

LEASE AGREEMENT

BETWEEN

MONTGOMERY COUNTY, MARYLAND (Landlord)

And

GERMANTOWN CULTURAL ARTS CENTER, INC. (Tenant)

Dated August 28, 2003

LIST OF EXHIBITS

Exhibit A Description of Leased Premises

Exhibit B Description of BlackRock Programs and Services

Exhibit C Fixtures and Equipment included with the Leased Premises

Exhibit D BlackRock Mission Statement

Exhibit E Security Interest Personal Property

Exhibit F County Maintenance Services

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LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease") is entered into this 8th day of August, 2003 between MONTGOMERY COUNTY, MARYLAND, a body corporate and politic and a political subdivision of the State of Maryland (the "COUNTY") and GERMANTOWN CULTURAL ARTS CENTER, INC. t/a BlackRock Center for the Arts, a non-stock corporation organized under the laws of the State of Maryland and having a determination letter from the Internal Revenue Service as to its status as an organization qualified under Section 501 (c) (3) of the Internal Revenue Code of 1986, as amended ("BLACKROCK"), (the COUNTY and BLACKROCK together the "Parties").

RECITALS

1. The COUNTY is a political subdivision of the State of Maryland with home rule powers and governmental functions. One of the COUNTY's governmental functions is to provide public recreation and cultural enhancement for the citizens of Montgomery County, Maryland.

2. The COUNTY owns certain improved property located in Germantown in Montgomery County, Maryland consisting of +/- 68,367 square feet or 1.57 acres of land designated as Parcel N395 on Tax Map EU42 (the "Property") and improved with a building known as the Black Rock Center for the Arts, located at 19830 Century Boulevard, Germantown, MD 20874 and with a mailing address of 12901 Town Commons Drive, Germantown, MD 20874 as more particularly described in **EXHIBIT A**, which is attached and incorporated as if fully set forth in this Lease.

3. The Parties agree that the Property will be used to support and further implement the COUNTY's governmental objective of providing recreation and cultural enhancement programs for its citizens. In furtherance of this objective, BLACKROCK will use the Property to present and program fine arts exhibitions; live dance, musical, and theatrical performances; fine and performing arts classes and workshops and other educational programs; and uses incidental thereto, all as further described in **EXHIBIT B**, which is attached and incorporated as if fully set forth in this Lease.

4. In support of the above objectives, the COUNTY intends to lease the Property to BLACKROCK, and BLACKROCK will lease the Property from the COUNTY and provide the programs and services described in **EXHIBIT B**.

5. BLACKROCK and the COUNTY wish to enter into this Lease upon the terms and conditions stated in this Lease.

NOW THEREFORE, in consideration of the above recitals; and of the mutual promises made by the Parties in this Lease and in the Purchase and Sale Agreement executed by the Parties on August 28, 2003; and of BLACKROCK'S adherence to the provision of services described in **EXHIBIT B** (the "BLACKROCK Programs and Services") the COUNTY agrees to lease the Property, including the improvements located on the Property (the "Improvements") to BLACKROCK and BLACKROCK agrees to lease the Property and Improvements from the COUNTY, under the following terms and conditions:

1. **DEFINITIONS:**

- (a) **Annual Program Plan** means the annual program plan approved by the then current Board of Directors of BLACKROCK, which annual program plan shall be consistent with BLACKROCK's Mission Statement.
- (b) **Applicable Law** means any federal, state or local law, regulation, or permit applicable to the Property and Improvements, or the Parties. Applicable Law includes orders of courts or administrative agencies having jurisdiction over any of the Parties, this Lease, the Property or the Improvements.
- (c) **Approval and Approved**, whenever required in this Lease, means the written approval by an authorized representative of the Party from whom approval is required. Unless it is expressly provided otherwise in this Lease, the Parties must not unreasonably withhold, condition, or delay any required approval. Approval by a Party does not relieve the other Party of any obligations that it has under this Lease or under Applicable Law.
- (d) **BLACKROCK Center** means the Improvements, which are used as a facility to promote fine and performing arts in Montgomery County, Maryland
- (e) **BLACKROCK Services** means the programs and services to be provided by BLACKROCK as consideration for this Lease as described in **EXHIBIT B**.

- (f) **COUNTY** means Montgomery County, Maryland, a political subdivision of the State of Maryland, in its capacity as property owner and Party to this Lease. COUNTY does not mean Montgomery County, Maryland in its governmental capacity, in which it regulates, and/or issues licenses, permits or approvals and enforces the law.
- (g) **COUNTY EXECUTIVE** means the elected chief executive of Montgomery County, Maryland.
- (h) **Fiscal Year** means the one-year period beginning July 1 of the applicable year through the next succeeding twelve (12) months expiring on June 30.
- (i) **Lease Commencement Date** means August 28, 2003.
- (j) **Leased Premises** means the Property and the Improvements.
- (k) **Notice** means any notice that is required to be given to or by either party to this Lease. Notices must be in writing from a person authorized to give the notice and must be given in accordance with the requirements of this Lease.
- (l) **Capital Fund** means an account maintained by COUNTY for the benefit of the BLACKROCK Center or the Property in accordance with Article 8 of this Lease. The Capital Fund will be maintained at a financial institution that is located within the Metropolitan Washington D.C. area and that maintains offices and branches in Montgomery County, Maryland, and that is approved by the COUNTY.
- (m) **Program or Programming** means any planned public or private event occurring at, or in connection with the Property.

2. INCORPORATION OF RECITALS AND DEFINITIONS

The Recitals and Definitions are incorporated into and made part of this Lease.

3. PROPERTY AND EQUIPMENT

In addition to the Leased Premises, the COUNTY leases certain personal property and equipment to BLACKROCK as provided in **EXHIBIT C**.

4. TERM

Unless earlier terminated due to the default of BLACKROCK the Initial Term of this Lease will commence on August 28, 2003, and, unless extended pursuant to the provisions of Article 5, below, the term will expire on June 30, 2010 (the "Initial Term").

5. RENEWALS

Provided that this Lease has not already been terminated, then, upon conclusion of the Initial Term or any Renewal Term this Lease can be renewed at the sole discretion of the then County Executive or his designee after receipt and consideration of the Review Panel's (as defined below) recommendation pursuant to Section 6 (c) of this Lease for an additional term or an additional renewal term, as the case may be, of five (5) years (each additional five year term a "Renewal Term"). Notwithstanding the foregoing, this Lease must not be renewed if BLACKROCK is in default of any of the provisions of this Lease. Each Renewal Term must be granted separately at the end of the preceding Initial or Renewal Term as provided in this Lease. In order for BLACKROCK to secure the County Executive's approval for a Renewal Term, BLACKROCK must give the COUNTY written notice of BLACKROCK's intention to renew the Lease for an additional term of five (5) years not less than nine (9) months before the expiration of the term then in effect. For example, to exercise the first Renewal Term, the COUNTY must receive BLACKROCK's written request to renew the Lease not later than September 30, 2009. The Parties may agree to provide for additional Renewal Terms, but in no event will the COUNTY grant to BLACKROCK more than a total of 10 consecutive Renewal Terms of not more than five years each.

6. REVIEW PANEL

(a) **Appointment of Review Panel.** Provided that BLACKROCK has sent timely notice of its intention to renew the Lease to the COUNTY as provided above, then, no later than six (6) months prior to the expiration of the Initial Term or any Renewal Term granted

by the COUNTY, a Review Panel will be established to present to the COUNTY EXECUTIVE its recommendation as to whether or not the COUNTY EXECUTIVE should grant a Renewal Term for the Lease. The Review Panel will be composed of a Chairman appointed by the COUNTY EXECUTIVE, one member appointed by BLACKROCK, a third member who is mutually acceptable to the Parties representing the Germantown community (the "Review Panel").

BLACKROCK must fully cooperate with the review process by providing the Review Panel with access to any records or other information maintained by BLACKROCK that is reasonably necessary to review BLACKROCK's progress or performance during the then current Initial Term or Renewal Term.

(b) Review Process. The Review Panel will conduct a review of BLACKROCK's performance, concentrating on BLACKROCK's fundraising, finances and adherence to the Mission Statement: (i) to determine whether BLACKROCK is managing its finances responsibly; (ii) to determine whether BLACKROCK is adequately and actively involving the community in its programming and planning functions; (iii) to determine whether BLACKROCK is operating the BLACKROCK Services to an acceptable level of quality for a community-based fine and performing arts facility located in Montgomery County, Maryland; and (iv) to determine whether BLACKROCK has diligently and timely performed and observed its obligations under this Lease. The Review Panel will report its findings and its recommendations on renewal to the County Executive and to BLACKROCK no later than 30 days prior to the expiration of the then current Initial Term or Renewal Term.

7. CONSIDERATION

(a) Base Rent. In consideration of programs and services required by **EXHIBIT B** and for the rights and obligations provided for in this Lease, BLACKROCK will be required to pay the sum of ONE DOLLAR (\$1.00) per annum in Rent for the use of the Leased Premises (the "Base Rent").

(b) Additional Rent. Any sums of money other than Base Rent which are payable to the COUNTY by BLACKROCK under this Lease are "Additional Rent" and must be paid by BLACKROCK within thirty (30) days after the COUNTY sends BLACKROCK written

notice that such sums are due under the Lease. The COUNTY will provide BLACKROCK with sufficient information to explain the basis for charging the Additional Rent.

(c) **Furniture, Fixture & Equipment Loan.** The Parties acknowledge that BLACKROCK has received a \$250,000 term loan from Sandy Spring Bank (the "Outstanding Loan"). The Outstanding Loan is secured by certain of the furnishings, fixtures, and equipment located on the Property, which are listed on **EXHIBIT E**, which is attached and incorporated as if fully set forth (the "Security Interest Personal Property"). BLACKROCK will retain ownership of the Security Interest Personal Property until it is released by Sandy Spring Bank, at which time BLACKROCK will convey the Security Interest Personal Property to the COUNTY. BLACKROCK agrees to repay the Outstanding Loan according to the following schedule: \$50,000 on or before July 1, 2004; \$50,000 on or before July 1, 2005; \$75,000 on or before July 1, 2006; and \$75,000 on or before July 1, 2007. As BLACKROCK makes payments on the Outstanding Loan, BLACKROCK will secure releases of Sandy Spring Bank's lien on the Security Interest Personal Property in the order specified in **EXHIBIT E**, attached. Upon receipt, BLACKROCK will provide the County with copies of all releases of the Security Interest Personal Property, and will execute an Assignment to the COUNTY of all of BLACKROCK's interest in the released Security Interest Personal Property.

(d) **Material Inducements.** The Parties agree that the consideration recited in this Lease is sufficient and that the Base Rent, Additional Rent, Mission Statement, and covenants contained in this Lease are all material inducements to the COUNTY to enter into this Lease.

8. CAPITAL FUND

The Parties agree that BLACKROCK will establish a Capital Fund to be paid to the COUNTY and held in an interest bearing escrow account by the COUNTY to be funded in accordance with, and to be used for the purposes (the "Permitted Expenditures") set forth in, the schedule attached as **EXHIBIT G**, and incorporated as if fully set forth. Disbursements shall be made from the Capital Fund for the Permitted Expenditures as approved by the COUNTY. If any funds remain in the Capital Fund upon the termination of this Lease and there are no programmed or anticipated capital repairs to the Leased Premises, the Capital Fund, including interest earned, will be distributed as follows: first, to pay expenses related to the Leased Premises and the

termination of BLACKROCK's tenancy; second, to reimburse the COUNTY any outstanding amounts it may have loaned to BLACKROCK; and third, the remaining funds to the COUNTY for future expenses of the Capital Fund as provided above.

9. RECORDS AND REPORTING

(a) **Books and Records.** BLACKROCK shall maintain and keep, or shall cause to be maintained and kept at the Leased Premises, or at such other location as shall be approved by the COUNTY, full and accurate books of account and records (including copies of supporting bills and invoices) in accordance with generally accepted accounting principles ("GAAP"), that correctly and accurately reflect the fiscal operation of the Leased Premises and other financial information related to the Leased Premises and of all business conducted or transacted in, upon, from, or relating to the Leased Premises (the "Books and Records"). BLACKROCK must make the Books and Records available to the COUNTY upon reasonable request by the COUNTY. BLACKROCK shall retain and maintain the Books and Records for no less than five (5) years after the end of the Fiscal Year for which they were prepared. At the COUNTY's option and expense, it may have an audit of the Books and Records prepared at any time. BLACKROCK must make the Books and Records available to the COUNTY or the COUNTY's designee for that purpose.

(b) **Annual Financial Statements.** Not later than October 31 of each year that the Lease is effective, BLACKROCK must provide the COUNTY with BLACKROCK's audited annual financial statements prepared in accordance with GAAP for all financial information related to the Leased Premises and of all business conducted or transacted in, upon, from, or relating to the Leased Premises during the preceding Fiscal Year.

(c) **Annual Report.** The Parties acknowledge that the number of performances, exhibitions, and classes will be less than the number during BLACKROCK's Inaugural Year of 2002-2003 (the "Inaugural Season") during the Initial Term to allow BLACKROCK to concentrate on fundraising activities to support the BLACKROCK Services that will fulfill the goals of the Mission Statement. Although the number of exhibitions, performances, and classes may be decreased during the Initial Term from the Inaugural Season, the quality of the exhibitions, performances and classes must be maintained as established during the Inaugural Season unless community demand demonstrates that a different quality of exhibition, performance, or class is warranted. In no event may any exhibition, performance, or class that is

not consistent with a first-class, community based fine and performing arts facility located in Montgomery County, Maryland be offered at the BLACKROCK Center. As a further condition of limiting BLACKROCK's payment obligations to the County to the Base Rent, BLACKROCK must submit an Annual Report to the County Executive that details: (a) the numbers and types of performances, classes, exhibitions, and events sponsored by BLACKROCK at the Property during the preceding Fiscal Year; (b) fundraising efforts and accomplishments of BLACKROCK during the preceding Fiscal Year; and (c) a proposed program of performances, classes, and exhibitions that will be offered at the BlackRock Center for the Arts in the next Fiscal Year. BLACKROCK must submit the first Annual Report to the County Executive not later than September 30, 2004. In succeeding years during which this Lease is effective, the Annual Report must be received by the County Executive no later than one (1) year from the date of the preceding Annual Report. The Review Panel, the COUNTY EXECUTIVE, or his designee will use the information provided in the Annual Reports, as well as any other information reasonably available to the COUNTY in determining whether or not to terminate or extend this Lease.

10. BOARD REPRESENTATION

(a) During the Initial Term and any Renewal Term(s), the COUNTY EXECUTIVE will designate two (2) voting members to serve on BLACKROCK's Board of Trustees. The COUNTY's voting members may be COUNTY employees.

(b) During the Initial Term and any Renewal Terms, the COUNTY EXECUTIVE will designate one (1) voting member to serve on BLACKROCK's Finance Committee. The COUNTY's representative on the Finance Committee may be a COUNTY employee. The duties of the Finance Committee will include but not be limited to establishing and monitoring the Capital Fund, and to oversee BLACKROCK's fundraising activities.

(c) BLACKROCK's Board of Trustees will elect such designees to the Board of Trustees and the Finance Committee at its next regularly scheduled meeting following the COUNTY EXECUTIVE's designation.

11. NAMING RIGHTS

BLACKROCK shall have the right to sell or lease naming rights as part of its fundraising efforts with prior approval by the COUNTY which will be conditioned upon the approval of the COUNTY's bond counsel. This provision will be coterminous with the Initial Term and any

Renewal Term(s), and is transferable to any non-profit successor except Montgomery County, Maryland. In addition to the requirements of Chapter 59-F of the Zoning ordinance, all signs for the BLACKROCK Center are subject to Section 26(d) of this Lease.

12. USE OF THE LEASED PREMISES

It is understood and agreed by the Parties that the use of the Leased Premises is for provision of the BLACKROCK Services by BLACKROCK. BLACKROCK agrees to use, occupy and continuously operate the Leased Premises solely for the purposes set forth in this Article. The Leased Premises may not be used in any manner or for any purpose that is in violation of Applicable Law. The use of the Leased Premises is limited to the following only:

- (a) The exhibition, transmission, and production of live performances, music productions and other performing arts;
- (b) The exhibition of visual arts works;
- (c) Classroom instruction in the fine or performing arts and related studio and stage use;
- (d) The hosting of social functions, business meetings and other revenue producing events and functions including, but not limited to:
 - (i) Educational programs and classes relating to the performing, visual or literary arts;
 - (ii) Community outreach programs specifically related to the arts;
 - (iii) Leasing of the Leased Premises for community events including, but not limited to, weddings, bar mitzvahs, receptions, and similar activities and celebrations, so long as adequate security is obtained to protect the Property against casualty or injury;
 - (iv) Other similar for hire social events, activities and purposes specifically related to the BLACKROCK Mission Statement, including teas, receptions, and lectures;
- (e) Retail sales of merchandise related to BLACKROCK's Mission Statement, BLACKROCK productions or performances at BLACKROCK, or the

BLACKROCK Services as described in **EXHIBIT B**, including but not limited to: the sale of production memorabilia, apparel and promotional merchandise, the sale of books, posters or prints related to live performance or fine arts or music productions and/or rental of prerecorded audio and/or video products, audio and/or video software, CD Interactive and CD ROM Systems, and entertainment and other software related to live performances at the Property, visual or performing arts or music productions, provided that BLACKROCK must not sell any COUNTY property or sell any other merchandise at the Property other than merchandise that depicts or represents fine or performance art of the type and nature exhibited or performed at the BlackRock Center;

- (f) Fundraising activities related to the BLACKROCK Programs in connection with its chartered purpose and the Mission Statement; and
- (g) Any and all other reasonable purposes ancillary to and supporting the BLACKROCK Mission Statement, including but not limited to: (i) the establishment of office space, classrooms, exhibition halls, displays, studios, practice and performance stage; (ii) creation and maintenance of exhibits and displays; (iii) set construction and maintenance; and (iv) the operation of concession stands or supporting areas, subordinate to and supporting the provision of BLACKROCK Services.

13. INDEMNIFICATION FOR ARTISTIC CONTENT

The COUNTY acknowledges and agrees that it will have no approval rights with respect to the artistic content of the exhibitions and performances and other Programs at the Leased Premises. BLACKROCK shall be solely responsible for, and shall indemnify and hold the COUNTY harmless from and against any and all claims, liabilities, demands, suits, cause or causes of actions, judgments, obligations, fines, penalties, costs and expenses and reasonable attorneys' fees suffered or incurred by the COUNTY in any way connected to any claims, suits or proceedings brought against the COUNTY based on the artistic content of the use of the Leased Premises by BLACKROCK or anyone permitted by BLACKROCK to use the Leased Premises. This indemnification shall also apply to any claims of direct or indirect infringement of any intellectual property rights or claims.

14. PARKING

BLACKROCK will have the use, and will control the maintenance, management, and operation of all parking facilities provided on the Property.

15. CONTROLLED ACCESS AND SHARED FACILITIES

(a) **Security.** BLACKROCK acknowledges that the COUNTY does not provide personnel for controlling access to Leased Premises or any other security services. BLACKROCK will contact COUNTY Police or fire and rescue as appropriate in emergency situations and when security is required. BLACKROCK will make its own arrangements for whatever security it desires (if any) that is beyond the alarm system existing at BLACKROCK Center. BLACKROCK assumes and shall hold the COUNTY harmless for all liability and responsibility for any theft of or damage to any works of art, exhibits, materials, musical instruments and all property of any kind brought to the Property by any of BLACKROCK's employees, guests, vendors, invitees, licensees, agents, representatives, contractors, subcontractors, and all others (other than the COUNTY, its employees or agents).

(b) **Keys.** BLACKROCK acknowledges possession of keys to the BlackRock Center. The COUNTY will retain its own set(s) of keys to BlackRock Center, but will not enter the non-public areas of the Leased Premises, other than for provision of COUNTY Services described in this Lease, without reasonable advance notice to BLACKROCK (which, in any case, must where reasonably practical be provided in a manner that minimizes interference with any Programming). BLACKROCK will not change the locks to any improvements located on the Property unless BLACKROCK first provides advance written notice to the COUNTY. BLACKROCK must provide the COUNTY with a duplicate set of all keys for any such changed locks on the Property.

(c) **County Use.** BLACKROCK agrees to provide access to the Property to the COUNTY rent free up to four (4) times per year for the COUNTY to use to conduct awards programs and other special governmental functions that are not incompatible with the purposes of a first-class, community-based fine and performing arts center provided that the COUNTY will pay all costs associated with cleaning the Property after the COUNTY's use and any other use of BLACKROCK's staff. The COUNTY agrees to

request the use of the Property not later than sixty (60) days prior to the COUNTY's planned activity. The COUNTY acknowledges that any such activity will not be permitted at a time when it would interfere with the Programming and business functions already scheduled by BLACKROCK.

16. OPERATING RESTRICTIONS

Throughout the Initial Term and any Renewal Term(s), BLACKROCK covenants and agrees to:

- (a) Pay when and as due the Base Rent and Additional Rent and all license fees, permit fees and charges of a similar nature for the conduct by BLACKROCK of any business or undertaking authorized in this Lease to be conducted at the Leased Premises;
- (b) Not permit the accumulation of any rubbish or garbage in, on or about the Property except in areas designated by the COUNTY for such use;
- (c) Not use the plumbing facilities for any purpose other than that for which they were constructed, and not use them for disposal of any toxic, abrasive, corrosive, or foreign substances;
- (d) Comply in all material respects with all Applicable Laws;
- (e) Not paint or permanently decorate any part of the interior or exterior of the Property without first obtaining the COUNTY's prior Approval;
- (f) Not use the Property in a manner that exceeds prescribed power usage;
- (g) Not install any fixtures, equipment or machinery in the Improvements that will place a load upon the floors or walls exceeding the respective floor or wall load per square foot area which such area was designed to carry. BLACKROCK must promptly repair, at its sole cost and expense, all damage done to the Property by BLACKROCK (or someone acting on behalf of, or through, BLACKROCK) taking in or removing any other furnishings, equipment, furnishings, sets or scenery, or due to such equipment being improperly installed or utilized on the Property.

17. COUNTY SERVICES

The COUNTY agrees that it will provide, at its sole costs and expense, certain maintenance and repair services at the Leased Premises to maintain the Leased Premises in good order and

condition of repair and safety and otherwise at a level similar to that provided at other County owned or operated arts facilities and as described and in accordance with the schedule set forth in **EXHIBIT F** attached to this Lease and incorporated as if fully set forth. BLACKROCK must make the Property available to the COUNTY when necessary and for such period as necessary for the proper performance of maintenance and repair work. The Parties must coordinate the scheduling of necessary maintenance and repair work to minimize (to the extent commercially reasonable) interference with Programs. BLACKROCK acknowledges that there may be times when emergency repairs are required and Programs may need to be adjusted or rescheduled to allow for such emergency and other required repairs.

18. BLACKROCK SERVICES

BLACKROCK must provide any necessary maintenance not provided by the COUNTY. BLACKROCK is responsible for setting up for, and cleaning up after its Programs. Without limiting BLACKROCK's obligation to perform BLACKROCK Services, except as otherwise set forth in this Lease, BLACKROCK is responsible for providing for the maintenance, repair and replacement, if necessary, of equipment, furniture and furnishings used on the Property. BLACKROCK must arrange and pay for activation and usage of telephone and, if it desires, Internet services.

19. TAXES

Any sales, entertainment, business, income, personal, or other taxes imposed as a consequence of the occupancy or use of, or activities on, the Property by BLACKROCK, or anyone acting on behalf of or through BLACKROCK, shall be promptly paid when due by BLACKROCK. BLACKROCK must pay such taxes as they become due and payable during the Initial Term or any Renewal Term, and before the assessment of any fine, penalty, interest or other charge for the nonpayment or untimely payment. BLACKROCK may directly receive notices of taxes and directly pay all taxes. BLACKROCK shall furnish to the COUNTY, copies of tax bills and official receipts of the proper governmental authorities or other proof reasonably satisfactory to the COUNTY, evidencing the full payment of all taxes paid by BLACKROCK. BLACKROCK may pay taxes in installments, if permitted by the taxing authority to do so, and will promptly and timely pay all fines, penalty, interest or other charge associated with installment payments. BLACKROCK is entitled to any rebate of any taxes paid by BLACKROCK. If BLACKROCK

fails to make payment of any tax required to be paid, then the COUNTY may (unless BLACKROCK is contesting such payment in good faith), at the COUNTY's option, pay any taxes and penalty when due, and BLACKROCK must pay the amount of such taxes and all late charges, penalties, and interest to the COUNTY as Additional Rent not later than 30 days after written demand for payment from the COUNTY. The COUNTY is under no obligation to pay any tax assessment or liability incurred by BLACKROCK, and may opt to treat untimely tax payments as a breach of this Lease.

20. LIENS, CLAIMS OR ENCUMBRANCES

- (a) Subject to the terms of subsection (b) below, BLACKROCK must not allow any mechanic's, materialmen's or any other liens, charges, claims and encumbrances caused or created by BLACKROCK or anyone claiming through or under BLACKROCK to be filed or recorded against the Property.
- (b) If any lien, charge, claim, or encumbrance is filed or recorded against the Property for work performed by or for BLACKROCK, BLACKROCK must cause the same to be discharged of record within thirty (30) days after the date of filing of the same, or, if BLACKROCK determines to contest any such lien, charge, claim, or encumbrance, BLACKROCK must provide the COUNTY with security acceptable to the COUNTY in the amount of the claim, plus costs, penalties, and interest not later than thirty (30) days after the date of the filing of the lien. BLACKROCK must immediately discharge any final judgment of any court of competent jurisdiction, including any appeal rights, determining the validity and/or amount of any such lien.
- (c) Failure by BLACKROCK to make any payment required under this Paragraph is a material breach of this Lease.

21. CAPITAL IMPROVEMENTS AND ALTERATIONS

- (a) BLACKROCK must not undertake any alterations, changes, improvements or additions to the Property without the prior written approval of the COUNTY, which the COUNTY may exercise in its sole and absolute discretion. The COUNTY's failure to respond within forty-five (45) days to a properly submitted request under this Article will be deemed to be disapproval of the request. If the COUNTY approves any alterations, charges, improvements, or additions to the Property, then BLACKROCK must comply with all Applicable Laws and any restrictions on the use of the Property and must obtain all necessary permits for any alteration, change,

improvement or addition. BLACKROCK must make any Approved alteration, change, improvement or addition requested by it in accordance with Approved construction drawings and specifications.

(b) BLACKROCK must submit to the COUNTY a full set of construction plans and specifications clearly setting forth the work proposed to be performed, along with an electronic copy of such plans and specifications. The COUNTY, in its capacity as the COUNTY and not in its regulatory capacity must respond in writing to the request for Approval within forty-five (45) days from its receipt of the construction plans and specifications. In its capacity as COUNTY and not in its regulatory capacity, the COUNTY shall inspect the Property upon completion of the work to determine adherence to submitted specifications and compliance with applicable codes and regulations. In the event that the completed work is not reasonably satisfactory to the COUNTY, BLACKROCK must correct the work at the expense of BLACKROCK.

(c) All costs associated with any alteration, change, improvement, or addition to the Property made by BLACKROCK is an "Expense" under this Lease, and may be paid by BLACKROCK out of the Capital Fund in accordance with the provisions of this Lease or out of the BLACKROCK Account, Endowment Funds, or Restricted Funds.

22. FURNITURE, FIXTURES AND EQUIPMENT

The furniture, fixtures and equipment listed on **EXHIBIT C**, which is attached to this Lease and incorporated as if fully set forth herein (the "FF&E") is located on the Property and owned by the COUNTY. The FF&E is being leased to BLACKROCK as part of the Leased Premises to be used to further the goals stated in the Mission Statement. At the termination of this Lease for any reason, BLACKROCK must deliver the FF&E to the COUNTY in good, clean condition, reasonable wear and tear excepted based upon the present condition of the FF&E. BLACKROCK must maintain the FF&E in accordance with manufacturer specifications in all material respects, and if available on the date of this Lease, must keep owner's manuals on site.

23. CONDITION OF LEASED PREMISES

BLACKROCK must maintain the Leased Premises in good order and condition at all times, consistent with a community fine and performing arts center.

24. LIABILITY, PROPERTY DAMAGE AND FIRE INSURANCE

(a) **Insurance provided by BLACKROCK.** During the term of this Lease, and any

renewal hereof, BLACKROCK, at its expense, agrees to obtain and maintain insurance policies with the following coverages and provisions:

A policy of general Commercial Liability insurance with a minimum limit of liability of Five Million and 00/100 Dollars (\$5,000,000.00) per occurrence and Five Million and 00/100 Dollars (\$5,000,000.00) in the aggregate for bodily injury and property damage, including fire legal liability, premises and operations, independent contractors, personal injury and broad form property damage issued by an insurance company licensed in the State of Maryland.

A policy providing Workers Compensation Liability meeting all statutory requirements of the State of Maryland, and the following minimum Employers' Liability limits:

Bodily Injury by Accident - \$100,000 each accident

Bodily Injury by Disease - \$500,000 policy limits

Bodily Injury by Disease - \$100,000 each employee

An All Risk Property policy covering 100% replacement cost of all fixtures, furniture and equipment owned by BLACKROCK at the Leased Premises. The policy shall also provide coverage for anyone using the Leased Premises under BLACKROCK.

An All-Risks Property Policy including fire and extended coverage to protect the interest of BLACKROCK against loss caused by the perils insured in the amount of 100 percent of the cost of the insurable value. The policy shall contain a maximum deductible of \$5,000 per occurrence. The General Liability policy must name the COUNTY as an additional insured; and the All Risk Property policy must name the COUNTY as Loss payee. All policies must provide the COUNTY with thirty (30) days advance notice of material amendment or cancellation. At least ten (10) days prior to the Commencement Date or its occupancy of the Leased Premises, whichever comes first, BLACKROCK must deliver to the COUNTY a certificate(s) of insurance evidencing the foregoing insurance. The certificate of insurance must be issued to Montgomery County, Maryland, c/o Department of Public Works and Transportation, Office of Real Estate, 101 Monroe Street, 10th Floor, Rockville, Maryland 20850.

(b) Insurance provided by the COUNTY. The COUNTY will insure the Property and the Improvements through the County's self-insurance fund in an amount determined by the fund's managers to be sufficient to repair and replace the Improvements in the event of damage or destruction not caused in whole or in part by BLACKROCK, its employees, tenants, invitees, guests, contractors, performers, agents, and representatives. BLACKROCK must separately

insure its own property. In the event of any damage to the Property, the Improvements, or the furniture, fixtures, or equipment, the COUNTY may, to the extent of available insurance proceeds, repair any elements of and replace any equipment on the Leased Premises that the COUNTY originally constructed. BLACKROCK shall be responsible for the repair or replacement of any portion of its property located on the Leased Premises. In no event will Montgomery County be required to appropriate funds for repair or replacement of Improvements or furniture, fixtures, or equipment, or of any of BLACKROCK'S property. The COUNTY may, in its sole and absolute discretion, terminate this Lease if the COUNTY determines that insufficient funds are available to repair any damage or destruction to the Property or the Improvements or that the Property or Improvements cannot be repaired or replaced within 90 days from the occurrence of the event or act causing the damage or destruction. BLACKROCK may request that the COUNTY defer action under this Paragraph and permit BLACKROCK to repair or restore the Property or Improvements, so long as the Parties enter into a written agreement to provide for time limits for and the quality of the repairs and replacement, as well as any insurance payments to be applied to repair and replacement, and any abatement of BLACKROCK Services for all or part of the time that BLACKROCK is repairing or replacing the Property or Improvements. The COUNTY is under no obligation to grant BLACKROCK's request under this Paragraph.

25. HOLD HARMLESS

BLACKROCK agrees to hold the COUNTY harmless from, and indemnify it from and against any and all claims, actions, damages, liability and expenses, including reasonable attorneys' fees and costs (collectively, "Claims"), in connection with breach of this Lease by BLACKROCK or arising out of the use of the Property by BLACKROCK, its employees, agents, licensees, invitees, licensees, concessionaires, contractors, subcontractors, representatives, and performers and artists, including but not limited to claims of loss of life, personal injury and/or damage to property arising from or out of any occurrence, occasioned wholly or in part by, and to the extent of, any act or omission of BLACKROCK, its employees, agents, licensees, invitees, licensees, concessionaires, contractors, subcontractors, representatives, and performers and artists with respect to the provision of BLACKROCK Services, obligations of BLACKROCK pursuant to this Lease, or the use of the Property by BLACKROCK and its employees, agents, licensees, invitees, licensees, concessionaires, contractors, subcontractors, representatives, and performers

and artists. BLACKROCK will not be liable for damage or injury to the caused solely by the willful misconduct, negligent acts or omissions of the COUNTY or its employees, agents, licensees, invitees, licensees, concessionaires, contractors, subcontractors, or representatives. BLACKROCK further agrees to hold the COUNTY harmless from any penalty, damage or charge incurred or imposed on the COUNTY due to violation of any law or ordinance by BLACKROCK, its employees, agents, licensees, invitees, concessionaires, contractors, subcontractors, representatives, and performers and artists in connection with their use of the Property and Improvements. This indemnification includes providing a defense for the COUNTY by counsel acceptable to the COUNTY, in the COUNTY's sole and absolute discretion, or paying the reasonable costs that the COUNTY incurs arising out of any suit or claim involving actions covered by the indemnification provided in this Paragraph. The COUNTY will give BLACKROCK prompt notice of any claims or demands made upon it or of which it has knowledge.

26. RESPONSIBILITIES OF BLACKROCK

BLACKROCK covenants and agrees as follows:

- (a) BLACKROCK must not strip, overload, damage or deface the Property or the FF&E. BLACKROCK must not commit or allow any waste to be committed in or upon the Property.
- (b) BLACKROCK must not keep gasoline or other flammable material or any explosive within the Property which will increase the rate of fire insurance on such premises beyond the ordinary risk established for the type of operations described in **EXHIBIT C** Any increase in the insurance rate due to actions of BLACKROCK in violation of the terms of this Lease must be paid by BLACKROCK. BLACKROCK must not willfully do any act or thing in or about the Property which may cause the cancellation or nullification of any insurance on the Property. BLACKROCK agrees to conform to all Applicable Laws, and all rules and regulations established from time to time by the COUNTY in its regulatory capacity, the Maryland Insurance Rating Bureau, or any other authority having jurisdiction over such matters.
- (c) BLACKROCK must not use the Property for or allow the Property to be used for any illegal or unlawful purpose or for any activity that will constitute a legal nuisance to

adjacent properties or the neighborhood.

(d) BLACKROCK must not place any placard, sign, lettering or awning upon the Property except in such place and manner (i) as is consistent with past practice, (ii) as described in Exhibit H attached hereto and made part hereof, or (iii) as shall have been first Approved by the COUNTY in its sole and absolute discretion and, in any case, in conformance with the provisions of Chapter 59-F of the Montgomery County Zoning Ordinance, as amended from time to time.

(e) BLACKROCK must provide adequate security and exercise reasonable control and oversight to preclude its employees, agents, licensees, invitees, licensees, concessionaires, contractors, subcontractors, subcontractors, representatives, and performers and artists from misusing or damaging the Property. BLACKROCK is responsible for repairs necessitated by its invitees only if it failed to provide proper security or to exercise reasonable control and oversight over its employees, agents, licensees, invitees, licensees, concessionaires, contractors, subcontractors, representatives, and performers and artists.

(f) BLACKROCK must comply with all reasonable rules and regulations for use of the Property that may be from time to time promulgated by the COUNTY, as referred to above, and provided in writing to BLACKROCK. Violation of the rules and regulations is a breach of this Lease unless the Parties agree that the any of the rules and regulations prevent or unreasonably interfere with use of the Property for the purposes stated in Article 12.

27. DEFAULT

(a) BLACKROCK shall be in default of this Lease upon the occurrence of any of the following events (each, an "Events of Default");

(i) BLACKROCK's failure to make the Loan payments or to promptly obtain and provide the releases of liens for the furniture, fixtures, and equipment as required by this Lease;

(ii) BLACKROCK's failure to fund the Capital Fund as required by this Lease, which failure continues for ten (10) days after notice from the COUNTY specifying the failure to perform;

(iii) BLACKROCK's failure to operate and maintain the BLACKROCK Programs consistent with the Mission Statement and the Annual Program Plan, which failure continues for ten (10) days after notice from the COUNTY specifying the failure to perform;

(iv) BLACKROCK's failure to maintain diligent membership outreach efforts or to maintain involvement of Germantown and surrounding communities, which failure continues for thirty (30) days (or such additional period as may reasonably be required to correct the defect using best efforts and due diligence) after notice from the COUNTY specifying the failure to perform;

(v) BLACKROCK's failure to perform any other material term, covenant or condition of this Lease, which failure continues for thirty (30) days (or such additional period as may reasonably be required to correct the defect using best efforts and due diligence) after notice from the COUNTY specifying the failure to perform;

(vi) The commencement of any action or proceeding for the dissolution or liquidation of BLACKROCK, or for the appointment of a receiver or trustee of BLACKROCK's property, and the failure to discharge any such action within ninety (90) days after the action is commenced;

(vii) The making of any assignment for the benefit of BLACKROCK's creditors;

(viii) The abandonment of the Property by BLACKROCK. In this context, "abandonment" means the cessation of all or a significant part of the BLACKROCK Services during any 90 calendar day period in which the BLACKROCK Services could be performed but are not unless the COUNTY has excused performance in a writing executed by both Parties. The insolvency of BLACKROCK for any period of time is not an excuse for failing to provide the BLACKROCK Services; or

(ix) BLACKROCK's loss of status as an organization qualified under Section 501 (c) (3) of the Internal Revenue Code of 1986.

(b) If an event described in subparagraph 27(a) occurs and BLACKROCK fails to cure the default event within any cure period expressly provided in this Lease as extended by consent of the COUNTY in consideration of progress made by BLACKROCK to cure

the default using best efforts and due diligence, then after written notice from the COUNTY, at the sole option of the COUNTY, BLACKROCK's right of possession shall end (90) days after the Notice was provided and, after such period, the COUNTY may immediately recover possession of the Property without any further requirements. The COUNTY may also pursue any other legal or equitable remedies available to it under Maryland law.

28. EMINENT DOMAIN

If the Property or any part of the Property is taken in condemnation proceedings or acquired under threat of condemnation, BLACKROCK shall have no claim against the COUNTY and shall have no claim or right to any portion of the amount awarded as damages or paid as a result of any such taking. The full award for any taking belongs to the COUNTY. Upon such taking, the term of this Lease shall terminate and BLACKROCK shall have no claim for the value of any unexpired term of the Lease. Nothing in this Lease precludes BLACKROCK from claiming from the condemning authority or obtaining or giving the COUNTY any interest in any separate award to BLACKROCK for moving expenses or for loss of or damage to BLACKROCK's property or for damages for cessation or interruption of BLACKROCK's business.

29. ASSIGNMENT AND SUBLEASING

BLACKROCK must not assign this Lease, or sublease or transfer any right or interest in all or any part of the Property to any third party. Notwithstanding the foregoing, BLACKROCK may use the Leased Premises as permitted under Article 13 hereof and grant concessions or revocable licenses to third parties for certain activities that complement the BLACKROCK Services provided such uses are within the areas designated for such uses on the Approved plans for the Property, if applicable. No other assignment, license, concession, or sublease is permitted.

30. ACCESS

The COUNTY and its employees, agents, representatives, contractors and subcontractors may have access to the Property at all reasonable times, during normal working hours for the purpose of inspection, or in the event of fire or other property damage, or for the purpose of performing any work required to be performed by the COUNTY, or which the COUNTY considers necessary or desirable, or for any other purpose for the reasonable protection of the Property.

Subject to all of the provisions of this Lease, BLACKROCK shall have twenty-four (24) hour access to and exclusive possession of the Property.

31. SURRENDER OF POSSESSION

At the expiration or other termination of this Lease, BLACKROCK must remove all of its goods and effects from the Property. BLACKROCK must deliver to COUNTY the Leased Premises and all keys, access cards, locks and other fixtures therein, and the FF&E clean and in good repair, order and condition in all respects, reasonable wear and tear excepted based upon the present condition thereof. BLACKROCK must repair or pay to repair any damage to the Property caused by removing its furnishings, equipment, signs, or other property from the Property.

32. HOLDOVER

BLACKROCK must not continue in possession of the Property after the termination of this Lease for any reason. In the event that BLACKROCK fails to vacate the Property as required, BLACKROCK will be considered to be a trespasser and be subject to ejectment from the Property.

33. NOTICE OF DEFECTS

BLACKROCK must give the COUNTY prompt notice of accidents in or damages to the Property.

34. COMPLIANCE WITH LAWS

BLACKROCK must promptly comply with and observe all Applicable Laws. Provided that BLACKROCK is complying with Applicable Laws, nothing contained herein shall preclude BLACKROCK from contesting the validity of any Applicable Laws.

35. BENEFIT AND BURDEN

All of the terms and provisions of this Lease shall inure to the benefit of and be binding upon the COUNTY or its successors or assigns and upon BLACKROCK.

36. DISPUTES

The COUNTY and BLACKROCK agree that any dispute concerning a question of fact arising under this Lease which is not resolved by agreement of the Parties shall be decided by a court of

competent jurisdiction located in Montgomery County, Maryland.

37. COVENANT OF QUIET ENJOYMENT

So long as BLACKROCK fully performs the BLACKROCK Services and its obligations under this Lease, BLACKROCK has the right to peaceable and quiet possession of the Property without hindrance by the COUNTY or by anyone claiming by, from through or under the COUNTY.

38. NON-APPROPRIATION BY THE COUNTY

BLACKROCK acknowledges that the COUNTY is a governmental entity and that as such its obligations to make expenditures under the terms of this Lease and the adoption of the budgets necessary to provide services as described herein are subject to appropriation by the Montgomery County Council. In the event the County Council fails to appropriate funds necessary for the COUNTY to provide services described herein, BLACKROCK may, but is not obligated to, terminate this Lease within one hundred and eighty (180) days of receipt of notice from the COUNTY of such non-appropriation by providing the COUNTY with one hundred and eighty (180) days Notice of such termination.

39. WAIVER

No waiver or any breach of any covenant, condition or agreement in this Lease operates as a waiver of the covenant, condition or agreement itself or of any subsequent breach of the covenant, condition, or agreement.

40. WAIVER OF JURY TRIAL

The Parties hereby waive the right to trial by jury on any dispute or matter arising from this Lease.

41. NON-DISCRIMINATION

BLACKROCK agrees to comply with the nondiscrimination in employment policies in COUNTY contracts as required by Section 11B-33 and 27-19 of the Montgomery COUNTY Code (1994), as amended, as well as all other applicable state and federal laws and regulations regarding employment discrimination. BLACKROCK assures the COUNTY that it operates in accordance with Applicable Law, it does not, and agrees that it will not discriminate in any manner on the basis of age, color, creed, national origin, race, religious belief, sexual preference,

disability, or genetic status.

42. CONTRACT SOLICITATION

Neither party has retained anyone to solicit or secure this Lease upon an agreement or understanding for a commission, percentage, brokerage or contingent fee.

43. PUBLIC EMPLOYMENT

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

44. INTEGRATED AGREEMENT

This Lease contains all of the agreements made between the Parties and may not be modified orally or in any other manner other than by an agreement in writing signed by the Parties with the same formalities as this Lease. This Lease supersedes any other writings pertaining to subject matter of this Lease.

45. NOTICES

All notices required or described to be given in this Lease must be in writing and will be deemed sufficient if hand delivered by receipted messenger service or given by certified or registered mail, return receipt requested. Notice will be effective when received or refused by the addressee, its employees or agents. Notices to the respective Parties must be addressed as follows:

BLACKROCK:

Germantown Cultural Arts Center, Inc.
t/a BlackRock Center for the Arts
12901 Town Commons Drive
Germantown, Maryland 20874

With a copy to:

R. Thomas Hoffmann

COUNTY:

Montgomery County, Maryland
Department of Public Works and
Transportation
Office of Real Estate Management
101 Monroe Street
10th Floor
Rockville, Maryland 20850

Ballard Spahr Andrews & Ingersoll, LLP
601 13th Street N.W., Suite 1000 South
Washington, DC 20005

Copy notices for maintenance related matters to:

Attn: Chief, Division of Operations
Montgomery County, Maryland
Department of Public Works and
Transportation
101 Orchard Ridge Drive, 2nd Floor
Gaithersburg, Maryland 20878

With a copy of all notices that does not constitute notice to:

Office of the County Attorney
101 Monroe Street, Third Floor
Rockville, Maryland 20850
Attn: County Attorney

Either Party may change its mailing address by giving notice to the other Party in the manner set forth above.

46. RESIDENT AGENT

The Resident Agent for BLACKROCK is Thomas Hoffmann, and its address for receipt of notice and service of process is 23801 Peach Tree Road, Clarksburg, Maryland 20871. BLACKROCK must promptly notify the COUNTY in writing of any change in Resident Agent or address for service of process.

47. GENERAL PROVISIONS

- (a) Governing Law: This Lease is governed by the laws of the State of Maryland without regard to choice of law provisions. Any action brought under or arising from this Lease must be brought in the Circuit Court for Montgomery County, Maryland.
- (b) Severability: If any term of this Lease is invalid or unenforceable, the remainder of this Lease shall remain in force.
- (c) Exhibits: The exhibits attached to this Lease are incorporated into this Lease as if

fully set forth unless expressly provided otherwise.

48. MEMORANDUM OF LEASE

Either party may upon request and at its own expense record a memorandum of this Lease in a form and substance reasonably acceptable to the other party.

49. AUTHORITY

The COUNTY and BLACKROCK represent that each has the lawful authority to enter into this Lease in accordance with its terms, and that all required governmental and corporate (respectively) approvals have been obtained.

50. ENVIRONMENTAL MATTERS

The Parties acknowledge and agree that BLACKROCK is not responsible for the environmental condition of the Leased Premises except for environmental liability that may arise from BLACKROCK's ownership prior to the closing date and to the extent that environmental liability arises from the failure of BLACKROCK, its employees, agents, licensees, invitees, licensees, concessionaires, contractors, subcontractors, representatives, and performers and artists to comply with Applicable Law.

51. FORCE MAJEURE

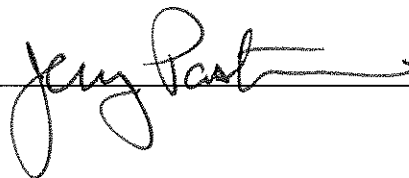
In the event that either party shall be delayed or hindered in, or prevented from the performance of any work, service or other acts required under this Lease to be performed by such party and such delay or hindrance is due to strike, lockout, acts of God, governmental restriction, enemy act, civil commotion, unavoidable fire or other casualty, or other causes of a like nature beyond the control of the party so delayed or hindered, then performance of such work, service or other act shall be excused for the period of such delay and the period of the performance of such work, service or other act shall be extended for a period equivalent to the period of such delay.

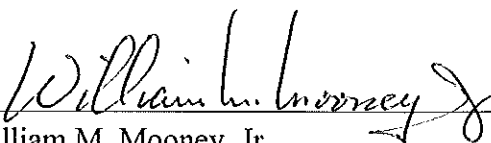
IN WITNESS WHEREOF, the Parties have executed this Lease on the date first written above.

IN WITNESS WHEREOF, the Parties have executed this Lease on the date first written above.

WITNESS:

**MONTGOMERY COUNTY,
MARYLAND**


By: 

By: 
William M. Mooney, Jr.
Assistant Chief Administrative Officer

ATTEST:

**GERMANTOWN CULTURAL ARTS
CENTER, INC.**

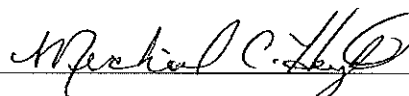
By: 

By: 
R. Thomas Hoffmann
Chairman

Approved as to Form & Legality
by the Office of the County Attorney:

Recommended by the Office of Real Estate:

By: 

By: 
Michael C. Hoyt, Deputy Director
Department of Public Works and
Transportation 8/28/03