space of the Property.

g. Licenses or Franchise Agreements; Assignment by Operator. Operator shall not enter into any licenses or franchise agreements with any other entity in connection with the operation of the Property. Operator shall not subcontract for or assign its obligations under this agreement without the prior written consent of Owner.

#### ARTICLE V

##### COMPENSATION AND REIMBURSEMENT OF OPERATOR

5.1 Development and Pre-Opening Services. In consideration for the development and pre-opening services, excluding all travel expenses and out-of-pocket expenses to be incurred by Operator and its Affiliates hereunder, Operator shall receive a Development and Pre-Opening Fee of Ten Thousand Dollars (\$10,000.00) each month in

arrears from the Commencement Date to the Formal Opening Date prorated for any partial month.

5.2 Management Services. In consideration for the management and operating services to be rendered hereunder, Operator shall be entitled to a Basic Management Fee, beginning on the Formal Opening Date in monthly installments in arrears, concurrently with the delivery of the monthly operating statement. The Basic Management Fee shall be equal to twenty thousand (\$20,000.00) dollars per month prorated for any partial month plus one percent (1%) of the Gross Revenues (hereinafter defined) of the Property for the respective month, adjusted for any actual bad debt expense. The fixed portion of the Basic Management Fee based on the fixed monthly payments shall be increased by the CPI annually. As used herein, "CPI" means the Consumer Price Index U.S. City Average for All Items for All Urban Consumers (Base Year 1982-1984 = 100 or such other base year as then in use), as published by the U.S. Department of Labor, Bureau of Labor Statistics. If the Consumer Price Index is discontinued or revised during the term hereof, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would have been obtained if the CPI had not been discontinued or revised. If the CPI is discontinued and no government index or computation replaces same, the parties hereto shall in good faith agree upon a suitable substitute in order to carry out the provisions hereof and the intent of the parties. The portion of the Basic Management Fee that is based on Gross Revenues shall not exceed the amount of the annual Basic Management Fee based on the

fixed monthly amount. "Gross Revenues" shall mean and include all revenues and income of any kind derived, directly or indirectly, from the operation of the Property (including store and building rentals and rentals or other payments from subleases and concessionaires, but not including the gross receipts of the subleases or concessionaires), in accordance with the current edition of the Uniform System of Accounts for Hotels, and Recreational Facilities, excluding, however:

- a. Federal, state and municipal excise, sales, use taxes, and surcharges of \$3.00 per room night and \$1.00 per round of golf, and as may be adjusted, collected directly from patrons or guests or as a part of the sale price of any goods, services or displays, such as gross receipts, rooms, admission, cabaret or equivalent taxes;
- b. Any and all income from the sale or other disposition of capital or operating assets of the Property;
- c. Proceeds from any insurance and eminent domain awards, except to the extent insurance proceeds represent payment for damages for a loss of income and profits of the Property;
- d. Any compensation payments for claims against third parties arising out of or during the course of the operation of the Property;
- e. Any gratuities, or service charges added to a customer's bill or statement in lieu of gratuities, which are payable to employees;



- f. An amount equal to all credits or refunds made to customers, guests or patrons;
- g. All sums and credits received in settlement of claims for loss or damage of furnishings, fixtures and equipment or to the buildings;
- h. Proceeds of a sale, exchange or other disposition of all or substantially all of the Property;
- i. Proceeds from the voluntary or involuntary conversion of the Property;
- j. Proceeds from the financing or refinancing of the Property; and
- k. Any payments made to Allegany County, Maryland pursuant to the Host Community Agreement by and between Owner and Allegany County.

The compensation of Operator described herein shall be the sole compensation of Operator for its activities at the Property. Such compensation shall be reduced by all rebates, commissions, payments, exactions or other compensation received by Operator from suppliers, employees, customers, tenants or other persons involved with activities at the Property. The provisions of this paragraph shall survive the termination of this Agreement, and any such rebates, commissions, payments, exactions or other compensation in excess of or in addition to the compensation described herein shall be recoverable, together with reasonable attorneys' fees, in an action by Owner, or may be withheld from compensation payable hereunder.

5.3 Reimbursement: Owner shall reimburse Operator for all reasonable travel expenses from the Property to the offices of Operator in Florida and vice versa of Operator and its Affiliates, officers and employees incurred in connection with rendering of the services under this Agreement and all other reasonable out-of-pocket expenses incurred in connection with the rendering of such services. Such expenses in excess of those in the approved Annual Plan shall not be reimbursed without the prior written approval of Owner. Operator shall submit statements to Owner covering its expenses for the preceding month and Operator shall be reimbursed out of the Accounts (as defined in Article 7.1) within fifteen (15) days of submission. It is understood that any such expenses which are allocable to other properties Operator operates will be prorated on a reasonable allocation basis.

#### ARTICLE VI

#### INSURANCE AND INDEMNITY

6.1 Property Insurance. At Owner's option, Operator shall assist Owner in the selection and Owner agrees that it shall procure and maintain, and Owner shall pay for, from the completion of construction and, thereafter, at all times during the term hereof, comprehensive insurance coverage equal to at least eighty per cent (80%) of the insurable value of the Property against loss or damage to the Property and its contents from fire, boiler explosion and such other extended coverage risks and casualties. There shall be procured and maintained hazard coverage, as customarily included in an extended coverage endorsement, including riot, civil commotion and insurrection, all of said use and

occupancy coverage to be effective as appropriate during the term hereof.

6.2 Other Insurance. At Owner's option, Operator shall assist Owner in procuring and maintaining and Owner shall pay for, during the term hereof, the following insurance, which insurance shall list Operator as an additional named insured, with a right to thirty (30) days prior written notice in the event of cancellation or modification of coverage:

- a. Public and automobile liability insurance, and insurance against theft of or damage to guests' property;
- b. Comprehensive dishonesty, disappearance of property, destruction of property and depositors forgery;
- c. Such workman's compensation, employers liability or similar insurance, as may be required by law;
- d. Bonds covering personnel;
- e. Group insurance, including major medical and hospitalization for Property employees;
- f. Umbrella coverage in an amount to be determined by Owner.

6.3 Insurance Standards and Requirements. It is agreed that all insurance hereunder shall fully and adequately protect Owner and Operator and shall meet or exceed any requirements or applicable laws, rules or regulations, underwriters, or other third parties having the right to determine insurance requirements for the Property. Owner and Operator shall each approve all insurance required hereunder with respect to amounts and types of coverage and the terms and conditions thereof; provided however, that, in making determinations hereunder with respect to insurance, Owner

and Operator shall take into account Operator's advice derived from its experience in the industry. Insurance procured hereunder shall be placed with reputable, financially sound insurance companies, acceptable to Owner and Operator, and shall be obtained in the name of Owner. Owner shall procure or maintain any insurance that Operator reasonably deems to be advisable to obtain for the Property.

Owner shall submit to Operator at the beginning of each Operating Year a summary of the insurance coverage maintained by Owner with respect to the Property and Operator shall have thirty (30) days thereafter to give its comments thereon to Owner. If Owner receives no written comments from Operator within said period, the insurance program shall be deemed approved for that Operating Year.

6.4 Indemnity. Under no circumstances shall Operator or any of its Affiliates, in the performance of this Agreement, be liable to Owner or any other person for any act or omission of any agent or employee of Owner or of Operator or its Affiliates, unless such liability shall be due, directly or indirectly, to the Negligence or willful or wanton acts or omissions of Operator or its Affiliates or their respective agents or employees or the material breach of any of the terms of this Agreement by Operator or its Affiliates. Operator shall indemnify and save harmless Owner, the Maryland Department of Natural Resources and the State of Maryland from all liability, loss, damage, cost or expense including reasonable attorneys' and legal assistants' fees arising out of the Negligence or willful or wanton acts or omissions of Operator or

its Affiliates or their respective agents or employees or the material breach of any of the terms of this Agreement by Operator or its Affiliates. Operator and its Affiliates shall be entitled to be indemnified and saved harmless by Owner from all liability, loss, damage, cost or expense, including reasonable attorneys' and legal assistants' fees (except for any claims of Owner against Operator under the terms of this Agreement) arising out of the Negligence or willful or wanton acts or omissions of Owner. Moreover, Owner and Operator will jointly defend any proceeding brought by a third party to establish any such liability, and the costs of any such defense (including appeals) shall be an operating expense under this Agreement, in the event Operator is entitled to indemnification by Owner pursuant to this Article VI or otherwise. In the event Owner is entitled to indemnification by Operator pursuant to this Article VI, Operator shall reimburse Owner from its own funds and not from the operating expense accounts of the Property. In the event Operator is not entitled to indemnification, it shall reimburse Owner, on demand, for its share of the costs of the defense.

6.5 Claims. Notwithstanding anything in this Agreement to the contrary, in no event shall Owner make any claim against Operator or its Affiliates on account of any alleged errors of judgment made in good faith in connection with the management and operation of the Property by Operator. Nor shall Owner object to any expenditure made pursuant to the terms hereof by Operator in good faith in the course of its management of the Property or in settlement of any claim arising out of the operation of the

Property. This Section 6.5 shall not affect Owner's rights with respect to the liability of Operator or its Affiliates, which may be due, directly or indirectly, to the Negligence or willful or wanton acts or omissions of Operator or its Affiliates or to the breach of any of the terms of this Agreement by Operator or its Affiliates.

## ARTICLE VII

### ACCOUNTS, RECORDS AND REPORTS

7.1 Accounts for the Property. Bank accounts for the Property will be established at a banking institution or institutions, approved by Owner, in Owner's name, with designated employees of Operator having signatory powers ("Accounts"). Operator will deposit in the Accounts all monies furnished by Owner. All monies received from the operation of the Property will be deposited by Operator into the account of the Trustee held at its correspondent bank on a daily basis. Operator will make disbursements from the Accounts for the purposes set forth in Section 7.2.

7.2 Expenditures. Owner is solely responsible and liable for all operating working capital and capital expense of the Property. From the Accounts, Operator is hereby authorized to pay on behalf of and in the name of Owner all costs and expenditures incurred in connection with the ownership, maintenance, operation and management of the Property, including, without limitation, the following:

- a. Compensation and expenses of on-site employees;

- b. All costs and expenditures incurred or made in connection with the duties and services of Operator under this Agreement and all other expenditures, capital or ordinary, which Operator is permitted or required to make under this Agreement;
- c. Reimbursements and other amounts due to Operator or its Affiliates pursuant hereto;
- d. The Basic Management Fee

7.3 Meetings with Owner. Owner and Operator shall meet quarterly to review the monthly operating statements for the previous quarter and to discuss any budget variations. Operator shall also provide any and all reports, including, without limitation, as requested by Owner, annual audited financial statements to be prepared by a public accounting firm chosen by Owner, as provided herein. All costs and expenses incurred by Operator in connection with all such reports shall be additional operating expenses of the Property.

7.4 Owner's Right of Inspection and Review. Owner, the State of Maryland and the Trustee, their respective accountants, attorneys and agents and agents of any mortgagee with respect to the Property, shall be entitled to enter any part of the Property at all reasonable times during the term of this Agreement for the purpose of examining or inspecting the same or examining and making extracts of books and Records being kept as required by this Agreement, or for any other purpose which Owner, in its discretion, shall deem necessary or advisable; provided, however, that such right of inspection must be exercised with as little disruption to

the business of the Property as possible. Records of the Property shall be kept at the Property or at such other place as the parties may agree.

7.5 Owner's Credit Not to be Pledged by Operator. Except in the purchase of goods, wares, merchandise, material, supplies and services, reasonably required in the ordinary course of business in the operation of the Property, or as otherwise may be reasonably required in the performance of its obligations, hereunder, Operator shall not pledge the credit of Owner without Owner's prior written consent.

7.6 Sales Tax Exemption. Operator shall avail itself of Owner's sales tax exemption for any purchase associated with the Property.

#### ARTICLE VIII

##### EXPIRATION, TERMINATION

8.1 Events of Default and Termination by Either Party. Each of the following shall constitute an event of default (an "Event of Default"):

- a. The failure of a party to keep, observe or perform any covenant, agreement, term or provision of this Agreement applicable to the party, which failure shall continue for a period of thirty (30) days after written notice from the party not responsible for the failure; provided, however, if the failure be such that it cannot be corrected within 30 days, it shall not be an Event of Default if, in the reasonable opinion of the party not responsible for the failure, the party responsible for



the failure is taking appropriate corrective action to cure such failure;

- b. The filing of a petition in bankruptcy by or against a party or an assignment for the benefit of creditors by a party for relief under or otherwise seeking the benefit of any bankruptcy, reorganization or insolvency law; provided, however, if the petition in bankruptcy is filed against a party it shall not constitute an Event of Default if such petition is dismissed within 60 days of the date such petition is filed.
- c. The violation by a party of any Legal Requirements or Insurance Requirements with respect to the Property for a period of thirty (30) days after written notice, thereof, by the party not responsible for the violation; provided, however, if the violation be such that it cannot be remedied within 30 days, it shall not be an Event of Default if, in the reasonable opinion of the party not responsible for the violation, the party responsible for the violation is taking appropriate remedial action to cure such violation.

In addition to any other rights available at law or in equity, the non-defaulting party shall have the right upon the occurrence of an Event of Default to terminate this Agreement upon thirty (30) days written notice to the defaulting party.

8.2 Sale or Lease of the Property; Assignment of Agreement.

In the event Owner desires to sell or lease all or any part of the Property and in connection therewith, Owner desires to assign this

Agreement to the new Owner or lessee of the Property, who has agreed to assume all of Owner's obligations under this Agreement ("Assignment"), Owner shall furnish to Operator, in writing, the name of the prospective purchaser or lessee ("Notice of Assignment"). Within thirty (30) days after receipt by Operator of the Notice of Assignment, Operator shall elect one of the following alternatives and notify Owner of its election:

- a. To consent to the Assignment; provided, however, that the purchaser or lessee, as the case may be, shall execute all agreements and other documents, reasonably satisfactory to counsel to Operator, assuming all Owner's liabilities and obligations under this Agreement;
- b. To refuse to consent to the Assignment, in which event this Agreement shall be automatically terminated and Owner shall have no further obligation to Operator, except as provided in Section 8.4. Operator acknowledges and consents to the collateral assignment of Owner's rights under this Agreement to the Trustee pursuant to the Deeds of Trust (as defined in the Indenture).

8.3 Termination of Agreement by Owner. In the event Owner desires to terminate this Agreement in connection with any sale, lease, or other disposition of all or any part of the Property, or in the event Owner desires to terminate this Agreement under any provision of Article 8 or for any other reason, or for no reason at all, or if this Agreement terminates of its own accord at the end of a term, Operator must prepare an accounting of all assets and liabilities of the Property within 30 days of the Termination and

cooperate in transferring from the marketing and reservations systems referenced in Section 4.1(g).

8.4 Payment on Expiration or Any Termination. In addition to any other payments provided for in Article VIII, Owner shall pay Operator all fees and amounts for reimbursement of expenses accrued and owing as of the date this Agreement expires or terminates.

8.5 Transfer of Records. All Records and assets of Owner shall be transferred to Owner in an orderly fashion upon termination or expiration of this Agreement.

#### ARTICLE IX

##### DAMAGE OR DESTRUCTION; EMINENT DOMAIN

9.1 Damage or Destruction. If the Property is substantially damaged by fire or other casualty, then either Owner or Operator, by written notice to the other, within thirty (30) days after occurrence of the casualty event, shall have the right to terminate this Agreement, and neither party shall have any further obligation to the other party, hereunder, except with respect to liabilities accruing, or upon events occurring, prior to the effective date of such termination. The Property shall be deemed to have been substantially damaged if the estimated length of time required to restore it substantially to its condition and character just prior to the occurrence of the casualty is in excess of six (6) months, as indicated by an architect's certificate or other evidence reasonably satisfactory to Operator and Owner. In the event of any casualty damage to the Property that does not amount to substantial damage as defined, then this Agreement shall not terminate if Owner, in its sole discretion, shall proceed with all due diligence

to commence and complete the restoration of the Property to its condition and character just prior to the occurrence of such casualty to the full extent that there are insurance proceeds available to Owner as a result of such casualty.

9.2 Eminent Domain. If all or such substantial portion of the Property as to make it reasonably unfeasible to restore and continue to operate the remaining portion of the Property for the purposes contemplated in this Agreement, shall be taken, through the exercise, or by agreement in lieu of the exercise, of the power of eminent domain, then upon the date that Owner shall be required to surrender possession of the premises, this Agreement shall terminate and neither party shall have any further obligations to the other party, hereunder, except with respect to liabilities, accruing, or based upon events occurring, prior to the effective date of such termination. To the extent that damages are awarded solely for the value of the property taken, then proceeds thereof shall belong solely to Owner.

## ARTICLE X

### GENERAL PROVISIONS

10.1 Waivers. No action taken pursuant to this Agreement, including any investigation by or on behalf of any party, shall be deemed to constitute a waiver by the party taking such action of compliance with any representation, warranty, covenant or agreement contained, herein, therein and in any document delivered in connection, herewith, or, therewith. The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach.

10.2 Confidentiality. If this Agreement is terminated or expires, then each of the parties agrees to keep confidential to the extent permitted by State Law and shall not use for its own benefit any of the information (unless in the public domain) obtained from the other party and shall, upon request, promptly return to such other party all schedules, documents or other written information (without retaining copies thereof) previously obtained from the other party.

10.3 Limited Obligation to Provide Funds. Owner's obligation to provide funds for the Property or to pay any amounts to Operator provided for herein, including without limitation, any indemnity provided for in Section 6.4, is limited solely to revenues derived from the Property. There shall be no personal monetary obligation on the part of Owner hereunder, nor shall Operator seek any judgment for a deficiency against Owner. This provision shall survive the termination or expiration of this Agreement.

10.4 Notices. All notices, requests, demands and other communications, which are required or may be given under this Agreement, shall be in writing and shall be deemed to have been duly given, if delivered in person or mailed, first class certified mail, return receipt requested, postage prepaid:

If to Owner	Maryland Economic Development Corporation 36 South Charles Street, Suite 2410 Baltimore, Maryland 21201 Attn: Executive Director
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If to Operator	Buena Vista Hospitality Group Suite 3925 101 E. Kennedy Boulevard Tampa, FL 33602
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or to such other parties as either party shall have specified by notice in writing to the other party.

10.5 Entire Agreement; Amendment. This Agreement (including the exhibits, schedules and all documents and papers delivered pursuant, hereto, and any written amendments, hereof, executed by the parties) constitutes the entire agreement between the parties, and supersedes all prior agreements and understandings, oral and written, between the parties with respect to the subject matter, hereof. This Agreement may not be amended or modified, except by an instrument in writing signed by all of the parties to this Agreement.

10.6 Assignment. Subject to the other terms of this Agreement, this Agreement shall inure to the benefit of and be binding upon the parties, their respective heirs, legal representatives, successors and permitted assigns. With respect to Owner, the phrase "successors and permitted assigns" shall include purchasers and lessees or sublessee of Owner's interest in the Property, as well as any corporate or partnership entity organized by Owner for the purpose of owning and operating the Property. Operator shall not assign this Agreement without the prior written consent of Owner. It is understood and agreed that any consent granted by Owner to any assignment by Operator shall not be deemed a waiver of the covenants contained against assignment in any subsequent case.

10.7 No Partnership or Joint Venture; Agency. In the performance of its duties hereunder, Operator shall act solely as agent of Owner. Nothing herein shall constitute or be construed to

be or create a partnership or joint venture between Owner and Operator or its Affiliates. All debts and liabilities to third persons incurred by Operator in the course of the operation and management of the Property in accordance with the material terms of this Agreement shall be the debts and obligations of Owner only, and Operator and its Affiliates shall not be liable for such obligations by reason of its management, supervision, direction or operation of the Property for Owner, except for any claims of Owner against Operator under the terms of this Agreement. Operator may so inform third parties with whom it deals on behalf of Owner and may take any other reasonable steps to carry out the intent of this Section 10.7.

10.8 Third Parties. Except as specifically provided herein, none of the obligations hereunder of either party shall run to or be enforceable by any other party other than the parties to this Agreement or by any party deriving rights hereunder as a result of a permitted assignment.

10.9 Article and Other Headings. The Articles and other headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

10.10 Further Assurances. Each party represents, warrants and covenants to the other party, that, if at any time after the execution of this Agreement any party shall reasonably consider or be advised that any further documents, agreements or assurances in law or any other things are necessary or desirable to carry out the intent and accomplish the purposes of this Agreement,

according to its terms, the other party shall execute and make all such proper documents, agreements and assurances and do all things necessary or appropriate to carry out the intent and accomplish the purposes of this Agreement or otherwise consummate the transactions contemplated herein according to the terms hereof.

10.11 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

10.12 Governing Law. The validity, construction and enforcement of and the remedies under this Agreement shall be governed in accordance with the laws of the State of Maryland.

10.13 Estoppel Certificate. Each party agrees at any time, upon not less than five (5) business days prior notice, to execute, acknowledge and deliver to the other a statement in writing, certifying that this Agreement is in full force and effect, subject to any written modifications which shall be stated with particularity, and stating whether or not the party is in default in performance of any covenant, agreement or condition contained in the Agreement, and if so, specifying each such default, it being intended that any such statement delivered pursuant to this provision may be relied upon by any party to show such certificate may be delivered by the party requesting it.

10.14 Consent to Jurisdiction; Waiver of Jury Trial; Attorneys' Fees.

(a) Owner and Operator hereby agree that any action or proceeding arising out of or brought to enforce the provisions of this Agreement shall be brought only in a court of competent



jurisdiction in the State of Maryland, and by the execution of this Agreement, Owner and Operator irrevocably consent to the jurisdiction of each such court.

(b) Owner and Operator hereby jointly waive trial by jury in any action or proceeding to which Owner and Operator may be parties, arising out of or in any way pertaining to this Agreement. It is agreed and understood that this waiver constitutes a waiver of trial by jury of all claims against all parties to such actions or proceedings, including claims against parties who are not parties to this Agreement.

This waiver is knowingly, willingly and voluntarily made by Owner and Operator, and Owner and Operator hereby represent that no representations of fact or opinion have been made by any individual to induce this waiver of trial by jury or to in any way modify or nullify its effect. Each of Owner and Operator further represents that it has been represented in the signing of this Agreement and in the making of this waiver by independent legal counsel, selected of its own free will, and that it has had the opportunity to discuss this waiver with counsel.

If either party engages the services of an attorney to enforce any rights under this Agreement, the prevailing party in any such action shall be entitled to recover all reasonable costs and expenses, including reasonable attorneys' and legal assistants' fees and expenses before and at trial proceedings and in any appellate proceedings.

10.15 Right to Publish Association. Operator is authorized by Owner during the term of this contract to publish the fact that it is the Property's operator on sales literature and other forms of advertising approved by Owner.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto, all on the date first above written.

WITNESS:

MARYLAND ECONOMIC DEVELOPMENT CORPORATION

Charlotte B. Trainor

By:

Hans F. Mayer  
Hans F. Mayer,  
Executive Director

WITNESS:

BUENA VISTA HOSPITALITY GROUP, INC.

Kathleen Rocha

By:

Michael H. Frost  
Michael H. Frost,  
Chief Executive Officer

B:D9840237.AGT/RockyGap/Diski/cmr

GROUND LEASE

by and between

THE STATE OF MARYLAND,  
to the use of the  
DEPARTMENT OF NATURAL RESOURCES

and

MARYLAND ECONOMIC DEVELOPMENT CORPORATION

EXHIBIT F

Interagency Agreement

## INTERAGENCY AGREEMENT

THIS INTERAGENCY AGREEMENT (hereinafter referred to as "this Agreement"), made this 9<sup>th</sup> day of May, 1996, by and between THE STATE OF MARYLAND (the "State"), acting through the DEPARTMENT OF NATURAL RESOURCES (hereinafter referred to as "DNR"), and MARYLAND ECONOMIC DEVELOPMENT CORPORATION, a body politic and corporate and a public instrumentality of the State of Maryland (hereinafter referred to as "MEDCO").

### WITNESSETH

WHEREAS, DNR, MEDCO and the County Commissioners of Allegany County, Maryland (the "County") intend to develop a Hotel/ Meeting Center ("Hotel/Meeting Center") and Jack Nicklaus Signature Golf Course (the "Golf Course"), as more fully described in the Project Plans and Specifications (hereinafter defined), on a parcel of land owned by DNR consisting of a portion of Rocky Gap State Park in Allegany County, Maryland (the "Park"); and

WHEREAS, the General Assembly of the State of Maryland endorsed the development of the Golf Course and Hotel/Meeting Center at the Park (the "Project"), and appropriated Ten Million Nine Hundred Thousand Dollars (\$10,900,000) through general obligation bonds to fund a portion of the costs for construction of the Project (the "State Appropriation"), because the Project will foster economic redevelopment and tourism in Western Maryland, and will provide a unique recreational facility for all citizens of the State of Maryland; and

WHEREAS, pursuant to a ground lease of even date herewith, by and between DNR as Landlord and MEDCO as the Tenant (the "Lease"), DNR has leased to MEDCO an approximately 260-acre parcel of land in the Park, as more particularly described in the Lease (the "Land"), on which MEDCO or its successors and assigns shall cause to have constructed and operated the Hotel/Meeting Center and the Golf Course; and

WHEREAS, DNR and MEDCO are entering into this Agreement to set forth their mutual understanding regarding the procedures to be implemented by MEDCO (in addition to those set forth in the Lease), in connection with developing, constructing, and operating the Project, including funding requirements for the State Appropriation; and

WHEREAS, in order to ensure the economic viability and success of the Project, DNR and MEDCO are entering into this Agreement to establish certain funding priorities to be implemented in the event revenues from the Project are insufficient to pay certain fees to DNR and MEDCO, as fully described herein.

NOW THEREFORE, FOR AND IN CONSIDERATION of the mutual entry into this Agreement by the parties hereto, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by each party hereto, the parties hereto hereby agree as follows:

Section 1. Definitions.

1.1. As used herein the following terms have the following meanings:

1.1.1. "Construction Budget and Schedule" means the Project's construction budget and funding schedule, a copy of which is attached hereto as Exhibit A.

1.1.2. "DNR Annual Rent" has the meaning given to it in Section 3.1.1. of the Lease.

1.1.3. "Effective Date" has the meaning given to it in Section 11.1. of this Agreement.

1.1.4. "Force Majeure" means any (a) strike, lock-out or other labor troubles, (b) governmental restrictions or limitations, (c) failure or shortage of electrical power, gas, water, fuel oil, or other utility or service, (d) riot, war, insurrection or other national or local emergency, (e) accident, flood, fire or other casualty, (f) adverse weather condition, (g) other act of God, (h) inability to obtain any necessary permit, (I) any unforeseen circumstance, or (j) other cause similar or dissimilar to any of the foregoing and beyond the reasonable control of the person in question.

1.1.5. "General Contractor" means The Whiting-Turner Contracting Company, the General Contractor of the Project, pursuant to a Construction Contract of even date herewith, by and between The Whiting-Turner Contracting Company and MEDCO.

1.1.6. "Indenture" means the Trust Indenture dated as of April 1, 1996 between MEDCO and the Bond Trustee.

1.1.7. "Management Agreement" means the Development and Management Agreement of even date herewith, by and between MEDCO and the Operator, a copy of which is attached as Exhibit E of the Lease.

1.1.8. "MEDCO Bonds" means the \$31,300,000 Revenue Bonds (Rocky Gap Golf Course and Hotel/Meeting Center Project), Series 1996 A and B issued by MEDCO, the proceeds of which shall be used by MEDCO to pay for a portion of the costs of the acquisition, construction and equipping of the Project.

1.1.9. "MEDCO Service Fee" has the meaning given to it in Section 4 of this Agreement.

1.1.10. "On Site Inspector" means the entity who shall provide on site inspection services in connection with construction of the Project, as more fully described in the On-Site Inspection Agreement of even date herewith, by and between the On-Site Inspector and MEDCO.

1.1.11. "Operator" means Buena Vista Hospitality Group, Inc., a Florida corporation, and any subsequent Operator of the Project as permitted by the terms of the Lease.

1.1.12. "Project Plans and Specifications" means the Hotel/Meeting Center Plans and Specifications and the Golf Course Plans and Specifications, as those terms are defined in the Lease.

1.1.13. "Public Sector Fees" means the DNR Annual Rent and the MEDCO Service Fee.

1.2. Other Definitions. All other capitalized terms shall have the meaning given to them by the language employed in the Indenture defining such terms, unless the context clearly indicates otherwise.

## Section 2. Construction.

2.1. Project Design. MEDCO, DNR and the County have worked cooperatively on the design of the Project. During the pre-development phase of the Project, a development team was assembled consisting of DNC Architects, Inc., as the architect of the Hotel/Meeting Center, Golden Bear International, Inc., as the designer of the Golf Course, Rauch, Walls and Lane, Inc. as the civil engineer, and the General Contractor (collectively referred to as the "Development Team"). Any changes to the Development Team shall require the prior approval of DNR, not to be unreasonably withheld or delayed. The Project Plans and Specifications and the Construction Budget and Schedule have been approved by DNR prior to the commencement of this Agreement.

2.2. Construction Contracts. MEDCO and the General Contractor have entered into a Construction Contract of even date herewith ("the Construction Contract"), to construct the improvements as set forth in the Project Plans and Specifications. MEDCO shall not issue any change order in excess of Fifteen Thousand and 00/100 Dollars (\$15,000) without receiving the prior approval of DNR, which approval shall not be unreasonably withheld. If DNR fails to respond to a request for approval of a change order within seven (7) days after receipt of the request, the change order shall be deemed approved. MEDCO shall have the improvements constructed in a good and workmanlike manner, and in substantial conformity with the Project Plans and Specifications. The construction process shall be subject to the review of the On-Site Inspector, as more fully described

in the On-Site Inspection Agreement. All firms contracting or subcontracting for work in connection with the construction of the Golf Course and the Hotel/Meeting Center, and other improvements constructed on the Land, including but not limited to architects, structural, mechanical, electrical and civil engineers, landscape architects and geotechnical engineers must be registered and licensed to practice in the State of Maryland as required by the State of Maryland Department of Labor, Licensing and Regulation.

2.3. State Appropriation Funding Requirements.

2.3.1. General. The State Appropriation shall be administered by DNR, and any other agencies of the State as may be required by applicable law and the State of Maryland Board of Public Works, in accordance with the terms and provisions of this Section. DNR shall act as a liaison for MEDCO when dealing with other agencies of the State involved in the disbursement of the State Appropriation.

2.3.2. Conditions for Advances from State Appropriation. The obligation of the State to make any advance from the State Appropriation is subject to MEDCO's satisfaction of the following requirements and conditions:

(a) Submission of a Written Requisition. Disbursements of the State Appropriation shall be made not more frequently than once a month, unless reasonably required more frequently by MEDCO, on requisitions submitted at least 15 business days prior to the date funding is requested in substantially the form attached hereto as Exhibit B, or alternative forms approved by the State (the "Requisition"). Requisitions shall be subject to a 10% retainage, which shall be paid upon satisfaction of the conditions for final advance set forth in paragraph (d) below; provided, however, the State shall release retainage under each subcontract under the Construction Contract when the work under such subcontract has been completed in accordance with such subcontract and the Construction Contract.

(b) Invoices. MEDCO shall deliver an invoice or other appropriate evidence of the obligation described in the Requisition.

(c) Funding of Requisitions. The State Appropriation shall be used to fund those items set forth in the Construction Budget and Schedule as may be amended from time to time. The State and DNR shall not in any event be responsible for or liable to any person other than MEDCO and the Bond Trustee for the disbursement or failure to disburse moneys from the State Appropriation. In paying any Requisition the State shall be entitled to rely on the completeness and accuracy of the Requisition. All disbursements shall be paid to (i) the person, firm or corporation to be paid or (ii) to both MEDCO and such person, firm or corporation.

(d) Additional Conditions for Final Advance. In addition to all other conditions set forth in this Section 2.3.2., the obligation of the State to make the final advance under the State Appropriation shall be subject to the State's receipt of: a) the Completion Certificate, in the



form attached hereto as Exhibit C; b) a final executed copy of a general release of claims from the General Contractor releasing MEDCO and the State from all claims, actions and liabilities arising from the Construction Contract; and c) a consent for final payment from the surety company issuing payment and performance bonds.

2.4. Construction Oversight. MEDCO shall notify DNR in a timely manner of and permit DNR to participate in, any construction progress meetings conducted by MEDCO with any or all members of the Development Team. MEDCO shall deliver to DNR simultaneously with delivery to the Trustee, copies of all monthly construction progress reports prepared by MEDCO pursuant to Section 5.04 of the Indenture. MEDCO shall also deliver to DNR simultaneously with delivery to the Trustee, copies of all change orders for construction of the Project or other improvements constructed on the Premises.

2.5. Construction Term. MEDCO shall cause to have construction of the Hotel/Meeting Center and the Golf Course completed by no later than April 1, 1998, subject to a Force Majeure or change order delay.

2.6. Limitation on use of State Appropriation. MEDCO shall utilize the State Appropriation and shall operate or cause the Project to be operated in a manner to ensure the preservation of the tax exempt status of the State's general obligation bonds used to fund the State Appropriation. The State Appropriation shall not be deemed Revenues (as defined in the Indenture), and shall not be deposited into the Construction Fund or any other fund or account established under the Indenture, and the Trustee shall not have any lien or security interest on the State Appropriation.

### Section 3. Operations.

3.1. Annual Budget and Financial Statements. At least thirty (30) days prior to the beginning of each Operating Year as defined in the Lease, and each successive period of twelve (12) months thereafter during the term of the Lease, MEDCO shall deliver to DNR for review and comment within fifteen (15) days, a written budget in connection with operation of the Project, which budget shall contain an estimate for each fiscal year of expenses, capital requirements and cash flow of MEDCO with respect to the Project (including a schedule of rates and charges), and its obligations with respect to outstanding indebtedness of MEDCO related to the Project, including debt service requirements on all outstanding Bonds and the Subordinated Debt (as those terms are defined in the Indenture). MEDCO shall also deliver to DNR (a) commencing upon the first month following the date the Project is open for any business and thereafter within thirty (30) days of the last day of each month, copies of the unaudited operating statements for the Project for such month, and (b) annual financial statements as required under Section 4.4.2. of the Lease. The customer rates and charges for the Project shall be established in a sound and economical manner and in compliance with the terms of the Indenture (for so long as the Indenture remains in effect). In accordance with Section 4.4.3. of the Lease, DNR shall have the right to examine and audit MEDCO's books and records for the Project.

3.2. Notices between MEDCO and Trustee. MEDCO shall promptly deliver to DNR any notices delivered by the Trustee to MEDCO or any notices delivered by MEDCO to the Trustee pursuant to the terms of the Indenture.

3.3. Reports of Management Consultant. MEDCO shall deliver to DNR, promptly upon receipt, copies of any and all reports of any Management Consultant (as defined in the Indenture), required or permitted to be obtained by MEDCO or the Trustee under the Indenture.

3.4. Working Capital and Operating Expense Fund. To the extent that MEDCO is permitted, but is not otherwise required under the Indenture to allow Revenues to accumulate in the Working Capital and Operating Expense Fund in excess of the Working Capital and Operating Expense Fund Stipulated Level, MEDCO agrees that it shall not allow the balance of the Working Capital and Operating Expense Fund to exceed the Working Capital and Operating Expense Fund Stipulated Level by an amount equal to one-half of the total operating expenses (as set forth in the then current annual budget for the Project) without obtaining DNR's prior consent. The requirement described in this Section 3.4. may only be amended as set forth in Section 11.2. below.

Section 4. MEDCO Service Fee. The State and DNR recognize that MEDCO has and will continue to provide administrative support and services and incur expenses in connection with the design, development, construction and operation of the Project, and that such services are instrumental to the success of the Project and benefit the State and the County in connection with the Project and economic development in the County. In order to compensate MEDCO for expenses incurred and services rendered to the Project, the State acknowledges that for so long as MEDCO is the Tenant under the Lease, MEDCO shall be paid an annual administrative fee for each Operating Year in arrears, equal to One Hundred Thousand Dollars (\$100,000) per year (the "Service Fee"), which Service Fee shall be increased annually in an amount equal to Twenty Five Thousand Dollars (\$25,000) per year. No Service Fee shall be due and payable from the Effective Date of this Agreement to the Formal Opening Date (as defined in the Lease). The Service Fee shall be paid from Revenues Available for Public Sector Fees (as that term is defined below in Section 5.1.). Payment of the Service Fee shall be subject to the terms and conditions set forth below in Section 5.

*Handwritten signature*

Section 5. MEDCO's Obligation to Pay Public Sector Fees.

5.1. Limited Liability for Payment of Public Sector Fees. MEDCO's obligation to pay the Public Sector Fees does not constitute an indebtedness to which the faith and credit of MEDCO or the State are pledged, but is a limited obligation of MEDCO payable solely from Revenues from the Project. Until the date the Indenture is terminated, MEDCO shall pay the Public Sector Fees solely from Revenues made available to MEDCO by the Trustee pursuant to clause THIRD of clause NINTH of section 4.05 of the Indenture. Upon termination of the Indenture, MEDCO shall pay the Public Sector Fees solely from Net Revenues of the Project, which for purposes of this Agreement shall be defined as all income and receipts collected by or on behalf of MEDCO in operating the Project during each Operating Year, including but not limited to a) lodging and meeting hall rentals, b) catering, food and beverage sales, c) golf course fees, d) equipment

rentals, e) merchandise sales, and f) income from licenses, concessions and subleases, but excluding Surcharge Revenue (as that term is defined in the Lease) and room, amusement and sales taxes, if any, minus any reasonable expenses incurred and paid for by MEDCO in operating the Project, including but not limited to i) reasonable operating expenses, ii) taxes (if any), iii) debt service on loans made solely for the benefit of the Project and approved by DNR, iv) fees paid under the Management Agreement, v) any payments by MEDCO pursuant to the Host Community Agreement by and between MEDCO and the County and vi) reasonable reserves for operations and replacements, as set forth in the Audited Financial Statements (as defined in Section 4.4.2. of the Lease). Funds available to MEDCO for payment of the Public Sector Fees, whether pursuant to the Indenture or after termination of the Indenture are hereinafter referred to as "Revenues Available for Public Sector Fees".

5.2. Payment of Public Sector Fees. Solely to the extent there are Revenues Available for Public Sector Fees, MEDCO shall pay the DNR Annual Rent and the MEDCO Service Fee to the respective parties, annually on the earlier of thirty (30) days after completion of the Audited Financial Statements (as defined in Section 4.4.2. of the Lease) or two hundred ten days following the end of each Operating Year (as defined in the Lease).

5.3. Accumulated Fees. In the event that Revenues Available for Public Sector Fees are insufficient to pay all or any portion of the DNR Annual Rent, and the MEDCO Service Fee in any Operating Year, the unfunded portion of the DNR Annual Rent and the MEDCO Service Fee shall continue to accrue and accumulate, without interest ("Accumulated Fees") until paid in full as more fully described in Section 5.4. below.

5.4. Priority of Payments. To the extent that Revenues Available for Public Sector Fees are insufficient in any Operating Year to pay the Public Sector fees in whole (including Accumulated Fees), Revenues Available for Public Sector Fees shall be distributed in accordance with the following schedule: a) seventy five percent (75%) of Revenues Available for Public Sector Fees shall be paid to DNR; and b) twenty five percent (25%) of Revenues Available for Public Sector Fees shall be paid to MEDCO. All payments made by MEDCO pursuant to this Section 5.4. shall be applied first to the outstanding balance of all Accumulated Fees, and then towards payment of the Public Sector Fees due in the current Operating Year.

5.5. Excess Revenues. Any Revenues Available for Public Sector Fees remaining after payment in full of the Public Sector Fees and Accumulated Fees shall be used by MEDCO for purposes solely in connection with the Project.

Section 6. Right of First Refusal. During the term of this Agreement (a) MEDCO shall not sell or otherwise transfer any of its right, title or interest in and to the leasehold estate granted to MEDCO under the Lease other than to the Trustee under the Deeds of Trust (as defined in the Indenture) unless MEDCO first notifies DNR that MEDCO desires to sell or otherwise transfer its said interest and has received an offer from a bona fide purchaser, and unconditionally offers to sell such interest to the State at a price and subject to the same terms and conditions as stated in such

offer. In such event, the State shall be deemed to have declined such offer unless it notifies MEDCO, expressly and in writing, within sixty (60) days after its receipt of such offer, that the State accepts such offer. If the State declines or is deemed to have declined any such offer, then MEDCO shall be entitled, at any time within one hundred eighty (180) days after the date of such offer, to sell or otherwise transfer such interest to any person whatsoever, subject to the conditions in Section 12 of the Lease, at a price which is not less than the price set forth in such offer to the State and on the same terms and conditions offered to the State, but during such period shall not be entitled to sell or otherwise transfer such interest for any lower price, and after such period shall not be entitled to transfer any or all of such interest without again observing the procedures set forth in the provisions herein and the provisions of Section 12 of the Lease. If the State accepts such offer, the settlement of the purchase and sale of such interest by MEDCO to the State shall be held on the latter of the one hundred twentieth (120th) day after the date of such acceptance; (b) the closing date set forth in the third party offer; or (c) on any other date agreed upon in writing by MEDCO and the State, at a time and place in Maryland to be agreed upon by such parties in writing. At such settlement, title shall be conveyed by MEDCO to the State in accordance with the terms and conditions contained in the third party offer.

Section 7. Right to Cure Default under MEDCO Bonds. MEDCO agrees to immediately deliver to DNR any notice of default given to MEDCO pursuant to the Indenture. The State, at any time, shall have the right, but not the obligation, to cure any default under the Indenture or the MEDCO Bonds within any applicable grace or cure period set forth therein.

Section 8. Default.

8.1. Defined. The following shall be "Events of Default" under this Agreement:

a) If any material representation or warranty made herein proves to be false or misleading in any material respect when made or affirmed; or

b) Failure by MEDCO to perform any obligation or covenant agreed to herein within 30 days unless such failure cannot be cured in thirty (30) days in which case MEDCO shall commence to cure within such thirty (30) days and diligently pursue such cure thereafter until it is fully cured; or

c) The filing of a petition in bankruptcy under the United States Bankruptcy Code, or the commencement of a proceeding under other applicable law concerning insolvency, reorganization or bankruptcy by or against MEDCO, as debtor ("Act of Bankruptcy"); provided, however, if an Act of Bankruptcy is filed or commenced against MEDCO, the same shall not constitute an Event of Default hereunder if such Act of Bankruptcy is dismissed within ninety (90) days from the date of such Act of Bankruptcy.

8.2. Remedies on Default. Upon the occurrence and continuance of an Event of Default, DNR or MEDCO may take whatever action at law or in equity may appear necessary or desirable to enforce performance and observance of any obligation, agreement or covenant under this Agreement.

Section 9. Notices.

Any notice required or permitted to be given hereunder shall be in writing and shall be deemed validly transmitted if served personally or if mailed by certified mail, return receipt requested, if to DNR: Office of the Secretary, Department of Natural Resources, Tawes State Office Building, Suite C-4, 580 Taylor Avenue, Annapolis, Maryland, 21401, with informational copies to: Attorney General's Office, Department of Natural Resources, Tawes State Office Building, 580 Taylor Avenue, Annapolis, Maryland 21401 and Attorney General's Office, Office of the Treasurer, Treasury Building, Annapolis, Maryland 21401; and if to MEDCO: Executive Director, 36 South Charles Street, Suite 2410, Baltimore, Maryland 21401, with an additional informational copy to: John R. Stalfort, Esq., Miles & Stockbridge, a Professional Corporation, 10 Light Street, 8th Floor, Baltimore, Maryland 21202. Any address fixed as above may be changed by delivering notices set forth above. Notice shall be deemed to have been given (i) forty-eight (48) hours after being sent as certified mail, return receipt requested or (ii) the date on which such notice is personally served on a party.

Section 10. Representations and Warranties

10.1. Representations and Warranties by the State. The State makes the following representations and warranties:

(a) The State has duly authorized the execution and delivery of this Agreement.

(b) This Agreement has been duly and properly authorized, executed, sealed and delivered by the State, constitutes the valid and legally binding obligation of the State, and is fully enforceable against the State in accordance with its respective terms; provided, however, that the enforceability and binding nature of this Agreement is subject to bankruptcy, insolvency, reorganization and other state and federal laws affecting the enforcement of creditors' rights generally, and, to the extent that certain remedies under such instruments require, or may require enforcement by a court of equity, such principles of equity as the court having jurisdiction may impose.

(c) There are no proceedings pending or, to the knowledge of the State, threatened before any court or administrative agency which may affect the authority of the State to enter into this Agreement.

(d) The execution, delivery and performance by the State of this Agreement do not and shall not constitute a violation or breach of or a default under any existing mortgage, indenture, contract, instrument, or agreement binding on the State or affecting its property, or any provision of law or order of any court binding upon the State.

(e) The issuance and sale of the bonds for the State Appropriation has been duly authorized by all necessary action in accordance with all laws. As of the date hereof, no proceedings authorizing the issuance and sale of the bonds for the State Appropriation have been rescinded or repealed or modified or amended in any respect.

#### 10.2. Representations and Warranties by MEDCO.

(a) MEDCO is a body politic and corporate and a public instrumentality of the State. MEDCO has the power to enter into this Agreement and the transaction contemplated hereunder and to carry out its obligations hereunder. MEDCO has duly authorized the execution and delivery of this Agreement.

(b) This Agreement has been duly and properly authorized, executed, sealed and delivered by MEDCO, constitutes the valid and legally binding obligation of MEDCO, and is fully enforceable against MEDCO in accordance with its respective terms; provided, however, that the enforceability and binding nature of this Agreement is subject to bankruptcy, insolvency, reorganization and other state and federal laws affecting the enforcement of creditors' rights generally, and, to the extent that certain remedies under such instruments require, or may require enforcement by a court of equity, such principles of equity as the court having jurisdiction may impose.

(c) There are no proceedings pending or, to the knowledge of MEDCO, threatened before any court or administrative agency which may affect the authority of MEDCO to enter into this Agreements.

(d) The execution, delivery and performance by MEDCO of this Agreement do not and shall not constitute a violation or breach of or a default under the Act, any existing mortgage, indenture, contract, instrument or agreement binding on MEDCO or affecting its property, or any provision of law or order of any court binding upon MEDCO.

#### Section 11. General.

11.1. Effective Date and Term. This Agreement shall become effective upon and only upon (a) its execution and delivery by each party hereto; (b) receipt of approval by the Board of Public Works of the State; and (c) the issuance and sale of the MEDCO Bonds (as that term is defined in the Lease), pursuant to the terms of the Indenture (the "Effective Date"). This Agreement shall terminate upon the date when MEDCO is no longer the tenant under the Lease.

11.2. Amendment. This Agreement may be amended by and only by an instrument executed and delivered by each party hereto.

11.3. Applicable law. This Agreement shall be given effect and construed by application of the law of the State of Maryland.

11.4. Waiver. The State and DNR shall not be deemed to have waived the exercise of any right which it holds hereunder unless such waiver is made expressly and in writing (and no delay or omission by the State or DNR in exercising any such right shall be deemed a waiver of its future exercise). No such waiver made as to any instance involving the exercise of any such right shall be deemed a waiver as to any other such instance, or any other such right.

11.5. Severability. No determination by any court, governmental body or otherwise that any provision of this Agreement or any amendment hereof is invalid or unenforceable in any instance shall affect the validity or enforceability of (a) any other such provision, or (b) such provision in any circumstance not controlled by such determination. Each such provision shall be valid and enforceable to the fullest extent allowed by, and shall be construed wherever possible as being consistent with, applicable law.

11.6. Disclaimer of Partnership Status. Nothing in the provisions of this Agreement shall be deemed in any way to create between the parties hereto any relationship of partnership, joint venture or association, and the parties hereto hereby disclaim the existence of any such relationship.

11.7. Limitation on Liability. Notwithstanding anything herein contained to the contrary, any claim based on or in respect of any liability of MEDCO for i) the payment of the DNR Annual Rent, or ii) the performance of any other covenant, agreement, obligation, term or condition contained in this Agreement shall be enforced only against the assets and revenues of the Project and not against any other assets, properties or funds of a) MEDCO or any director, officer, or employee of MEDCO, or b) any other person, corporation or other entity affiliated with any of the foregoing. This provision shall survive the termination of this Agreement.

IN WITNESS WHEREOF, each party hereto has executed and ensealed this Agreement or caused it to be executed and ensealed on its behalf by its duly authorized representatives, the day and year first above written.

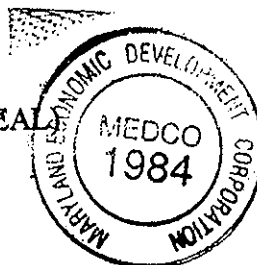
WITNESS:

MARYLAND ECONOMIC  
DEVELOPMENT CORPORATION, a body  
politic and corporate and a  
public instrumentality of the  
State of Maryland

Russell H. Fuller

BY: Hans F. Mayer SEAL

Hans F. Mayer  
Executive Director



WITNESS:

Russalind K. Fuller

Approved by the State of Maryland  
Board of Public Works on the  
1<sup>st</sup> day of May, 1996,  
by Agenda Item No. 31.

WITNESS:

Sandra K. Reynold  
Sandra K. Reynold  
Secretary, Board of  
Public Works

THE STATE OF MARYLAND  
DEPARTMENT OF NATURAL RESOURCES

BY: John R. Griffin (SEAL)  
John R. Griffin  
Secretary

STATE OF MARYLAND,  
BOARD OF PUBLIC WORKS

BY: Parris N. Glendening (SEAL)  
Parris N. Glendening  
Governor

BY: Louis L. Goldstein (SEAL)  
Louis L. Goldstein  
Comptroller

BY: Richard N. Dixon (SEAL)  
Richard N. Dixon  
Treasurer

Approved as to form and  
legal sufficiency this  
2<sup>nd</sup> day of May, 1996

Jodi R. O'Day  
Assistant Attorney General



STATE OF Maryland COUNTY OF Anne Arundel TO WIT:

I HEREBY CERTIFY THAT ON THIS 7<sup>th</sup> day of May, 1996 before me, a Notary Public for the state and county aforesaid personally appeared Hans F. Mayer known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing Interagency Agreement, who acknowledged that he is the Executive Director of the MARYLAND ECONOMIC DEVELOPMENT CORPORATION, a body politic and corporate and a public instrumentality of the State of Maryland, that he has been duly authorized to execute, and has executed, such instrument on its behalf for the purposes therein set forth, and that the same is its act and deed.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.

Rosalind L. Fuller

Notary Public

ROSALIND L. FULLER  
NOTARY PUBLIC STATE OF MARYLAND  
My Commission Expires March 19, 1998

My commission expires on March 19, 1998

STATE OF Maryland : COUNTY OF Anne Arundel : TO WIT

I HEREBY CERTIFY THAT ON THIS 7<sup>th</sup> day of May, 1996 before me, a Notary Public for the state and County aforesaid, personally appeared John R. Bruff known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing Interagency Agreement, who acknowledged that he is the Secretary for the State of Maryland Department of Natural Resources, that he has been duly authorized to execute, and has executed, such instrument on its behalf for the purposes therein set forth, and that the same is its act and deed.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.

Rosalind L. Fuller

Notary Public

ROSALIND L. FULLER  
NOTARY PUBLIC STATE OF MARYLAND  
My Commission Expires March 19, 1998

My commission expires on March 19, 1998

STATE OF MARYLAND  
COUNTY OF ANNE ARUNDEL, TO WIT:

BEFORE ME THE UNDERSIGNED Notary Public of the State of Maryland, in and for the aforesaid County, personally appeared this 6<sup>th</sup> day of May, 1996 Sandra K. Reynold, Secretary of the Board of Public Works of the State of Maryland, who acknowledged the execution of the Interagency Agreement to be the true, lawful and voluntary act of the Board of Public Works of the State of Maryland.

Maurice J. Baschuk  
Notary Public  
My Commission expires 12-1-99

INTERAGENCY AGREEMENT

EXHIBIT A

CONSTRUCTION BUDGET AND SCHEDULE

**Maryland Economic Development Corporation  
Rocky Gap Golf Course and Hotel/Meeting Center Project  
Construction Cost / Funding Schedule**

Month	Total		Less		Total		Less		Total		Plus		Plus		Net Construction Funding Requirements
	Payment Due For Lodge	County Lodge Draw	County Lodge Draw	County Golf Course Draw	Payment Due For Golf Course	County Golf Course Draw	Construction Payment Remaining	Construction Payment Remaining	Additional Funding Requirements (1)	FF&E Draws (2)	Appropriated Funds	Construction Funding Requirements			
6/1/96	117,000	(113,636)	(113,636)	(90,909)	759,600	(90,909)	672,055	97,295	0	(\$495,455)	273,895				
7/1/96	148,770	(113,636)	(113,636)	(90,909)	1,217,340	(90,909)	1,161,565	97,295	0	(\$495,455)	763,405				
8/1/96	392,580	(113,636)	(113,636)	(90,909)	1,249,583	(90,909)	1,437,617	97,295	0	(\$495,455)	1,039,458				
9/1/96	450,000	(113,636)	(113,636)	(90,909)	1,272,420	(90,909)	1,517,875	97,295	0	(\$495,455)	1,119,715				
10/1/96	495,621	(113,636)	(113,636)	(90,909)	1,264,500	(90,909)	1,555,576	97,295	0	(\$495,455)	1,157,416				
11/1/96	720,000	(113,636)	(113,636)	(90,909)	1,166,454	(90,909)	1,681,909	97,295	0	(\$495,455)	1,283,749				
12/1/96	855,270	(113,636)	(113,636)	(90,909)	1,264,770	(90,909)	1,915,495	97,295	0	(\$495,455)	1,517,335				
1/1/97	776,232	(113,636)	(113,636)	(90,909)	670,500	(90,909)	1,242,187	97,295	0	(\$495,455)	844,027				
2/1/97	867,600	(113,636)	(113,636)	(90,909)	149,013	(90,909)	812,068	97,295	0	(\$495,455)	413,908				
3/1/97	1,144,215	(113,636)	(113,636)	(90,909)	135,000	(90,909)	1,074,670	97,295	0	(\$495,455)	676,510				
4/1/97	869,940	(113,636)	(113,636)	(66,690) (3)	66,690	(66,690) (3)	756,304	97,295	0	(\$495,455)	358,145				
5/1/97	877,500	(113,636)	(113,636)	(37,800) (3)	37,800	(37,800) (3)	763,864	97,295	0	(\$495,455)	365,705				
6/1/97	1,048,797	(113,636)	(113,636)	(90,909)	513,000	(90,909)	1,357,252	97,295	0	(\$495,455)	959,092				
7/1/97	778,950	(113,636)	(113,636)	(90,909)	504,000	(90,909)	1,078,405	97,295	0	(\$495,455)	680,245				
8/1/97	839,565	(113,636)	(113,636)	(90,909)	486,000	(90,909)	1,121,020	97,295	975,000	(\$495,455)	1,697,860				
9/1/97	742,500	(113,636)	(113,636)	(31,500) (3)	31,500	(31,500) (3)	628,864	97,295	97,500	(\$495,455)	328,205				
10/1/97	772,425	(113,636)	(113,636)	(90,909)	191,700	(90,909)	759,580	97,295	97,500	(\$495,455)	458,920				
11/1/97	744,300	(113,636)	(113,636)	(90,909)	231,480	(90,909)	771,235	97,295	97,500	(\$495,455)	470,575				
12/1/97	636,480	(113,636)	(113,636)	(90,909)	166,320	(90,909)	598,255	97,295	97,500	(\$495,455)	297,595				
1/1/98	657,630	(113,636)	(113,636)	(90,909)	270,000	(90,909)	723,085	97,295	1,560,000	(\$495,455)	1,884,925				
2/1/98	90,000	(90,000) (3)	(90,000) (3)	(22,442) (3)	22,442	(22,442) (3)	0	97,295	487,500	(\$495,455)	89,341				
3/1/98	1,558,375	(137,272)	(137,272)	(296,114)	1,296,679	(296,114)	2,421,668	97,295	487,500	(\$495,455)	2,511,009				
	<u>\$15,583,750</u>	<u>\$2,500,000</u>	<u>\$2,500,000</u>	<u>\$2,000,000</u>	<u>\$12,966,790</u>	<u>\$2,000,000</u>	<u>\$24,050,540</u>	<u>2,140,500</u>	<u>3,900,000</u>	<u>\$10,900,000</u>	<u>\$19,191,040</u>				

(1) Total Other Expenses less \$2,970,000 already spent.

(2) Provided by The Whiting-Turner Contracting Company.

(3) Monthly draw reduced to the amount required.

Funds remaining for that month are postponed to the final requirement date.

INTERAGENCY AGREEMENT

EXHIBIT B

FORM OF REQUISITION

\$10,900,000 State General Bond Authorization  
for the  
Rocky Gap Project  
(Chapter \_\_\_\_\_ of the Acts of 1995)  
(The "State Appropriation")

REQUISITION

TO: State of Maryland - Department of Natural Resources  
Tawes State Office Building, C-4  
580 Taylor Avenue  
Annapolis, Maryland 21401  
Attention: \_\_\_\_\_

Requisition Number: \_\_\_\_\_  
Date: \_\_\_\_\_, 199\_

Pursuant to the Interagency Agreement dated \_\_\_\_\_ (the "Agreement"),  
by and between the Maryland Economic Development Corporation, a body politic and corporate and  
a public instrumentality of the State of Maryland ("MEDCO"), and the State of Maryland, acting  
through the Department of Natural Resources ("DNR"), we request that you make disbursement of  
funds from the State Appropriation to the following payee in the following amount:

Payee: \_\_\_\_\_

Payee's Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Amount: \_\_\_\_\_

Purpose of Requisition: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Construction Budget and Schedule Reference: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

We hereby certify that:

(a) none of the items for which funds are being requisitioned has formed the basis for any disbursement heretofore made from the State Appropriation or any other source of funds for the Project;

(b) each item for which funds are being requisitioned is a proper item to be paid from the State Appropriation and is necessary in connection with the acquisition, construction or equipping of the Project (as defined in the Agreement), as evidenced by the attached invoices, receipts or other items and as permitted by the Agreement and, if for direct costs of construction, the Construction Contract (as defined in the Agreement);

(c) all of such funds are being used for the payment of costs identified on the Construction Budget and Schedule as being funded by the State Appropriation;

(d) this requisition contains no items representing payment on account of any percentage entitled to be retained at the date hereof;

(e) no written notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of any of the moneys payable under this requisition to any of the persons named herein has been received, or if any notice of any such lien, attachment or claim has been received, such lien, attachment or claim has been released or discharged, or will be released or discharged upon the payment of this requisition;

(f) if this requisition is for construction costs under the Construction Contract, all such work has been performed in accordance with the Project Plans and Specifications and attached hereto is a copy of the G702 Application and Certificate for Payment signed by the Architect;

(g) this requisition, if for construction costs under the Construction Contract, does not exceed 90% of the amount due the Contractor on account of Progress Payments (as defined in the Construction Contract);

(h) with respect to each item for payment for labor or materials, the labor for which payment is requested was actually performed or the materials were actually furnished to or installed in or about the Project;

(I) such materials and equipment are not subject to any lien or security interest created by us, or to our knowledge, by any other person, or the funds requested by this requisition are to be used to satisfy any such lien or security interest;

(j) if this requisition is being made for disbursements from the State Appropriation for materials which are not physically incorporated into the Project, such materials are stored on the

site, secured and insured against theft, vandalism and other damage and are to be physically incorporated into the Project within 90 days after delivery to the Project Site;

(k) attached hereto (if not previously furnished) are waivers of liens and receipts of payment as to the General Contractor for all work performed to the date of submission hereof and waivers of liens as to each subcontractor and each supplier for materials included in the last previous requisition within 30 days from the date of funding of the last previous requisition, or prior to the next requisition, whichever shall first occur;

(l) [based on the certificate of the Architect attached hereto, all construction work under the Architect's Plans and Specifications (as defined in the Indenture) which has been completed under the Construction Contract is in conformity with the Architect's Plans and Specifications] [based on the certificate of Golden Bear International, Inc., attached hereto, all construction work under the Nicklaus Plans and Specifications (as defined in the Indenture) which has been completed under the Construction Contract is in conformity with the Nicklaus Plans and Specifications;

(m) the moneys still available for acquisition, construction and equipping of the Project are sufficient to complete the Project or the Project has been so completed;

(n) all representations and warranties of MEDCO made in the Agreement are true and correct in all material respects and are incorporated herein by reference;

(o) no portion of this requisition represents costs of the Project not incurred under the Construction Contract; and

(p) no Event of Default has occurred and is continuing as of the date hereof under the Lease, the Agreement or the Indenture (as defined in those respective documents).

(q) attached to the requisition is a schedule showing the costs of the Project funded to the date of this requisition, the sources of payment and the costs of the Project remaining to be paid.

check if appropriate:

(r) this requisition is for the final payment under a subcontract under the Construction Contract. The work under such subcontract has been completed in accordance with such subcontract and the Construction Contract.

If this requisition is for the final disbursement for the Costs of the Project, delivered herewith are the originally executed Completion Certificate (as defined in the Agreement) and all documents required to be attached thereto.



MARYLAND ECONOMIC DEVELOPMENT  
CORPORATION

By: \_\_\_\_\_  
Authorized Officer

Total prior requisitions \$ \_\_\_\_\_

Amount of this requisition \$ \_\_\_\_\_

Total \$ \_\_\_\_\_

Reviewed and Approved  
this \_\_\_\_ day of \_\_\_\_\_, 199\_\_

DEPARTMENT OF NATURAL RESOURCES

By: \_\_\_\_\_

Notes:

1. All purchase orders, invoices and other appropriate documentation supporting the payments herein requested must be delivered to DNR with this requisition.

INTERAGENCY AGREEMENT

EXHIBIT C

FORM OF COMPLETION CERTIFICATE

COMPLETION CERTIFICATE

State of Maryland  
Department of Natural Resources  
Tawes State Office Building, C-4  
580 Taylor Avenue  
Annapolis, Maryland 21401  
Attention: \_\_\_\_\_

This Completion Certificate is being executed and delivered pursuant to the Interagency Agreement dated \_\_\_\_\_, 1996 (the "Agreement") by and between the State of Maryland acting through the Department of Natural Resources and the Maryland Economic Development Corporation ("MEDCO"), regarding the development of the hotel/meeting center and golf course at Rocky Gap State Park. Unless the context clearly indicates a contrary meaning, all terms used herein and defined in the Agreement have the meanings set forth in the Agreement.

As required by the Agreement, MEDCO hereby certifies that:

(a) The acquisition, construction and equipping of the Project was completed on \_\_\_\_\_, 199\_\_.

(b) All work performed under the Construction Contract has been completed in accordance with the Project Plans and Specifications so as to permit efficient operation of the Project and all labor, services, materials and supplies used in connection therewith have been paid for except those items (if any) listed on Schedule I attached hereto, for the payment of which moneys are available.

(c) The total amount of unpaid costs of the Project is \$ \_\_\_\_\_, and there are sufficient moneys to pay such costs.

(d) Completion of the acquisition, construction and equipping of the Project has been accomplished in such a manner as to conform with all applicable regulations of all governmental authorities (State, local or federal) having jurisdiction.

(e) All of the proceeds of the State Appropriation disbursed by the State have been used for the payment of costs of the Project.

(f) Attached hereto are the following:

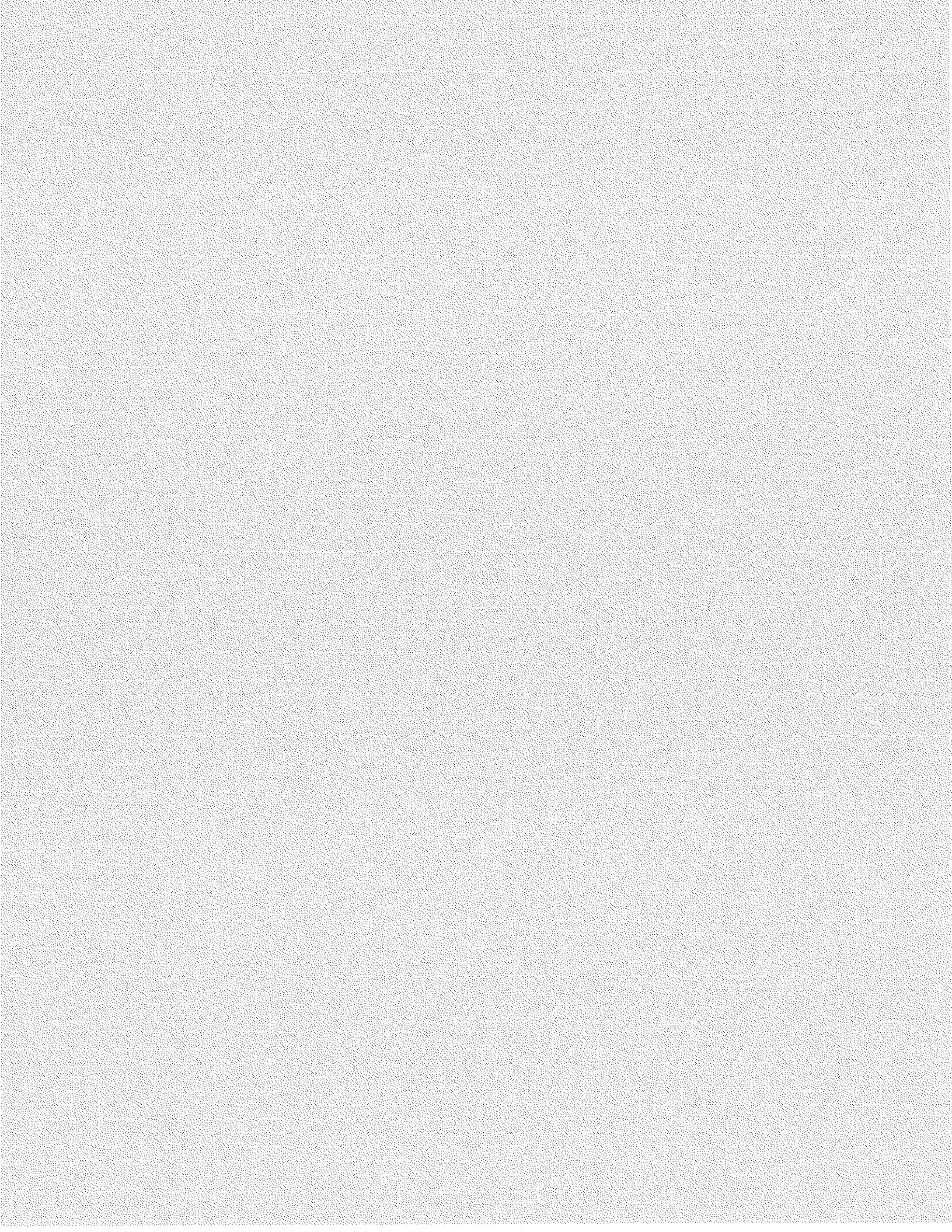
1. final lien waivers of the General Contractor and all subcontractors,
2. copies of: (i) the permanent use and occupancy certificate and (ii) all other local government approvals authorizing occupancy of the Project,
3. an as-built survey of the Project,
4. a copy of the Architect's Final Certificate for Payment,
5. the General Contractor's Affidavit of Release of Liens and Affidavit of Payment of Debts and Claims,
6. Consent of Surety Company to Final Payment,
7. Certificate of Substantial Completion signed by the Architect, the General Contractor and MEDCO,
8. Certificate of Substantial Completion signed by Golden Bear International, Inc., the General Contractor and MEDCO; and
9. an endorsement to the Title Insurance Policy indicating that no exceptions (other than Permitted Encumbrances) have arisen between the date of issuance of such Title Insurance Policy and the date hereof.

(g) This Certificate is given without prejudice to any rights against third parties which exist as of the date hereof or which may subsequently come into being.

WITNESS the signature of the Maryland Economic Development Corporation by its duly authorized officer this \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_.

MARYLAND ECONOMIC DEVELOPMENT  
CORPORATION

By: \_\_\_\_\_  
Authorized Officer



→ Coyle

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**THE STATE OF MARYLAND**  
to the use of the  
**DEPARTMENT OF NATURAL RESOURCES,**  
as Landlord

and

**MARYLAND ECONOMIC DEVELOPMENT CORPORATION,**  
as Tenant

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**FIRST AMENDMENT TO GROUND LEASE**

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**Dated December 1, 2008**

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**THE STATE OF MARYLAND**  
to the use of the  
**DEPARTMENT OF NATURAL RESOURCES,**  
as Landlord

**and**

**MARYLAND ECONOMIC DEVELOPMENT CORPORATION,**  
as Tenant

---

**FIRST AMENDMENT TO GROUND LEASE**

---

**Dated December 1, 2008**

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## **FIRST AMENDMENT TO GROUND LEASE**

**THIS FIRST AMENDMENT TO GROUND LEASE** (“this Amendment”) is made this 1<sup>st</sup> day of December, 2008 by and between **THE STATE OF MARYLAND to the use of the DEPARTMENT OF NATURAL RESOURCES** (the “Landlord”) and **MARYLAND ECONOMIC DEVELOPMENT CORPORATION**, a body politic and a public instrumentality of the State of Maryland (the “Tenant” or “MEDCO”).

### **RECITALS**

**WHEREAS**, the Landlord and the Tenant entered into a Ground Lease dated May 9, 1996 (the “Ground Lease”) pursuant to which the Landlord leases to the Tenant a parcel of land containing approximately 260 acres consisting of a portion of Rocky Gap State Park in Allegany County, Maryland (the “Land”); and

**WHEREAS**, the Tenant constructed on the Land, and currently owns and operates, a hotel/meeting center and an 18-hole golf course; and

**WHEREAS**, the Tenant issued its Maryland Economic Development Corporation Revenue Bonds (Rocky Gap Golf Course and Hotel/Meeting Center Project), Series 1996 A and B pursuant to a Trust Indenture dated as of April 1, 1996 by and between the Tenant and The First National Bank of Maryland (predecessor-in-interest to Manufacturers and Traders Trust Company), as Trustee (the “MEDCO Bonds”) to finance the construction on the Land of a hotel/meeting center and an 18-hole golf course currently owned and operated by the Tenant; and

**WHEREAS**, the Tenant proposes to issue the 2008 Bonds (as defined below) to refinance the MEDCO Bonds, and grant security for the 2008 Bonds, as more particularly described herein, and the Tenant and the Landlord desire to amend the Ground Lease accordingly.

### **AGREEMENTS**

NOW, THEREFORE, FOR AND IN CONSIDERATION of the mutual entry into this Amendment by the parties hereto, the sum of \$1.00 in hand paid and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by each party hereto, the Landlord and the Tenant hereby agree as follows:

### **ARTICLE I DEFINITIONS**

SECTION 1.01. Definitions. Terms used in this Amendment and not defined herein shall have the meanings given such terms in the Ground Lease unless the context clearly indicates otherwise.



**ARTICLE II  
AMENDMENTS TO GROUND LEASE**

SECTION 2.01. Definitions. Section 1 of the Ground Lease is hereby amended to (i) delete the definition of “Deeds of Trust” in its entirety and insert in lieu thereof the following:

“1.1.3. “Deeds of Trust” means, collectively, the four leasehold deeds of trust dated as of December 1, 2008, each pertaining to the Property, and each executed and given by the Issuer to the Bond Trustee and approved by the State of Maryland Board of Public Works and any other deeds of trust amendatory thereof or supplemental thereto, including (without limitation) any supplement or amendment thereto and any separate or additional instrument executed and delivered by the Issuer in order to effect, record or perfect the interest of the Individual Trustees in any portion of the Property.”;

(ii) add the following definition in alphabetical order:

“1.1.5. “Fiscal Year” means the period of 12 consecutive months beginning on July 1 in any calendar year and ending on June 30 of the following calendar year or such other fiscal year as the Tenant, with prior written notice to the Landlord, shall establish as the fiscal year for the Property.”;

(iii) delete the definition of “Indenture” in its entirety and insert in lieu thereof the following:

“1.1.10. “Indenture” means the Second Amended and Restated Trust Indenture dated as of December 1, 2008 between MEDCO and the Bond Trustee, as amended or supplemented from time to time.”;

(iv) delete the definition of “Interagency Agreement” in its entirety and insert in lieu thereof the following:

“1.1.11. “Interagency Agreement” means the Interagency Agreement dated May 9, 1996, by and between MEDCO and the Landlord; provided, however, that commencing on the effective date of the termination of such Interagency Agreement, the term “Interagency Agreement” shall refer to the Cash Flow Sharing Agreement (as defined in the Indenture).”;

(v) delete the definition of “MEDCO Bonds” in its entirety and insert in lieu thereof the following:

“1.1.12. “MEDCO Bonds” means, collectively, \$31,300,000 Revenue Bonds (Rocky Gap Golf Course and Hotel/Meeting Center Project), Series 1996 A and B issued by MEDCO, the proceeds of which were used by MEDCO to pay for a portion of the costs of the acquisition, construction and equipping of the Project, and any Additional Bonds, as defined in the Indenture, including, without limitation, the 2008 Bonds.”;

(vi) delete the definition of “Operating Year” in its entirety and insert in lieu thereof the following:

“1.1.14. “Operating Year” means the calendar year or such operating year as the Tenant, with prior written notice to the Landlord, shall establish as the operating year for the Property.”;

(vii) add the following definition in alphabetical order:

“1.1.18. “2008 Bonds” means the Maryland Economic Development Corporation Refunding Revenue Bonds (Rocky Gap Golf Course and Hotel/Meeting Center Project), Series 2008 A, B, C and D issued pursuant to the Indenture.”; and

(viii) appropriately renumber the remaining definitions in Section 1.1.

SECTION 2.02. Extension of Ground Lease Term. Section 2.1. (Length) of the Ground Lease is hereby deleted in its entirety and the following is inserted in lieu thereof:

“2.1. Length. This Lease shall be for a term (the “Term”) of approximately sixty-nine (69) years beginning on May 9, 1996 (the “Commencement Date”) and terminating on April 30, 2065 (the “Termination Date”).”

SECTION 2.03. Reserved.

SECTION 2.04. Replacement of Operating Year with Fiscal Year. Each instance of the term “Operating Year” appearing in Section 3 and Section 4.4. of the Ground Lease is hereby replaced by the term “Fiscal Year” as defined in Section 2.01. above.

SECTION 2.05. Annual Rent. Section 3.1.1. of the Ground Lease is hereby amended by adding the following at the end thereof:

“All payments of Annual Rent made by MEDCO shall be applied by the Landlord to accrued and unpaid Annual Rent in chronological order.”

SECTION 2.06. Terms “Original Term” and “Renewal Term”. The phrase “last three (3) years of the Original Term or any Renewal Term” appearing in the 17<sup>th</sup> and 18<sup>th</sup> lines of Section 10.1.1. of the Ground Lease is hereby deleted and the following is inserted in lieu thereof: “last three (3) years of the Term”.

SECTION 2.07. Deeds of Trust. (a) Pursuant to Section 10-305 of the State Finance and Procurement Article of the Annotated Code of Maryland, any assignment of a leasehold estate on property owned by the State of Maryland is subject to the prior approval of the State of Maryland Board of Public Works. The State of Maryland Board of Public Works hereby approves MEDCO’s granting of four leasehold deeds of trust, each dated as of December 1, 2008 and each pertaining to the Property and executed and delivered by MEDCO to the individual trustees thereunder, to the Bond Trustee to secure MEDCO’s obligations under the 2008 Bonds.

(b) The phrase “either of the Deeds of Trust” in the 22<sup>nd</sup> and 23<sup>rd</sup> lines of Section 12.2. of the Ground Lease is hereby deleted and “any of the Deeds of Trust” is inserted in lieu thereof.

SECTION 2.08. Interagency Agreement. The Interagency Agreement dated May 9, 1996 by MEDCO and the Landlord is hereby terminated and Exhibit F to the Ground Lease is hereby deleted in its entirety.

SECTION 2.09. Surcharge Revenues. Section 3.2. of the Ground Lease is hereby amended as follows:

(a) The section number and the title for Section 3.2. currently listed as “Section 3.2. Surcharge Revenue.” are hereby deleted and the following new section numbers and titles are hereby inserted in lieu thereof:

“3.2. Surcharge Revenue.

3.2.1. Surcharge Revenue – General.”

(b) The following shall be added immediately after Section 3.2.1. of the Ground Lease:

“3.2.2. Past-Due Surcharge Revenue. Unpaid Surcharge Revenue for any period prior to January 1, 2006, shall not constitute an Event of Default hereunder and shall be paid pursuant to the Cash Flow Sharing Agreement (as defined in the Indenture). Surcharge Revenue from January 1, 2006 through July 31, 2008 has been paid to the Landlord. Surcharge Revenue for any period after July 31, 2008 shall be due and payable on an on-going quarterly basis pursuant to paragraph 3.2.1. hereof.”

SECTION 2.10. Video Lottery Terminals. The Tenant, the Landlord and the State of Maryland Board of Public Works hereby approve the designation of a parcel of land within the leased premises comprised of approximately 18.01 acres and described in Exhibit A attached hereto and made a part hereof (the “Designated Parcel”), some portion of which may later be removed from the leased premises to be used for a facility containing video lottery terminals to be leased to MEDCO and then subleased to a licensee of such video lottery terminals. At such time as a portion of the Designated Parcel is more specifically identified and described for such use, the Ground Lease shall be further amended, subject to approval of the State of Maryland Board of Public Works, by removing such described portion of the Designated Parcel from the leased premises.

### ARTICLE III MISCELLANEOUS

SECTION 3.01. Counterparts. This Amendment may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original; but such counterparts shall together constitute but one and the same Amendment.

SECTION 3.02. Ground Lease in Full Force and Effect. Except as expressly amended herein, the Ground Lease continues in full force and effect.

SECTION 3.03. Governing Law. The laws of the State of Maryland shall govern the construction and enforcement of this Amendment.

SECTION 3.04. Effectiveness. This Amendment shall become effective upon and only upon the last to occur of: (a) its execution and delivery by each party hereto, (b) receipt of approval and execution of this Amendment by the State of Maryland Board of Public Works, and (c) the issuance and sale of the MEDCO Bonds, as more fully described in the Indenture.

[SIGNATURES APPEAR ON FOLLOWING PAGES]

IN WITNESS WHEREOF, each party hereto has executed and ensealed this First Amendment to Ground Lease or caused it to be executed and ensealed on its behalf by its duly authorized representative on the day and year first above written.

WITNESS:

Charlotte B. Tramm



E. Deep C. Mosley

[SEAL]

Approved by the State of Maryland Board of Public Works on the 19<sup>th</sup> day of November, 2008 By Agenda Item No. 11

WITNESS:

Sheila C. McDonald

Sheila C. McDonald  
Executive Secretary  
Board of Public Works

**MARYLAND ECONOMIC DEVELOPMENT CORPORATION**

By: Robert C. Brennan  
Robert C. Brennan  
Executive Director

**THE STATE OF MARYLAND DEPARTMENT OF NATURAL RESOURCES**

By: John R. Griffin  
John R. Griffin  
Secretary

**STATE OF MARYLAND BOARD OF PUBLIC WORKS**

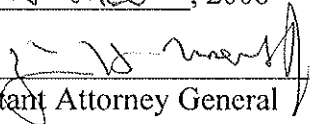
By: Martin O'Malley  
Martin O'Malley  
Governor

By: \_\_\_\_\_  
Peter Franchot  
Comptroller

Approved by Board of Public Works of the State of Maryland at a meeting held on the 19<sup>th</sup> day of November, 2008, Secretary's Item 11

By: Nancy K. Kopp  
Nancy K. Kopp  
Treasurer

Approved as to form and legal  
sufficiency this 17<sup>th</sup> day  
of November, 2008

  
Assistant Attorney General

STATE OF MARYLAND, CITY/COUNTY OF Baltimore, TO WIT:

I HEREBY CERTIFY THAT ON THIS 14 day of November, 2008, before me, a Notary Public for the state and city/county aforesaid personally appeared Robert C. Brennan known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing First Amendment to Ground Lease, who acknowledged that he is the Executive Director of Maryland Economic Development Corporation, a body politic and corporate and a public instrumentality of the State of Maryland, that he has been duly authorized to execute, and has executed, such instrument on its behalf for the purposes therein set forth, and that the same is its act and deed.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.

My commission expires: 3/1/2011 Charlotte Base Trainor  
Notary Public

STATE OF MARYLAND, CITY/COUNTY OF Anne Arundel, TO WIT:

I HEREBY CERTIFY THAT ON THIS 17<sup>th</sup> day of November, 2008, before me, a Notary Public for the state and city/county aforesaid, personally appeared John R. Griffin, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing First Amendment to Ground Lease, who acknowledged that he is the Secretary for the State of Maryland Department of Natural Resources, that he has been duly authorized to execute, and has executed, such instrument on its behalf for the purposes therein set forth, and that the same is its act and deed.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.

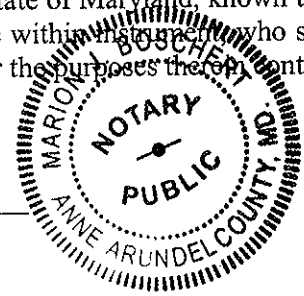
My commission expires: 3/1/2010 Kerri Anne Wain  
Notary Public

STATE OF MARYLAND, COUNTY OF Anne Arundel, TO WIT:

I HEREBY CERTIFY, that on this 25 day of Nov, 2008, before me the subscriber, a Notary Public of the State of Maryland, personally appeared MARTIN O'MALLEY, Governor, member of the Board of Public Works of the State of Maryland, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, who signed the same in my presence, and acknowledged that he executed the same for the purposes therein contained.

AS WITNESS my hand and Notarial Seal.

Marion J. Boschert  
Notary Public



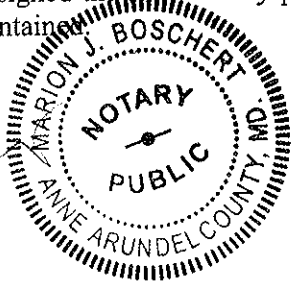
My Commission Expires: 12/26/2011

STATE OF MARYLAND, COUNTY OF Anne Arundel, TO WIT:

I HEREBY CERTIFY, that on this 25 day of Nov, 2008 before me the subscriber, a Notary Public of the State of Maryland, personally appeared NANCY K. KOPP, Treasurer, member of the Board of Public Works of the State of Maryland, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, who signed the same in my presence, and acknowledged that she executed the same for the purposes therein contained.

AS WITNESS my hand and Notarial Seal.

Marion J. Boschert  
Notary Public



My Commission Expires: 12/26/2011

STATE OF MARYLAND, COUNTY OF \_\_\_\_\_, TO WIT:

I HEREBY CERTIFY, that on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me the subscriber, a Notary Public of the State of Maryland, personally appeared PETER FRANCHOT, Comptroller, member of the Board of Public Works of the State of Maryland, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, who signed the same in my presence, and acknowledged that he executed the same for the purposes therein contained.

AS WITNESS my hand and Notarial Seal.

\_\_\_\_\_  
Notary Public

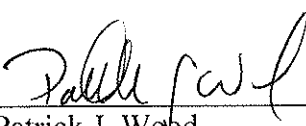
My Commission Expires:

Approved by Board of Public Works of the State of Maryland at a meeting held on the 19<sup>th</sup> day of November, 2008, Secretary's Item 11

CONSENT OF TRUSTEE

Manufacturers and Traders Trust Company, as Trustee (the "Trustee") under the Second Amended and Restated Trust Indenture dated as of December 1, 2008 by and between Maryland Economic Development Corporation and the Trustee as amended, hereby consents to the foregoing First Amendment to Ground Lease and waives any notice of the foregoing First Amendment to Ground Lease required to be given to the Trustee.

**MANUFACTURERS AND TRADERS TRUST  
COMPANY**

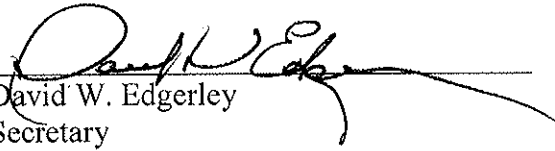
By:  \_\_\_\_\_  
Patrick J. Wood  
Vice President



CONSENT OF DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT

The Department of Business and Economic Development hereby consents to the foregoing First Amendment to Ground Lease.

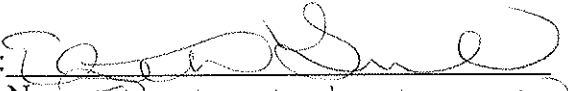
**DEPARTMENT OF BUSINESS AND  
ECONOMIC DEVELOPMENT**

By:   
David W. Edgerley  
Secretary

CONSENT OF CRESTLINE HOTELS & RESORTS, INC.

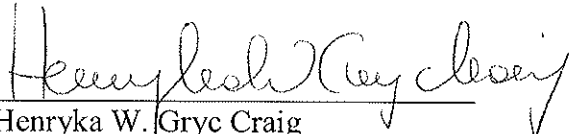
Crestline Hotels & Resorts, Inc. hereby consents to the foregoing First Amendment to Ground Lease.

**CRESTLINE HOTELS & RESORTS, INC.**

By:   
Name: Elizabeth Lieberman  
Title: v.p.

Certificate of Attorney

THE UNDERSIGNED hereby certifies that she is an attorney admitted to practice before the Court of Appeals of Maryland and that the within instrument was prepared by an attorney admitted to practice before the Court of Appeals of Maryland, or under the supervision of an attorney admitted to practice before the Court of Appeals of Maryland, or by or on behalf of one of the parties named in the instrument.

  
Henryka W. Gryc Craig

DESIGNATED PARCEL

Designated Parcel  
18.01 acres



**Rocky Gap State Park**

**Legend**

- Park Boundary
- Leased Area
- Designated Parcel

N

0 250 500 Feet

MARYLAND DEPARTMENT OF NATURAL RESOURCES

Designated Parcel  
18.01 acres



**Rocky Gap State Park**

**Legend**

- Park Boundary
- Leased Area
- Designated Parcel

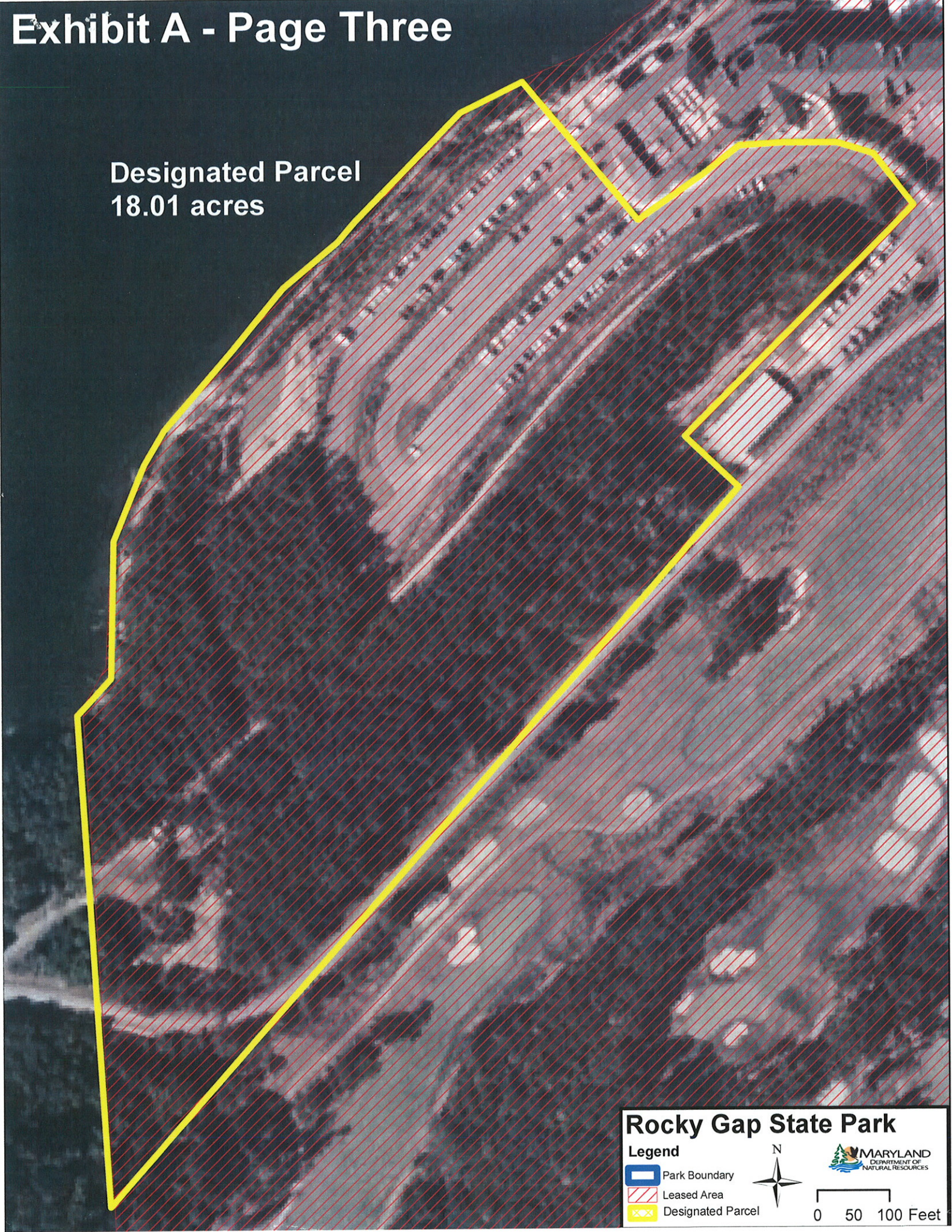
N

0 100 200 Feet

MARYLAND DEPARTMENT OF NATURAL RESOURCES

# Exhibit A - Page Three

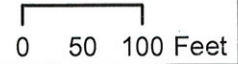
Designated Parcel  
18.01 acres

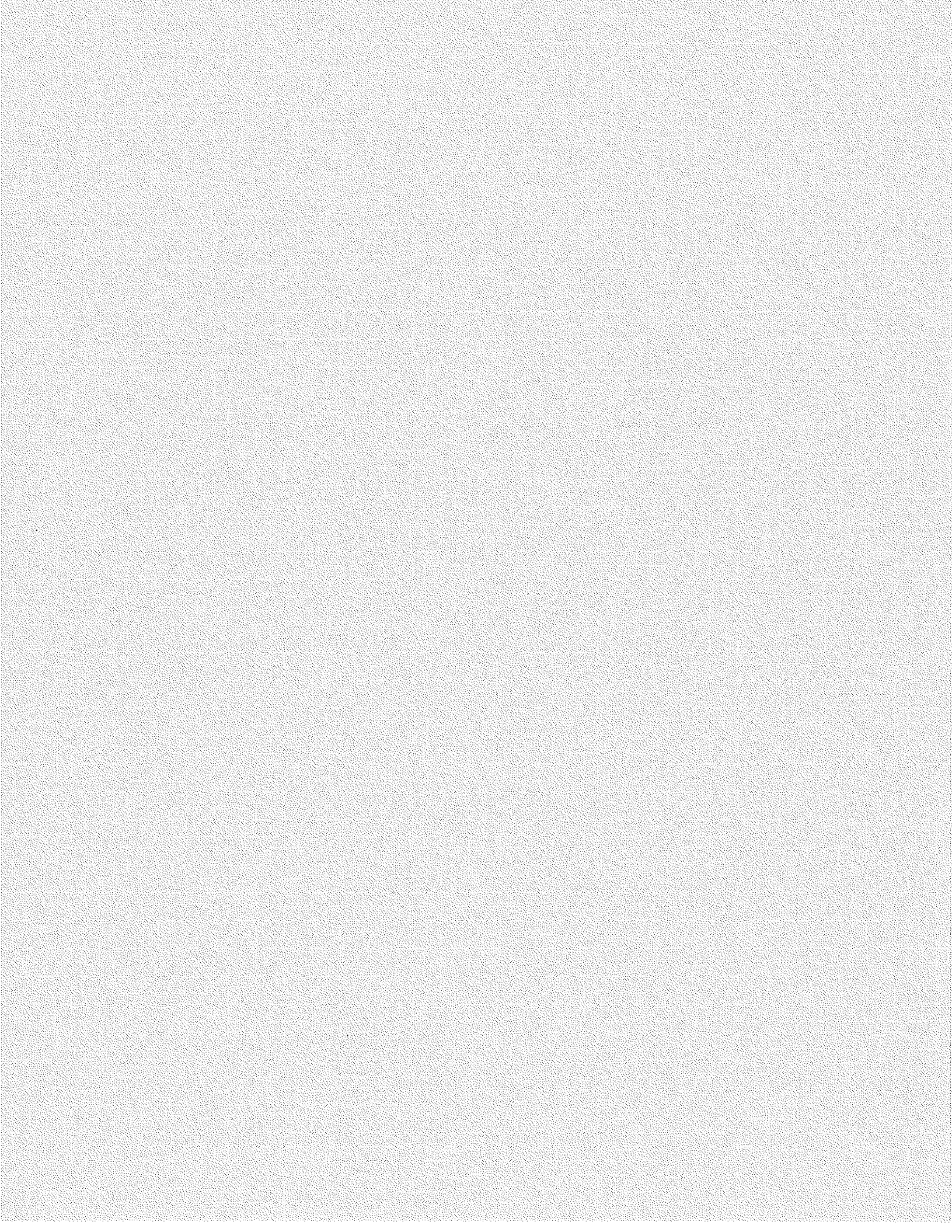


## Rocky Gap State Park

### Legend

-  Park Boundary
-  Leased Area
-  Designated Parcel







**MARYLAND ECONOMIC DEVELOPMENT CORPORATION  
REFUNDING REVENUE BONDS  
(ROCKY GAP GOLF COURSE AND HOTEL/MEETING CENTER PROJECT)  
SERIES 2008 A, B, C and D  
(the “Series 2008 Bonds”)**

**INSTRUCTION TO CONSENT TO AMENDMENT TO GROUND LEASE**

Dated: December 1, 2008

The undersigned, as beneficial owners of all of the Series 2008 Bonds issued pursuant to the Second Amended and Restated Trust Indenture dated as of December 1, 2008 by and between the Issuer and Manufacturers and Traders Trust Company, as Trustee (the “Trustee”), hereby instruct the Trustee to execute the acknowledgement and consent for the attached First Amendment to Ground Lease.

(SIGNATURES APPEAR ON THE NEXT PAGE)

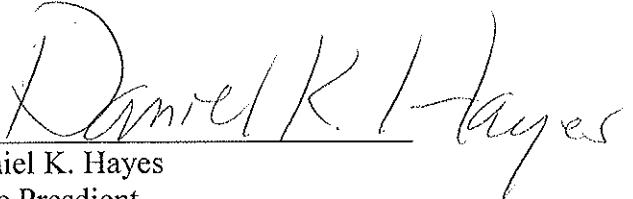




**CALVERT TAX-FREE RESERVES  
LONG-TERM PORTFOLIO**

(\$245,000 – Series 2008 B)

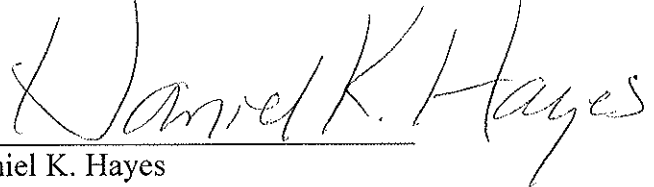
(\$337,865.40 – Series 2008 C)

By:   
Daniel K. Hayes  
Vice President

**CALVERT SOCIAL INVESTMENT  
FUND BALANCED PORTFOLIO**

(\$1,855,000 – Series 2008 B)

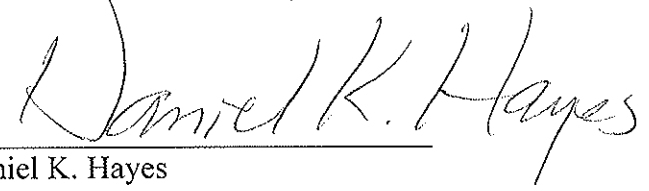
(\$2,534,052.69 – Series 2008 C)

By:   
Daniel K. Hayes  
Vice President


**CVS CALVERT SOCIAL  
BALANCED PORTFOLIO**

(\$370,000 – Series 2008 B)

(\$506,806.98 – Series 2008 C)

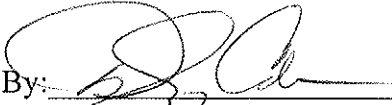
By:   
Daniel K. Hayes  
Vice President

**MARYLAND ECONOMIC  
DEVELOPMENT CORPORATION**  
(\$3,500,000 – Series 2008 A)

By:   
\_\_\_\_\_  
Robert C. Brennan  
Executive Director

**MARYLAND INDUSTRIAL  
DEVELOPMENT FINANCING  
AUTHORITY**

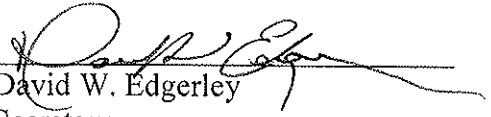
(\$3,470,000 – Series 2008 D)

By:   
\_\_\_\_\_  
D. Gregory Cole  
Executive Director

**DEPARTMENT OF BUSINESS AND  
ECONOMIC DEVELOPMENT**

(\$3,500,000 – Series 2008 A)

(\$4,000,000 – Series 2008 B)

By:   
David W. Edgerley  
Secretary