

LEASE AGREEMENT  
BETWEEN  
MCSHEA GAITHER ROAD LIMITED PARTNERSHIP  
AND  
MONTGOMERY COUNTY, MARYLAND

Dated: 1-15-97

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LEASE AGREEMENT

THIS AGREEMENT, entered into this 15<sup>th</sup> day of January, 1997, by and between MCSHEA GAITHER ROAD LIMITED PARTNERSHIP, hereinafter referred to as ("Landlord") and MONTGOMERY COUNTY, MARYLAND, a body corporate and politic, hereinafter referred to as ("Tenant").

WITNESSETH:

That for and in consideration of the rents hereinafter reserved and the agreements and covenants herein contained, Landlord and Tenant agree as follows:

1. PREMISES: Landlord does hereby Lease and demise unto Tenant, and Tenant does hereby Lease and take from the Landlord the premises described as approximately 15, 944 square feet of space known as 9125-B Gaither Road, Gaithersburg, Maryland 20877 within the building known as 9121-9129 Gaither Road (hereinafter referred to as the "Building") which is outlined in red on Exhibit A attached hereto and made a part hereof, and which space is hereinafter referred to as the "Leased Premises".

2. TERM: The term hereby created shall be five (5) years, commencing on the sixth (6th) day of January 1997, or as soon thereafter as Landlord shall deliver possession of the Leased Premises to Tenant in the condition required by Paragraph 9 of this Lease, and terminating five (5) years after such commencement date. After the commencement date, Landlord shall deliver to Tenant a Certificate of Commencement in the form attached hereto as Exhibit C and made a part hereof, which certificate Tenant shall promptly execute and return to Landlord.

3. RENT:

- A. Tenant shall pay rent to the Landlord the annual amount of ONE HUNDRED FIFTY ONE THOUSAND FOUR HUNDRED SIXTY EIGHT AND 00/100 (151,468.00) DOLLARS, payable in equal monthly payments to be made by the Tenant in advance, on or before the first day of each month, without set-off, deduction or demand therefore, to and at the offices of the Landlord as hereinafter designated, in the monthly amount of TWELVE THOUSAND SIX HUNDRED TWENTY TWO and 33/100 (\$12,622.33) DOLLARS.
- B. Any installment of rent which remains unpaid ten (10) days after the due date shall be subject to a "late charge" of five percent (5%) of the payment in question.

All payments are to be made in advance on the first day of each month during each Lease year at the offices of McShea Gaither Road Limited Partnership, One Bank Street, Gaithersburg, Maryland 20878, or at such other location as maybe from time to time directed by Landlord.

4. RENT ADJUSTMENT: It is agreed between the parties that the base rent payable by the Tenant as set forth in Paragraph 3 hereinabove shall be adjusted at the beginning of the second (2nd) Lease year, and each year thereafter, based on an increase of three percent (3.0%) of the previous year's base rent.

5. REAL ESTATE TAXES:

- A. Tenant agrees to pay, as additional rent hereunder, a sum equal to Tenant's proportionate share of any real estate taxes which may be

levied or assessed by lawful taxing authorities against the land, buildings and all improvements in the building.

- B. "Real estate taxes" shall be deemed to mean all city, county, town and village taxes, special or general, ordinary or extraordinary, assessments, excise, levies, and other governmental charges which shall be imposed upon or become due and payable or become a lien upon the building or any part thereof, by any Federal, State municipal, or other governmental or public authority under existing law, or practice or under any future law or practice. Real Estate Taxes shall not include any in-house costs that are incurred by Landlord in protesting or seeking a reduction of Real Estate Taxes. In the event that Landlord contests Real Estate Taxes with respect to any period during which Tenant has paid to Landlord increases in Real Estate Taxes over the Real Estate Taxes for the Base Year and in connection with such contest, Landlord receives a refund of any Real Estate Taxes that were previously paid by Landlord with respect to such period, then Landlord shall pay to Tenant after deducting all costs, except in-house costs, and amounts incurred by Landlord in connection with such tax contest, Tenant's share of such refund.
- C. Tenant's proportionate share of real estate taxes shall be determined for each calendar year by multiplying the real estate taxes for such calendar year by a fraction, the numerator of which shall be the floor area of the premises, and the denominator of which shall be the floor area of all rentable space in the Building. Tenant's liability for Tenant's proportionate share of real estate

taxes and assessments for the calendar year during which this Lease commences and terminates shall in all events be subject to a pro-rata adjustment based on the number of days of said calendar year during which the term of the Lease is in effect. Landlord and Tenant agree Tenant's pro-rata share of said real estate taxes shall be 27.88%.

- D. Beginning with the commencement date, Tenant will pay to Landlord as additional rent hereunder, without deduction or set-off, such portion of the real estate taxes as the floor area of the leased premises bears to the gross leasable area of the building, which portion is hereby deemed to be 27.88%. Tenant shall pay for such real estate taxes as a separate charge in advance on the first day of each calendar month in an amount estimated by Landlord, which amount shall be subject to annual adjustment to reflect the increasing (or decreasing) amount of real estate taxes.
- E. Within one hundred twenty (120) days after the end of each calendar year, Landlord will furnish Tenant a statement showing the amount of real estate taxes for the preceding calendar year. Any deficit in Tenant's share of real estate taxes will be assessed (payable within thirty (30) days of assessment), and any surplus will be credited, and the monthly payments for the ensuing calendar year shall be adjusted accordingly. Changes in applicable floor areas shall result in corresponding pro rata adjustments.
- F. Landlord shall upon Tenant's written request which shall be made no later than ninety (90) days after receipt of Landlord's statement

of the actual operating expenses and real estate taxes for pursuant to Sections 5.E and 10.D, permit Tenant and Tenant's certified public accountant to inspect such of its records as are reasonably necessary to certify that the calculation of operating expenses and real estate taxes set forth in such statement was made in accordance with the applicable provisions of this Lease; provided, however that Tenant shall not be entitled to delay any payment under this Lease during the pendency of any such inspection. Such inspection shall be made at a time and date specified in Tenant's request for same, which date shall in no event be less than fifteen (15) days after Landlord's receipt of Tenant's request for the same. Tenant shall bear all costs of any such inspection. If it shall be determined that there is an error in Landlord's statement, Tenant shall be entitled to a credit for any overpayment. Any payment, refund or credit made pursuant to Section 5.E to 10.D shall be made without prejudice to any right of Tenant to dispute, or of Landlord to correct, any item(s) as billed pursuant to the provisions hereof; provided however, such right to correct or adjust rental payments shall terminate at the expiration of two (2) years after the date any payment shall have become due. Tenant shall keep the results of any such audit confidential, except to the extent reasonably required to be revealed in any legal action between Landlord and Tenant relating to operating expenses.

- G. A copy of a tax bill or assessment bill submitted by Landlord to Tenant shall at all times be sufficient evidence of the amount of taxes and/or assessments assessed or levied against the property to which such bill relates. Landlord's and Tenant's obligations under

this paragraph to pay those real estate taxes on the premises Leased by Tenant during the period of this Lease Agreement or period of time Tenant is obligated under this Agreement shall survive the expiration of the term of this Lease.

- H. In the event that any present or future enactment of any state or political subdivision thereof or any governmental authority having jurisdiction thereover:
- i. Imposes a tax and/or assessment of any kind or nature upon, against or with respect to the rents payable by tenants in the building to Landlord derived from the building or with respect to the Landlord's ownership of the land and improvements comprising the building, either by way of substitution for all or any part of the taxes and assessments levied or assessed against such land and such improvements, or in addition thereto; and/or
  - ii. Imposes a tax or surcharge of any kind or nature, upon, against or with respect to the parking areas or the number of parking spaces in the building, such tax, assessment and/or surcharge shall be deemed to constitute real estate taxes for the purpose of this Article and Tenant shall be obligated to pay its proportionate share thereof as provided herein.

6. USE AND OCCUPANCY: Tenant covenants and agrees that said premises shall be used and occupied only for the purposes related to general office use and law enforcement support functions, subject to applicable zoning ordinances, and for

no other purpose without the prior written consent of Landlord. Law enforcement support functions include but are not limited to the operation of the K-9 unit including the presence of no more than 3 dogs per shift in the Premises on a rotating basis. Tenant shall have the right to occupy and use the premises twenty-four hours a day, seven days a week.

7. ACCESS: Tenant will allow Landlord or Landlord's agents to have access to the premises at all reasonable times for the purpose of inspection or in the event of fire or other property damage, or for the purpose or performing any maintenance and repairs Landlord may consider necessary or desirable.

8. SERVICES: Tenant shall provide at its sole cost and expense for housekeeping and janitorial services; trash; pest control; and for the repair and maintenance of mechanical, electrical and plumbing systems and fixtures, and for all other routine maintenance and repairs to the premises and property. Except as obligations to repair are expressly delegated to the Landlord as described below, Tenant shall be responsible for the full cost of all maintenance and repair of the Leased Premises, including the doors, windows, screens, floors, walls, and ceilings located in and exclusively servicing the Leased Premises and all pipes, wires, conduits and other equipment and fixtures located in and exclusively servicing the Leased Premises. Tenant, at its expense, shall maintain and repair the heating, ventilating and air-conditioning system at and exclusively servicing the Leased Premises. Tenant will throughout the term of this lease perform regular inspections and maintenance services to the heating, ventilating and air-conditioning system exclusively servicing the Leased Premises. As to all repairs to be performed by Tenant, Tenant shall immediately perform repairs upon the occurrence of the necessity thereof. Tenant shall also be responsible to keep the loading docks exclusively servicing the Leased Premises free and clear of dirt, trash, debris, ice, snow, and any other obstructions. All glass, both exterior and interior which

exclusively services the Leased Premises, shall be maintained at the sole risk of Tenant, and Tenant agrees to replace any glass which exclusively services the Leased Premises promptly at its sole expense in the event of breakage. Landlord shall be responsible for repairs to the roof, structure and foundation. Landlord shall also be responsible for "Major repair" which is defined as any single repair to any of the foregoing building elements that cost in excess of \$1,500.00 Landlord, however, shall not be responsible for any major repair if the necessity of such repair is caused by the negligence or willful misconduct of the Tenant, or its employees, agents, contractors or invitees. In the event Landlord fails to respond in a reasonable period of time to correct major maintenance and repair problems, Tenant shall have the right but not the obligation to correct these problems, in which event Landlord shall reimburse Tenant for Tenant's reasonable cost of correcting such problems within thirty (30) days after receipt of an invoice therefor. Landlord is to be notified of requested major repairs and will contract and arrange for same.

Tenant shall be responsible for the direct payment of all utility charges assessed against the individual meters within the Leased Premises, including oil, heat, gas and electric charges, when and as the same become due. In all instances where utilities are provided to Tenant without individual metering, such as water and sewer, Tenant shall pay its pro-rata share for the cost of said utilities, which pro-rata share is hereby determined to be 27.88% of the total cost. In no event shall Landlord be liable for any interruption or failure in the supply of any utilities to the Leased Premises, except as follows. In the event that (i) electricity and/or heating or air conditioning (in season) of the Leased Premises, shall not be furnished for more than seven (7) consecutive days as a result of the Landlord's, its agents' or employees' negligence, and (ii) Tenant, in its reasonable business judgment, determines that it is unable to use and occupy the Leased Premises (or any part thereof) as a result thereof, then the base rent Tenant is obligated to pay hereunder shall abate with respect to that part of the Leased Premises which

Tenant does not use and occupy, commencing on the eighth (8th) such day until the date on which such services and utilities are restored.

Landlord shall also maintain in good order and repair all pipes, wires and conduits located outside of the Leased Premises which serve the Leased Premises, provided, in each case, that Tenant shall give Landlord written notice of the necessity thereof, and provided further, that any such repairs necessitated by the acts or omissions of Tenant, its agents, employees, contractors or invites, shall be performed at Tenant's expense and the cost thereof shall be paid by Tenant to Landlord, as additional rent, within ten (10) days after Landlord's submission of a bill therefor. In addition, Landlord shall perform periodic cleaning of the exterior windows of the Leased Premises.

9. CONSTRUCTION AND REMODELING: Before the Lease commencement date, Landlord, at its sole cost and expense, shall repaint the interior premises where needed and clean and repair all carpet where needed. Within sixty (60) days after the Commencement Date, Landlord, at its sole cost and expense, shall construct one (1) new 14 foot by 14 foot sectional rollup door, one new #3068 hollow metal door, and one (1) new wall mounted twelve (12) inch exhaust fan as shown in Exhibit B.

Landlord shall use reasonable efforts to minimize disruption to Tenant's business operations in the Leased Premises while performing such construction; provided, however, that Landlord shall not be required to perform such construction outside of normal business hours. Landlord further agrees to utilize only first- class fixtures and furnishings in the Leased Premises.

10. BUILDING OPERATING EXPENSES:

A. Tenant shall pay to Landlord, as additional rent hereunder, Tenant's proportional share of operating expenses of the Building. As used herein, the "operating expenses of the Building" shall mean the sum

of all costs of operating, policing, managing, maintaining and repairing the Building, including but not limited to the following: gas, electricity, and other utility charges (including surcharges) of every type and nature incurred in operating the common areas of the Building; the charges for water and sewer supplied to the Building; the cost of public liability insurance, casualty insurance, rent loss insurance, and all other insurance coverage carried by Landlord in connection with the Building; legal and accounting fees; management fees and personnel costs, including, but not limited to, salaries, wages, fringe benefits and other direct and indirect costs of Building personnel; the cost of all service and maintenance contracts; landscaping maintenance, including upgrades and replacements; parking facility maintenance, including repairs, restriping, resurfacing, rebuilding and removal of snow, ice and debris; traffic control; sanitary and drainage control; disposal of trash (except for amounts of trash generated by Tenant which are considered by Landlord, in Landlord's sole discretion, to be excessive, the cost of disposal of which Landlord reserves the right to charge Tenant, and Tenant agrees to pay on demand); all other maintenance and repair expenses and supplies which are deductible by Landlord for its Federal income tax purposes; the cost of capital improvements or alterations made by Landlord to the Building, such cost to be amortized over such reasonable period as Landlord shall determine; equipment, materials and tools; charges of any kind imposed by any governmental authority in connection with the use or occupancy of Building, including any and all license, permit, and inspection fees; and any other costs and expenses incurred by Landlord in owning, maintaining or operating the Building. The

operating expenses of the Building shall not include: leasing commissions payable by Landlord; depreciation on the Building or equipment therein, except to the extent set forth above; or the costs of special services or utilities separately charged to individual tenants of the Building.

- B. Beginning with the commencement date, Tenant will pay to Landlord as additional rent hereunder, without deduction or set-off, such portion of Landlord's actual operating expenses the Building (hereinbefore defined) as the Floor Area of the Leased Premises bears to the Gross Leasable Area of the building, which portion is hereby deemed to be 27.88%. Tenant shall pay for such costs as a separate charge in advance of the first day of each calendar month in an amount estimated by the Landlord, which amount shall be subject to annual adjustment to reflect the increasing (or decreasing) cost of the Landlord's operation and maintenance of the Building.
- C. Landlord, shall, at the Landlord's expense (except that such expense shall be included in the operating expenses of the Building), provide all necessary maintenance, repair and upkeep of common areas, including the following:
- i. The cost of fire and extended liability insurance on the land and building of which the Leased Premises are a part.
  - ii. Repairs, maintenance, service and replacement of elements in the common areas, including the upkeep and landscaping of the exterior areas, as may be necessary.
  - iii. Maintenance and repair of parking areas, including snow and ice removal or treatment, as it becomes necessary.

- D. Within one hundred twenty (120) days after the end of each calendar year, Landlord will furnish to Tenant a statement showing in reasonable detail the amount of Landlord's costs for Building operating expenses for the preceding Lease Year. Any deficit in Tenant's share of applicable cost will be proportionately assessed (payable within thirty (30) days of assessment), and any surplus will be proportionately credited, and the monthly payments for the ensuing calendar year shall be adjusted accordingly. Changes in applicable floor areas shall result in corresponding pro rata adjustments.
- E. Notwithstanding anything to the contrary in this Section 10, Tenant's proportional share of water and sewer charges shall be 51% of the water and sewer charges for 9123, 9125, 9125B and 9125C Gaither Road (which share a common meter), calculated as the ratio the Floor Area of the Leased Premises bears to the 31,469 square foot Gross Leasable Area of 9123, 9125, 9125B and 9125C Gaither Road.

11. ALTERATIONS: Tenant will not make any alterations, additions, or improvements to the premises without the Landlord's written consent, which consent shall not be unreasonably withheld for non-structural alterations which do not impair Building utility systems or equipment. All alterations, additions, or improvements made by either of the parties hereto upon the premises shall become the property of the Landlord and shall remain upon and be surrendered with the premises at the termination of this Lease. Tenant shall with Landlord's written consent, have the privilege of installing any signs, fixtures, furniture or machinery necessary in the conduct of its business within the demised premises, and the same shall remain the property of

the Tenant, and may be removed by Tenant upon the termination of this Lease. Notwithstanding any language to the contrary contained in the foregoing, Tenant shall at its sole cost and expense, restore the premises to the condition it was in at the time it assumed occupancy, normal wear and tear excepted, if the Landlord shall so request, including the removal of any alteration, addition or improvement installed by Tenant or at Tenant's request, when Tenant vacates.

12. NOTICE OF DEFECTS: Tenant shall provide Landlord with prompt notice of accidents or damages to the premises and prompt notice of any major repair that it desires to have Landlord undertake.

13. ASSIGNMENT AND SUBLEASING: Tenant shall not have the right to transfer possession or occupancy of the Leased premises, nor sublet or assign this Lease to any person or persons without the written consent of the Landlord. The Landlord must be satisfied as to the desirability and financial stability of the proposed Sub-Tenant or assignee. Landlord's consent shall not be unreasonably or unduly withheld conditioned or delayed.

14. LIABILITY INSURANCE AND PROPERTY DAMAGE:

A. Tenant shall obtain and maintain, during the full term of this Agreement and any extension thereof, a policy of public liability insurance with bodily injury limits of TWO HUNDRED THOUSAND (\$200,000.00) DOLLARS for injury (or death) to one person, FIVE HUNDRED THOUSAND (\$500,000.00) DOLLARS per occurrence, and property damage insurance with a limit of ONE HUNDRED THOUSAND (\$100,000.00) DOLLARS.

- B. Tenant agrees that it will not keep in or upon the Leased Premises any article which may be prohibited by the standard form of fire or hazard insurance policy. In the event Tenant's articles causes any increase in the insurance premiums for the Leased Premises or any part thereof, Tenant shall pay the Additional premiums as they become due.
- C. Tenant agrees to hold harmless and hereby indemnifies Landlord, from and against any and all claims, actions, damages, liability and expense in connection with loss of life, personal injury and/or damage to property arising from or out of any occurrence in the leased Premises, or occasioned wholly or in part by any act or omission of Tenant or its employees or agents at or upon the Leased Premises, or the Building, or the occupancy or use by Tenant, of the Leased Premises or any part thereof. Tenant shall not, however, be liable for any damage or injury occasioned by the negligence, omissions or willful violation of this Lease by Landlord, or its agents, or Landlord's failure to comply with its obligations hereunder. Tenant shall indemnify Landlord against any penalty, damage or charge incurred or imposed by reason of Tenant's violation of any law or ordinance.
- D. Landlord agrees to hold harmless and hereby indemnifies Tenant, from and against any and all claims, actions, damages, liability and expense in connection with loss of life, personal injury or civil liability occasioned wholly or in part by any act or omission of Landlord, its agents, contractors, or employees, excepting claims arising out of the acts or omissions of the Tenant, the Tenant's

agents, licensees, invites and employees, or Tenant's failure to comply with its obligations hereunder. Landlord shall indemnify Tenant against any penalty, damage or charge incurred or imposed by reason of Landlord's violation of any law or ordinance.

- E. All the furnishing, fixtures, equipment, effects and property of every kind, nature and description belonging to Tenant or to any person claiming by, through or under Tenant which, during the continuance of this Lease of any occupancy of the Leased Premises by Tenant or anyone claiming under Tenant, shall be at the sole risk of Tenant. If the whole or any part thereof shall be destroyed or damaged by fire, water or otherwise, or by the leakage or bursting of water pipes, steam pipes, or other pipes, by theft, or from any other cause, no part of said loss or damage is to be charged to or to be borne by Landlord's failure to comply with its obligations hereunder.
- F. Tenant shall deliver to Landlord a certificate of insurance evidencing the coverage hereinabove described within (30) days from execution of the Agreement. For so long as Montgomery County, Maryland remains the "Tenant" under this Lease, or for so long as any entity to whom this Lease has been assigned in accordance with the express terms of this Lease is insured under the "County Self-Insurance Program" (as defined below), Tenant shall have the right to self-insure in accordance with the provisions of the "Montgomery County self-Insurance program" (the "County Self-Insurance Program") that are set forth in Section 20-37 of the Montgomery County Code 1994, as amended. Tenant and Landlord hereby waive any right of subrogation against the other to

the extent that the liability arises from a cause covered by insurance or self-insurance, provided that the parties' insurance policies (if any) permit such a waiver.

- G. All insurance required under this Lease shall name Landlord, Landlord's rental agent and Mortgagee as additional insured, as their respective interests may appear, except with respect to workers' compensation insurance, contain an endorsement for cross liability and severability of interests.

15. DESTRUCTION OF PREMISES: If during the term of this Lease the building is so damaged by fire and or otherwise that the demised premises are rendered wholly unfit for occupancy and the demised premises cannot be repaired within ninety (90) days from the event of such injury, or such longer or shorter time reasonably necessary to make repairs not to exceed 180 days, then this Lease shall cease and terminate from the date of said injury, provided that the Tenant is given written notice within thirty (30) days after said casualty. In such case, Tenant shall pay rent apportioned to the date of such damages and shall surrender the demised premises to the Landlord. If the casualty is such that the demised premises can be repaired within ninety (90) days thereafter, Landlord shall enter and repair at Landlord's expense, with reasonable promptitude, and this Lease shall not be affected except that rent shall be abated while such repairs are being made proportionately to the portion of the Leased Premises which is unfit for occupancy. In case of damage(s) which shall not render the demised premises unfit for occupancy, this Lease shall not be affected, but Landlord may enter upon, and shall repair the said premises with reasonable promptness.

16. DELIVERY OF THE PREMISES: Tenant covenants, at the expiration or other termination of this Lease, to remove all goods and effects from the demised

premises not the property of Landlord, and to yield to Landlord the demised premises and all keys, locks and other fixtures connected therewith (except trade fixtures and other fixtures belonging to Tenant), in good repair, order and condition in all respects, reasonable wear and use thereof and damage by fire or other casualty and damage from any risk to which Tenant is not herein expressly made liable excepted.

17. DEFAULT:

A. By Tenant: Any one of the following events shall constitute a default by Tenant under this lease: (i) if Tenant fails to pay any Rent (or any installment thereof) within ten (10) days after the same shall be due and payable and after written notice having been made to the Tenant for same, (ii) if Tenant shall breach or substantially fail in the observance or performance of any of the terms, conditions or covenants of the Lease to be observed or performed by Tenant, other than those involving the payment of Rent and such breach or failure is not cured within thirty (30) days (or such period as may reasonably be required to correct the default with the exercise of due diligence) after Tenant's receipt of written notice thereof, or (iii) if Tenant shall vacate, abandon or cease to continuously operate the Leased Premises as required.

1. Upon the occurrence of any event of Default described in this section, Landlord shall have all rights and remedies provided in this Section, in addition to all rights and remedies available under this Lease and the laws of the State of Maryland. Except that Landlord shall have no right to terminate or take

other action against Tenant based on the Default if Tenant cures the Default before such action is taken.

2. At the option of the Landlord the Tenant's right of possession shall end and Landlord and his assigns may at Landlord's option terminate this Lease and/or reenter and remove all persons and property, and proceed to recover possession under the laws of the State of Maryland. In the event of such re-entry by process of law or otherwise, the Tenant nevertheless agrees to remain answerable for any and all damage, deficiency or loss of rent which the Landlord may sustain by such re-entry, including reasonable attorney's fees, costs of litigation and court costs; and in such case, the Landlord reserves full power, which is hereby acceded to by the Tenant to relet the said premises for the benefit of the Tenant, in liquidating and discharge, in whole or in part, as the case may be, of the liability of the Tenant under the terms and provisions of this Lease. No payment by Tenant or receipt by Landlord of a lesser amount than the monthly rent herein stipulated shall be deemed to be other than on account of the earliest stipulated rent nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such rent or pursue any other remedy in this lease.

B. By Landlord: If the Landlord or his assigns shall fail or neglect to keep and perform each and every one of the covenants, conditions, and agreements contained herein, and such failure or neglect is not remedied within thirty (30) days (or such period as may reasonably be required to correct the default with exercise of due diligence) after written notice from the Tenant or his assigns specifying the default, then the Tenant or his assigns, at Tenant's option may terminate this Lease and/or pursue any legal remedies available to Tenant.

18. HOLDOVER: In the event Tenant continues to occupy the demised premises or any part thereof after the conclusion of the term of this Lease and any renewal thereof, after obtaining Landlord's written consent, Tenant's tenancy shall be deemed to be upon a month-to-month basis at one hundred three percent (103%) of the base monthly rent paid during the last lease year of the term. The tenancy thus created shall be subject to all applicable terms and conditions of this Lease, excepting the expiration date hereof, and can be terminated by either party providing the other not less than thirty (30) days' written notice, to expire on the day of the month from which the tenancy commenced to run.

In the event Tenant, without the consent of Landlord, shall holdover the expiration of the term hereby created, then Tenant shall become a Tenant of sufferance only, at a monthly rent which shall not exceed one and one-half (1½) times the base monthly rent paid during the last lease year of the term.

19. QUIET POSSESSION: Contingent on the performance of all covenants, conditions and agreements herein contained to be performed on Tenant's part, Tenant

shall at all times during the term of this Lease, and any extensions or renewals thereof, have the peaceable and quiet enjoyment and possession of the demised premises for the purposes herein cited without interruption of Landlord or anyone lawfully claiming through or under Landlord.

20. STATUTORY PROVISIONS: It is understood, agreed and covenanted by and between the parties hereto that the Landlord and Tenant, as their interests may appear and at their respective expense, will promptly comply with, observe and perform all applicable requirements of all the statutes, ordinances, rules, orders and regulations now in effect or hereinafter promulgated whether required by Federal Government, State of Maryland, Montgomery County Government, or any local government and whether required of the Landlord or the Tenant.

21. WAIVER: The waiver at any time by the Landlord or Tenant of any particular covenant or condition of this Lease shall extend to the particular case only, and for the particular time and in the particular manner specified, and such waiver shall not be construed or understood as waiving any further or other rights of any character whatever. Any waiver of a breach shall not be deemed to be a waiver of any subsequent breach of the same provision, or of the provision itself, or of any other provision.

22. NON-DISCRIMINATION: Landlord agrees to comply with the non-discrimination in employment policies in County contracts as required by Section 27-19 of the Montgomery County Code 1994, as amended, as well as all other applicable state and federal laws and regulations regarding employment discrimination. The Landlord assures the Tenant that in accordance with applicable laws, it does not, and agrees that it will not discriminate in any manner on the basis of age, color, creed, ancestry, marital status, national origin, race, religious belief, sexual preference or handicap.

23. NON-APPROPRIATION: This Lease is subject to the appropriation of funds. This Lease shall terminate automatically on July 1 of any year for which Montgomery County, for whatever reason does not appropriate funds to pay the rent herein stated. Tenant shall give Landlord at least forty-five (45) days written notice of the lack of appropriation. The Tenant shall not make or be entitled to any claim for reimbursement of any kind, whether for improvements or prepaid items.

24. CONTRACT SOLICITATION: Landlord represents that is has not retained anyone to solicit or secure this Lease from Montgomery County, Maryland, upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for bona fide employees or bona fide established, licensed commercial selling or leasing agencies maintained by the Landlord for the purpose of securing business or an attorney rendering professional legal service consistent with applicable canons of ethics.

25. PUBLIC EMPLOYMENT: Landlord understands that unless authorized under Chapter 19A and Section 11B-52 of the Montgomery County Code 1994 as amended, it is unlawful for any person transacting business with Montgomery County, Maryland, to employ a public employee for employment contemporaneous with his or her public employment.

26. CONDEMNATION: In the event that the premises, or any part thereof, or more than twenty-five percent (25%) of the building of which the Leased Premises are a part is taken or condemned for public use or purpose by any competent authority or conveyance shall be made in anticipation or in lieu thereof (each being hereafter referred to as "Taking"), this lease shall be terminated effective as of the date possession is required to be surrendered to the taking authority and Tenant shall have no claim against the Landlord and shall not have any claim or right to any portion of the

amount that may be awarded as damages or paid as a result of any such condemnation; and all rights of the Tenant to damages therefore, if any, are hereby assigned by the Tenant to the Landlord. Upon such condemnation or taking, the Tenant shall have no claim against the Landlord for the value of any unexpired term of this Lease. The foregoing notwithstanding, Tenant shall be entitled to claim, prove and receive in the condemnation proceedings such awards as may be allowed for relocation expenses and for fixtures and other equipment installed by Tenant which shall not, under the terms of this Lease, be or become the property of Landlord at the termination hereof, but only if such an award is made by condemning authorities in addition to and stated separately from the award made for the land and the building or parts thereof so taken.

27. ENTIRE AGREEMENT: It is further understood and agreed that this instrument contains the entire agreement between the parties hereto and shall not be modified in any manner except by an instrument in writing duly executed by the parties hereto.

28. SUBORDINATION: Landlord shall have the absolute right to encumber the premises set forth in this Lease and the Lease, at the option of Landlord, shall be subordinate to such encumbrance or encumbrances. Tenant agrees to sign all papers for subordination when requested. Landlord will use reasonable efforts to get non-disturbance agreements for the Tenant from its current and future mortgage lenders. In the event of a sale or transfer of the title to the aforesaid land and premises, any transferee shall be entitled to have this Lease subordinated to the lien and effect of any first deed of trust or mortgage to secure purchase money. Tenant agrees to execute any subordination documents required by Purchaser. In the event any proceedings are brought for the foreclosure of, or in the event of exercise of the power of sale under, any deed to secure debt given by Landlord and covering the Leased Premises, Tenant shall, at the option of the purchaser, attorn to the purchaser upon any such foreclosure or sale

and recognize such purchaser as the owner and Landlord under this Lease and this Lease shall continue in full force and effect as a direct lease between such successor Landlord and Tenant, upon and subject to all terms, covenants and conditions of this Lease.

29. BENEFIT AND BURDEN: The provisions of this Lease shall be binding upon, and shall inure to the benefit of the parties hereto and each of their respective representatives, successors and assigns.

30. MAIL NOTICES: All notices required or desired to be given hereunder by either party to the other shall be given by certified or registered mail, personal delivery or reputable overnight delivery service, in accordance with paragraph 3 hereof or to such other address as Tenant shall by written notice provide to Landlord. Notices to the respective parties shall be addressed as follows:

Landlord:

McShea Gaither Road Limited Partnership  
1 Bank Street  
Suite 300  
Gaithersburg, MD 20879

Tenant:

Montgomery County Government  
Division of Facilities and Services  
Dept. of Public Works and  
Transportation  
110 N. Washington Street  
Room 318  
Rockville, Maryland 20850

31. RULES AND REGULATIONS: The rules and regulations attached to this lease as Exhibit C are hereby made a part of this Lease and Tenant agrees to comply with and observe the same and any additional reasonable rules and regulations promulgated by Landlord of which Tenant is given adequate prior notice. No changes will be made to the Rules and Regulations which contradict or conflict with Lease provisions. In the event of a conflict between the rules and regulations and the Lease, the Lease agreement is controlling. Tenant's failure to keep and observe said rules and

regulations shall constitute a breach of the terms of the Lease in the same manner as if the same were contained herein as covenants.

32. ESTOPPEL CERTIFICATES: Tenant agrees, at any time and from time to time, upon not less than twenty (20) days prior written notice by landlord, to execute, acknowledge and deliver to Landlord a statement in writing (i) certifying that this Lease is unmodified and in full force and effect (or if there have been modifications the nature of same), (ii) stating the dates to which the rent and additional rent have been paid by Tenant, (iii) stating whether or not to the best knowledge of Tenant, Landlord is in default in the performance of any covenant, agreement or condition contained in this Lease, and, if so, specifying each such default of which Tenant may have knowledge, and (iv) stating the address to which notice to Tenant should be sent. Any such statement delivered pursuant hereto may be relied upon by an owner of the Building, any prospective purchaser of the Building, any mortgagee or prospective mortgagee of the Building, or of Landlord's interest therein, or any prospective assignee of any such mortgage.

33. SIGNS, AWNINGS AND CANOPIES: Tenant will not place or suffer to be placed or maintained on the exterior of the Leased Premises any sign, awning or canopy, or advertising matter or other thing of any kind, without first obtaining Landlord's written approval. Landlord's approval will not be unreasonably withheld. Tenant further agrees to maintain in good condition and repair at all times such sign, awning, canopy, decoration, lettering, advertising matter or other thing as may be approved. Any of said items so installed without such written approval and consent may be removed by Landlord at Tenant's expense.

34. ENVIRONMENTAL PROTECTION: Tenant and Tenant's employees and agents shall not dispose of any oil, petroleum or chemical liquids or solids, liquid or

gaseous products or any hazardous waste or hazardous substance including, without limitation, asbestos (herein collectively referred to as "hazardous waste"), as those terms are used in the comprehensive Environmental Response, Compensation, and Liability Act of 1980, or in any other federal, state or local law governing hazardous substances, as such laws may be amended from time to time (hereinafter collectively referred to as the "Act"), at, upon, under or within the Leased Premises or the Building or into the plumbing or sewer or water system servicing the Leased Premises and/or the Building, nor shall Tenant, its agents or employees cause or permit the discharge, spillage, uncontrolled loss, seepage or filtration of any hazardous waste at, upon, under or within the Leased Premises or the Building or into the plumbing or sewer or water system servicing the same. Tenant shall comply in all respects with the requirements of the Act and related regulations, and shall notify Landlord immediately in the event of its discovery of any hazardous waste at, upon, under or within the Leased Premises or the Building. Tenant shall indemnify Landlord against all costs, expenses, liabilities, losses, damages, injunctions, suits, fines, penalties, claims and demand, including reasonable attorneys' fees, arising out of any violation of or default in the covenants of this Paragraph 34 occurring as a result of incidents or circumstances under the control or responsibility of the Tenant, its agents or employees. The provisions of this Paragraph 34 shall survive the expiration of the Lease term.

If there is contamination of the Leased Premises or the Building by hazardous waste, resulting from any cause other than those covered by Tenant's indemnity set forth in the preceding subparagraph, the Landlord shall perform or cause the performance of any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of the presence of such hazardous waste.

35. LIMITATION OF LANDLORD'S LIABILITY: In consideration of the benefits accruing hereunder, Tenant and all successors and assignees of Tenant covenant and agree that in the event of an actual or alleged failure, breach or default hereunder by Landlord, (i) the sole and exclusive remedy shall be against the interest of Landlord in the Building, and (ii) neither Landlord nor any partner of Landlord shall be personally liable with respect to any claim arising out of or related to this Lease. Landlord covenants that at all times that this Lease is in force, it will carry liability insurance with limits of at least ONE MILLION (\$1,000,000) DOLLARS, combined single limit coverage per occurrence.

36. WAIVER OF TRIAL BY JURY: Landlord and Tenant waive their right to trial by jury in any action, preceding or counterclaim brought by either of the parties hereto against the other on matters whatsoever arising out of or in any way connected with this Lease. Notwithstanding the foregoing, questions of law will be decided by a court of competent jurisdiction.

37. AUTHORITY: The person executing this Lease Agreement on behalf of Tenant, by his execution hereof, represents and warrants that he is fully authorized to do so.

38. FORCE MAJEURE: Neither party shall be deemed in default with respect to the performance of any of the terms, covenants, and conditions of this Lease if same shall be due to any strike, lockout, civil commotion, war-like operation, invasion, rebellion, hostilities, military or upsurged power, sabotage, inability to obtain any material or service, through Act of God or other cause beyond the control of either party; provided, however, that this provision shall not excuse any non-payment of rent. For purposes of this provision, lack of funds shall not be considered a cause beyond the control of a party.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be properly executed.

WITNESS:

TENANT:  
MONTGOMERY COUNTY,  
MARYLAND

By: Bethanne Nessel

By: [Signature]  
GORDON AOYAGI, SENIOR ASSISTANT  
CHIEF ADMINISTRATIVE OFFICER

Date: 4/15/97

WITNESS:

LANDLORD:  
MCSHEA GAITHER ROAD LIMITED  
PARTNERSHIP

By: [Signature]

Mcshea & Company, Inc  
By: John F. Mcshea, its  
Title: President

Date: 1-3-96

APPROVED AS TO FORM &  
LEGALITY  
OFFICE OF THE COUNTY  
ATTORNEY

By: Ramona Bell-Pearce  
1/6/97

RECOMMENDED

By:           *Junquera*            
REY JUNQUERA, LEASING MANAGER  
DIVISION OF FACILITIES AND SERVICES

Date:           1/6/97          

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

49238313.23B





EXHIBIT C

CERTIFICATE OF COMMENCEMENT

THIS CERTIFICATE OF COMMENCEMENT ("Certificate") is made this 23<sup>rd</sup> day of January, 1997, by and between McShea Gaither Road Limited Partnership ("Landlord"), and Montgomery County Maryland, a body corporate and politic ("Tenant").

WHEREAS, Landlord and Tenant have entered into a Lease dated January 15, 1997 ("Lease");

WHEREAS, the Landlord shall deliver possession of the Leased Premises prior to the Rent Commencement Date of the Lease, and Landlord and Tenant agree that the Lease Commencement Date shall occur on the date of such delivery of possession ("Lease Commencement Date"); and

WHEREAS, Landlord and Tenant agree that all terms and conditions provided for in the Lease shall be applicable from the Lease Commencement Date, with the exception of the payment of Rent due under the Lease; and

WHEREAS, Landlord and Tenant agree that the Rent Commencement Date shall be that day Tenant moves into the Leased Premises with the intent of conducting its business ("Rent Commencement Date"), and such Lease shall continue for a period of five (5) years from the Rent Commencement Date, as provided in Section 2 of Lease. As this date has not yet been determined, Landlord and Tenant agree to re-execute this Exhibit C to Lease, once the Rent Commencement Date has been determined.

NOW, THEREFORE, in consideration of the premises, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant warrant and represent each to the other as follows:

1. The Lease Commencement Date is January 23, 1997.
1. The Rent Commencement Date is FEB 10, 1997, pursuant to Section 2.
2. The Expiration Date is JAN 22, 2002
3. The area of the Leased Premises is 15,944 square feet.
5. The Minimum Annual Rent due upon the Rent Commencement Date is \$151,468.00
6. The Basic Monthly Rent due upon the Rent Commencement Date is \$12,622.33.

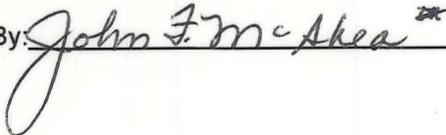
IN WITNESS WHEREOF, Landlord and Tenant do hereby execute this Agreement under seal on the day and year first above written.

WITNESS/ATTEST:



LANDLORD:

McShea Gaither Road Limited Partnership

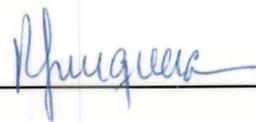
By: 

WITNESS/ATTEST:



TENANT:

Montgomery County Maryland, a body corporate and politic

By: 

17 451.92

EXHIBIT D

RULES AND REGULATIONS

Tenant agrees as follows:

1. No awning shall be permitted on any part of the Leased Premises. Tenant shall not place anything (including but not limited to blinds, shades, screens, or hanging plants) against or near glass partitions or doors or windows which may appear unsightly from outside the Leased Premises.

2. Tenant will keep the Leased Premises and approaches thereto clean and free from rubbish; will remove snow, ice and debris from the adjacent sidewalks and any loading dock areas; will keep all windows and any sign neat, clean and in good order; will not erect any screen or fence; and will not perform any acts or carry on any practices which may damage the Leased Premises or the Project or be a nuisance or menace to other tenants.

3. Tenant shall not obstruct or interfere with the rights of others to use any Project driveways, parking facilities, sidewalks, halls, exits, entrances, or stairways. The common areas of the Project are not for the general public, and Landlord retains the right to control and prevent access thereto by all persons whose presence in the reasonable judgment of Landlord would be prejudicial to the safety, character, reputation and interest of the Project and its tenants, including any person who appears to Landlord to be intoxicated or under the influence of liquor or drugs; provided that nothing herein contained shall be construed to prevent such access to persons with whom any Tenant is dealing in the ordinary course of its business, unless such persons are engaged in illegal activities or unless such persons violate the terms of the Lease or Landlord's rules and regulations. No Tenant and no employee or invitee of Tenant shall go upon the roof of the Leased Premises.

4. Landlord will furnish Tenant, free of charge, with two keys to each door lock in the Leased Premises. Landlord may make a reasonable charge for any additional keys. Tenant shall not alter any lock or install a new additional lock or bolt on any door or window of its Leased Premises without Landlord's consent. Tenant, upon the termination of its tenancy, shall deliver to Landlord all keys for all doors, and in the event of the loss of any such keys, Tenant shall pay Landlord the reasonable cost of replacement keys or locks (at Landlord's option).

5. Tenant shall not store any material, supplies, semifinished products, pipes, equipment, wooden pallets, vehicles disabled or being repaired (or vehicles of any kind for more than one week), trailers, vans or anything whatsoever outside of the Leased Premises, without the prior consent of Landlord. If any such items are not removed within forty-eight (48) hours (one

week for vehicles not disabled or being repaired, unless otherwise consented to by Landlord, which consent shall not be unreasonably withheld), Landlord shall have the right to remove the same, without notice to Tenant, and with no responsibility to Tenant for loss of damage to such items, and the cost to Landlord of such removal shall be deemed to be Additional Rent under the Lease and will be immediately paid by Tenant to Landlord upon demand.

6. Tenant shall not place a load upon any floor of the Leased Premises which exceeds the load per square foot which such floor was designed to carry. Landlord shall have the right to prescribe the weight, size and position of all safes and other heavy objects which appear to exceed the per-square-foot floor load capacity of the Leased Premises. Business machines and mechanical equipment which cause noise or vibration that may be transmitted to the structure of the Leased Premises or to any space therein to such a degree as to be objectionable to Landlord or any other tenant of the Project, shall, after reasonable notice from Landlord, be placed and maintained by Tenant, at Tenant's expense, on, at Tenant's discretion, vibration eliminators or other devices sufficient to eliminate noise or vibration.

7. Tenant shall not use or keep in the Leased Premises any kerosene, gasoline or inflammable or combustible fluid or material, other than those limited quantities necessary for the operation or maintenance of office equipment, service vehicles or other machinery used by Tenant in the course of its business, and in no event shall any such combustible fluids be used for heating, warming, or lighting. Tenant shall not use or permit to be used in the Leased Premises any foul or noxious gas or substance, or permit or allow the Leased Premises to be occupied or used in a manner offensive or objectionable to Landlord or other occupants of the Project by reason of noise, odors or vibrations, nor shall Tenant bring into or keep in or about the Leased Premises any birds or animals (except for seeing eye dogs and dogs employed by the Canine Unit of the Police Department, subject to the limitations in Paragraph 6 of the Lease).

8. Tenant shall not use any method of heating or air-conditioning other than that supplied or approved by Landlord. Tenant shall keep the Leased Premises at a temperature sufficiently high to prevent freezing of water in pipes and fixtures.

9. Tenant shall cooperate with Landlord to assure the effective operation of the Leased Premises' heating and air-conditioning systems and shall comply with any governmental energy-saving rules, laws or regulations of which Tenant has notice. Tenant shall keep corridor doors closed, and shall close window coverings, if any, at the end of each business day.

10. Landlord reserves the right, exercisable on thirty (30) days prior notice and without liability to Tenant, to change the name and street address of the Leased Premises, or the name of the Project.

11. Tenant shall close and lock the doors of the Leased Premises and entirely shut off all water faucets or other water apparatus and electricity, gas and air outlets before Tenant and its employees leave the Leased Premises. Tenant shall be responsible for any damage or injuries sustained as a direct result of noncompliance with this rule.

12. The toilet rooms, toilets, urinals, wash bowls and other apparatus shall not be used for any purpose other than that for which they were constructed and no foreign substance of any kind whatsoever shall be thrown therein. The expense of any breakage, stoppage or damage resulting from the violation of this rule shall be borne by the tenant who, or whose employees or invitees, shall have caused it.

13. Tenant shall not mark, drive nails, screw or drill into the partitions, woodwork, or plaster or in any way deface the Leased Premises or any part thereof. Tenant shall give Landlord reasonable written notice before installing telephone or telegraph wires in the Leased Premises. Landlord reserves the right to direct electricians as to where and how telephone and telegraph wires are to be introduced to the Leased Premises, so long as Landlord's instructions do not prohibit Tenant from obtaining telecommunications services necessary and desirable for its business operations in the Leased Premises. Tenant shall not cut or bore holes for wires. Tenant shall not affix any floor covering to the floor of the Leased Premises in any manner except as approved by Landlord, which approval shall not be unreasonably withheld. Tenant shall repair any damage resulting from noncompliance with this rule.

14. All trash and garbage shall be kept in the kind of container specified by Landlord, and shall be placed and prepared for collection in the manner and at the times and places specified by Landlord. Tenant shall not place in any trash box or receptacle any material which cannot be disposed of in the ordinary and customary manner of trash and garbage disposal.

15. The Leased Premises shall not be used for lodging.

16. Tenant shall comply with all safety, fire protection and evacuation procedures and regulations established by Landlord or any governmental agency having jurisdiction.

17. Tenant assumes any and all responsibility for protecting the Leased Premises from theft, robbery and pilferage. Tenant shall keep the doors to the Leased Premises locked and

other means of entry to the Leased Premises, in areas under the exclusive control of Tenant, closed.

18. Tenant shall keep the inside and the outside of all glass in the doors and windows within the Leased Premises clean, keep all exterior surfaces of the Leased Premises clean, replace promptly any cracked or broken glass of the Leased Premises with glass of like kind, color, and quality.

19. There shall not be used in the building, either by any tenant or by any of tenant's employees, agents, or invitees, in the delivery or receipt of merchandise, freight, or other matter, any hand trucks or other means of conveyance except those equipped with rubber tires, rubber side guards, and such other reasonable safeguards as Landlord may require.

20. The requirements of Tenant will be attended to only upon appropriate application to the Office of the Rental Agent by an authorized individual. Employees of Landlord shall not perform any work or do anything outside their regular duties unless under special instructions from Landlord, and no employee of Landlord will admit any person (Tenant or otherwise) to any office without specific instructions from Landlord. As of the date of this Lease, Landlord's Renant Agent is McShea Management, Inc., One Bank Street, Suite 300, Gaithersburg, Maryland 20878.

21. Landlord reserves the right to prevent access to the Leased Premises by persons other than Tenant and its employees and agents, in case of invasion, mob, riot, public excitement or other commotion, by closing the doors or by other appropriate action.

22. Landlord reserves the right to require that commercial vehicles be parked in designated parking spaces during non-business hours.

23. After the date of Tenant's initial occupancy of the Leased Premises, Tenant shall not install any equipment which will necessitate any changes, replacements or additions to any water or plumbing, heating, air conditioning, ventilating, electrical or other system in the Leased Premises without first obtaining the written consent of Landlord.

24. Tenant shall be responsible for the observance of all the foregoing rules by Tenant's employees and agents, and shall be responsible for the observance of all the foregoing rules by Tenant's clients, customers, invitees and guests while they are in the Leased Premises.