

**Exhibit E to Contract of Sale**

**AMENDED AND RESTATED DEED OF GROUND LEASE**

THIS AMENDED AND RESTATED DEED OF GROUND LEASE (the "Amended Lease") is made and entered into as of the \_\_\_ day of \_\_\_\_\_, 2010 (the "Effective Date") by and between THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA, a body politic and corporate (the "Landlord"), and INOVA HEALTH CARE SERVICES ("Tenant"), with reference to the following:

**RECITALS:**

(A) Tenant, as successor in interest to Fairfax Hospital System, Inc., and Landlord are parties to that certain lease agreement attached hereto and made a part hereof as Exhibit A (the "Existing Lease"), whereby, among other things, Landlord leased to Tenant, among other land, the "Fairfax Hospital site" as described in Exhibit I to the Existing Lease, and improvements thereon.

(B) Landlord and Tenant now desire amend the Existing Lease to redefine the area of the land leased thereby and to amend and extend the lease term, but otherwise to restate the existing lease terms.

(C) The land that is leased hereby (the "Lease Area") consists of 29.59 acres of land as shown on the plat attached hereto and made a part hereof as Exhibit B, and as more particularly described in the metes and bounds legal description attached hereto and made part of as Exhibit C, and, together with all improvements including but not limited to buildings and parking lots now or hereinafter situated thereon, is collectively referred to as the "Premises".

(D) The land that is by virtue of this Amended Lease no longer subject to the terms of the Existing Lease (the "Released Land") consists of 15.32 acres of land as shown on Exhibit B, and as more particularly described in the metes and bounds legal description attached hereto and made part of as Exhibit D.

(E) Inova Health Systems Foundation, as a party to the Existing Lease, is executing this Amended Lease to acknowledge and consent to the terms thereof.

NOW, THEREFORE, in consideration of the Recitals, which are hereby incorporated into this Amended Lease by reference, the rent, and the covenants and agreements herein contained, Landlord and Tenant hereby covenant and agree as follows:

1. Existing Lease Restated. Except as provided in Paragraphs 2 and 3 below, Landlord and Tenant hereby restate and incorporate herein the terms of the Existing Lease.

2. Amended Lease Area. The Existing Lease is hereby amended to substitute and replace the 29.59 acre Lease Area, as shown and described in Exhibits B and C, for the "Fairfax Hospital site" as described in Exhibit I to the Existing Lease. Upon the Effective

*Exhibit E to Contract of Sale*

Date of this Amended Lease, the 15.32 acre Released Land, as shown and described in Exhibits B and D, together with any improvements now or hereinafter situated thereon shall no longer be subject to the Existing Lease and shall hereinafter be forever discharged from any obligation thereunder. For purposes of this Amended Lease, any reference in the Existing Lease to the "Fairfax Hospital" shall be limited only to the Premises and shall not be deemed to extend or apply to the Released Land.

3. Amended Lease Term. The lease term of Existing Lease is hereby amended. The Term of this Amended Lease shall be for a ninety-nine year period commencing on the Effective Date of this Amended Lease, unless sooner terminated as herein provided in Exhibit A.

4. Recordation. This Amended Lease shall not be recorded in the land records. However, Landlord and Tenant agree to execute a Memorandum of Lease attached hereto as Exhibit E. The Memorandum of Lease may be recorded at the cost of the party requesting execution of the same.

IN WITNESS WHEREOF, the parties have executed this Amended Lease as of the Effective Date on the first page of this Amended Lease.

LANDLORD:  
BOARD OF SUPERVISORS OF FAIRFAX  
COUNTY, VIRGINIA, acting in its proprietary  
capacity and not its governmental or regulatory  
capacity.

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Name: Anthony H. Griffin  
Title: County Executive

[Signatures Continue on Next Page]

TENANT:

INOVA HEALTH CARE SERVICES  
By: Inova Health System Foundation,  
its Sole Member

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Name: Richard C. Magenheimer  
Its: Chief Financial Officer

Acknowledged and Consented to by:  
INOVA HEALTH SYSTEMS FOUNDATION

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Name: Richard C. Magenheimer  
Its: Chief Financial Officer

[Signatures End]

# **Exhibit A**

## AGREEMENT

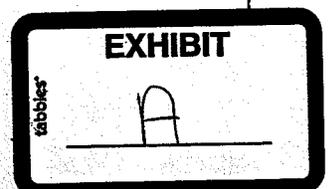
THIS AGREEMENT, made this twenty third day of January, 1991, by and between THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA, a body politic and corporate (the "County"), INOVA HEALTH SYSTEMS FOUNDATION, a Virginia non-stock, not-for-profit corporation ("Inova"), and FAIRFAX HOSPITAL SYSTEM, INC., a Virginia non-stock, not-for-profit corporation ("FHS").

WHEREAS, in 1961, the County provided the land, buildings and health care facility on that certain tract of land located at 3300 Gallows Road in Fairfax County, hereinafter referred to as the Fairfax Hospital site (particularly described in Exhibit I, attached hereto) and, in 1973, the County provided the land, buildings and health care facility on that certain tract of land located at 2501 Parker's Lane in Fairfax County, hereinafter referred to as the Mount Vernon Hospital site (particularly described in Exhibit II, attached hereto); and

WHEREAS, FHS, formerly known as Fairfax Hospital Association (FHA), was founded in 1956, and chartered as a not-for-profit corporation for the purpose of operating health care facilities, and now operates four hospitals, including Fairfax Hospital and Mount Vernon Hospital as part of the Inova Health System; and

WHEREAS, the health care environment has changed since 1961 and in 1987 FHA caused its name to be changed to FHS and further caused Inova to become its parent and Inova Services, Inc. to be formed as a not-for-profit subsidiary of Inova for the purpose of operating health care facilities and services other than hospitals; and

WHEREAS, Inova and FHS have expanded and developed the Fairfax Hospital and Mount Vernon Hospital facilities and have acquired, developed and operate additional services and facilities, including but not limited to Fair Oaks Hospital, Jefferson Hospital, Cameron Glen Care Center, Commonwealth Care Center,



Access of Reston/Herndon, Access of Fairfax, the Care Center for Older Adults and other services meeting community need; and

WHEREAS, FHS has as its primary mission the provision of high quality, accessible community based health care and has undertaken to provide community services for the benefit of all residents of Fairfax County, Virginia, including among other things (i) providing diagnostic, outpatient and other health care services to patients who are enrolled in the County's Affordable Health Care Program (the "AHC Program"), (ii) educating health care professionals, including physicians, nurses, medical technicians, physical therapists, health care administrators, and other members of related health care professions, (iii) providing certain community services that otherwise are unlikely to be provided, but that address and serve special community health care needs, and (iv) providing inpatient and outpatient care to indigent patients, Medicaid patients, and State and Local Hospitalization Program ("SLH Program") patients; and

WHEREAS, FHS and the County have enjoyed a mutually beneficial relationship since 1961 to ensure high quality and progressive medical care for all citizens of Fairfax County; and

WHEREAS, the County desires the operation of the Fairfax Hospital and the Mount Vernon Hospital under the guidance and control of Inova and FHS; and

WHEREAS, it is the desire and intent of the County and Inova and FHS to ensure that all residents of Fairfax County, including indigent and other economically disadvantaged residents of Fairfax County, have access to quality health care services.

NOW, THEREFORE, the parties hereto agree as follows:

1. The County hereby leases to FHS and FHS hereby leases from the County for a term of 75 years beginning on the date of this Agreement, for an annual rent of \$10.00 per year, the Fairfax Hospital site and the Mount Vernon Hospital site, together with any and all rights, ways, privileges, improvements and appurtenances thereto belonging or in any other way appertaining to the Fairfax Hospital site and the Mount Vernon Hospital site.

2. FHS agrees that it will operate its health care facilities in a manner which meets the requirements for continued accreditation or certification under the standards of appropriate governmental programs or other nationally recognized accrediting agencies. FHS further agrees that it will maintain prudent financial practices and viability while simultaneously continuing to provide community and charitable benefits in its service area in furtherance of its mission.

3. FHS agrees that future use of the Fairfax Hospital site and the Mount Vernon Hospital site shall be for purposes of operating and supporting the operation of hospitals and/or other health care related purposes and that any use other than for such purposes shall be subject to 90 day review and approval by the County. FHS further agrees that upon mutual agreement, FHS facilities may also be used for County initiated health care or public services and programs.

4. FHS agrees to keep its health care facilities, and the furniture, furnishings, equipment and machinery in its facilities in a good state of repair, and within the constraint of responsible fiscal management, to renovate, replace and update such facilities, equipment and machinery to reflect advances made in medical science and technology and thereby better serve the health care needs of the community. FHS shall advise the County about any structural changes, replacements or renovations to the Fairfax Hospital site and the Mount Vernon Hospital site that materially affect service delivery patterns and capacities as well as those which cost, in 1990 dollars, \$1,000,000 or more. The County shall review any such changes concurrently with any review required by the Fairfax County Zoning Ordinance. For any changes not to be reviewed under the Fairfax County Zoning Ordinance, the County will transmit any comments on the proposed changes to FHS within 45 days of the receipt of notice of the proposed change.

5. FHS shall maintain a reasonable Indigent Care Policy, as described in paragraph 6 of this Agreement. The intent of the Indigent Care Policy is to insure access to medically necessary care for indigent individuals, based on each patient's ability to pay. FHS agrees that it will provide the services of its health care facilities in

accordance with the terms and conditions of its Indigent Care Policy and without discrimination on the basis of race, religion, nationality, sex, economic status or sexual orientation.

The FHS Indigent Care Policy shall be described in hospital admissions brochures provided to the public and to patients. All patients who are uninsured, underinsured or classified as self-pay shall be informed of the policy, and verbal and written explanations of the policy also shall be made to those persons who give an indication of an inability to pay for services.

The County shall approve any changes made to the initial Indigent Care Policy relating only to income eligibility, assets exclusions, and the sliding scales regarding total and annual obligations as contained in this Agreement and described in paragraph 6.

6. The FHS indigent care policy shall include persons with incomes up to 250% of the federal poverty guideline ("FPG"), as defined in Section 673 (2) of the Omnibus Budget Reconciliation Act of 1981, and as amended or updated in the Federal Register, who are determined not to be eligible for assistance pursuant to the terms of the SLH Program, or any other similar public reimbursement program. The Indigent Care Policy shall incorporate a sliding fee scale as presented below and reasonable limitations on an individual's annual and lifetime financial obligations. Income eligibility and the sliding fee scale shall be modeled on that used by the Fairfax County Health Department and the FPG, or such other appropriate standard as may be used by the County or the Commonwealth of Virginia for similar purposes, and shall specify the percent of total charges for which the patient is responsible, as well as the patient's annual payment obligation. The initial Policy enacted by FHS shall provide that persons with incomes at or below 125% of the FPG, regardless of any liquid assets, shall receive free care, and persons with incomes above 250% of FPG may be required to pay regular charges for care.

The initial policy will also include a sliding fee scale which shall apply to persons with incomes between 125% and 250% of FPG as outlined below:

PATIENT OBLIGATION FROM INCOME

25% OF FPG OR LESS	126% TO 150% FPG	151% to 175% FPG	176% TO 200% FPG	201% TO 225% FPG	226% TO 250% FPG
NONE	UP TO 15% OF CHARGES	UP TO 30% OF CHARGES	UP TO 45% OF CHARGES	UP TO 60% OF CHARGES	UP TO 75% OF CHARGES

Eligibility for indigent care shall be determined first by an income test. Income eligibility review may be supplemented by an asset test. The initial policy shall exempt the following assets from the asset test, the calculation of total patient obligation and any subsequent collection: personal checking or savings accounts or other liquid assets (including certificates of deposit) not in excess of amounts allowed by the SLH Program; fully vested pension plans; one automobile for personal/business use; liquid assets of a patient whose total income is at or below 125% of FPG, or which qualifies patient for free care; and the personal residence or home and its lot not exceeding one acre unless the Zoning Ordinance or County Ordinance requires more than one acre. In addition, the FHS Indigent Care Policy shall never be amended to include as part of the asset test, the calculation of total patient obligation or collections, the following assets: the personal residence and its lot as previously described above in this section or liquid assets of a patient whose total family income does not exceed 125% of the FPG or the free-care ceiling of the sliding scale.

The value of non-excluded assets may be added to the sliding scale fee to cause the patient obligation to reflect assets as well as income. FHS may elect to assess only income when determining the reduced fee patient obligation and may elect a payment plan in order to not recover the patient's income producing assets and thereby reduce the patient's income.

FHS shall make reasonable efforts to develop a mutually satisfactory payment plan to satisfy a patient's financial obligations before attachment of assets. The initial Policy will specify annual patient obligation from income, or payment plan,

calculated from the following sliding scale:

MAXIMUM ANNUAL PATIENT PAYMENT FROM INCOME

125% OF FPG OR LESS	126% TO 150% FPG	151% to 175% FPG	176% TO 200% FPG	201% TO 225% FPG	226% TO 250% FPG
NONE	UP TO 10% OF INCOME OVER 125% FPG	UP TO 15% OF INCOME OVER 125% FPG	UP TO 20% OF INCOME OVER 125% FPG	UP TO 25% OF INCOME OVER 125% FPG	UP TO 30% OF INCOME OVER 125% FPG

The value of assets which do not qualify as income-producing as described above shall be considered on a case-by-case basis. FHS reserves the right to waive the Indigent Care Policy on a case-by-case basis if that policy would cause a financial hardship on the patient and if such waiver does not result in a charge above that limit imposed by the Indigent Care Policy.

7. FHS shall provide emergency care to any person presenting at any FHS emergency room facility for such services.

Indigent persons also shall receive medically necessary inpatient and outpatient health care services in accordance with the terms and conditions of the FHS Indigent Care Policy. Although it may become necessary to restrict access to participation in specialty and referral programs in order to assure that program objectives and viability can be attained and high quality patient care can be delivered, FHS and the County agree this will occur only when there is a clearly demonstrated need to do so. The County shall be informed of proposed restrictions of specialty and referral programs and services 90 days in advance and FHS shall submit sufficient program and financial information to the County to explain the need for such restriction, the extent of the restriction, and an assessment of the impact of such restriction on unmet need. For purposes of this Agreement, specialty or referral programs and services shall refer, but not be limited, to programs and services such as the FHS HIV Center program and the Mount Vernon rehabilitation program; they

shall not refer to medically necessary routine acute hospital care or to Obstretic Clinic care. The parties agree, upon the request of either party, to examine in good faith alternatives to avert restrictions on access and provision of care in those programs and services.

8. FHS agrees that all amounts recorded as amortization for building and fixed equipment at the Mount Vernon and Fairfax Hospital sites, according to generally accepted accounting principles will be maintained as a plant depreciation fund and that the status and use of such plant depreciation fund will be reported annually to the County. FHS further agrees that the plant depreciation fund is to be used only for major repairs or alterations, construction of or additions to buildings or the purchase or replacement of fixed and other medical equipment. FHS also may use monies in such fund from time to time to pay that portion of the basic rent as defined in any documents pursuant to which FHS is required to pay the principal of any revenue bonds issued by or on behalf of FHS (or to pay to a bank the amount of drawing under a letter of credit made to repay such principal), provided that any further excess of FHS income over expenses is used first to replenish such fund. FHS may use such fund for other purposes after notification to the County, and in the event the County disagrees with the use of the fund for the purpose described, a committee of representatives of both parties will meet to resolve any disagreements regarding such proposal.

9. Inova and FHS agree upon request of the Board of Supervisors to submit to the County copies of financial statements, including audited financial statements and such other financial information as may be requested to provide the County with an appropriate financial overview.

10. FHS agrees upon request of the Board of Supervisors to submit regular reports on the status of operations, programs and plans, including those which alter service delivery patterns of FHS. These reports will include the nature and amount of indigent care and other community services which FHS provides, the amount of indigent care provided through specialty and referral programs and may include an

integration of programmatic, financial and health care trend information.

11. The County shall have the right to approve or disapprove any proposed contractual agreements, pursuant to which the management and operation of the Fairfax Hospital site or the Mount Vernon Hospital site, or a major portion of either site, for other than facility and care support purposes, might be performed by a third party not owned, controlled by or under common control with FHS or Inova, as constituted as of the effective date of this Agreement. The County shall also approve or disapprove proposed contractual agreements, pursuant to which the use of patient care and ancillary support facilities of the Fairfax Hospital site and the Mount Vernon Hospital site, or a major portion of either site, for other than facility and care support purposes, might be performed by a third party not owned, controlled by or under common control with FHS or Inova, as constituted as of the effective date of this Agreement. FHS shall inform the County of any such proposals 120 days in advance of any proposed change and the County will respond as appropriate, within 45 days of the notice by FHS. In addition, FHS agrees that upon the request of the Board of Supervisors, it will inform the County of any other contractual agreements which might be performed by a third party not owned, controlled by or under common control with FHS or Inova, as constituted as of the effective date of this Agreement, which may affect the Fairfax Hospital site or the Mount Vernon Hospital site.

12. FHS shall advise the County at least 30 days prior to effecting changes in room and other rates, and shall furnish the County reasonably detailed reasons for such changes.

13. Inova and FHS agree that the FHS Board of Trustees shall include three (3) members appointed by the Board of Supervisors of the County. If the size of the FHS Board is changed, Inova and FHS agree to include as members of the modified Board a proportional number of members appointed by the Board of Supervisors of the County, but never less than two (2) on the FHS Board. FHS further agrees that the FHS Finance Committee and FHS Planning Committee shall be so constituted as to at all times include one (1) member who has been appointed to the FHS Board by the

Board of Supervisors of the County.

14. Inova, FHS and the County agree to include staff of these respective organizations in appropriate meetings of Boards, Committees, Task Forces, Commissions and so on, in order to ensure appropriate staff has access to current knowledge and to promote cooperative efforts and exchange of information. At least one County staff member will be invited to attend the FHS Finance Committee and the FHS Planning Committee and/or other such committees established for similar or complementary purposes. Inova/FHS staff shall be invited to Health Care Advisory Board meetings and/or other such advisory bodies established for similar or complementary purposes, and their committee meetings. Staff attending such meetings shall receive meeting notices and other appropriate distributions at the same time as members receive these materials.

Inova and FHS shall request the County to suggest the names of County representatives to serve on boards and committees to appropriately involve County representatives in the deliberations of such boards and committees regarding major and significant health care activities. The County shall request names of Inova/FHS staff to serve on County Boards, as needed.

15. FHS hereby agrees throughout the term of this Agreement, or any extension thereof, to keep in force a public liability insurance policy or a self-insurance program providing coverage to FHS in amounts acceptable to the insurance advisors of the County, and to hold the County harmless from any claim as a result of any injuries incurred from the operation of health care facilities. FHS further agrees to keep in force an insurance program or self insurance program to insure its health care facilities against fire, including extended coverage, in an amount acceptable to the insurance advisors of the County.

16. The parties hereby agree to comply with all of the obligations set forth in this Agreement. In the event of any breach of any provision of this Agreement, the non-breaching party shall set forth the nature of the deficiency and that deficiency shall be corrected within 180 days from the date of receipt of the notice. During the 180

days, either party may request the parties meet to discuss the breach and plans to correct it. In the event the deficiency has not been corrected within 180 days, the parties shall meet within 30 days to resolve any disagreement. Following that meeting, if agreement is not reached, this Agreement may be terminated.

17. This Agreement may be amended, extended, or upon its termination, renewed by the parties for a like term or such other term as is mutually agreeable. At least as often as every five years, the parties shall confer to determine whether any mutually agreeable changes in this Agreement are desired.

18. (a) From any event constituting a breach of this Agreement by FHS and until such breach shall have been cured, FHS agrees that FHS will not remove any fixture or personal property present on either the Fairfax Hospital site or the Mount Vernon Hospital site and that the medical facilities on such sites will remain fully functional and fully equipped to provide the services being provided at the respective facilities immediately prior to any such breach.

(b) Upon the termination of this Agreement or any extension hereof pursuant to Section 16, FHS shall surrender to the County, or, at its direction, to an Assignee (as hereinafter defined), possession of the Fairfax Hospital site and the Mount Vernon hospital site, together with all buildings and improvements thereon, the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining regardless of when or from whom acquired (the "Premises"), all fixtures, and all medical appliances and systems necessary to continue the operation of the medical and administrative facilities and services at both the Fairfax Hospital and Mount Vernon Hospital sites, free from any encumbrances upon the land, buildings and improvements located at the two sites, as required by Virginia Code Section 15.1-261.1 (1989).

(c) In the event of such a termination of this Agreement or any extension hereof, the County agrees that it or its Assignee, as the case may be, shall execute a Limited Assumption (as hereinafter defined) of all of the outstanding (i) IDA Debt and (ii) Other Capital Debt the assumption of which was not disapproved by the

Board of the Supervisors of the County pursuant to the provisions of subsection (e) of this Section after the County received notice of the proposed incurrence of such debt pursuant to the provisions of subsection (d) of this Section (all of which debt, in the aggregate, is referred to as the "Assumed Debt"). For the purposes of this Section, "IDA Debt" shall mean debt obligations of FHS in respect of bonds and other debt of the Industrial Development Authority of Fairfax County, Virginia (and debt obligations in respect of (i) the repayment of drawings made under any letter of credit issued by a bank to secure such bonds, and (ii) loans by such bank to FHS to finance drawings made under a letter of credit to make payments on such bonds) allocable to the construction, renovation, acquisition or purchase of the facilities, equipment or other medical appliances and systems located at or allocable to Fairfax Hospital, Mount Vernon Hospital, or the sites thereof, and "Other Capital Debt" shall mean all debt obligations of FHS (not constituting IDA Debt) allocable to the construction, renovation, acquisition or purchase of the facilities, equipment or other medical appliances and systems located at or allocable to Fairfax Hospital, Mount Vernon Hospital, or the sites thereof.

(d) FHS shall provide the County with notice of its intent to issue, incur or assume Other Capital Debt, the principal amount of which exceeds \$1,000,000. FHS may, in its sole discretion, provide the County with notice of its intent to issue, incur or assume Other Capital Debt, the principal amount of which is equal to or less than \$1,000,000.

(e) The Board of Supervisors of the County shall have the right within 45 days after receiving notice pursuant to subsection (d) of this Section to disapprove the assumption of the proposed Other Capital Debt if the proposed Other Capital Debt is not reasonably related to the construction, renovation, acquisition or purchase of the facilities, equipment or other medical appliances and systems located at or allocable to Fairfax Hospital, Mount Vernon Hospital, or the sites thereof, or if the issuance, incurrence or assumption of the Other Capital Debt is not reasonably prudent fiscal practice. For the purposes of this Section it shall be deemed to be "reasonably

prudent fiscal practice" to issue, incur or assume Other Capital Debt if, after giving effect to all other indebtedness incurred by FHS and Inova, such indebtedness could be incurred pursuant to subsections (i) or (ii) below.

(i) Long-term indebtedness may be incurred if: (A) immediately after the incurrence of the proposed long-term indebtedness the aggregate principal amount of all long-term indebtedness of FHS and Inova does not exceed 67% of capitalization; or (B) neither FHS's nor Inova's long-term debt service coverage ratio (based on maximum annual debt service) for the most recent period of 12 full consecutive calendar months preceding the incurrence of the proposed long-term indebtedness for which there are financial statements available taking all long-term indebtedness incurred after such period and the proposed long-term indebtedness into account as if such long-term indebtedness had been incurred at the beginning of such period, is not less than 1.10.

(ii) Short-term indebtedness may be incurred subject to the limitation that the aggregate of all short-term indebtedness of FHS and Inova shall not at any time exceed 25% of total operating revenues of FHS and Inova as reflected in the financial statements of FHS and Inova for the most recent period of twelve consecutive months for which financial statements are available; provided, however, that there shall be a period of at least ten consecutive calendar days during each period of twelve consecutive calendar months during which such short-term indebtedness shall have been paid.

If the Board of Supervisors of the County exercises its right to disapprove the assumption of the proposed Other Capital Debt pursuant to this subsection (e), FHS still shall have the right to issue, incur or assume such Other Capital Debt; however such Other Capital Debt will not constitute Assumed Debt in the event this Agreement is terminated.

(f) For the purposes of this Section, "Limited Assumption" shall mean a written undertaking to operate the Hospitals and to pay the Assumed Debt in accordance with its terms, but solely from the revenues, income, receipts, money and

proceeds generated by the operation of the said medical and administrative facilities and services, subject to the prior payment therefrom of the expenses of operating, maintaining and repairing the said medical and administrative facilities and services, which revenues, income, receipts, money and proceeds ("Pledged Revenues") shall be pledged in the Limited Assumption to the payment of the Assumed Debt; provided, however, that nothing in this Section or in the Limited Assumption shall obligate the County or its Assignee to operate both or either of the Hospitals if, in the County's sole discretion, it shall determine that such operation is not feasible. If the County shall determine not to operate one or both of the Hospitals because it determines that such operation is not feasible, the County shall be required to sell the Premises relating to such Hospital or Hospitals and the proceeds of such sale shall be applied to the payment of the Assumed Debt. Pledged Revenues shall include (i) gross revenues derived from the operations at the two sites, and (ii) proceeds derived from (A) insurance related to the two sites, (B) accounts receivable generated from operations at the two sites, (C) inventory and other tangible and intangible property located at or related to the two sites, (D) medical or hospital insurance or indemnity programs or agreements related to operations at the two sites, and (E) contract rights and other rights and assets then or thereafter owned that are related to the operations at the two sites. For purposes of this Section, "Assignee" shall mean an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or a public instrumentality, in either case, with the power to undertake and execute the Limited Assumption and operate, or provide for the operation of, the Hospitals at the two sites.

(g) It is understood and agreed by the parties hereto that nothing in this Agreement shall be deemed to obligate the County or its Assignee to make any payments in respect of the Assumed Debt other than from the Pledged Revenues. The Assumed Debt shall not constitute a pledge of the full faith and credit of the County or its Assignee nor shall anything herein be deemed to constitute debt of the County or its Assignee within the meaning of any constitutional or statutory debt limitations of the Commonwealth of Virginia.

19. Inova agrees that the Inova Board of Trustees shall include one (1) member appointed by the Board of Supervisors of the County. Inova also agrees that it will take all actions necessary or appropriate to cause or permit FHS to satisfy all of its obligations and commitments as set forth within the provisions of this Agreement and to guarantee FHS's performance as contemplated by this Agreement.

Inova further agrees that it will cause Inova Services, Inc. to develop and maintain a reasonable indigent care policy to insure access to medically necessary care for indigent individuals, based on each patient's ability to pay and without discrimination on the basis of race, religion, nationality, sex, economic status or sexual orientation.

20. Inova and FHS are organized to provide health care services in their service area, including Fairfax County, and recognize as part of their mission the responsibility to provide health care services to indigent and other residents in the community. The parties agree to work together cooperatively and collaboratively, when appropriate, to promote the community health care needs of the residents of Fairfax County, and to meet periodically to coordinate activities undertaken by the County and by Inova and FHS to provide access to health care services to the citizens of Fairfax County so that cooperative planning to address anticipated or current community health care needs can be undertaken.

21. This Agreement embodies and constitutes the entire understanding among the parties with respect to the Fairfax Hospital site and the Mount Vernon Hospital site, and all prior or contemporaneous agreements, understandings, representations and statements, oral or written, specifically the Agreement between the parties dated September 8, 1975, shall be merged into this Agreement. The parties agree that other agreements and contacts between the parties may exist. Such agreements shall not alter, amend or in any way affect the terms set forth in this Agreement.

22. Neither this Agreement nor any provision hereof may be waived, amended or discharged, except by an instrument in writing signed by both parties, and then only to the extent set forth in such an instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives on the date and year written above.

BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA

BY: Richard A. King  
Richard A. King, Acting County Executive  
Fairfax County, Virginia

INOVA HEALTH SYSTEMS FOUNDATION

BY: J. Knox Singleton  
J. Knox Singleton, President

FAIRFAX HOSPITAL SYSTEM, INC.

BY: C. Michael French  
C. Michael French, President

COMMONWEALTH OF VIRGINIA,  
COUNTY OF FAIRFAX,

TO WIT:

The foregoing instrument was acknowledged before me this 23<sup>rd</sup> day of January, 1991, by Richard A. King, in his capacity as Acting County Executive of Fairfax County, Virginia, on behalf of the Board of Supervisors of Fairfax County, Virginia, by proper authority for the purposes stated therein.

Gale L. Thomas

NOTARY PUBLIC

My commission expires:

SEAL

COMMONWEALTH OF VIRGINIA,  
COUNTY OF FAIRFAX,

TO WIT:

The foregoing instrument was acknowledged before me this 22<sup>ND</sup> day of JAN, 1991, by J. Knox Singleton, in his capacity as President of Inova Health Systems Foundation, on behalf of the Board of Trustees of Inova Health Systems Foundation, by proper authority for the purposes stated therein.

Dore Nowland Danielson

NOTARY PUBLIC

My commission expires: **FEBRUARY 20, 1993.**

SEAL

COMMONWEALTH OF VIRGINIA,  
COUNTY OF FAIRFAX,

TO WIT:

The foregoing instrument was acknowledged before me this 22<sup>ND</sup> day of JAN, 1991, by C. Michael French, in his capacity as President of the Fairfax Hospital System, Inc., on behalf of the Board of Trustees of Fairfax Hospital System, Inc., by proper authority for the purposes stated therein.

*Hope Nowland Danielson*

NOTARY PUBLIC

My commission expires: FEBRUARY 20, 1993.

SEAL

# PHR&A

PHR&A  
 Harris-Rust & Associates, Inc.  
 996 Fair Ridge Drive  
 1 Box 900  
 Fairfax, Virginia 22030

TELEPHONE: 703-352-3923  
 TELEFAX: 703-352-3700

October 10, 1990

Offices:  
 Fairfax, VA  
 Bridgewater, VA  
 Chantilly, VA  
 Leesburg, VA  
 Rockville, MD  
 Virginia Beach, VA

DESCRIPTION OF  
 LEASE PARCEL ON  
 THE PROPERTY OF  
 THE BOARD OF SUPERVISORS  
 OF FAIRFAX COUNTY  
 PROVIDENCE DISTRICT  
 FAIRFAX COUNTY, VIRGINIA

Beginning at the northeasternmost corner of the tract herein described, said point being an iron pipe set on the line of Tudor-Bedford Associates and on the westerly variable width right-of-way line of Gallows Road Route #650;

Thence departing said Tudor-Bedford Associates and running with said westerly right-of-way line of Gallows Road the following courses and distances:

71.52 feet along the arc of a curve to the right, said curve having a radius of 1,840.00 feet, a central angle of 02° 13' 37" and a chord which bears S 13° 14' 45" E 71.51 feet to an iron pipe set;

S 12° 07' 56" E 703.26 feet to a drill hole set in sidewalk;

333.44 feet along the arc of a curve to the left, said curve having a radius of 1,310.00 feet, a central angle of 14° 35' 02" and a chord which bears S 19° 25' 27" E 332.54 feet to an iron pipe set;

S 26° 42' 58" E 0.26 feet to an iron pipe set;

engineers,  
 surveyors,  
 planners &  
 landscape  
 architects

Description 803  
October 10, 1990  
Page 2

Patton Harris Rust & Associates, PC

326.33 feet along the arc of a curve to the left, said curve having a radius of 1,049.44 feet, a central angle of  $17^{\circ} 48' 59''$  and a chord which bears  $S 35^{\circ} 37' 28'' E$  325.02 feet to an iron pipe set;

$S 40^{\circ} 44' 03'' E$  2.62 feet to an iron pipe found;

157.12 feet along the arc of a curve to the left, said curve having a radius of 1,300.00 feet, a central angle of  $06^{\circ} 55' 30''$  and a chord which bears  $S 44^{\circ} 11' 48'' E$  157.03 feet to an iron pipe found;

$S 47^{\circ} 39' 33'' E$  119.40 feet to an iron pipe found;

Thence departing said westerly variable width right-of-way line of Gallows Road, Route #650 and running through the land of The Board of Supervisors of Fairfax County  $S 83^{\circ} 41' 47'' W$  222.00 feet to an iron pipe found and  $S 06^{\circ} 18' 13'' E$  185.00 feet an iron pipe set, said pipe being on the northerly variable width right-of-way line of Woodburn Road, Route #709;

Thence running with said right-of-way line of Woodburn Road,  $S 83^{\circ} 41' 47'' W$  484.73 feet to an iron pipe set;

Thence departing with said right-of-way line of Woodburn Road and running through the land of The Board of Supervisors of Fairfax County  $N 01^{\circ} 52' 37'' W$  431.98 feet to an iron pipe found and  $S 88^{\circ} 07' 23'' W$  490.00 feet to an iron pipe found, said pipe being on the line of Woodburn Village;

Thence running with said Woodburn Village the following courses and distances:

$N 01^{\circ} 52' 37'' W$  306.61 feet to an iron pipe found;

99.15 feet along the arc of a curve to the right, said curve having a radius of 290.00 feet, a central angle of  $19^{\circ} 35' 23''$  and a chord which bears  $N 69^{\circ} 20' 43'' W$  98.67 feet to an iron pipe found;

118.49 feet along the arc of a curve to the left, said curve having a radius of 210.00 feet, a central angle of  $32^{\circ} 19' 42''$  and a chord which bears  $N 75^{\circ} 42' 46'' W$  116.92 feet to an iron pipe found;

Thence continuing with said Woodburn Village and with the same line extended with Second Gallows Road Associates, Inc.  $S 88^{\circ} 07' 23'' W$  589.03 feet to an iron pipe found;

Thence departing said Second Gallows Road Associates, Inc. and running through the land of The Board of County Supervisors of Fairfax County  $N 01^{\circ} 52' 37'' W$  800.65 feet to an iron pipe found, said pipe being on the southerly 30-foot right-of-way line of Anderson Drive;

Thence running with said 30-foot right-of-way line of Anderson Drive  $N 84^{\circ} 30' 14'' E$  85.17 feet to an iron pipe found and  $N 14^{\circ} 45' 54'' W$  179.52 feet to an iron pipe found, said pipe being a corner to the aforementioned Tudor-Bedford Associates;

Thence departing said 30-foot right-of-way line of Anderson Drive and running with said Tudor-Bedford Associates  $N 88^{\circ} 07' 04'' E$  1,314.69 feet to the point of beginning and containing 45.10969 acres more or less.

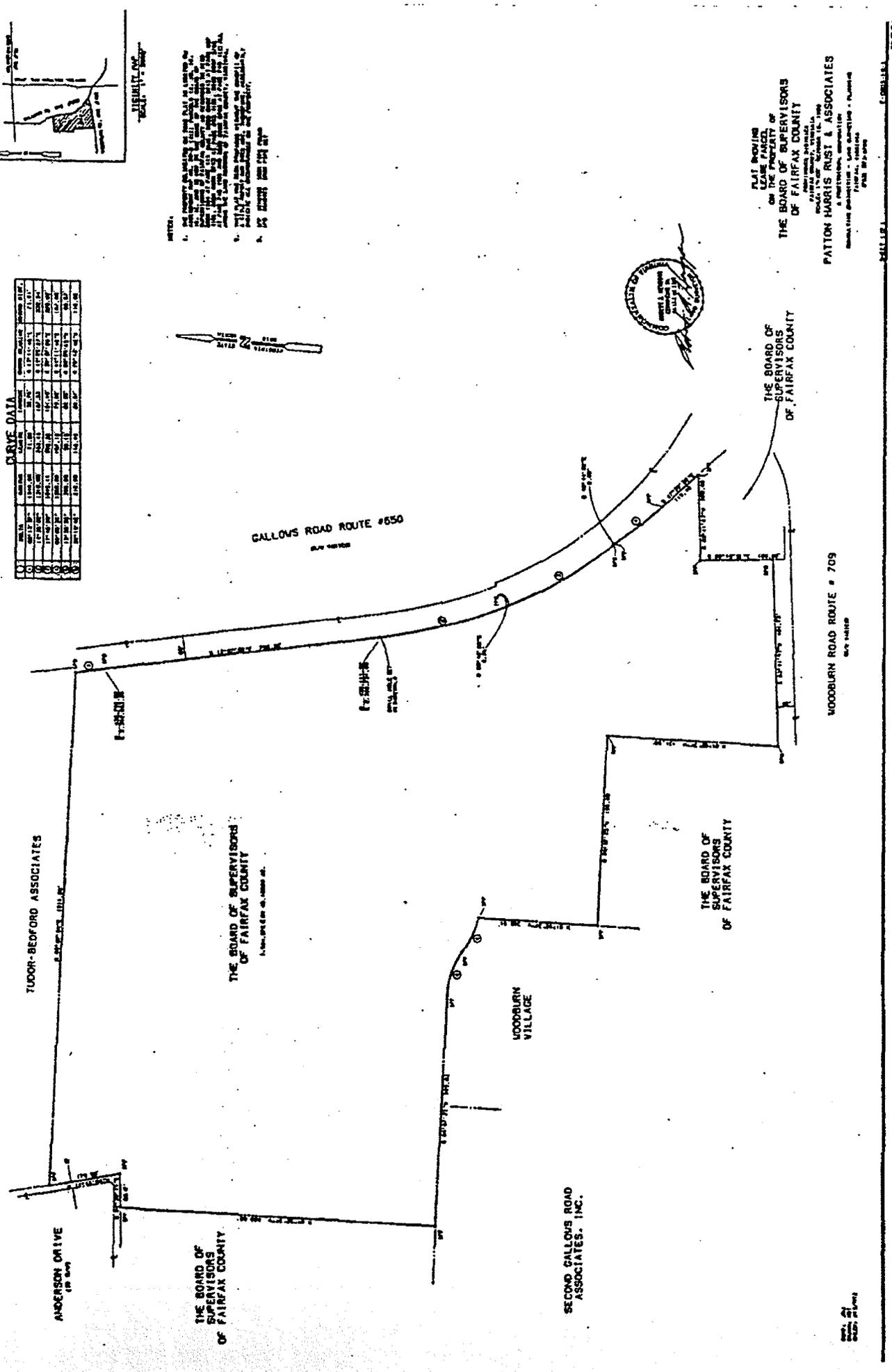
Subject, however, to all easements, rights-of-way and restrictions of record.

This description has been prepared without the benefit of a title report and does not, therefore, necessarily indicate all encumbrances on the property.

**CURVE DATA**

STATION	PC	PT	PI	TS	TS+100	TS+200	TS+300	TS+400	TS+500	TS+600	TS+700	TS+800	TS+900	TS+1000	TS+1100	TS+1200	TS+1300	TS+1400	TS+1500	TS+1600	TS+1700	TS+1800	TS+1900	TS+2000
1+00	1+00	1+00	1+00	1+00	1+00	1+00	1+00	1+00	1+00	1+00	1+00	1+00	1+00	1+00	1+00	1+00	1+00	1+00	1+00	1+00	1+00	1+00	1+00	1+00

NOTES:  
 1. THE PROPERTY OF THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY IS SHOWN BY A SHADY AREA.  
 2. THE PROPERTY OF THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY IS SHOWN BY A SHADY AREA.  
 3. THE PROPERTY OF THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY IS SHOWN BY A SHADY AREA.  
 4. THE PROPERTY OF THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY IS SHOWN BY A SHADY AREA.



PLAT BOOKING  
 ON THE PART OF  
 THE BOARD OF SUPERVISORS  
 OF FAIRFAX COUNTY

FAIRFAX COUNTY, VIRGINIA

PATTON HARRIS RUST & ASSOCIATES  
 ENGINEERS - ARCHITECTS - LAND SURVEYORS - PLANNERS  
 FAIRFAX, VIRGINIA  
 PLAN 10-10-10

CELLULAR

TUDOR-BEUFORD ASSOCIATES

THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY

WOODBURN VILLAGE

THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY

SECOND GALLOVS ROAD ASSOCIATES, INC.

WOODBURN ROAD ROUTE # 709

SCALE: AS SHOWN

# PHR&A

Harris Rust & Associates, pc  
 1990 Fair Ridge Drive  
 PO Box 901  
 Fairfax, Virginia 22030

Fax 703 352-0983  
 703 273-8700

October 11, 1990

Offices:  
 Fairfax, VA  
 Bridgewater, VA  
 Clantally, VA  
 Leesburg, VA  
 Rockville, MD  
 Virginia Beach, VA

DESCRIPTION OF  
 A PORTION OF THE PROPERTY OF  
 THE BOARD OF SUPERVISORS  
 OF FAIRFAX COUNTY  
 (MOUNT VERNON HOSPITAL)  
 MOUNT VERNON DISTRICT  
 FAIRFAX COUNTY, VIRGINIA

Beginning at the southwesternmost corner of the tract herein described, said point being an iron pipe set on the easterly 60-foot right-of-way line of Holland Road Route #3500 and the northerly 84-foot right-of-way line of Hinson Farm Road Route #3600;

Thence departing said Hinson Farm Road and running with said Holland Road N 12° 07' 00" E 1,100.00 feet to an iron pipe set;

Thence departing said Holland Road and running through the land of Board of Supervisors of Fairfax County S 77° 53' 00" E 434.93 feet to an iron pipe set and N 60° 27' 10" E 296.77 feet to an iron pipe set, said pipe being on the westerly 84-foot right-of-way line of Parkers Lane Route #628;

Thence running with said Parkers Lane S 29° 32' 50" E 840.00 feet to an iron pipe set and 63.03 feet along the arc of a curve to the right, said curve having a radius of 42.00 feet, a central angle of 85° 58' 40" and a chord which bears S 13° 26' 30" W 57.28 feet to an iron pipe set, said pipe being on the aforementioned northerly 84-foot right-of-way line of Hinson Farm Road Route #3600;

Thence departing said Parkers Lane and running with said Hinson Farm Road the following courses and distances:

S 56° 25' 49" W 759.68 feet  
 to an iron pipe set;

293.43 feet along the arc of  
 a curve to the right, said  
 curve having a radius of

Description 163020  
October 11, 1990  
Page 2

Patton Harris-Bost & Associates, Inc.

368.00 feet, a central angle of  $45^{\circ} 41' 10''$  and a chord which bears  $S 79^{\circ} 16' 25'' W$  285.72 feet to an iron pipe set;

$N 77^{\circ} 53' 00'' W$  377.69 feet to an iron pipe set;

65.97 feet along the arc of a curve to the right, said curve having a radius of 42.00 feet, a central angle of  $90^{\circ} 00' 00''$  and a chord which bears  $N 32^{\circ} 53' 00'' W$  59.40 feet

to the point of beginning and containing 25.97307 acres more or less.

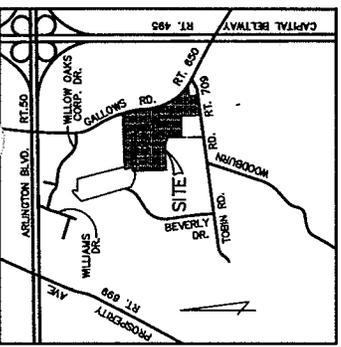
Subject, however, to all easements, rights-of-way and restrictions of record.

This description has been prepared without the benefit of a title report and does not, therefore, necessarily indicate all encumbrances on the property.

des.163020/10.90

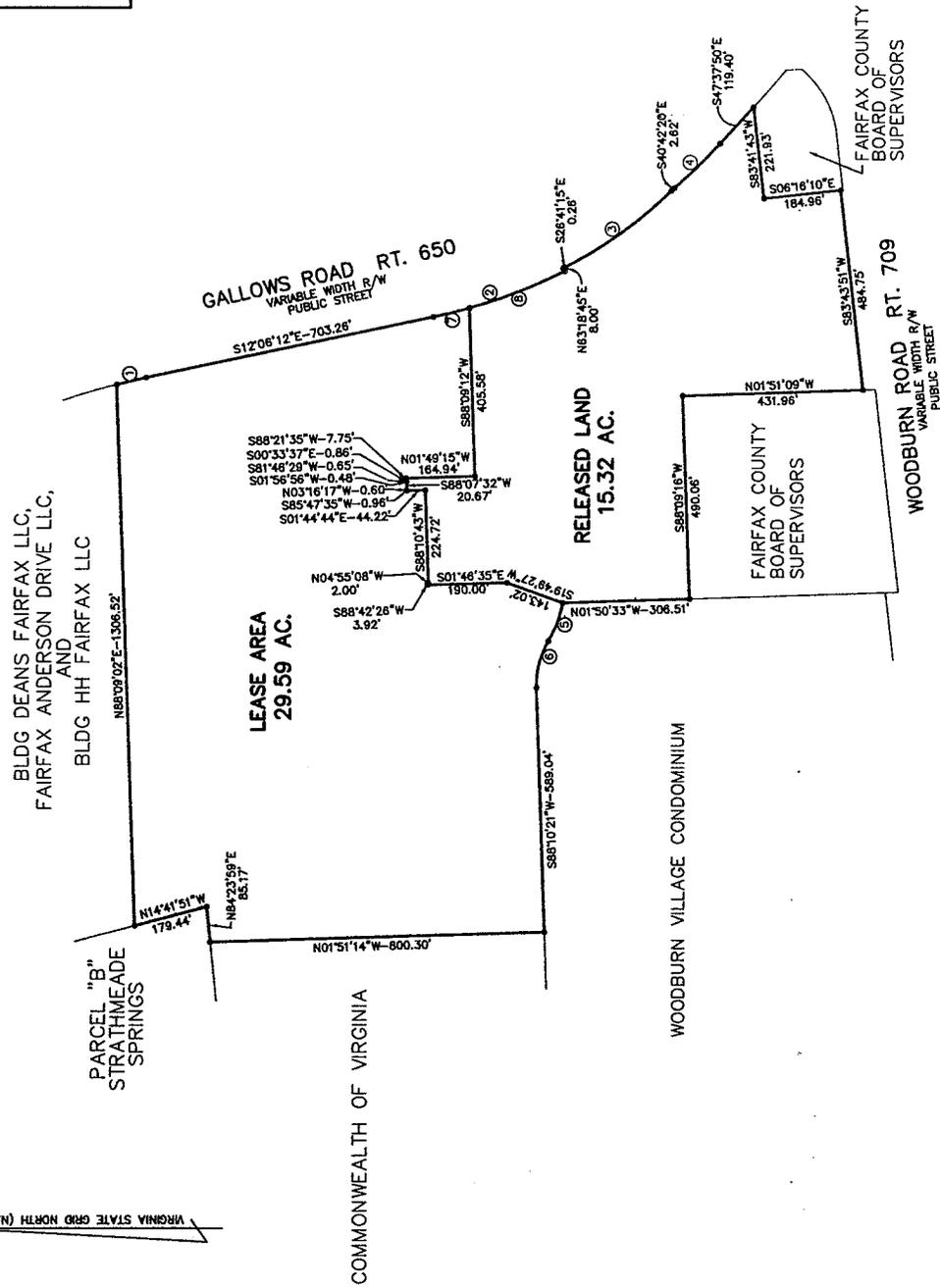


## **Exhibit B**



VICINITY MAP  
SCALE: 1" = 2,000'

NO.	RADIUS	DELTA	ARC	TANGENT	CHORD	BEARING
1	1832.00	0216.43	72.77	35.30	27.76	S111.12°E
2	1318.00	1435.01	335.48	183.65	334.57	S102.34°E
3	1049.44	1749.00	326.33	184.49	325.02	S35.53°E
4	1300.00	0535.30	157.12	78.66	157.03	S44.10°E
5	280.00	1938.32	98.25	50.11	98.77	N69.20°E
6	210.00	3217.48	118.37	60.81	116.81	N75.40°E
7	1318.00	0352.42	89.22	44.82	89.20	S14.02°E
8	1318.00	1042.19	246.76	123.49	245.90	S21.20°E



- NOTES:**
1. THE PROPERTY DELINEATED ON THIS PLAT IS LOCATED ON ASSESSMENT MAPS 59-2 (11) PT. 1A, PT. 1B, PT. 1C, 1D & 1E AND IS ZONED C-3.
  2. THE PROPERTY SHOWN HEREON WAS ACQUIRED BY FAIRFAX COUNTY BOARD OF SUPERVISORS IN D.B. 1584 PG. 111, D.B. 1584 PG. 121, D.B. 2743 PG. 683, D.B. 2743 PG. 687, D.B. 2786 PG. 745 AND D.B. 2786 PG. 748.

EXHIBIT B  
PLAT SHOWING  
LEASE AREA OF THE  
FAIRFAX COUNTY BOARD OF SUPERVISORS PROPERTY  
PROVIDENCE DISTRICT  
FAIRFAX COUNTY, VIRGINIA  
SCALE: 1" = 200'  
JUNE, 2010  
**Dewberry**  
Dewberry & Davis LLC  
100 W. MAIN STREET, SUITE 200  
FAIRFAX, VA 22031  
PHONE: 703.441.0282  
FAC: 703.441.0318

tabbles

**EXHIBIT**

B

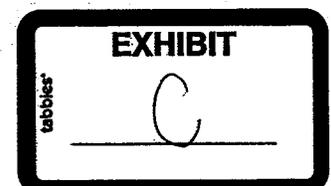
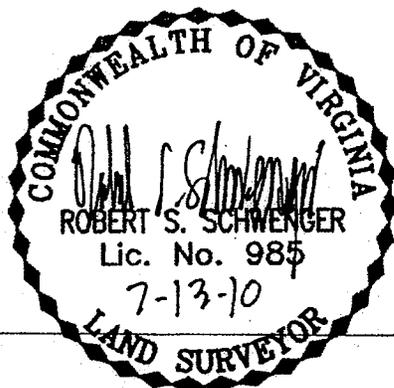
## **Exhibit C**

July 13, 2010

DESCRIPTION OF  
PART OF THE PROPERTY OF  
FAIRFAX COUNTY BOARD OF SUPERVISORS  
(29.59 ACRE LEASE AREA)  
PROVIDENCE DISTRICT  
FAIRFAX COUNTY, VIRGINIA

Beginning at a point on the westerly line of Gallows Road (Route 650) marking the southeasterly corner of Bldg Deans Fairfax LLC, Fairfax Anderson Drive LLC And Bldg HH Fairfax LLC (Bedford Village); thence with the westerly line of Gallows Road the following courses: with a curve to the right, whose radius is 1832.00 feet and whose chord is S13°14'28"E, 72.76 feet, an arc distance of 72.77 feet; S12°06'12"E, 703.26 feet and with a curve to the left, whose radius is 1318.00 feet and whose chord is S14°02'33"E, 89.20 feet, an arc distance of 89.22 feet to a point; thence departing Gallows Road and through the property of the Fairfax County Board of Supervisors the following courses: S88°09'12"W, 405.58 feet; N01°49'15"W, 164.94 feet; S88°21'35"W, 7.75 feet; S00°33'37"E, 0.86 feet; S81°46'29"W, 0.65 feet; S01°56'56"W, 0.48 feet; S88°07'32"W, 20.67 feet; N03°16'17"W, 0.60 feet; S85°47'35"W, 0.96 feet; S01°44'44"E, 44.22 feet; S88°10'43"W, 224.72 feet; N04°55'08"W, 2.00 feet; S88°42'26"W, 3.92 feet; S01°46'35"E, 190.00 feet and S19°49'27"W, 143.02 feet to a point marking the northeasterly corner of Woodburn Village Condominium; thence with the northerly lines of Woodburn Village Condominium the following courses: with a curve to the right, whose radius is 290.00 feet and whose chord is N69°20'06"W, 98.77 feet, an arc distance of 99.25 feet; with a curve to the left, whose radius is 210.00 feet and whose chord is N75°40'45"W, 116.81 feet, an arc distance of 118.37 feet and S88°10'21"W, 589.04 feet to a point marking the southeasterly corner of the property of the Commonwealth of Virginia; thence with the easterly line of the Commonwealth of Virginia N01°51'14"W, 800.30 feet to a point on the southerly line of Parcel "B", Strathmeade Springs; thence with the southerly and easterly lines of the said Parcel "B" N84°23'59"E, 85.17 feet and N14°41'51"W, 179.44 feet to a point marking the southwesterly corner of the aforementioned Bldg Deans Fairfax LLC, Fairfax Anderson Drive LLC, And Bldg HH Fairfax LLC; thence with their southerly line N88°09'02"E, 1306.52 feet to the point of beginning, containing 29.59 acres of land.

All being more particularly described on a plat attached hereto and made a part hereof.



 Dewberry



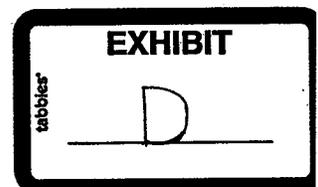
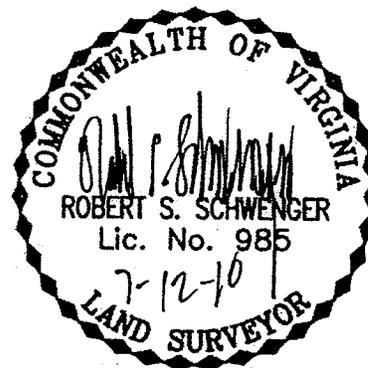
## **Exhibit D**

July 12, 2010

DESCRIPTION OF  
PART OF THE PROPERTY OF  
FAIRFAX COUNTY BOARD OF SUPERVISORS  
(FAIRFAX HOSPITAL RELEASED LAND)  
PROVIDENCE DISTRICT  
FAIRFAX COUNTY, VIRGINIA

Beginning at a point marking the northeasterly corner of Woodburn Village Condominium; thence through the property of the Fairfax County Board of Supervisors the following courses: N19°49'27"E, 143.02 feet; N01°46'35"W, 190.00 feet; N88°42'26"E, 3.92 feet; S04°55'08"E, 2.00 feet; N88°10'43"E, 224.72 feet; N01°44'44"W, 44.22 feet; N85°47'35"E, 0.96 feet; S03°16'17"E, 0.60 feet; N88°07'32"E, 20.67 feet; N01°56'56"E, 0.48 feet; N81°46'29"E, 0.65 feet; N00°33'37"W, 0.86 feet; N88°21'35"E, 7.75 feet; S01°49'15"E, 164.94 feet and N88°09'12"E, 405.58 feet to a point on the westerly line of Gallows Road (Route 650); thence with the westerly line of Gallows Road the following courses: with a curve to the left, whose radius is 1318.00 feet and whose chord is S21°20'04"E, 245.90 feet, an arc distance of 246.26 feet; N63°18'45"E, 8.00 feet; S26°41'15"E, 0.26 feet; with a curve to the left, whose radius is 1049.44 feet and whose chord is S35°35'45"E, 325.02 feet, an arc distance of 326.33 feet; S40°42'20"E, 2.62 feet; with a curve to the left, whose radius is 1300.00 feet and whose chord is S44°10'05"E, 157.03 feet, an arc distance of 157.12 feet and S47°37'50"E, 119.40 feet to a point; thence through the property of the Fairfax County Board Of Supervisors S83°41'43"W, 221.93 feet and S06°16'10"E, 184.96 feet to a point on the northerly line of Woodburn Road (Route 709); thence with the northerly line of Woodburn Road S83°43'51"W, 484.75 feet to a point; thence through the property of the Fairfax County Board of Supervisors N01°51'09"W, 431.96 feet and S88°09'16"W, 490.06 feet to a point on the easterly line of Woodburn Village Condominium; thence with the easterly line of Woodburn Village Condominium N01°50'33"W, 306.51 feet to the point of beginning, containing 15.32 acres of land.

All being more particularly described on a plat attached hereto and made a part hereof.



## **Exhibit E**

EXHIBIT E

Memorandum of Lease

THIS MEMORANDUM OF LEASE is entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2010, by and between THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA, a political subdivision of the Commonwealth of Virginia in its proprietary capacity, and not in its governmental or regulator capacity (the "Landlord"), Grantor, and INOVA HEALTH CARE SERVICES ("Tenant"), Grantee.

1. Pursuant to an Amended and Restated Deed of Ground Lease (the "Amended Lease") executed by Landlord and Tenant, dated \_\_\_\_\_, 2010, Landlord has leased to Tenant certain Premises in Fairfax County, Virginia described in Exhibit A attached hereto (the "Premises"), together with the nonexclusive benefit of all appurtenant rights, privileges and easements described therein. Capitalized terms used in this Memorandum of Lease which are defined in the Amended Lease shall have the same meaning and definition when used herein.

2. The term of the Amended Lease shall commence on the Effective Date set forth in the Lease, being \_\_\_\_\_, 2010 and shall expire upon the expiration of the ninety-ninth (99<sup>th</sup>) year, so that the termination date is \_\_\_\_\_, 2109.

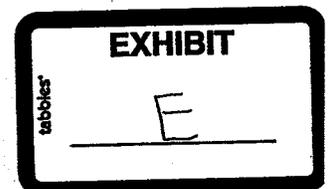
3. This Memorandum of Lease is subject to all of the terms, conditions and understandings set forth in the Amended Lease, which are incorporated herein by reference and made a part hereof, as though copied verbatim herein. In the event of a conflict between the terms and conditions of this Memorandum of Lease and the terms and conditions of the Amended Lease, the terms and conditions of the Amended Lease shall prevail.

**EXECUTED** as of the date first written above.

LANDLORD:  
BOARD OF SUPERVISORS OF FAIRFAX  
COUNTY, VIRGINIA, acting in its proprietary  
capacity and not its governmental or regulatory  
capacity.

By: \_\_\_\_\_  
Name: Anthony H. Griffin  
Title: County Executive

[Signatures Continue on Next Page]





**Exhibit F to Contract of Sale**

**DEED OF GROUND LEASE**

BETWEEN

**INOVA HEALTH CARE SERVICES**

AS LANDLORD

and

**THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA**

AS TENANT

DATED: \_\_\_\_\_, \_\_\_\_\_, 2010

## DEED OF GROUND LEASE

THIS DEED OF GROUND LEASE (the "Lease") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2010, by and between INOVA HEALTH CARE SERVICES (the "Landlord"), and THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA, a political subdivision of the Commonwealth of Virginia in its proprietary capacity, and not in its governmental or regulator capacity ("Tenant"), with reference to the following:

### RECITALS:

(A) Landlord is the owner, in fee simple, of a certain parcel of real property, which consists of approximately 16.47 acres of land, situated in Fairfax County, Virginia shown as "Parcel F" on Exhibit A attached hereto and made a part hereof (the "Land").

(B) Tenant desires to lease from Landlord, and Landlord desires to lease to Tenant, a 1.15 acre portion of the Land upon the terms and subject to the conditions hereinafter provided. The portion of the Land to be leased is described and shown as "Lease Area" on the legal description and plat attached hereto and made a part hereof as Exhibit B, and together with all improvements including but not limited to buildings and parking lots now or hereinafter situated thereon, is collectively referred to as the "Premises".

NOW, THEREFORE, in consideration of the rent, and the covenants and agreements herein contained, Landlord and Tenant hereby covenant and agree as follows:

### ARTICLE 1 DEFINITIONS

#### **Section 1.01 Fundamental Provisions.**

Each reference in this Lease to information and definitions contained in this Section and the use of terms defined in this Section 1.01 shall be deemed to refer to and shall have the following meanings:

- A. "Term": ninety-nine (99) years, commencing on December 1, 2010.
- B. "Expiration Date": December 1, 2109.
- C. "Base Rent": \$ 10.00 annually, to be paid annually on December 1.
- D. "Default Rate": shall be a rate equal to the prime lending rate as published in the Wall Street Journal, as of the date of the respective expenditure to which it shall apply as provided herein, plus 4%.
- D. "Governmental Authorities": means all governmental or quasi-governmental officials, agencies, bodies or governments having jurisdiction over the Land including,

without limitation, Fairfax County, in its governmental capacity, and the Commonwealth of Virginia.

E. Land Records": means the land records of Fairfax County, Virginia.

F. "Landlord's Address for Notices":

Inova Health Care Services  
8110 Gatehouse Road, Suite 200E  
Falls Church, Virginia 22042  
Attention: H. Patrick Walters  
Facsimile No: 703-289-2074  
Phone: 703-289-2021

With a copy to:

Inova Health Care Services  
8110 Gatehouse Road, Suite 200E  
Falls Church, Virginia 22042  
Attention: John Gaul, Esq.  
Facsimile No: 703-289-2074  
Phone: 703-289-2021

And with a copy to:

Timothy S. Sampson  
Walsh, Colucci, Emrich, Lubeley, & Walsh, P.C.  
2200 Clarendon Boulevard, Suite 1300  
Arlington, Virginia 22201  
Facsimile No: 703-525-3197  
Phone: 703-528-4700

G. "Mortgagee": means one or more commercial or savings banks, savings and loan associations, trust companies, credit unions, industrial loan associations, insurance companies, pension funds or business trusts, (including but not limited to real estate investment trusts) or other Person that (i) is not affiliated with the Tenant; (ii) is regularly engaged in financing the purchase, construction or improvement of real estate, or any assignee of loans made by such lender; and (iii) is the beneficiary of any Mortgage.

H. "Mortgage": means any deed of trust recorded among the Land Records which was created for the purpose of securing the indebtedness of the Tenant ("Mortgage").

I. "Person": means individuals, partnerships, associations, corporation, limited liability companies, and any other form of business organization, or one or more of them, as the context may require.

J. "Tenant's Address for Notices":

Fairfax County  
Office of the County Executive  
12000 Government Center Parkway, Suite 552  
Fairfax, VA 22035  
Attn: County Executive  
Facsimile No.: 703-324-3956  
Phone: 703-324-2531

With a copy to:

Fairfax County  
Office of the County Attorney  
12000 Government Center Parkway, Suite 549  
Fairfax, VA 22035  
Attn: County Attorney  
Facsimile No.: 703-324-2665  
Phone: 703-324-2421

### **Section 1.02 Exhibits**

The following Exhibits are attached to this Lease and by this reference incorporated herein:

- A Land
- B Premises
- C Memorandum of Lease (see Section 29.04)

### **Section 1.03 Lease Defined**

The term "Lease" collectively refers to this Deed of Ground Lease and the Exhibits specified in Section 1.02.

## **ARTICLE 2** **DEMISE**

Landlord, for and in consideration of the rents and covenants herein to be paid, kept and performed by Tenant, and upon the condition that all thereof shall be fully paid, kept and performed by Tenant, hereby leases to Tenant and Tenant hereby takes and hires from Landlord, upon and subject to the terms, provisions and conditions of this Lease, the Premises.

ARTICLE 3  
TERM

**Section 3.01 Term.**

The Term of this Lease shall be for the period specified in Article 1, unless sooner terminated as herein provided.

ARTICLE 4  
RENT

**Section 4.01 Base Rent.**

Tenant shall pay to Landlord, on the Effective Date hereof and annually thereafter, the Base Rent, which shall be the amount specified as Base Rent in Article 1 of the Lease.

**Section 4.02 "Additional Rent" and "Rent" Defined.**

(a) All sums of money required to be paid by Tenant to Landlord pursuant to this Lease, other than Base Rent, shall be considered "Additional Rent".

(b) The term "Rent" as used in this Lease collectively refers to Base Rent and Additional Rent.

**Section 4.03 Interest and Late Charges.**

In the event any payment of Rent due hereunder is not paid within ten (10) calendar days after it is due, then Tenant shall also pay to Landlord as Additional Rent a late payment fee equal to four percent (4%) of such delinquent payment of Rent or any component thereof.

ARTICLE 5  
CONSTRUCTION, ALTERATIONS AND ADDITIONS

**Section 5.01 Construction and Alterations.**

During the Term, Tenant shall have the right to construct, alter, repair or replace any improvements upon the Premises in accordance with requirements of all Governmental Authorities and provided that the total gross floor area attributed to the Premises does not exceed 15,000 square feet. With respect to any work to be performed by Tenant, the Tenant shall provide Landlord with copies of all pertinent plans submitted to Governmental Authorities. Landlord shall have the right to attend development and construction meetings that Tenant may have, from time to time, with the appropriate Governmental Authorities with respect to work to be performed by Tenant. The Tenant shall keep Landlord apprised of any such meetings with reasonable advance notice.

The Landlord shall provide the Tenant with expansion capability by allocating a total of 15,000 square feet of gross floor area ("GFA") to the Premises. Total GFA allocated to the Premises shall be 15,000 square feet. Any additional GFA which results from the utilization of the land area of the Premises is reserved for the use and benefit of Landlord.

#### **Section 5.02 Landlord Cooperation.**

Landlord hereby agrees that it will, upon request by Tenant, cooperate with Tenant in its efforts to obtain any necessary permits, but only to the extent Landlord's cooperation is required by applicable Governmental Authorities in order for Tenant to obtain the necessary permits. Notwithstanding the foregoing, Landlord shall not be required to enter into any agreement to apply for any approvals, to join in any application or do any other thing or execute any document if any such act would result in Landlord incurring any cost, liability or obligation.

#### **Section 5.03 Liens.**

Tenant agrees that in the event that any mechanic's or other statutory lien shall be filed against the Land or any portion thereof, by reason of work, labor, services or materials supplied or claimed to have been supplied to Tenant, or anyone holding the Premises through Tenant, Tenant within thirty (30) days after receipt of notice of the filing shall cause the lien to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. However, Tenant shall have the right, before any judgment or foreclosure occurs, to contest the amount or validity of any lien against the Premises or any improvements thereon by appropriate legal proceedings diligently conducted in good faith. If Tenant shall fail to cause any lien to be discharged or contested as aforesaid, then in addition to any other right or remedy it may have, Landlord may, but shall not be obligated to, discharge it either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit, bond, or other proceedings. Any amount so paid by Landlord and all costs and expenses incurred by Landlord in connection therewith together with interest thereon at the Default Rate from the respective dates of Landlord's making of the payments and incurring of the costs and expenses, shall constitute Additional Rent and shall be paid by Tenant to Landlord on demand.

### **ARTICLE 6 NOTICES**

Any notice or demand which either party to this Lease is required or desires to give shall be given in writing to Landlord's Address for Notices or Tenant's Address for Notices, as provided in Section 1.01, as may be applicable, subject to the right of either party by notice similarly given to the other party to change their respective address. All payments by Tenant to Landlord pursuant to any provision of this Lease shall be made without offset and in the lawful money of the United States. Such payments shall be delivered to Landlord's Address for Notices or to such other place as Landlord shall from time to time designate by notice in writing to Tenant. All notices or demands shall be given by registered or certified

mail, return receipt requested, or by any overnight or express mail service which provides evidence of delivery. All notices and demands given in accordance with the provisions of this Article shall be conclusively deemed to have been delivered on the date of first attempted delivery, notwithstanding the refusal by either party to accept delivery.

ARTICLE 7  
USE AND OPERATING REQUIREMENTS

**Section 7.01 Use of Premises.**

The Premises and all improvements located thereon may be used by Tenant only to provide residential (i.e. overnight stay) human services such as mental health or substance abuse treatment, and for no other use without the Landlord's prior written consent, which consent may be given or withheld in Landlord's sole and absolute discretion.

**Section 7.02 Hazardous Materials.**

(a) Tenant hereby agrees that it shall not use, store, dispose, release, spill, discharge or emit Hazardous Materials on the Land or the Premises except for nominal amounts used in the ordinary course of Tenant's business.

(b) As used in this Lease, the term "Hazardous Materials" shall include, without limitation:

(i) Those substances included within the definitions of "hazardous substances", "hazardous materials", "toxic substances," or "solid waste" in the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. §9601 *et. seq.*), as amended by Superfund Amendments and Reauthorization Act of 1986, the Resource Conservation and Recovery Act of 1976, and the Hazardous Materials Transportation Act, and in the regulations promulgated pursuant to said laws, all as amended;

(ii) Those substances listed in the United States Department of Transportation Table (49 CFR 172.101 and amendments thereto) or by the Environmental Protection Agency (of any successor agency) as hazardous substances (40 CFR Part 302 and amendments thereto);

(iii) Any material, waste or substance which is (A) petroleum, (B) asbestos, (C) polychlorinated biphenyls, (D) designated as a "hazardous substance" pursuant to the Clean Water Act, 33 U.S.C. §1251 *et. seq.* (33 U.S.C. §1321), (E) flammable explosives, or (F) radioactive materials; and

(iv) Such other substances, materials and wastes which are or become regulated as hazardous or toxic under applicable local, state or federal law, or the United States government, or which are classified as hazardous or toxic under federal, state, or local laws or regulations.

ARTICLE 8  
NET LEASE

**Section 8.01 Net Lease.**

It is the intention of the parties hereto that this Lease is a "net lease" and that Landlord shall receive the Rent hereinabove provided as net income from the Premises, not diminished by

(a) any imposition of any public authority of any nature whatsoever during the entire Term of this Lease, notwithstanding any changes in the method of taxation or raising, levying or assessing any imposition, or any changes in the name of any imposition,

(b) the cost of any maintenance, utilities, insurance or other expenses or charges required to be paid to maintain the Premises,

(c) any other costs or expenses involved in the care, management, use, construction and operation of the Premises or any improvements thereto, or

(d) any other impositions, charges, costs or expenses whatsoever.

All such impositions, costs, expenses and charges shall be paid by Tenant from and after the Effective Date of this Lease and during the entire Term of this Lease. When in this Lease any provision is made for the doing of any act by Tenant, the act shall be done by Tenant at its own cost and expense.

**Section 8.02 Maintenance by Tenant.**

(a) Landlord is not and shall not be required to render any services of any kind to Tenant, nor to maintain, repair, rebuild or restore the Premises or any part of any of the foregoing, and Tenant hereby expressly waives the right to make repairs at the expense of Landlord, which right may be provided for in any statute or law, whether in effect at the time of execution and delivery of this Lease or hereafter enacted.

(b) Tenant covenants and agrees to repair and maintain (or cause to be maintained and repaired) the Premises in good condition and repair (normal wear and tear permitted) in conformity with the requirements of all Governmental Authorities. Tenant shall not cause, permit or suffer any material waste of the Premises.

(c) If Tenant shall fail to comply with its repair and maintenance obligations hereunder within thirty (30) days after receiving written notice from Landlord, then Landlord shall have the right to perform such repair and maintenance obligations hereunder and the cost of such repair and maintenance obligations shall be considered Additional Rent hereunder, in addition to all of Landlord's remedies set forth in this Lease.

ARTICLE 9  
UTILITIES

Tenant shall be solely responsible for installing (if required) and arranging for utility lines and services (existing and future) to and for the Premises and Tenant's improvements and operations thereon (existing and future) and Tenant shall itself pay promptly all deposits, rents, costs, tap-in fees and other charges and fees for water service, sewer service, gas, electricity, light, heat, steam, power, telephone and other communication services, and any and all other utility services desired, rendered or supplied to or in connection with the Premises or any improvements thereto.

ARTICLE 10  
TAXES

**Section 10.01 Payment by Tenant of Taxes.**

(a) Commencing on the Effective Date, Tenant shall pay throughout the Term (and prior to delinquency), all levies, taxes, assessments, water and sewer rents and charges, liens, license and permit fees, charges for public utilities, and all charges for refuse or garbage collection or disposal made in respect of the Premises, and all other charges, impositions or burdens of whatsoever kind and nature, whether or not particularized by name, and whether general or special, ordinary or extraordinary, foreseen or unforeseen, which at any time during the Term of this Lease may be created, levied, assessed, confirmed, adjudged, imposed or charged upon or with respect to the Premises or any improvements made thereto or any trade fixtures, furnishings, equipment and all other personal property contained on the Premises, or on any part of the foregoing or any appurtenances thereto, or directly upon this Lease, including, among others, all special tax bills and general, special or other assessments and liens or charges made on local or general improvements or under any governmental or public power or authority whatsoever, all use taxes which may be levied or assessed against or payable by Tenant on account of the leasing or use of the Premises or any other taxes or charges in lieu of any of the foregoing (all of which are referred to herein as "Tax" or "Taxes"); provided, however, if any Tax shall be created, levied, assessed, adjudged, imposed, charged or become a lien with respect to a period of time which commences after the Term of this Lease (other than by reason of breach of any of the terms hereof by Tenant), then Tenant shall only be required to pay that portion of such Tax which is equal to the proportion of the period of which falls within the Term of this Lease.

(b) Tenant shall furnish to Landlord evidence of the payment of Taxes within ten (10) days after the date payment of such taxes, without any interest or late charges, is required. Such evidence shall be sent to each place designated in this Lease for the giving of notices to Landlord.

**Section 10.02 Contest of Taxes.**

(a) Subject to the provisions of this Section, Tenant shall have the right, before any delinquency occurs, to contest the amount or validity of any Taxes on the Premises and the improvements thereon by appropriate legal proceedings diligently conducted in good faith. Landlord shall, subject to this Section, cooperate with Tenant in any such contest.

(b) Tenant's right to contest Taxes on the Premises shall not be construed in any way as relieving, modifying, or extending Tenant's covenant to pay Taxes prior to delinquency and as otherwise provided in this Article except that Tenant may defer payment of any challenged taxes but only if:

(i) the legal proceedings shall operate to prevent the sale of the Premises or any part thereof or of any improvements thereon to satisfy such Taxes prior to the final determination of such proceedings; and

(ii) Tenant shall have provided a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any foreclosure or shall have deposited into escrow (with all interest earned thereon being the property of Tenant) with a trustee (which shall be a title insurance company, bank, or trust company approved by Landlord), as security for the payment of such Taxes, either cash or a cash substitute or a surety bond, in an amount sufficient to pay the Taxes together with all interest and penalties that might reasonably arise in connection therewith, and all charges that might reasonably be assessed against or become a charge on the Premises, or any part thereof, in legal proceedings.

(c) If at any time the taxing authority notifies Landlord that it is about to sell or foreclose upon the Premises in an attempt to satisfy any uncontested taxes, Landlord may make written demand on Tenant to pay the contested Taxes, or so much thereof as may be required to prevent the sale of the Premises, or any part thereof, or the foreclosure of the lien created thereon by such contested Taxes, and Tenant shall promptly pay the Taxes. In the event Tenant shall fail to pay the Taxes, after Landlord's demand, then Landlord may draw upon the undertaking deposited by Tenant pursuant to Section 10.02(b)(ii) and pay the same.

(d) Promptly upon the termination of any such legal proceedings, Tenant shall pay any amounts due in respect of the contested Taxes. Upon the termination of such legal proceedings, any monies deposited as herein above provided, shall be applied to the payment, removal and discharge of the Taxes, if any, then payable and the interest and penalties in connection therewith, and the charges accruing in such legal proceedings, and the balance, if any, shall be paid to Tenant. In the event of any Default by Tenant under this Article, Landlord is authorized to use any money deposited under this Article to pay such Taxes. Tenant shall pay to the trustee all reasonable fees for its services.

(e) Landlord shall not be required to join in any such proceedings unless it shall be necessary or appropriate for it to do so in order to properly prosecute the same; provided, however, that Landlord shall not be subjected to any liability for the payment of any costs or expenses in connection with any such proceedings brought by Tenant.

### **Section 10.03 Proration.**

Landlord shall use commercially reasonable efforts to cause the tax bills to be sent directly to Tenant from the tax collector. In the event the Premises is not assessed separately, then Tenant shall reimburse Landlord for Tenant's "proportionate share" of the tax bill in which the Premises are included within thirty (30) days after receipt of an invoice, but in any event prior to the date such Taxes would become delinquent. Tenant's "proportionate share" of the taxes shall be computed by multiplying the amount of the tax bill (relating to land assessment only) by a fraction, the numerator of which shall be the gross square feet of the Premises, and the denominator of which shall be the total gross square feet of the entire property to which such tax bill applies. Tenant shall also be responsible for all Taxes on improvements to the Premises.

## **ARTICLE 11 INSURANCE**

### **Section 11.01 Tenant's Insurance.**

(a) Tenant represents that, as of the date of this Lease, it (i) carries fire, flood and special extended coverage ("all risk") insurance upon the Premises, at full replacement value, in the form of a policy applicable to all County buildings, (ii) self-insures, with respect to comprehensive general liability insurance, for the first One Million Dollars (\$1,000,000.00) of liability, and (iii) carries an excess comprehensive general liability insurance policy with a combined single limit of not less than Ten Million Dollars (\$10,000,000.00) on a "per occurrence" basis. Tenant, at its sole cost and expense, shall maintain and enforce such insurance throughout the term of the Lease; provided, however, that at the reasonable election of its risk management staff and upon written notice to Landlord, in lieu of maintaining and enforcing such insurance, Tenant may elect to self-insure with respect to any or all of the following risks, in such amounts as Tenant's risk management staff reasonably deems appropriate: workers' compensation, commercial automobile liability, commercial general liability, public officials' liability, law enforcement, and Landlord's personal property. To the extent Tenant fulfills its insurance obligations hereunder through policies issued by commercial insurers, Tenant shall (i) maintain such policies with (A) VACo Risk Management Programs, or an affiliated entity, and/or (B) insurance companies licensed to do business in the Commonwealth of Virginia and having at least an A/X rating in the most currently available "Best's" Key Rating Guide, and (ii) obtain policies that (A) contain a provision that the insurer will give to Landlord and Mortgagee at least thirty (30) days notice in writing in advance of the insurer's intention to cancel, refuse to renew or otherwise terminate the policy, or materially alter any terms or conditions of the policy suspend or terminate any cover, reduce any policy limits, increase any policy deductibles or otherwise alter any terms or conditions of the policy; (B) with respect to all-risk physical insurance and general commercial liability insurance, include the Mortgagee and the Landlord as additional insureds; (C) contain a provision that any misrepresentation or breach of the policy conditions by one insured shall not invalidate coverage for any other insured; and (D) is written as a primary policy which does not contribute to and is not in excess of coverage which Landlord may carry, notwithstanding

the requirement that Landlord be named as an additional insured and regardless of any other insurance that Landlord may elect to obtain.

(b) A certificate (or certificates) of insurance evidencing the policies required by this Section shall be delivered to Landlord and any such other parties in interest not later than the date of delivery of possession of the Premises to Tenant and thereafter at least thirty (30) days prior to the expiration of each such policy, and, as often as any such policy shall expire or terminate, to the extent Tenant elects not to self-insure with respect to the risks covered by such expired or terminated policies, renewal or additional policies shall be procured and maintained by Tenant in like manner and to like extent, and each certificate shall indicate specifically the form on which the policy is written (occurrence or claims made), the policy deductible and limits of insurance and that the insurer has waived any rights of subrogation it would otherwise have against Landlord.

#### **Section 11.02 Waiver of Subrogation.**

The policies required by this Lease shall provide for waivers of any right of subrogation that the insurer of such party may acquire against the other party hereto and, at Landlord's request, against any other party with respect to any such losses, which are required to be insured against or which are actually insured against, even if the loss results from a negligent act or omission.

### **ARTICLE 12 COMPLIANCE WITH LAWS**

Tenant shall throughout the Term of this Lease, at Tenant's sole cost and expense, promptly comply with all laws and ordinances and notices, orders, rules, regulations and requirements of all Governmental Authorities (collectively the "Laws") relating to all or any part of the Premises, exterior as well as interior, foreseen or unforeseen, ordinary as well as extraordinary, structural as well as nonstructural, or to the use or manner of use of the Premises. If Tenant should at any time receive notice of noncompliance with any of the foregoing, it shall promptly give a copy to Landlord.

Tenant may, at its expense, contest any law or other governmental requirement by appropriate legal proceedings diligently conducted in good faith, provided that such contest shall not render the Premises or any improvements thereon or any part thereof liable to forfeiture, involuntary sale or loss, result in closing of the business conducted on the Premises.

### **ARTICLE 13 TENANT'S FIXTURES**

(a) Tenant shall have the right, at its own cost and expense, during the Term of this Lease to remove trade fixtures, business equipment, inventory, trademarked items, signs, counters, shelving, and other removable personal property belonging to Tenant (the foregoing are collectively hereinafter referred to as "Tenant's Property"), provided that any

material damage to the Premises resulting from or caused by such removal shall be promptly repaired by Tenant to a commercially reasonable standard.

(b) Upon expiration or earlier termination of this Lease, Tenant shall leave the Premises (including any and all improvements thereon) in a neat and clean condition, free of debris, normal wear and tear excepted. Tenant shall remove all of its personal property from the Premises prior to any such termination or expiration. Any of Tenant's Property not removed from the Premises after the expiration or earlier termination of this Lease shall be deemed abandoned and automatically become the property of Landlord.

ARTICLE 14  
INTENTIONALLY OMITTED

ARTICLE 15  
ASSIGNMENT AND SUBLETTING

Tenant shall not voluntarily, involuntarily or by operation of law, assign, sublease, transfer, mortgage or otherwise encumber, all or any part of Tenant's interest in this Lease or in the Premises without in each and every instance first obtaining Landlord's prior written approval, not to be unreasonably withheld, conditioned, or delayed. Any attempted assignment, transfer, mortgaging or other transfer, whether voluntary, involuntary or by operation of law, without Landlord's prior written approval, shall be void and confer no rights upon any third person. Consent by Landlord to any assignment or sublease shall not waive the necessity for consent to any subsequent assignment or sublease. Acceptance of Rent after any attempted assignment, sublease or other encumbrance shall not be deemed to be consent or waiver by Landlord.

ARTICLE 16  
INTENTIONALLY OMITTED

ARTICLE 17  
MORTGAGES

**Section 17.01 Tenant's Mortgage.**

(a) Notwithstanding anything in Article 15 to the contrary, Tenant shall have the right, from time to time, subject to the terms and conditions hereinafter set forth in this Article, to request approval from the Landlord to encumber the leasehold estate created by this Lease by one or more Mortgages made and given for the purpose of improving or rehabilitating the Premises with buildings and related improvements. Landlord may approve or deny the request in its reasonable discretion.

(b) In the event Tenant desires to execute and deliver a Mortgage, Tenant shall give Landlord written notice of any such Mortgage, and shall furnish Landlord, at least five (5) business days before the recordation of any such Mortgage a true and complete copy of

the form of Mortgage. The form and substance of the Mortgage shall be subject to Landlord's prior approval, which shall not be unreasonably withheld. Concurrently with the execution of the Mortgage, Mortgagee or Tenant shall notify Landlord, in writing of such Mortgage, giving the name and address of the Mortgagee. Thereafter, Tenant, at Tenant's expense, shall provide Landlord a copy from time to time, of each amendment or other modification or supplement to the Mortgage documents.

(c) Provided Landlord has been notified of the name and address of a Mortgage, Landlord, when giving notice to Tenant with respect to any default hereunder, or with respect to a matter which may predicate or claim a default by Tenant hereof, shall also mail a copy of each such notice (the "Mortgagee Notice") to any Mortgagee at the most recent address given to Landlord pursuant to Section 17.01(b) hereof. No Mortgagee Notice shall be effective against Mortgagee unless a copy thereof has been delivered to Mortgagee pursuant to the provisions of Section 17.01(b). All Mortgagee Notices by Landlord to the Mortgagee pursuant to this Section shall be in writing and shall be given pursuant to the provisions of Article 6 of this Lease.

#### **Section 17.02 Mortgagee Right to Cure Tenant Defaults.**

(a) If Tenant shall default in the performance of any of the terms, covenants, agreements and conditions of this Lease on the Tenant's part to be performed or observed, any Mortgagee shall have the right to cure the default, within the same period available to Tenant under this Lease for curing such default.

(b) Landlord shall not terminate this Lease because of any default or breach hereunder on the part of Tenant if the Mortgagee under such Mortgage, within thirty (30) days after delivery of written notice (the "Termination Notice") to the Mortgagee by Landlord stating that Tenant has failed to cure any default or breach hereunder within the applicable cure period and notifying Mortgagee of Landlord's intention to terminate this Lease for such default or breach, has cured such default or breach or has commenced to perform the necessary actions (in the event that the default or breach would take longer than thirty (30) days to perform) to cure such default or breach and diligently pursue them to completion. Notwithstanding the foregoing, if such default or breach is not susceptible of being cured by Mortgagee until it has secured possession of the Premises, Landlord shall not terminate this Lease because of such default or breach on the part of Tenant if the Mortgagee, within thirty (30) days after delivery of the Termination Notice, has notified Landlord, in writing (the "Foreclosure Notice"), that the Mortgagee has instituted, and will thereafter diligently pursue to completion, steps and proceedings for the exercise of the power of sale under and pursuant to the Mortgage in the manner provided by law (or an assignment in lieu thereof); agrees to keep and perform (and undertake in writing with Landlord to keep and perform) all of Tenant's covenants and conditions of this Lease (except for those which Mortgagee cannot keep and perform without obtaining possession of the Premises but only during the time and to the extent the same cannot be kept and performed by Mortgagee) until such time as Tenant's leasehold shall be sold upon foreclosure pursuant to the Mortgage or shall be released or reconveyed thereunder, but in no event longer than nine (9) months from the date of delivery of the Foreclosure Notice to

Landlord; provided, however, that if the holder of the Mortgagee shall fail to comply with any and all of the conditions of this Section and such failure by Mortgagee has not been cured within thirty (30) days after delivery of written notice to the Mortgagee by Landlord, then and thereupon Landlord shall be released from the covenants of forbearance therein contained; and provided further that Landlord shall be required to forebear from terminating this lease only so long as Mortgagee pays all Rent as and when it becomes due hereunder and with its Foreclosure Notice pays to Landlord all unpaid Rent due and accrued as of the date of such notice; and only so long as Mortgagee is keeping and performing all of Tenant's covenants and conditions of this Lease (except for those which Mortgagee cannot keep and perform without obtaining possession of the Premises but only during the time and to the extent the same cannot be kept and performed by Mortgagee).

(c) Landlord shall accept the performance by Mortgagee of its obligations under this Section as though the same has been done or be performed by Tenant. Except as set forth in Section 17.02(b) hereof, no exercise by Mortgagee of its rights under this Section shall obligate it generally to perform Tenant's covenants and conditions of this Lease, it being understood that such exercise will be for the sole purpose of satisfying Landlord's conditions for forbearance from terminating the Lease, and will not constitute an assumption by Mortgagee of the obligations and liabilities imposed upon Tenant hereunder.

### **Section 17.03 Mortgagee's Obligations; Foreclosure.**

(a) Landlord and Tenant agree that the making of a Mortgage, which complies with all of the terms and conditions of this Article, shall not be deemed to constitute an assignment or transfer of this Lease or of the leasehold estate created by this Lease, nor shall any Mortgagee, as such, be deemed to be an assignee or transferee of this Lease or of the leasehold estate created by this Lease so as to require such Mortgagee, as such, to assume the performance of the terms, covenants, or conditions on the part of Tenant to be performed, hereunder.

(b) Provided that this Lease has not theretofore been terminated, Landlord and Tenant agree that if the Mortgage shall be foreclosed, or the leasehold estate created by this Lease otherwise acquired under the Mortgage (which foreclosure or acquisition may be in the name of the Mortgagee or in the name of Mortgagee's nominee such as the trustee under a deed of trust or by a third party), the Mortgagee shall be deemed to be an assignee or transferee within the meaning of this Section and shall be deemed to have agreed to perform and be bound to each and all of the terms, covenants, conditions and obligations of this Lease which have accrued and thereafter accrue under this Lease, but only for so long as Mortgagee (or its nominee or such third party) holds title to the leasehold created by this Lease. In the event of a foreclosure:

(i) the written consent of Landlord shall not be required to a transfer of the title to the leasehold created by this Lease to the Mortgagee (or its nominee or a third party); and

(ii) Mortgagee shall forthwith give notice to Landlord in writing of any

such transfer of title setting forth the name and address of the transferee, the effective date of the transfer and the express written agreement of the transferee that, so long as the transferee holds title to the Tenant's leasehold estate under this Lease (but not thereafter), transferee shall assume and agree to perform and be bound by each and all of the terms, covenants, conditions and obligations of this Lease which have accrued and thereafter accrue under this Lease, together with a copy of the document by which such transfer was made.

**Section 17.04 Tenant Remains Liable.**

Notwithstanding any Mortgage, pledge or other encumbrance (whether with Landlord's consent or in a breach of this Lease) Tenant (but not Mortgagee, so long as Mortgagee is not in possession of the Premises) shall remain fully liable on this Lease and shall not be released from performing any of the terms, covenants and conditions of this Lease, provided that once Landlord, Mortgagee or another third party has entered and taken possession of the Premises from Tenant, Tenant shall not be liable for any of the terms, covenants and conditions of this Lease going forward therefrom.

ARTICLE 18  
COVENANT OF AUTHORITY AND QUIET ENJOYMENT

Landlord represents and warrants that Landlord has full right and lawful authority to enter into and perform the Landlord's obligations under this Lease.

Landlord further represents that Tenant, upon paying the rents and other charges herein provided for and observing and keeping all other covenants, agreements and conditions of this Lease on its part to be kept, shall quietly have and enjoy the Premises during the Term of this Lease without hindrance or molestation by Landlord or anyone claiming by or through Landlord, subject, however, to the exceptions, reservations and conditions of this Lease. Except as expressly set forth in this Lease, Landlord makes no representations, warranties or covenants regarding the Premises or the Land whatsoever.

ARTICLE 19  
DAMAGE AND DESTRUCTION

**Section 19.01 Obligation to Rebuild; Premises.**

In the event any improvements on or forming part of the Premises are damaged or destroyed, partially or totally, from any cause whatsoever at any time during the Term of this Lease, Tenant shall have the right and option, at its own cost and expense, to restore and repair the damaged or destroyed portions of the Premises in conformity with the provisions of this Lease. In the event Tenant elects not to do so, which election shall be communicated in writing to Landlord no later than ninety (90) days after the date of the casualty event, however, this Lease shall immediately terminate.

In restoring and repairing the damaged portions of the Premises, Tenant shall repair, restore, and rebuild the improvements to at least as good condition as existed immediately prior to such damage or destruction and this Lease shall continue in full force and effect. Such repair, restoration and rebuilding (all of which are herein called "Repair") shall be commenced within a reasonable time after such damage or destruction and shall be subject to all the provisions of this Lease relating to construction work by Tenant and shall be pursued diligently to completion. There shall be no abatement of rent or of any other obligation of Tenant hereunder by reason of such damage or destruction.

## ARTICLE 20 CONDEMNATION

### **Section 20.01 Total Taking.**

(a) In the event that the whole of the Premises shall be taken under the power of eminent domain, or proceedings in lieu thereof, this Lease shall thereupon terminate as of the date possession shall be so taken.

(b) In such event, then the entire amount of any award paid or payable by reason of such taking, less all costs, fees and expenses incurred in the collection therefore, shall be allocated in the following priority:

(i) there shall be paid to Landlord an amount equal to all accrued and unpaid Rent and other charges due and payable by Tenant, as of the date of the taking;

(ii) there shall be paid to Landlord an amount equal to the fair market value of Landlord's fee interest in the Premises taken, determined by independent appraisers;

(iii) there shall be paid to Tenant an amount equal to the fair market value of (A) Tenant's leasehold interest in the Premises and (B) Tenant's property, including the building and improvements on the Premises, determined by independent appraisers;

(iv) any remaining balance shall be paid to Landlord.

The amounts, if any, paid pursuant to Section 20.01(b)(iii) shall be reduced by an amount exactly equal to any award paid by the condemning authority directly to Tenant.

### **Section 20.02 Partial Taking.**

If (i) fifteen percent (15%) or more of the floor area of the improvements situated on the Premises, shall be acquired or materially adversely altered by the right of condemnation or eminent domain for any public or quasi-public use or purpose, or sold to a condemning authority under threat of condemnation, then Tenant shall have the right and option to terminate this Lease by giving written notice of such termination to Landlord not later than six (6) months after possession is taken by the condemning authority. In such event, the

awards paid or payable as a result of such taking shall be distributed in accordance with Section 20.01(b).

### **Section 20.03 Obligation to Rebuild.**

(a) In the event of any taking that does not result in a termination of this Lease pursuant to Sections 20.01 and 20.02 then this Lease shall remain in full force and effect as to the remainder of the Premises, without any abatement of Rent, except as provided in Section 20.05.

(b) Subject to the provisions of Section 20.02 of this Lease, Tenant shall, within a reasonable time after the taking, and receipt by Tenant of the award or sales proceeds in lieu thereof, restore the Premises and improvements situated thereon, as nearly as possible to its value, condition and character immediately prior to the taking. Tenant shall comply with all provisions of this Lease in restoring the Premises.

### **Section 20.04 Temporary Taking.**

If the temporary use of all or any part of the Premises shall be taken at any time during the Term of this Lease for any public or quasi-public purpose by any lawful power or authority, by the exercise of the right of condemnation or eminent domain, or by agreement between the Tenant and those authorized to exercise such right, Tenant shall give prompt written notice thereof to Landlord and the Term of this Lease shall not be reduced or affected in any way. Tenant shall continue to pay in full the Rent and other sum or sums of money and charges reserved and provided to be paid by Tenant in accordance with all of the terms of this Lease, but Tenant shall be entitled to, and shall receive the entire award for such taking (whether paid by way of damages, rent or otherwise) unless the period of occupation and use by the sovereign shall extend beyond the termination of this Lease, in which case the award made for such taking shall be apportioned between Landlord and Tenant as of the date of such termination. For purposes of this Section a temporary taking is deemed to refer to a taking of less than six (6) consecutive months in duration.

### **Section 20.05 Miscellaneous Provisions.**

(a) Any and all proceedings in connection with the claim or claims for damages as a result of any taking referred to in this Article, shall be conducted by Landlord in consultation with Tenant. Landlord agrees to keep Tenant advised of any such proceedings. Landlord and Tenant covenant and agree to do any and all acts and to execute any and all documents which may be required to enable such proceedings to be prosecuted diligently. Any settlement of claims for damages shall be approved by Landlord and Tenant but all parties agree to act reasonably and in good faith in connection with all of the foregoing matters.

(b) Neither the Landlord nor the Tenant shall be bound by any division or apportionment of an award which may be made in any legal proceeding for the assessment of damages arising out of any such taking. As between Landlord, Tenant and any

Mortgagee, any allocation of such an award shall, notwithstanding the provisions of law to the contrary, be determined in accordance with the provisions of this Article.

ARTICLE 21  
EXCUSE FOR NONPERFORMANCE - FORCE MAJEURE

Either party shall be excused from performing any obligation or undertaking provided in this Lease for a period of time equivalent to the delay caused by the items described below, except the obligations of Tenant to pay Rent under the provisions of this Lease, in the event and so long as the performance of any such obligation is prevented or delayed, retarded or hindered by Act of God, fire, earthquake, floods, explosion, actions of the elements, war, invasion, insurance, riot, mob violence, sabotage, inability to procure or general shortage of labor, equipment, facilities, materials or supplies in the open market, failure of transportation, condemnation, requisition, laws, orders of government or civil military or naval authorities, or any other cause, whether similar or dissimilar to the foregoing not within the reasonable control of such party, excluding however, the inability to obtain monies to perform or fulfill a party's obligations and undertakings.

ARTICLE 22  
DEFAULT

**Section 22.01. Events of Default.**

(a) The term "Events of Default" or "Default" refers to any of the following events:

(i) If Tenant shall at any time fail to pay Rent hereunder when due and payable, and such failure continues for a period of ten (10) days after written notice of default is given to Tenant; or

(ii) If Tenant materially (in the reasonable opinion of Landlord) shall fail to observe any of the other agreements, terms, covenants or conditions hereof and such nonperformance or nonobservance shall continue for a period of thirty (30) days after written notice thereof by Landlord to Tenant or, if such performance or observance cannot reasonably be performed within such thirty (30) day period and Tenant shall not in good faith have commenced such performance immediately and within such thirty (30) day period and shall not diligently and continuously proceeded therewith to completion; or

(iii) If any petition is filed by or against Tenant under any present or future section or chapter of the Bankruptcy Code, or under any similar law or statute of the United States or any state thereof (which, in the case of an involuntary proceeding, is not permanently discharged, dismissed, stayed, or vacated, as the case may be, within thirty (30) days of commencement), or if any order for relief shall be entered against Tenant in any such proceedings; or if Tenant becomes insolvent or makes a transfer in fraud of creditors or

makes an assignment for the benefit of creditors; or if a receiver, custodian or trustee is appointed for the Premises or for all or substantially all of the assets of Tenant which appointment is not vacated within thirty (30) days following the date of such appointment.

(b) Upon an Event of Default, Landlord, in lieu of any additional rights or remedies Landlord may have at law and equity (which are hereby waived by the Landlord), may declare this Lease at an end, re-enter the Premises and under legal process eject all parties in possession thereof therefrom, and repossess and enjoy the Premises together with all improvements, additions, and alterations, thereon, and Landlord shall thereupon be entitled to recover from Tenant the amount of all Rent for the period prior to the termination of the Lease.

(c) Upon the occurrence of any Event of Default, Landlord shall have the right, at Landlord's option, to terminate this Lease. With or without terminating this Lease, Landlord may re-enter and take possession of the Premises and the provisions of this Section shall operate as a notice to quit, any other notice to quit or of Landlord's intention to re-enter the Premises being hereby expressly waived. If necessary, Landlord may proceed to recover possession of the Premises under and by virtue of the laws of the Commonwealth of Virginia or by such other proceedings, including re-entry and possession, as may be applicable. If Landlord elects to terminate this Lease, everything contained in this Lease on the part of Landlord to be done and performed shall cease without prejudice; subject, however, to the right of Landlord to recover from Tenant all Rent and other sums accrued up to the time of termination or recovery of possession by Landlord, whichever is later. Whether or not this Lease is terminated by reason of Tenant's Default, Landlord may, but shall not be obligated to, relet the Premises for such rent and upon such terms as are not unreasonable under the circumstances and, if the entire Rent provided in this Lease plus the costs, expenses, and damages hereafter described shall not be realized by Landlord, Tenant shall be liable for all damages sustained by Landlord, including, without limitation, deficiencies in Base Rent and Additional Rent, reasonable attorney's fees and expenses actually incurred, brokerage fees, and the expense of placing the Premises in rentable condition. Landlord shall in no way be responsible or liable for any failure to collect any rent due and/or accrued from such reletting, to the end and intent that Landlord may elect to hold Tenant liable for the Base Rent, and Additional Rent, and any and all other items of cost and expense which Tenant shall have been obligated to pay throughout the remainder of the Term. Any damages or loss of rent sustained by Landlord may be recovered by Landlord, at Landlord's option, at the time of the reletting, or in separate actions, from time to time, as said damage shall have been made more easily ascertainable by successive relettings, or, at Landlord's option, may be deferred until the expiration of the Term, in which event Tenant hereby agrees that the cause of action shall not be deemed to have accrued until the date of Expiration of the Term.

(d) All rights and remedies of Landlord set forth herein are in addition to all other rights and remedies available to Landlord at law or in equity. All rights and remedies available to Landlord hereunder or at law or in equity are expressly declared to be cumulative. The exercise by Landlord of any such right or remedy shall not prevent the concurrent or subsequent exercise of any such right or remedy. No delay in the

enforcement or exercise of any such right or remedy shall constitute a waiver of any Default by Tenant hereunder or of any of Landlord's rights or remedies in connection therewith. Landlord shall not be deemed to have waived any Default by Tenant hereunder unless such waiver is set forth in a written instrument signed by Landlord. If Landlord waives in writing any Default by Tenant, such waiver shall not be construed as a waiver of any covenant, condition, or agreement set forth in this Lease except as to the specific circumstances described in such written waiver.

#### **Section 22.02 Landlord's Right to Cure Tenant's Defaults.**

In the Event of Default Landlord may at Landlord's election, but is not obligated to, attempt to enforce Tenant's obligation to make the payment, or itself make the payment, or attempt to enforce Tenant's obligation to perform or comply with the covenant or condition, or itself perform or comply with the covenant or condition, and all reasonable costs incurred by Landlord, including, without limitation, reasonable attorney's fees actually incurred by Landlord and the cost to Landlord of any such performance or compliance by Landlord, plus interest on such sum at the Default Rate from the time of expenditure until paid, shall be deemed to be Additional Rent payable by Tenant with the next succeeding installment of Base Rent. No such payment, performance or observance by Landlord shall constitute a waiver of default or of any remedy for default or render Landlord liable for any loss or damage resulting from any such act.

#### **Section 22.03 Landlord's Default.**

Tenant agrees to give written notice of any default by Landlord under this Lease to any lender of Landlord secured by the Premises upon request thereof by such lender and a reasonable time within which to cure such default prior to Tenant taking any action to remedy such default or cancel the Lease. If Landlord has not cured such default within such reasonable time, Tenant may, at its election but having no obligation to do so, make any required payment or perform or comply with the covenant or condition, and all reasonable costs incurred by Tenant, including without limitation, reasonable attorney's fees actually incurred by Tenant (including the value of services, if any, provided by the Office of the County Attorney for Fairfax County, Virginia) and the cost to Tenant of any such performance or compliance by Tenant, plus interest on such sum at the Default Rate from the time of expenditure until paid, shall be immediately due and payable by Landlord to Tenant. No such payment, performance, or observance by Tenant shall constitute a waiver of default or of any remedy for default or render Tenant liable for any loss or damage resulting from any such act.

### **ARTICLE 23**

#### **SURRENDER; HOLDOVER**

Upon any termination of this Lease, whether by lapse of time, cancellation pursuant to an election provided for herein, forfeiture, or otherwise, Tenant shall peaceably quit and surrender to Landlord immediate possession of the Premises with the building and other

improvements and alterations in a good operating condition and in the same condition of order and repair in which they were required by the provisions of this Lease to be kept throughout the Term, subject to ordinary wear and tear and Articles 19 and 20 of this Lease, free and clear of all agreements, easements, encumbrances and other liens other than any easement which Landlord has consented to or which existed prior to the commencement of the Term of this Lease.

In the event that Tenant or anyone claiming by or through Tenant shall remain in possession of the Premises after the expiration or earlier termination of this Lease, with the consent of Landlord, express or implied, but without a written agreement on the subject, the Tenant shall be deemed a month-to-month tenant, terminable upon thirty (30) days' notice, and during such holding over Base Rent shall be payable at the rate of equal to a reasonable fair market value of the Lease, plus all Additional Rent but otherwise on the same terms and provisions of this Lease, except as to Term. Notwithstanding the foregoing provisions of this Article, in the event that Tenant shall hold over after the expiration of the Term, then at any time prior to Landlord's acceptance of Rent from Tenant as a monthly Tenant hereunder, Landlord, at its option, may forthwith re-enter and take possession of the Premises without process, or by any legal process in force in the Commonwealth of Virginia and pursue other available remedies at law or equity.

#### ARTICLE 24 ENTRY AND INSPECTION BY LANDLORD

Landlord shall have the right, upon reasonable prior notice to Tenant, and Tenant agrees to permit Landlord and the authorized representatives of Landlord and of the holder of any mortgage or any prospective mortgagee or prospective purchaser to enter the Premises, accompanied by Tenant, at all reasonable times for the purpose of inspecting them. Nothing herein shall imply any duty upon the part of Landlord to do any such work which under any provision of this Lease Tenant may be required to perform and the performance thereof by Landlord shall not constitute a waiver of Tenant's default in failing to perform it. Landlord also shall have the right to enter the Premises to exhibit the Premises, at any mutually agreed upon times, to any prospective purchaser, tenant and/or mortgagee thereof (provided, however, that such entry shall be subject to reasonable prior notice to Tenant). Landlord agrees to execute its rights under this Article in a manner which minimizes disruption of Tenant's business in the Premises.

#### ARTICLE 25 BROKERS

Tenant and Landlord mutually represent and warrant that they have had no dealings, negotiations or consultations with respect to this transaction with any broker or finder and that no broker or finder has called the Premises to Tenant's attention for lease or took part in

any dealings, negotiations or consultations with respect to the Premises, this Lease or the assignment of the purchase contract for the parcel between Tenant and Landlord.

ARTICLE 26  
(INTENTIONALLY OMITTED)

ARTICLE 27  
AS IS WHERE IS

Tenant accepts the Premises in "AS IS" "WHERE IS" condition, it being hereby expressly understood that Landlord has made and makes no representations or warranties of any kind whatsoever with respect to such Premises. Tenant has inspected the Premises and is satisfied therewith.

ARTICLE 28  
(INTENTIONALLY OMITTED)

ARTICLE 29  
SUBORDINATION; ESTOPPEL CERTIFICATE

**Section 29.01 Subordination and Non-Disturbance.**

During the Term, Landlord reserves the right to encumber its interests in this Lease and/or the Premises by new mortgages, deeds of trusts or other security instruments (the "Financing"), provided the holder of the Financing has delivered to Tenant a Subordination, Non-Disturbance and Attornment Agreement in a form reasonably acceptable to both such holder and Tenant. Tenant shall attorn to the purchaser upon a sale or to the grantee under any deed in lieu of foreclosure and shall recognize such purchaser or grantee as Landlord under this Lease without any change in the terms or other provisions of this Lease. In such agreement, Tenant will waive the right, if any, to elect to terminate this Lease or to surrender possession of the Premises in the event of foreclosure of any deed of trust or security instrument (or any transfer in lieu thereof).

**Section 29.02 Notice to Holder of Encumbrance.**

Tenant agrees that, provided the holder of any Financing shall have notified Tenant in writing of its address, Tenant will give such holder, by certified mail, a copy of any notice of default given to Landlord. Tenant further agrees that if Landlord shall have failed to cure such default within the time provided for in this Lease, then the holder shall have an additional thirty (30) days to cure such default, or if such default cannot be cured within that

time, then such additional time as may be necessary if within such thirty (30) days the holder has commenced and is diligently pursuing the remedies necessary to cure such default (including but not limited to commencement of foreclosure proceedings if necessary to effect such cure), in which event this Lease shall not be terminated while such remedies are being so diligently pursued.

#### **Section 29.03 Estoppel Certificate.**

Upon fifteen (15) days' prior written request by a party (the "Requesting Party"), the other party (the "Responding Party") shall deliver to the Requesting Party a statement certifying (i) that this Lease is unmodified and in full force and effect, or if there has been any modification thereof that this Lease is in full force and effect as modified and stating the nature of the modification; (ii) that Requesting Party is not in default under this Lease and no event has occurred which, after notice or expiration of time or both, would constitute a default (or if any such default or event exists, the specific nature and extent thereof); (iii) the dates to which the Rent have been paid in advance, if any; and (iv) any other information concerning this Lease or the Premises which the Requesting Party may reasonably request. If the Responding Party shall fail to deliver the statement required by subparagraph within fifteen (15) days after the Requesting Party has requested such statements, the Responding Party shall be deemed to have certified that this Lease is in full force and effect and that the Requesting Party is not in default under this Lease.

#### **Section 29.04 Recordation.**

This Lease shall not be recorded in the Land Records. However, Landlord and Tenant agree to execute a Memorandum of Lease attached hereto as Exhibit C. The Memorandum of Lease may be recorded at the cost of the party requesting execution of the same.

### ARTICLE 30 MISCELLANEOUS

#### **Section 30.01 Captions; Interpretation.**

The captions of the Articles and Sections of this Lease are for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction. Reference in this Lease to the "obligations" of Tenant, and words of like import, shall mean the covenants to pay Rent under this Lease and all other covenants, agreements, terms, conditions, limitations, exceptions and reservations contained in this Lease applicable to Tenant. The term "Tenant's obligations hereunder" and words of like import shall mean all obligations of this Lease which are to be performed, observed or kept by Tenant. The terms "include," "including" and similar terms shall be construed as if followed by the phrase "without being limited to". Whenever in this Lease a party has agreed to not unreasonably withhold its consent, such term shall mean that the party shall not unreasonably withhold or delay its consent, nor shall it condition its consent upon the receipt of financial inducements from the requesting party, provided, however, that the consenting party may request

reimbursement or other payments it is entitled to receive pursuant to the provisions of this Lease.

### **Section 30.02 Injunctive Relief.**

In addition to other remedies provided in this Lease, Landlord and Tenant shall be entitled, to the extent permitted by applicable law, to injunctive relief in case of violation, or attempted or threatened violation, of any of the covenants, agreements, conditions or provisions of this Lease, or to a decree compelling performance of any of the covenants, agreements, conditions or provisions of this Lease, or to any other remedy allowed to Landlord or Tenant at law or in equity.

### **Section 30.03 Governing Law.**

This Lease shall be interpreted and construed under the laws of the Commonwealth of Virginia.

### **Section 30.04 Covenants Run With Land.**

Each and all of the provisions of this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective permitted heirs, executors, administrators, successors and assigns, subject at all times, nevertheless, to all agreements, covenants and conditions contained elsewhere in this Lease. Any reference in this Lease to successors or assigns of Tenant is not intended to constitute a consent to assignment by Tenant, but has reference only to those instances where Landlord may have given written consent to a particular assignment, to the extent such consent is required under this Lease.

### **Section 30.05 No Partnership.**

Nothing contained in this Lease shall be deemed or construed by the parties hereto or by any third person to create the relationship of principal and agent or of partnership or of joint venture or of any association between Landlord and Tenant, and neither the method of computation of Rent nor any other provision contained in this Lease nor any acts of the parties hereto shall be deemed to create any relationship between Landlord and Tenant other than the relationship of landlord and tenant.

### **Section 30.06 No Waiver.**

No waiver of any default hereunder shall be implied from an omission by either party to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver, and then only for the time and to the extent therein stated. No delay or omission by either party hereto to exercise any right or power accruing upon any non-compliance or default by the other party with respect to any of the terms hereof, or otherwise accruing hereunder shall impair any such right or power to be construed to be a waiver thereof. One or more waivers of any breach of any covenant, term or condition of this Lease shall not be

construed as a waiver of any subject breach of the same covenant, term or condition. The consent or approval by a party to or of any act by the other party requiring the former party's consent or approval shall not be deemed to waive or render unnecessary such former party's consent or approval to or of any subsequent similar acts by the other party.

The acceptance of Rent or other payment by the Landlord at any time when the Tenant is in Default shall not be construed as a waiver of such Default or of the Landlord's right to terminate this Lease or exercise its other remedies on account of such Default.

**Section 30.07 Entire Agreement; Amendment; Surrender.**

This Lease contains all covenants and agreements between Landlord and Tenant relating in any manner to the rental, use and occupancy of the Premises and the other matters set forth in this Lease. No prior agreement or understanding pertaining to the same shall be valid or of any force or effect, and the covenants and agreements of this Lease cannot be altered, changed, modified or added to, except in writing signed by Landlord and Tenant. No representation, inducement, understanding or anything of any nature whatsoever, made, stated or represented on Landlord's behalf, either orally or in writing, except as in this Lease stated, has induced Tenant to enter this Lease. No surrender to Landlord of this Lease or of the Premises, or any part thereof or of any interest therein, shall be valid or effective unless provided for in this Lease or otherwise agreed to and accepted in writing by Landlord and no act by Landlord or any representative or agent of Landlord, other than such a written acceptance by Landlord, shall constitute an acceptance of any such surrender.

**Section 30.08 Legal Fees.**

In the event of legal action between Landlord and Tenant on account of any alleged default by either hereunder, the prevailing party in such action shall be entitled to be reimbursed by the other party in the amount of all reasonable attorney's fees and other costs incurred by the prevailing party in connection with such action (in Tenant's case, including the value of services, if any, provided by the Office of the County Attorney for Fairfax County, Virginia). Such reimbursement shall include all legal expenses incurred prior to trial, at trial and at all levels of appeal and post judgment proceedings.

**Section 30.09 Time of Essence.**

Time is of the essence with respect to all matters provided in this Lease.

**Section 30.10 Locative Adverbs.**

The locative adverbs "herein", "hereunder", "hereto", "hereby", "hereinafter", and like words, wherever the same appear herein, mean and refer to this Lease in its entirety and not to any specific Article, Section or Subsection hereof unless otherwise expressly designated in context.

### **Section 30.11 Accord and Satisfaction.**

No payment by Tenant or receipt by Landlord of a lesser amount than the 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 the Lease provided.

In the event this Lease requires Tenant to submit payments for items other than the Base Rent and in the event Tenant submits a payment of less than the total combined amount of all of said payments, then the Landlord shall have the option to credit any such payment towards any of the items it so desires, notwithstanding any specification of Tenant.

### **Section 30.12 Limitations on Landlord's Liability.**

Notwithstanding anything to the contrary contained in this Lease, in the event of any default or breach by Landlord with respect to any of the terms, covenants and conditions of this Lease to be observed, honored or performed by Landlord, Tenant shall look solely to the estate and property of Landlord in the Premises, and the income stream therefrom, for the collection of any judgment (or any other judicial procedures requiring the payment of money by Landlord) and no other property or assets of Landlord shall be subject to levy, execution, or other procedures for satisfaction of Tenant's remedies. The term "Landlord" shall mean only the person or entity who or which at the time in question holds the Landlord's interest in this Lease, it being intended that the covenants and obligations contained in this Lease on the part of Landlord be binding on Landlord, its successors and assigns only during and in respect of their successive periods of owning or holding Landlord's interest in this Lease. In no event shall Landlord, or the fee owner or any of their partners, shareholders, owners, members, agents or employees have any personal liability for any obligations under this Lease beyond their interest in the Premises, and the income stream therefrom. Tenant shall, subject to the rights of any mortgagee, look solely to the interest of Landlord, its successors and assigns, in the Premises, and the income stream therefrom, for the satisfaction of each and every remedy of Tenant in the event of default by Landlord hereunder. Such exculpation of Landlord's personal property is absolute and without any exception whatsoever.

### **Section 30.14 Definition of "Tenant".**

The word "Tenant" is used herein to include each and every one of the persons named above as Tenant as well as their permitted heirs, personal representatives, successors and assigns, each of whom shall be under the same obligations, liabilities and disabilities and have only such rights, privileges and powers as he would have possessed had he originally signed this Lease as Tenant. However, no rights, privileges or powers shall benefit any transferee unless such transferee is permitted pursuant to the terms of this Lease. Each and every one of the persons named above as Tenant shall be bound jointly and severally by the terms, covenants and agreements contained herein. If there shall be more

than one Tenant, any notice required or permitted by the terms of this Lease may be given by or to any one thereof, and shall have the same force and effect as if given by or to all thereof. The use of the neuter singular pronoun to refer to Tenant shall be deemed a proper reference even though Tenant may be an individual, a partnership, a corporation, or a group of two or more of any of the same. The necessary grammatical changes required to make the provisions of this Lease apply in the plural sense where there is more than one Tenant and to either corporations, partnerships, or individuals, males or females, shall in all instances be assumed as though in each case fully expressed.

#### **Section 30.15 Severability.**

Any provision or provisions of this Lease which shall be to any extent in violation of any law or ordinance or which shall prove to be to any extent invalid, void or illegal, shall in no way affect, impair or invalidate any other provisions hereof, and the remaining provisions hereof shall nevertheless remain in full force and effect.

#### **Section 30.16 Joint Preparation.**

This Lease has been jointly prepared by Landlord and Tenant, and the language in all parts of this Lease shall be, in all cases, construed according to its fair meaning and not strictly for or against Landlord or Tenant.

#### **Section 30.17 Land Use Applications.**

The parties acknowledge that as of the Effective Date of this Lease, the Fairfax County Zoning Ordinance defines "owner" as: "Any person who has legal title to the land in question, or the lessee of the land in question having a remaining term of not less than thirty (30) years." Notwithstanding such definition, Tenant shall have no right whatsoever to file or prosecute any application for a zoning amendment, proffered condition amendment, special exception, special permit, variance, comprehensive plan amendment or other application seeking any change in any land use designation for the Premises or authorizing any change of use thereon ("Land Use Application") without the prior approval of Landlord. Further, notwithstanding such definition, Tenant agrees that this Section of this Lease is deemed to provide Tenant's unconditional consent to Landlord, authorizing Landlord to file and prosecute any Land Use Application that includes the Premises for any reason not inconsistent with the terms of this Lease, which shall include without limitation, the right of the Landlord to utilize the land area of the Premises in the calculation of development capacity with respect to the Land, so long as the 15,000 square foot allocation of gross floor area as provided in Section 5.01 continues to be allocated to the Premises. In the event for any reason this Section of this Lease shall not be deemed sufficient evidence of consent by any Governmental Authority, Tenant shall provide such consent to Landlord in any form as may be required.

**Section 30.18 Appropriations.**

To the extent so required by the law of the Commonwealth of Virginia, any and all of County's financial obligations under this Lease are subject to appropriations by the Fairfax County Board of Supervisors.

IN WITNESS WHEREOF, the parties have executed this Lease as of the day and year of Landlord's execution which shall be filled in on the first page of this Lease.

LANDLORD:

INOVA HEALTH CARE SERVICES  
By: Inova Health System Foundation,  
its Sole Member

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Name: Richard C. Magenheimer  
Its: Chief Financial Officer

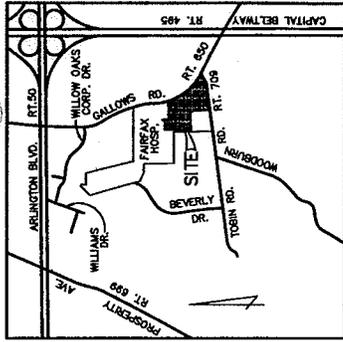
TENANT:

BOARD OF SUPERVISORS OF FAIRFAX  
COUNTY, VIRGINIA, acting in its proprietary  
capacity and not its governmental or regulatory  
capacity.

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Name: Anthony H. Griffin  
Title: County Executive

## **Exhibit A**



NO.	RADIUS	DELTA	ARC	TANGENT	CHORD	BEARING
1	1318.00'	10°42'19"	246.26'	123.49'	245.90'	S21°20'04"E
2	1048.44'	17°49'00"	326.53'	154.49'	325.02'	S35°35'45"E
3	1500.00'	06°35'30"	157.12'	78.66'	157.03'	S44°10'05"E
4	1201.55'	04°11'16"	57.92'	43.93'	57.80'	S49°36'26"E
5	246.48'	38°51'31"	167.17'	86.94'	163.98'	S80°10'03"W

↑ VIRGINIA STATE GRID NORTH (NAD 83)

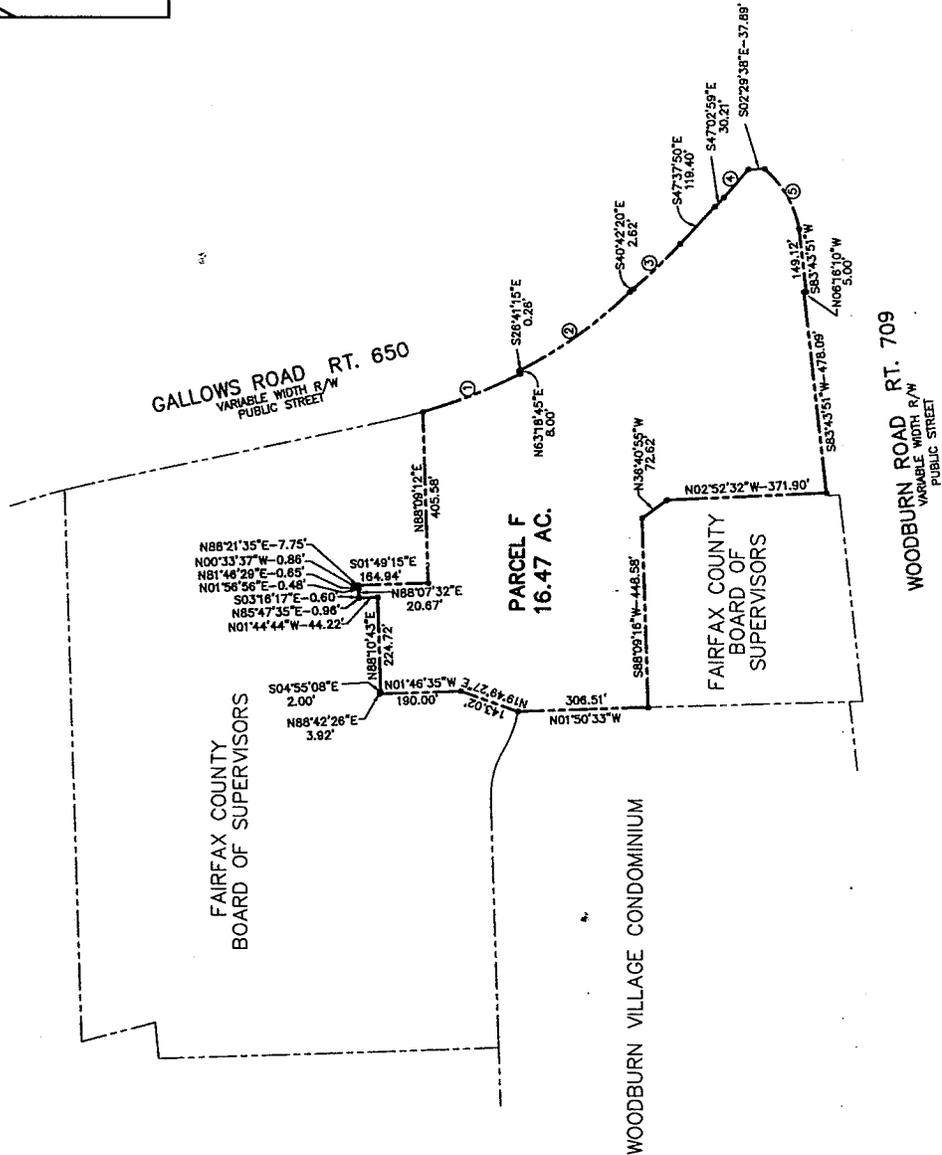


EXHIBIT A  
 PLAT SHOWING  
 PART OF THE PROPERTY OF  
**INOVA HEALTH CARE SERVICES**  
 PROVIDENCE DISTRICT  
 FAIRFAX COUNTY, VIRGINIA  
 SCALE: 1"= 200'  
 JUNE, 2010  
**Dewberry**  
 Dewberry & Davis LLC  
 8401 ARLINGTON BLVD.  
 FAIRFAX COUNTY, VA 22031  
 PHONE: 703.648.2522  
 FAX: 703.648.0818

- NOTES:
1. THE PROPERTY DELINEATED ON THIS PLAT IS LOCATED ON ASSESSMENT MAPS 59-2 ((1)) PT. 1A, PT. 1B & 1C AND IS ZONED C-3.
  2. THE PROPERTY SHOWN HEREON WAS ACQUIRED BY INOVA HEALTH CARE SERVICES IN D.B. PG.

tabbles

**EXHIBIT**

A

## **Exhibit B**

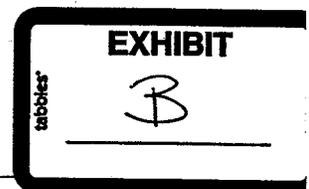
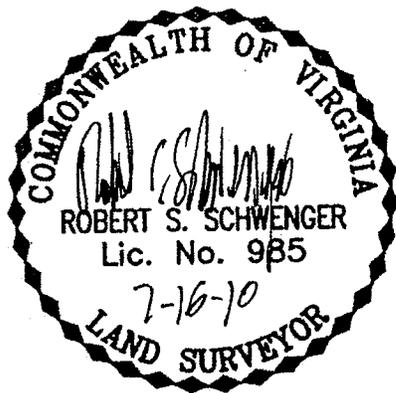
July 16, 2010

**DESCRIPTION OF  
PART OF THE PROPERTY OF  
INOVA HEALTH CARE SERVICES  
(1.15 ACRE LEASE AREA)  
PROVIDENCE DISTRICT  
FAIRFAX COUNTY, VIRGINIA**

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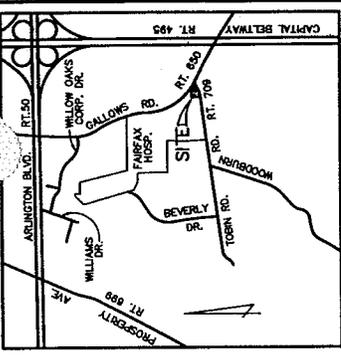
Beginning at a point marking the intersection of the westerly line of Gallows Road (Route 650) with the northerly line of Woodburn Road (Route 709); thence with the northerly line of Woodburn Road the following courses: S02°29'38"E, 37.89 feet; with a curve to the right, whose radius is 246.48 feet and whose chord is S60°10'03"W, 163.98 feet, an arc distance of 167.17 feet and S83°43'51"W, 149.12 feet to a point; thence with the northerly line of Woodburn Road and continuing through the property of Inova Health Care Services N06°16'10"W, 189.96 feet and N83°41'43"E, 221.93 feet to a point on the westerly line of Gallows Road; thence with the westerly line of Gallows Road S47°02'59"E, 30.21 feet and with a curve to the left, whose radius is 1201.55 feet and whose chord is S49°36'26"E, 87.80 feet, an arc distance of 87.82 feet to the point of beginning, containing 1.15 acres of land.

All being more particularly described on a plat attached hereto and made a part hereof.

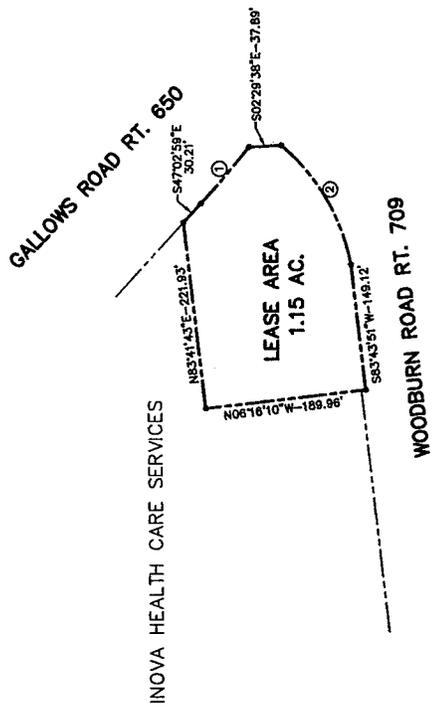


VIRGINIA STATE GRID NORTH (NAD 83)

CURVE TABLE						
NO.	RADIUS	DELTA	ARC	TANGENT	CHORD	BEARING
1	1201.55'	04°11'16"	87.80'	43.93'	87.80'	S49°36'26"E
2	246.48'	38°51'31"	167.17'	86.94'	163.98'	S80°10'03"W



VICINITY MAP  
SCALE: 1" = 2,000'



**NOTES:**  
 1. THE PROPERTY DELINEATED ON THIS PLAT IS LOCATED ON ASSESSMENT MAP 58-2 (13) P.T. OF TC AND IS ZONED C-3.  
 2. THE PROPERTY SHOWN HEREON WAS ACQUIRED BY INOVA HEALTH CARE SERVICES IN D.B. PG.

EXHIBIT B  
 PLAT SHOWING LEASE AREA OF THE  
**INOVA HEALTH CARE SERVICES PROPERTY**  
 PROVIDENCE DISTRICT  
 FAIRFAX COUNTY, VIRGINIA  
 SCALE: 1" = 100'  
 JUNE, 2010



## **Exhibit C**

EXHIBIT C

Memorandum of Lease

THIS MEMORANDUM OF LEASE is entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2010, by and between INOVA HEALTH CARE SERVICES (the "Landlord"), and THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA, a political subdivision of the Commonwealth of Virginia in its proprietary capacity, and not in its governmental or regulator capacity ("Tenant").

1. Pursuant to a Deed of Ground Lease (the "Lease") executed by Landlord and Tenant, dated \_\_\_\_\_, 2010, Landlord has leased to Tenant certain Premises in Fairfax County, Virginia described in Exhibit A attached hereto (the "Premises"), together with the nonexclusive benefit of all appurtenant rights, privileges and easements described therein. Capitalized terms used in this Memorandum of Lease which are defined in the Lease shall have the same meaning and definition when used herein.

2. The term of the Lease shall commence on the Effective Date set forth in the Lease, being \_\_\_\_\_, 2010 and shall expire upon the expiration of the ninety-ninth (99<sup>th</sup>) year, so that the termination date is \_\_\_\_\_, 2109.

3. This Memorandum of Lease is subject to all of the terms, conditions and understandings set forth in the Lease, which are incorporated herein by reference and made a part hereof, as though copied verbatim herein. In the event of a conflict between the terms and conditions of this Memorandum of Lease and the terms and conditions of the Lease, the terms and conditions of the Lease shall prevail.

**EXECUTED** as of the date first written above.

LANDLORD:

INOVA HEALTH CARE SERVICES  
By: Inova Health System Foundation,  
its Sole Member

By: \_\_\_\_\_  
Name: Richard C. Magenheimer  
Its: Chief Financial Officer

[Signatures Continue on Next Page]

