

# **MASTER LEASE-PURCHASE AGREEMENT**

made and entered into as of June 1, 1999

by and between

**WALTON COUNTY PUBLIC EDUCATION FINANCE AUTHORITY, INC.**  
(the "Corporation")

and

**THE SCHOOL BOARD OF WALTON COUNTY, FLORIDA**  
(the "Board")

acting as the Governing Body of

**THE WALTON COUNTY SCHOOL DISTRICT**  
(the "District")

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## **MASTER LEASE-PURCHASE AGREEMENT**

**THIS MASTER LEASE-PURCHASE AGREEMENT**, is made and entered into as of June 1, 1999 (the "Lease Agreement"), by and between the **WALTON COUNTY PUBLIC EDUCATION FINANCE AUTHORITY, INC.**, a not-for-profit corporation organized and existing under the laws of the State of Florida (the "Corporation"), and the **SCHOOL BOARD OF WALTON COUNTY, FLORIDA**, a school board duly organized and existing under the laws of the State of Florida (the "Board"), acting as the governing body of the Walton County School District;

### **W I T N E S S E T H :**

In consideration of the mutual covenants hereinafter contained and for other valuable consideration, the parties hereto do hereby agree as follows:

## **ARTICLE I**

### **DEFINITIONS AND GENERAL PROVISIONS**

#### **SECTION 1.01. DEFINITIONS.**

The capitalized words and terms used herein shall have the same meanings assigned to such words and terms in Exhibit "A" attached hereto or in the recitals hereof, unless the context clearly requires some other meaning.

#### **SECTION 1.02. RULES OF CONSTRUCTION.**

Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context otherwise indicates, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include corporations and associations, including public bodies, as well as natural person.

The terms "hereby," "hereof," "herein," "hereunder" and any similar terms, as used in this Lease Agreement, refer to this Lease Agreement.

## **ARTICLE II**

### **RECITALS**

#### **SECTION 2.01. STATUS AND POWER OF CORPORATION.**

The Corporation is a not-for-profit corporation duly organized and validly existing pursuant to Chapter 617, Florida Statutes, as amended and is authorized pursuant to its Articles of Incorporation and By-Laws to purchase and to sell or lease or otherwise dispose of its property. Pursuant to such authority, the Corporation is authorized to undertake and perform the actions and duties more particularly described herein.

#### **SECTION 2.02. STATUS AND POWERS OF BOARD.**

The Board is a school board of the State of Florida, is the governing board of the District and is authorized by the laws and Constitution of the State of Florida, particularly the Act, to lease and acquire real and personal property for educational purposes and in furtherance of its public purpose.

#### **SECTION 2.03. PURPOSE OF AGREEMENT.**

In order to provide for its governmental and proprietary needs and in furtherance of its public purpose, the Board desires from time to time to lease or lease-purchase Projects for educational purposes from the Corporation. The Corporation is able and willing, for adequate consideration, to lease or lease-purchase such Project to the Board.

#### **SECTION 2.04. RELATED AGREEMENTS.**

The parties hereto acknowledge, approve of, and consent to the terms of the following documents:

(a) the Assignment Agreement, pursuant to which the Corporation assigns by outright assignment all of its right, title and interest in this Lease Agreement to the Trustee, other than its right of indemnification, its right to enter into Lease Schedules from time to time, its right to receive notices and grant consents or approvals hereunder and its obligations provided in Section 6.03 of the Lease Agreement (collectively, the "Retained Rights") and under the related Ground Lease; and

(b) the Trust Agreement pursuant to which the Trustee, the Board and the Corporation agree to implement this Lease Agreement by providing from time to time for the delivery of Series of Certificates to fund the Projects, for the administration of certain funds, accounts and subaccounts for the benefit of the Owners and, under the circumstances contemplated in such Trust Agreement and in this Lease Agreement, the exercise by the Trustee of certain remedies for the benefit of the Owners.

**SECTION 2.05. CONSTRUCTION OF THIS LEASE AGREEMENT.**

For all purposes of this Lease Agreement, reference to the "assignee" of Corporation means the Trustee acting on behalf of the Owners of the Certificates issued pursuant to the Trust Agreement.

## **ARTICLE III**

### **ACQUISITION OF PROJECTS; BOARD TO BE AGENT OF CORPORATION**

#### **SECTION 3.01. DEPOSIT OF MONEYS; LEASE SCHEDULES.**

(a) In order to induce the Board to lease a Project from the Corporation and to assure the Board that the moneys needed to pay the Costs of such Project or of the refinancing thereof, and Costs of Issuance relating to such Project (to the extent provided in the applicable Lease Schedule) will be available without delay, the Corporation and the Board, simultaneous with the delivery of a Lease Schedule relating to such Project by the Board, shall cause to be deposited with the Trustee, the proceeds of the Series of Certificates which shall finance the acquisition, construction and installation of such Project. Such proceeds shall be deposited in such funds, accounts and subaccounts established pursuant to the Trust Agreement as shall be described in the Lease Schedule relating to such Project and the Supplemental Trust Agreement pursuant to which such Series of Certificates are authorized to be issued.

(b) Whenever the Board, in its discretion, determines to lease a Project hereunder, it shall prepare and submit to the Corporation a Lease Schedule relating to the Project. Such Lease Schedule shall be in substantially the form set forth as Exhibit "C" hereto. The Corporation shall have no obligation to acquire, construct or install, or cause to be acquired, constructed or installed pursuant to Section 3.03 hereof, or to refinance, any portion of a Project until the Corporation has been furnished with a Lease Schedule describing such Project and complying with the provisions of the following paragraph.

(c) Each Lease Schedule submitted by the Board to the Corporation shall be accompanied by the following items:

(i) A certified copy of a resolution duly adopted by the Board authorizing the lease-purchase of the Project described in the Lease Schedule and the execution and delivery of such Lease Schedule and the Supplemental Trust Agreement related thereto;

(ii) A certificate of the Chairman of the Board reaffirming the Board's covenants, representations and warranties made hereunder, except as modified by the Lease Schedule, and stating no default or Event of Non-Appropriation has occurred and is continuing under this Lease Agreement;

(iii) An executed copy of any Ground Lease and the related Assignment of Ground Lease relating to the Project described in the Lease Schedule; and

(iv) An executed copy of the Supplemental Trust Agreement relating to the issuance of the Series of Certificates which shall fund the Project described in the Lease Schedule.

(v) An executed Certificate of Lessee, the form of which is attached hereto as Exhibit "D-1" with respect to such Lease Schedule.

(vi) An executed Certificate of Lessor, in the form attached hereto as Exhibit "D-2" with respect to such Lease Schedule.

**SECTION 3.02. RIGHT OF ENTRY.**

In order to enable the Corporation to carry out the terms of this Lease Agreement, to provide for the acquisition, construction and installation of the Projects and to facilitate the exercise of remedies upon an Event of Default or Non-Appropriation hereunder, the Board hereby grants a right of entry to the Corporation, its agents and assignees, at reasonable times, to each of the Projects. The Board represents that it is empowered to grant such right of entry to the Corporation.

**SECTION 3.03. ACQUISITION AND CONSTRUCTION OF THE PROJECTS.**

(a) The Corporation shall provide for the acquisition, construction and installation of each Project by the Board, as agent of the Corporation, pursuant to applicable State law and Section 3.08 hereof. Title to each Project shall be either in the name of the Corporation (if agreed to by the Corporation), except as otherwise provided in Section 4.07 hereof or in Section 7.07 of the Trust Agreement, or in the Board. The Trustee shall establish a separate subaccount in the Project Account for each Project leased hereunder in accordance with Section 6.02 of the Trust Agreement. Amounts on deposit in each subaccount of the Project Account held by the Trustee pursuant to the Trust Agreement shall be disbursed by the Trustee to the Board or the person designated by the Board to pay Costs of the Project for which such subaccount was established. Such disbursement shall be made pursuant to Requisitions submitted by the Board to the Trustee in accordance with the procedures set forth in the Trust Agreement. Such Requisitions shall be in the form set forth as Exhibit "B" hereto and shall be accompanied by such further documentation as set forth herein and in Section 6.03 of the Trust Agreement. The Corporation hereby agrees that the Board may be reimbursed for expenditures of moneys made by the Board for the Project Costs in anticipation of the issuance of Certificates to fund such Project Costs by filing with the Trustee Requisitions, with the documentation required by Section 6.03 of the Trust Agreement. The Board hereby agrees that, in such cases where the Corporation has agreed to accept title, upon the Board's receipt of such reimbursement, the title to any portion of a Project previously acquired will be transferred to the Corporation.

(b) The Board agrees that it will assure that each Project will be acquired, constructed and installed in accordance with the Plans and Specifications. The Board further agrees that it will assure that each Project will be acquired, constructed and installed in accordance with the Project Budget and the Project Schedule relating thereto, which shall be provided in the Lease Schedule for such Project. The Board may, at any time prior to the Completion Date for a Project, make modifications to such Project, subject to the provisions of this Section 3.03(b), provided: (i) if such amount involved exceeds the fixed sum set forth in a particular Lease Schedule for such purpose, the Board has obtained the prior written consent of the Credit Enhancer; (ii) the Board files with the Trustee, as assignee of the Corporation, a



certificate of an Authorized Officer of the Corporation and a certificate of an Authorized Officer of the Board notifying the Trustee and the applicable Credit Enhancer of such modification, addition or substitution, identifying the portion of such Project which is modified, added or substituted, and certifying that after such modification, addition or substitution, amounts on deposit in the subaccount of the Project Account relating to such Project, together with interest earnings thereon and any additional legally available sums of the Board deposited therein, will be sufficient to pay all remaining Costs of such Project, including Project Costs incurred in connection with such modification, addition or substitution and any Project Costs which shall have accrued but remain unpaid as of such date, (iii) to the extent that the modification, addition or substitution involves Equipment, either the items of substituted Equipment have a useful life equal to or greater than the useful life of the items of Equipment for which it has been substituted or the Credit Enhancer, if any, of the Certificates which shall finance the acquisition of such Equipment approves of a shorter useful life for such substituted Equipment, (iv) the Plans and Specifications, the Project Description, the Project Budget and the Project Schedule for such amended or modified Project are each amended, as necessary, to take into account the portion of such Project which is modified, added or substituted, (v) title to the substituted, added or modified portion of the Project shall be in the name of either the Board or the Corporation, in the same manner that title to the Project was held (vi) to the extent that the modification or substitution involves Equipment, the substituted, added or modified Equipment shall be placed in the same Group as the Equipment for which there has been a substitution or the Credit Enhancer, if any, of the Certificates which shall finance the acquisition of such Equipment approves of the substituted or modified Equipment being placed in a different Group, (vii) no change shall be made in the schedule of Basic Rent Payments and (viii) the Board has arranged for recording of all UCC Statements allowed to be filed to give notice of the Corporation's and Trustee's interest in any additional or substitute Equipment. If the total Costs of such Project exceed the amount estimated therefor, as a condition precedent to such modification, addition or substitution, the Board shall take the actions set forth in Section 3.05 hereof. The Board agrees not to lease-purchase any Equipment hereunder except to the extent same constitute "educational facilities" as determined by the Department or otherwise permitted by applicable law.

(c) For purposes of this Lease Agreement, all materials and services in respect of which amounts are paid by the Trustee for the acquisition, construction and installation of a Project (including moneys disbursed pursuant to Section 6.04 of the Trust Agreement for Costs of Issuance) shall be deemed accepted by the Board hereunder upon execution of a Lease Schedule and the Board shall thereby be deemed to have agreed that it has received valuable consideration for the portion of the Basic Rent representing Costs of Issuance and will pay the Lease Payments in respect of same. The provisions of this Section 3.03(c) shall not in any way limit or affect the Corporation's or the Board's rights to pursue warranty or other claims arising therefrom against any contractor, vendor or supplier of labor or materials of a Project, or any portion thereof. Each Requisition executed by the Board and submitted to the Trustee shall certify that the Board has inspected and accepted the portion of the Project which is the subject of such Requisition for purposes of this Lease.

(d) The Corporation and the Board further agree to assure that, where applicable, the Contractors and Developers of a Project involving construction of a

Building carry appropriate performance bonds, agree to liquidated damages in an amount not less than that portion of the Lease Payment related to such Building computed on a daily basis for construction and delivery delays equal to the pro-rata portion for such building and comply with workers' compensation laws and affirmative action standards of the Board; provided, however, that this provision shall not apply to any contract the total payments on which do not exceed \$50,000. Proceeds of liquidated damages received by the Corporation or the Board shall be deposited, before the Completion Date, into the subaccount of the Project Account relating to such Project and, after the Completion Date, into the subaccount of the Interest Account relating to such Project to be held for Basic Rent Payments; provided, however, that if liquidated damages are to be imposed through withholding payment from the Contractors, then the Board shall direct the Trustee to withdraw from the subaccount of the Project Account relating to such Project an amount equal to said liquidated damages and to deposit such amount in the subaccount of the Interest Account relating to such Project.

(e) The Estimated Completion Date of a Project may be extended for a period of greater than six months only if the Trustee shall have received (i) an opinion of Special Counsel that such extension will not cause the Interest Component on the Basic Rent Payments to become includible in gross income of the recipients thereof for the purpose of federal income taxation and (ii) the prior written consent of the applicable Credit Enhancer for such Project. The Board shall take possession of each Project, or portion thereof, upon delivery and acceptance and, where applicable, substantial completion of installation thereof. No delay in the completion of a Project, or any portion thereof, nor any extension of the Estimated Completion Date as permitted herein shall relieve the Board of its obligation to pay the Lease Payments to the extent provided herein.

(f) Each of the Corporation and the Board shall at all times keep title to each Project and its interest hereunder and under any Ground Lease and the Premises free and clear of all liens and encumbrances created by or through itself of every kind whatsoever, except Permitted Encumbrances.

#### **SECTION 3.04. PAYMENT OF COSTS OF ISSUANCE.**

Payment of Costs of Issuance for each Series of Certificates shall be made pursuant to a Schedule of Costs of Issuance executed by an Authorized Officer of the Board at the time of issuance of each Series of Certificates, or by Requisitions from moneys deposited with the Trustee in the subaccount of the Costs of Issuance Account established for such Series. Costs of Issuance shall be disbursed in accordance with and upon compliance with Section 6.04 of the Trust Agreement.

#### **SECTION 3.05. LIMITATIONS ON ACQUISITION AND CONSTRUCTION.**

The amount of moneys available under the Trust Agreement to pay for Project Costs and Costs of Issuance for each Project is limited to an aggregate dollar amount of not more than the Maximum Cost provided in the Lease Schedule for such Project. If the Board agrees to an increase in the cost with respect to any portion of a Project or there is a cost overrun as a result of a substitution or modification in a Project as described in Section 3.03(b) hereof, and in either case, the amount in the subaccount

of the Project Account relating thereto, together with interest earnings thereon, is not sufficient to pay such Project Costs and complete the acquisition, construction and installation of such Project, then either (a) the Board shall deposit to the credit of such subaccount of the Project Account the additional funds necessary to reduce such deficiency to zero (as certified to the Trustee and the Credit Enhancer in writing by an Authorized Officer of the Board), or (b) shall provide to the Corporation, the Credit Enhancer and the Trustee an amended Project Budget certified to the applicable Credit Enhancer, Corporation and the Trustee as accurate in writing by an Authorized Officer of the Board and showing changes to such Project the result of which is to eliminate such insufficiency and maintain for the Project a fair rental value at least as great as the Project prior to such substitution or modification.

### **SECTION 3.06.            WARRANTIES; DISCLAIMERS.**

The Board, upon execution of a Requisition for any portion of a Project, thereby shall represent, without further act, that it has (a) thoroughly inspected such portion of such Project described therein, and (b) satisfied itself that such portion of such Project is suitable for its use, occupancy and purposes. THE CORPORATION (AND CONSEQUENTLY THE TRUSTEE AS ITS ASSIGNEE), NOT BEING THE VENDOR, THE DEVELOPER OR THE CONTRACTOR OF ANY PROJECT OR THE VENDOR'S AGENT, DEVELOPER'S AGENT OR CONTRACTOR'S AGENT, MAKES NO WARRANTY OR REPRESENTATIONS, EITHER EXPRESS OR IMPLIED, AS TO THE TITLE TO, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, DESIGN OR CONDITION OF, OR AS TO THE QUALITY, OR CAPACITY OF THE MATERIAL OR WORKMANSHIP IN ANY PROJECT OR ANY WARRANTY THAT ANY PROJECT WILL SATISFY THE REQUIREMENTS OF ANY LAW, RULE, SPECIFICATIONS OR CONTRACT WHICH PROVIDES FOR SPECIFIC MACHINERY, OPERATORS OR SPECIAL METHODS. It is agreed that all such risks, as among the Corporation and the Board, are to be borne by the Board at its sole risk and expense, and the Board hereby agrees to look solely to the Vendors, Contractors or Developers of the Project for all such matters. THE CORPORATION (AND CONSEQUENTLY THE TRUSTEE AS ITS ASSIGNEE) MAKES NO PATENT WARRANTIES OR REPRESENTATIONS WHATSOEVER. THE CORPORATION (AND CONSEQUENTLY THE TRUSTEE AS ITS ASSIGNEE) SHALL NOT BE LIABLE FOR ANY ACTUAL, CONSEQUENTIAL, INDIRECT OR SPECIAL DAMAGES.

### **SECTION 3.07.            UNEXPENDED MONEYS.**

The Corporation and the Board agree that unexpended moneys remaining in a subaccount of the Costs of Issuance Account funded from a Series of Certificates, shall, upon payment in full of Costs of Issuance relating to such Series, be deposited in the subaccount of the Project Account relating to such Series of Certificates and such subaccount of the Costs of Issuance Account shall be closed. Thereafter, any excess moneys remaining in a subaccount of the Project Account funded from a Series of Certificates shall, on the Completion Date, be applied in accordance with Section 6.03 of the Trust Agreement.



### **SECTION 3.08. APPOINTMENT OF AGENCY.**

(a) The Corporation hereby appoints the Board as its agent to carry out all phases of the acquisition, construction and installation of the Projects and the Board, as agent of the Corporation, assumes all rights, duties, responsibilities and liabilities of the Corporation regarding acquisition, construction and installation of the Projects, except as limited herein.

(b) The Board, as agent of the Corporation, may enter into any purchase order, agreement or contract required for acquisition, construction and installation of a Project, or any portion thereof, including a turn-key Construction Contract with a Developer, upon being assured that moneys sufficient for the payment thereof are then on deposit in the subaccount of the Project Account related thereto. Each such purchase order, agreement and contract shall be executed by the Board, as agent for the Corporation, in accordance with Section 6A-2, Florida Administrative Code. The benefits of all bids received by the Board for the components of a Project shall be deemed to be assigned by the Board to the Corporation. The Board shall comply with all applicable laws in letting contracts or purchase orders in regard to the acquisition, construction and installation of a Project.

(c) Prior to the Completion Date for such Project, the Board, as agent of the Corporation, shall have the right to make any changes in the description of a Project or modify or substitute components thereof, or of any component or portion thereof, whenever the Board deems such changes to be necessary and appropriate; provided, however, that the Board must comply with the provisions of Section 3.03(b) hereof.

(d) The Board, as Agent of the Corporation, shall have sole responsibility for, and shall supervise acquisition, construction and installation of each Project. The Board shall monitor the performance by each Vendor, Developer or Contractor to the extent the Board deems appropriate. The Board shall permit the Corporation, or its assignee, to inspect each Project at any and all reasonable times; provided, however, the Corporation shall have no duty to do so.

(e) The Corporation hereby assigns to the Board all rights and powers to enforce and execute in its own name or the name of the Corporation such purchase orders, agreements or contracts as are required for each Project which enforcement may be at law or in equity; provided, however, that the assignment made by the Corporation herein shall not prevent the Corporation, or its assignee, from asserting said rights and powers on its own behalf following written notice to the Board.

(f) The Corporation shall not be responsible for payment of, nor shall it pay or permit to be paid by the Trustee pursuant to the Trust Agreement, any amount for a Project in excess of the amount available therefor in the subaccount of the Project Account related thereto held by the Trustee pursuant to the Trust Agreement. The Board shall pay said excess amount as provided in Section 3.05 hereof.

(g) The Corporation, or its assignee, shall have the right to inspect periodically the books and records of the Board relating to each Project, and the Board shall permit the Corporation, or its assignee, to make such inspection thereof at all

reasonable times as the Board shall deem appropriate; provided, however, neither the Corporation nor its assignee shall have any duty to do so.

(h) The Board agrees that it will be the sole responsibility of the Board that each Project will be acquired, constructed and installed in accordance with the Plans and Specifications, as the same may be amended from time to time as permitted herein. The Board shall be obligated, subject to the conditions stated herein, to pay in full the Lease Payments regardless of whether such Project is acquired, constructed or installed in accordance with the Plans and Specifications.

(i) The Board shall use its best efforts to acquire, construct and install each Project by the dates set forth in the Project Schedule relating thereto. The Board hereby agrees to use its best efforts to obtain, in each Construction Contract, provisions such that if the acquisition, construction or installation of any portion of such Project has not been completed by the Contractor or Developer through the fault of such Contractor or Developer by such dates, the Board shall assess liquidated damages provided in such Construction Contract against the Contractor or Developer for each day completion is delayed in an amount equal to the part of the Lease Payments associated with such portion of such Project not completed, prorated to obtain a daily rate.

(j) To the extent that a Project consists of the acquisition of Land (rather than improvements to real property), nothing in this Lease Agreement shall be construed to prohibit the acquisition of such Land by the exercise of the power of eminent domain so long as the title to or a Ground Lease for such real property will ultimately vest in the Corporation and so long as such acquisition shall be permitted by applicable law. The Corporation hereby agrees to take all action reasonably requested by the Board, at the Board's cost and expense, to enable the Board to institute and prosecute successfully any eminent domain proceedings so instituted by the Board.

## **ARTICLE IV**

### **LEASE OF PROJECTS; LEASE PAYMENTS**

#### **SECTION 4.01. LEASE OF PROJECTS.**

In consideration of the payment by the Board to the Corporation, or its assignee, of the Lease Payments and for other valuable consideration, the Corporation hereby leases from time to time each Project to the Board upon the terms and conditions contained herein, as modified by the Lease Schedule relating to such Project. The Board may modify each Project or may substitute or dispose of components or portions of a Project as provided in Sections 3.03(b), 5.13 and 5.14 hereof.

#### **SECTION 4.02. TERM OF AGREEMENT.**

Effective as of the Commencement Date described in the Lease Schedule relating to each Project, the Corporation agrees to rent and lease to the Board and the Board agrees to rent and lease from the Corporation each such Project for the Initial Lease Term. The Initial Lease Term of each Project shall commence on the Commencement Date relating thereto and terminate on the Initial Lease Termination Date relating thereto. Unless this Lease Agreement is terminated pursuant to Sections 4.06, 7.01 or 7.03 hereof, this Lease Agreement will automatically be renewed on the Initial Lease Termination Date for each Project and each succeeding Renewal Term Termination Date relating thereto for the next succeeding Renewal Lease Term until all Lease Payments in regard to all the Projects described in Lease Schedules hereto shall be made and the Certificates are no longer Outstanding. Each Renewal Lease Term shall be for a period of one (1) year. The number of Renewal Lease Terms plus the Initial Lease Term for a Project shall not exceed the Maximum Lease Term described in the Lease Schedule for such Project.

#### **SECTION 4.03. LEASE PAYMENTS.**

(a) For the right to use and possession of each of the Projects, the Board shall, subject to the provisions of Sections 4.06 and 7.01 hereof, pay to the Trustee, as assignee of the Corporation, the Basic Rent and the Supplemental Rent as hereinafter described.

(b) The Board agrees to pay as lease rental hereunder for each Project, the Basic Rent no later than the fifteenth (15th) day prior to the Basic Rent Payment Dates as set forth in the Lease Schedule relating thereto, as the same may be modified or amended from time to time by the Trustee, as assignee of the Corporation, following any prepayment of Basic Rent for the lease of such Project. Basic Rent Payments consist of a Principal Component and an Interest Component which shall be stated in each Lease Schedule. The portion of Basic Rent attributable to the Interest Component shall not exceed the maximum rate permitted by Section 215.84, Florida Statutes. Each Project may be divided into Groups of leased property as described in the Lease Schedule relating thereto. The Principal Component and Interest Component attributed to each Group of leased property shall be provided in the Lease Schedule relating thereto. The Board hereby agrees that it shall make all Basic Rent Payments

coming due on each Basic Rent Payment Date on the third day prior to each such Basic Rent Payment Date, subject to the provisions of Sections 4.06 and 7.01 hereof. THE BOARD SHALL NOT BUDGET AND APPROPRIATE AVAILABLE REVENUES FOR A PORTION OF THE PROJECTS LEASED PURSUANT TO THIS LEASE AGREEMENT; IT MUST BUDGET AND APPROPRIATE FOR ALL OF THE PROJECTS LEASED PURSUANT TO ALL THE LEASE SCHEDULES TO THIS LEASE AGREEMENT OR NONE OF THEM. All Basic Rent Payments shall be paid in arrears. The Board shall pay the Basic Rent due hereunder to the Trustee at its Principal Office and the Trustee shall apply same as provided in the Trust Agreement. To the extent that moneys have been deposited and are available with the Trustee from the proceeds of a Series of Certificates for the purpose of paying all or a portion of Basic Rent relating to a Project pursuant to Section 6.01 of the Trust Agreement, the Board shall not be required to transfer funds to the Trustee for payments of such Basic Rent, and the Board shall receive a credit against its obligation to pay such Basic Rent for such amounts on deposit with the Trustee.

(c) Each annual aggregate payment of Basic Rent due hereunder shall be for the right to possess the Projects for each Fiscal Year in which moneys have been appropriated by the Board to pay the Basic Rent coming due in such Fiscal Year, provided that the (i) Basic Rent for the period for which a portion of the proceeds of a Series of the Certificates have been deposited with the Trustee shall be paid from such proceeds, it being hereby acknowledged that said moneys constitute special funds held by the Trustee pursuant to this Lease Agreement and the Trust Agreement to be applied for such purpose, and (ii) if the first Basic Rent Payment due hereunder shall not be due until after the end of the Fiscal Year in which Commencement Date occurs, the Board shall have the right to possess the Projects until the end of such Fiscal Year.

(d) Commencing with the first Basic Rent Payment Date for each Project and on each Basic Rent Payment Date thereafter, there shall be applied as a credit (provided there are no delinquent Basic Rent Payments) against the aggregate applicable amount of Basic Rent payable on such Date an amount which shall be stated in a report of the Trustee given to the Board pursuant to Section 6.11 of the Trust Agreement, which amount shall be equal to the sum of (i) the amount of interest and other income (net of rebate) deposited in the Interest Account pursuant to Section 6.05 and 6.10 of the Trust Agreement since the date of the previous report made by the Trustee pursuant to Section 6.11 of the Trust Agreement, (ii) the amount of moneys, if any, transferred to the Interest Account and Prepayment Fund pursuant to Section 6.03(e) of the Trust Agreement since the date of the previous report made by the Trustee pursuant to Section 6.11 of the Trust Agreement, (iii) the amount of moneys, if any, transferred to each subaccount of the Interest Account pursuant to Section 6.07 of the Trust Agreement since the date of the previous report made by the Trustee pursuant to Section 6.11 of the Trust Agreement, plus (iv) the amount, if any, on deposit in each subaccount of the Principal Account and Interest Account on the date of the report made by the Trustee pursuant to Section 6.11 of the Trust Agreement which is not derived from the sources described in clauses (i), (ii) and (iii) above. In the event that the total amount of credit exceeds the applicable Basic Rent due on the Basic Rent Payment Date, the amount of said excess shall be applied as a credit against subsequent Basic Rent Payments. In addition, the Basic Rent may be reduced if the Board prepays any or all of the Basic Rent. Whenever moneys in the



Lease Payment Fund, in respect of a Series of Certificates, together with the moneys, if any, in any sub-account of the Reserve Account established pursuant to a Supplemental Trust Agreement for such Series of Certificates, shall be sufficient to pay the principal of, prepayment premium, if any, Amortization Installments, and interest on all such Certificates Outstanding, the moneys in such sub-account of the Reserve Account shall be deposited in the Interest Account and the Principal Account as required to pay the Certificates, and no further Basic Rent Payments shall be required hereunder. Should any Basic Rent be paid later than the Basic Rent Payment Date to which such Basic Rent pertains, such Basic Rent shall bear interest at the Overdue Rate from such Basic Rent Payment Date to and inclusive of the date of actual payment.

(e) In addition to the Basic Rent, the Board hereby agrees to pay and discharge from time to time as provided herein, as Supplemental Rent, all other amounts, liabilities and obligations which the Board assumes or agrees to pay to the Corporation, the Trustee or to others with respect to this Lease Agreement, the Trust Agreement or the Projects, together with interest on any overdue amount, at the Overdue Rate or the Late Payment Rate, as applicable, to the date of actual payment. Supplemental Rent shall include, but not to be limited to, any prepayment premium attributable to the Certificates, the reasonable fees and expenses (including counsel fees) incurred by the Trustee pursuant to the Trust Agreement, an amount necessary to replenish deficiencies in the Reserve Account as provided in the Trust Agreement, reasonable expenses of the Corporation relating to the lease of the Projects, and all ongoing expenses relating to the financing of the Projects. The Supplemental Rent shall be paid to Trustee for application in accordance with the terms hereof and of the Trust Agreement.

To the extent, if any, not covered by the foregoing, the Board shall pay as Supplemental Rent the following amounts:

- (i) All reasonable fees, charges and expenses, including agent and counsel fees, of the Trustee and the Paying Agents incurred under the Trust Agreement, as and when the same become due.
- (ii) All costs incident to the payment of the principal of, premium, if any, and interest on the Certificates as the same become due and payable, including all costs and expenses in connection with the call, redemption and payment of the Certificates.
- (iii) An amount sufficient to reimburse the Lessor for all expenses reasonably incurred by the Lessor under the Lease Agreement and in connection with the performance of the Lessor's obligations under the Lease Agreement or the Trust Agreement.
- (iv) All expenses incurred in connection with the creation or maintenance of the Lessor as a corporate entity or the enforcement of any rights under the Lease Agreement or the Trust Agreement by the Lessor, the Trustee or the Certificate Owners.

- (v) All other payments of whatever nature which the Board has agreed to pay or assume under the provisions of the Lease Agreement or the Trust Agreement.

(f) The Board hereby authorizes the Trustee, as assignee of the Corporation, (i) to create a Reserve Account to be held by the Trustee under the Trust Agreement and to create a separate subaccount within such Reserve Account for any Series of Certificates, as provided in the Supplemental Trust Agreement authorizing such Series, unless otherwise provided by the Lease Schedule relating thereto, (ii) to fund the requirements of such subaccount of the Reserve Account from the sale of the Series of Certificates relating thereto or to use such subaccount of the Reserve Account as set forth in Section 6.07 of the Trust Agreement. In the event of any deficiency in such a sub-account of the Reserve Account, the Board shall pay to the Trustee from moneys budgeted and appropriated during the applicable Fiscal Year as Supplemental Rent an amount equal to such deficiency within thirty (30) days of receipt of notice of the deficiency from the Trustee.

(g) The Board hereby agrees to deposit with the Trustee as required from time to time, any amounts required to be deposited in the Rebate Fund pursuant to Section 6.12 of the Trust Agreement. Such amounts shall be deemed Supplemental Rent hereunder. The obligation of the Board to pay such rebate requirement shall survive a Default or Event of Non-Appropriation, termination of this Lease Agreement and payment of all Outstanding Certificates; provided, however, the Board shall be liable only for such rebate requirement which would be owing to the United States Treasury if the same became due at the time of the termination of the Lease Agreement.

#### **SECTION 4.04. PAYMENT IN LAWFUL MONEY; NO SET-OFF.**

Each Lease Payment shall be paid by the Board in lawful money of the United States of America, which at the time of payment is legal tender for the payment of public and private debts, to or upon the order of the Corporation at the Principal Office of Trustee or at such other place as the Corporation, or its assignee, shall designate. Notwithstanding any dispute between the Board and the Corporation, but in all events subject to Section 4.06 and 7.01 hereof, the Board shall make or cause to be made each and all Lease Payments when due and shall not withhold or permit to be withheld any Lease Payments pending the final resolution of such dispute nor shall the Board assert or permit to be asserted any right of set-off, abatement or counter-claim against the obligation to make Lease Payments as set forth herein.

#### **SECTION 4.05 SOURCE OF LEASE PAYMENTS.**

(a) The Board represents and warrants that for each Initial Lease Term and upon the renewal hereof for any Renewal Lease Term for Projects the obligation of the Board to make Lease Payments hereunder, for such Fiscal Year of the Board, shall constitute a current expense of the Board and shall not in any way be construed to be a debt of the Board in contravention of any applicable constitutional, regulatory or charter limitations or requirements concerning the creation of indebtedness by the Board. The Board hereby agrees that it will include in its budget, as finally adopted for each Fiscal Year, the line item appropriation for the Lease Payments in such year

as described in subsection (b) above unless the Board shall adopt a resolution containing an express finding to terminate this Lease Agreement. The Board hereby further agrees that, to the extent permitted by the laws of the State, applicable constitutional, regulatory or charter limitations or requirements and to the extent permitted under the Code, it shall use its best efforts to apply, on a first priority basis, any funds appropriated by it to the Operation of Plant line item to the Lease Payments due hereunder. THE BASIC RENT PAYMENTS AND, CONSEQUENTLY, THE CERTIFICATE PAYMENTS OF PRINCIPAL AND INTEREST ARE PAYABLE SOLELY FROM THE BOARD'S AVAILABLE REVENUES AND NEITHER THE BOARD, THE STATE OF FLORIDA, NOR ANY POLITICAL SUBDIVISION OR AGENCY THEREOF SHALL BE OBLIGATED TO PAY ANY SUMS DUE UNDER THE LEASE AGREEMENT EXCEPT FROM AVAILABLE REVENUES APPROPRIATED FOR SUCH PURPOSE. THE BASIC RENT PAYMENTS ARE SUBJECT TO ANNUAL APPROPRIATION BY THE BOARD. THE CERTIFICATE PAYMENTS OF PRINCIPAL AND INTEREST AND THE PAYMENTS DUE FROM THE BOARD UNDER THE LEASE AGREEMENT AND THE CONTRACTUAL OBLIGATIONS OF THE BOARD UNDER THE LEASE AGREEMENT DO NOT CONSTITUTE A GENERAL OBLIGATION OR A PLEDGE OF THE FAITH AND CREDIT OR TAXING POWER OF THE BOARD, THE STATE OF FLORIDA, OR ANY POLITICAL SUBDIVISION OR AGENCY THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION OR LIMITATION.

(b) All payments of Basic Rent required to be made by the Board under this Lease Agreement shall be made when due without notice or demand, and, subject to Section 7.01 hereof, shall be absolute and unconditional and without any set-off, counterclaim, abatement, deduction or defense (other than payment) whatsoever, including but not limited to the construction of the Project. The Board shall not make partial payment of the Basic Rent coming due on any Basic Rent Payment Date in respect of a Series of Certificates.

(c) Subject to Section 7.01 hereof, the Board hereby covenants to direct its Superintendent to provide for the Lease Payments in each annual proposed Budget which shall be submitted to the Board. Except as otherwise provided in Section 7.01 hereof, the Board agrees to take such action as may be necessary to include all Lease Payments (other than Lease Payments to the extent paid from Certificate proceeds) due hereunder as a separately stated line item in its Budget and to appropriate in each Fiscal Year from Available Revenues an amount necessary to make the Lease Payments due in such Fiscal Year. During the term of this Lease Agreement, the Board will furnish to the Trustee, as assignee of the Corporation, and each Credit Enhancer a copy of the portion of each official tentative and final Budget of the Board relating to such line item within twenty (20) days after it is printed. Anything in this Lease Agreement or the Trust Agreement notwithstanding, the Board and the Corporation agree that this Lease Agreement, the Trust Agreement and all of the Board's obligations to make the Lease Payments are subject to, and can be terminated by the Board upon the happening of, an Event of Non-Appropriation as described in Section 7.01 hereof.

(d) The Board hereby agrees that within three Business Days after the adoption or approval of either the tentative or the final Budget which does not include the full amount of the Lease Payments, it will give notice of the fact to the Trustee and each Credit Enhancer.

(e) In the event the Interest Component of a Basic Rent Payment for the lease of a Project shall be calculated on a variable rate basis, the Board agrees that, subject to Section 7.01 hereof, it shall budget for the payment of such Interest Component for each Fiscal Year an amount equal to such Interest Component which would be payable if it were calculated at the lesser of (i) the maximum interest rate the Variable Rate Certificates shall have borne during the immediately preceding 12 month period ending with the month prior to adoption of such budget, or (ii) the Maximum Interest Rate relating to such Variable Rate Certificates.

#### **SECTION 4.06. OPTIONAL PREPAYMENT; DEFEASANCE.**

(a) The Board shall have the option, so long as no Event of Default or Event of Non-Appropriation hereunder has occurred and is continuing, from any moneys then available for such purpose, on any Optional Prepayment Date for a Series of Certificates relating to a Project, to prepay all or a portion of the Basic Rent relating to such Project or Group within such Project upon not less than forty-five (45) days written notice given prior to such Optional Prepayment Date to the Trustee and any Credit Enhancer accompanied by the deposit of the amount of such prepaid Basic Rent plus any applicable prepayment premium with the Trustee not less than thirty-five (35) days prior to the applicable Optional Prepayment Date. Optional prepayments made pursuant to this Section 4.06 may be allocated to a particular Project, or any Group of leased property within a Project. Any prepayment notice delivered to this Section 4.06(a) shall state (i) that the Board is exercising its right of prepayment pursuant to Section 4.06(a) of the Lease Agreement, (ii) the amount of such prepayment and the Lease Schedule or Lease Schedules to which it pertains, (iii) the Optional Prepayment Date to which such prepayment applies, (iv) the amount of prepayment applicable to a Project or Group within a Project and, therefore, to the Series of Certificates and maturities of such Series relating thereto, and (v) that the deposit with the Trustee of such prepaid amount constitutes an irrevocable option of the Board to prepay Basic Rent in the amount of such prepayment. Each prepayment shall be in an amount equal to a principal amount of Certificates (in denominations of \$5,000 or any whole multiples thereof in the case of Capital Appreciation Certificates) to be prepaid on such Optional Prepayment Date, plus the Prepayment Premium, if any, applicable to a prepayment of Certificates on the Optional Prepayment Date designated by the Board in such notice of prepayment, all as provided in the Trust Agreement. Interest on Certificates to be prepaid pursuant to an optional prepayment under this Section accrued to the Optional Prepayment Date set forth in the notice of prepayment above shall be paid by the Trustee from moneys on deposit in the account of the Prepayment Fund and the subaccount of the Interest Account which are pledged to the payment of such Certificates.

(b) In the event of a prepayment, in part, of Basic Rent Payment for a Project or Group within a Project, such Basic Rent Payments provided in the Lease Schedule relating thereto shall be adjusted downward by the Trustee to reflect the reduction in the Principal Component and Interest Component of the remaining Basic Rent resulting from such prepayment. Such adjustment shall be done in such manner as to match remaining payments of Basic Rent provided in such Lease Schedule with principal and interest coming due on Certificates which remain Outstanding related thereto.



(c) So long as no Event of Default or Event of Non-Appropriation has occurred and is continuing, the Board may secure the payment of Basic Rent for a Project or Group within a Project by a deposit with the Trustee, as provided in Section 12.01 of the Trust Agreement, of either (i) an amount of cash which is sufficient to pay such Basic Rent, including the Principal Component, Interest Component and Prepayment Premium, if any, on the Basic Rent Payment Dates or Optional Prepayment Dates, if applicable, and the Supplemental Rent, if any, which may then be due or is anticipated to be due subsequent to such deposit, or (ii) Refunding Securities, together with cash, if required, in such amount as will, together with interest to accrue thereon, be fully sufficient to pay such Basic Rent including the Principal Component, Interest Component and Prepayment Premium, if any, on their Basic Rent Payment Dates or Optional Prepayment Dates, if applicable (as verified by a firm of independent certified public accountants), and the Supplemental Rent, if any, which may then be due or which is anticipated to be due subsequent to such deposit. Upon the Board meeting the requirement of this Section 4.06(c) hereof and Section 12.01 of the Trust Agreement, the Corporation shall be entitled to payment of such Basic Rent Payments solely from such cash and/or Refunding Securities.

(d) In the event Refunding Certificates are issued, the schedule of Basic Rent Payments for each Project and Group within a Project affected by such Refunding Certificates shall be adjusted by the Trustee to take into account the change in the Principal Component and Interest Component which would result from said Refunding Certificates.

(e) In the event the Board prepays Basic Rent for a Group within a Project pursuant to Sections 4.06(a) or 4.06(c) hereof, such Prepayment shall be allocated, to the extent practicable, to maturities of Certificates relating to such Group. In the event of a deposit with the Trustee as provided in Section 12.01 of the Trust Agreement which has the effect of defeasing a Series of Certificates and such Series of Certificates are no long Outstanding, all covenants, agreements and other obligations of the Board under this Lease Agreement with respect to such Series of Certificates shall cease, terminate and become void, except the obligation of the Board to make or cause to be made, Basic Rent Payments and Supplemental Rent from the deposit made by the Board pursuant to such Section. The obligations of the Board concerning compliance with the Code and the Board's obligations of indemnity and to pay the costs and expenses of the Corporation and the Trustee shall survive such defeasance.

#### **SECTION 4.07. TITLE.**

(a) Until the date on which payment, or provision for payment as provided in Section 4.06(c) hereof, of the Lease Payments relating to a Project or a Group within a Project, other than Designated Equipment, has been made, title to such Project or Group within a Project (including all substitutions thereto) upon acquisition, construction and installation thereof as to land and equipment, that the Corporation has agreed to accept title to shall remain vested in the Corporation, subject to Permitted Encumbrances and subject to the terms of the Trust Agreement. At such time as payment, or provision for payment as provided in Section 4.06(c) hereof, of all Lease Payments relating to a Project or Group within a Project, other than Designated Equipment, has been made in full, the Board or its designee shall be considered to have exercised an option to purchase the Corporation's interest in such Project or

Group within a Project, as the case may be and fee simple title to such Projector Group within a Project free and clear of all encumbrances, except Permitted Encumbrances (other than the applicable Ground Lease, if any), shall vest automatically in the Board or its designee. Such title to a portion of the Project which has been substituted for pursuant to Section 5.14 hereof and a portion of a Project disposed by the Board pursuant to Section 5.13 hereof shall vest automatically in the Board free and clear of any Leasehold Estate in the Corporation. At such time the Corporation shall deliver any and all documents required to assure vesting of title and the termination of the Corporation's interest in such Project or group hereunder. The Corporation hereby appoints the Board as its agent to prepare and file or record in appropriate offices such documents as may be necessary to cause record title to such Project or Group within a Project to be in the Board or its designee.

(b) Title to all Designated Equipment (and land and equipment that the Corporation has not agreed to accept title to) shall, upon acquisition thereof, vest in the Board. If this Lease Agreement is terminated pursuant to Sections 7.01 or 7.03 hereof prior to the time Basic Rent Payments for Designated Equipment have been made in full by the Board, the Board agrees peaceably and immediately to convey by bill of sale each and every item of Designated Equipment for which Basic Rent Payments have not been made to the Corporation or its assignee and to deliver possession thereof within seven days of such termination in accordance with the terms hereof; provided, however, that the identification of the items of personal property constituting such Designated Equipment shall be in the sole and absolute discretion of the Board. The foregoing provisions of this Section 4.07(b) are hereby specifically made subject to Section 7.03(b) hereof. Section 7.03(b) limits the Corporation's remedies with respect to the enforceability of the agreement to reconvey the Designated Equipment set forth in this Section 4.07(b) and provides that the Board may in no event be subject to involuntary dispossession or other loss of use of or title to the Designated Equipment.

## ARTICLE V

### COVENANTS; REPRESENTATIONS AND WARRANTIES

#### SECTION 5.01. THE BOARD'S GENERAL COVENANTS.

The Board agrees that this Lease Agreement shall continue in full force and effect, subject to the provisions relating to termination hereof, regardless of the inability or unwillingness of the Board to use any Project because of any reason whatsoever, including, but not limited to, wear, act of God, war, strike, loss or damage, condemnation, defect, obsolescence or breach of warranty. The Board covenants and represents that this Lease Agreement and the performance of the Board's obligations hereunder have been duly approved, authorized, executed and delivered with all proper procedures fully complied with, and that this Lease Agreement is valid, legal and binding obligation of the Board enforceable in accordance with its terms, except as limited by bankruptcy, insolvency, reorganization, moratorium or similar laws and equitable principles. The Board further covenants and represents as follows:

(a) The Board is a duly created school board existing under the laws of the State of Florida and is the governing body of the District.

(b) There are no pending or threatened lawsuits or administrative or other proceedings contesting the authority for, authorization or performance of, or expenditure of funds pursuant to, this Lease Agreement.

(c) The Board shall only lease Projects for which it has an immediate need, which serve an essential public purpose and of which it expects to make immediate use, which need shall not be temporary or be expected to diminish during the Maximum Lease Term related thereto.

(d) Prior to leasing any Project hereunder the Board shall certify to the Trustee that there are no circumstances presently known to the Board affecting the Board that could reasonably be expected to alter its foreseeable need for such Project or adversely affect its ability or willingness to budget Available Revenues for the payment of sums due hereunder.

(e) Prior to leasing any Project hereunder the Board shall review its projected revenues, expenses and Available Revenues for the proposed Maximum Lease Term and shall not lease such Project unless it reasonably expects that it shall have on hand Available Revenues sufficient to timely make all payments as they become due under this Lease Agreement during the term this Lease Agreement is anticipated to be outstanding.

(f) Subject to the provisions of Section 7.01 of this Lease Agreement, the Board intends to make appropriations for Lease Payments for each Fiscal Year, only from Available Revenues.

(g) All requirements for approval of the Project or the Certificates by the Department and all procedures required by applicable law regarding the award or

negotiation of contracts relating to the acquisition, construction and installation of a Project will be complied with by the Board.

(h) At the Corporation's or the Trustee's request, the Board shall execute and deliver to the Corporation or the Trustee all instruments and do all other acts reasonably necessary to effectuate the intent of this Lease Agreement.

(i) The Board shall permit the Corporation and the Trustee, and their representatives and agents, at all reasonable times, to inspect the Projects; provided, however, that the Trustee and the Corporation are not obliged to make any inspections of the Projects.

(j) The Board shall promptly correct (or cause the Vendor, Contractor or Developer to correct) any defect in the acquisition, construction and installation of a Project or departure from the Plans and Specifications related thereto, except to the extent said Plans and Specifications are modified pursuant to the provisions hereof.

(k) The Board shall give the Trustee and the applicable Credit Enhancer prompt written notice of any material litigation or proceedings concerning the Board or any Project and of any dispute concerning the Board or any Project if the dispute may substantially interfere with the timely acquisition, construction and installation of such Project or with the Board's ability to meet its obligations under this Lease Agreement.

(l) The Board shall commence (or cause the Contractor or Developer to commence) construction of a Project involving construction of a Building and diligently pursue construction to completion of such Project on or before the Estimated Completion Date without permitting any lien, claim, or assessment (actual or contingent) to be asserted or filed against such Project for any material, labor, or other item furnished in connection with the construction, which claim, lien, or assessment is not satisfied or transferred to bond within twenty (20) days after it is asserted or filed. At all times during the acquisition and construction of such Project, the Board shall, or shall cause the Contractor or Developer to, comply with the Florida Mechanics' Lien Law, Chapter 713, or Section 255.05, Florida Statutes, as applicable, and with all requirements imposed by all governmental authorities having jurisdiction over the acquisition and construction and by all insurance underwriters providing insurance for such Project. Except for Construction Contracts which do not exceed \$100,000, the Board shall cause each Contractor or Developer to obtain and deliver to the Board performance payment bonds covering one hundred percent (100%) of the value or costs under each Construction Contract for the construction of such Project.

(m) In the case of a Project involving construction of a Building, the Board shall provide the Corporation, Credit Enhancer for the Certificates the proceeds for which shall be used to finance the acquisition and construction of such Project and the Trustee the following additional assurances:

(i) If requested and applicable, but only as and when available, all certificates of occupancy, footing or foundation surveys, "as built" surveys, certificates, appraisals, reports, endorsements, and agreements, the names of all Persons with whom the Board has contracted or intends to contract in



connection with the acquisition, construction and installation of such Project, schedules of all statements for labor and materials for the acquisition, construction and installation of such Project together with copies of all statements, copies of all budget revisions concerning the acquisition, construction and installation of such Project indicating the funds required at any given time to complete such acquisition, construction and installation, and any other documents reasonably required to be furnished.

(ii) If requested, during the acquisition, construction and installation of such Project and upon completion of such acquisition, construction and installation, furnish (i) a quarterly status report of the progress of the construction and (ii) an Architect's or Engineer's written opinion to the effect that such Project, as constructed, complies with all restrictions recorded and with all applicable governmental laws, regulations, rules, ordinances, orders and codes relating to the construction thereof.

(iii) Furnish when available, a certificate of occupancy and all other similar certificates required to be issued by any governmental agency in connection with the acquisition, construction, installation or occupancy of such Project.

(n) In the case of a Project involving construction of a Building, the Board shall continuously employ or cause to be employed a licensed Engineer or Architect to supervise the acquisition, construction and installation of such Project.

(o) Simultaneously with the acquisition of any component of a Project constituting Land, the Corporation and the Board shall amend the Lease Schedule relating thereto to include a metes and bounds description of the Land so acquired.

(p) If an Event of Default or an Event of Non-Appropriation hereunder has occurred, at the Trustee's option, with the consent or at the direction of the applicable Credit Enhancer, the Trustee, as assignee of the Corporation, may make, but is not required to make, any or all subsequent disbursements from a subaccount of the Project Account directly to the Vendors, Contractors or Developers of the Project related to such subaccount. The Board's execution of this Lease Agreement and the related Lease Schedule constitutes an irrevocable authorization for the Trustee to make disbursements directly to such Vendors, Contractors or Developers. In the absence of negligence or misconduct on the part of the Trustee, the Board agrees that all disbursements made to the Vendors, Contractors or Developers shall constitute full performance of the Trustee's obligations to the Board under this Lease Agreement and the related Lease Schedule. The Trustee's decision to make a disbursement shall not constitute a waiver of any of the provisions of this Lease Agreement. If the Board is in default under this Lease Agreement and the Board is unable to cure its default, the Trustee's decision to make a disbursement shall not preclude the Trustee, as assignee of the Corporation, from declaring the Board in default under this Lease Agreement.

**SECTION 5.02.      ADDITIONAL      COVENANTS,      REPRESENTATIONS      AND  
WARRANTIES.**

(a) The Board represents and warrants that execution of each Requisition by the Board for the payment of Costs of a Project shall constitute an affirmation of the completeness and accuracy of the following representations and warranties as of the date of such execution.

(i) The Board has delivered to the Trustee a complete, fully executed copy of the Construction Contracts, purchase orders and agreements for the acquisition, construction and installation of the Project described in such Requisition, and such contracts, purchase orders and agreements are presently in full force and effect according to their respective terms; the Board is not in default under such contracts, purchase orders and agreements; and the Board has no knowledge of any violation of such contracts, purchase orders and agreements.

(ii) There are no governmental actions or proceedings (except actions or proceedings that are fully covered by insurance) pending or, to the Board's knowledge, threatened affecting the Board or the Project described in such Requisition, which, if adversely determined, would substantially impair the Board's ability to perform its obligations under this Lease Agreement.

(iii) The Board knows of no violation and has no notice of a violation of any court order or of any law, regulation, ordinance, rule, order, code, or requirement of any governmental authority having jurisdiction over all or any portion of the Project described in such Requisition that may materially detrimentally affect the development and operations of such Project as planned.

(iv) In the case of a Project involving construction of a Building, all governmental permits and approvals required for the construction and installation of such Project have been obtained, except for permits which may be obtained in the normal course without undue delay or unusual expense and which the Board hereby covenants to obtain.

(v) All representations, warranties, covenants and agreements made by the Board in connection with this Lease Agreement may be relied upon by the Corporation and the Trustee notwithstanding any independent investigation made on behalf of the Corporation or the Trustee.

(b) All utility services necessary for the construction of the Project and the operation of the Project have been extended to the Project, including, but not limited to, water, storm and sanitary sewer facilities, electricity and telephone service or sufficient amounts have been deposited in the corresponding account of the Project Fund for such purpose.

(c) Except for drives located on the Project, the rights of way for all roads necessary for the proposed utilization of the Project have either been acquired by the appropriate governmental authority or dedicated to and accepted by the appropriate governmental authority or easements satisfactory to the Corporation and any Credit

Enhancer have been established or sufficient amounts have been deposited in the corresponding account of the Project Fund for such purpose. All such roads are improved or, if not improved, all necessary steps have been taken by the Board and the responsible governmental authority to assure their completion before the date when access to the Project via such roads will be necessary. All curb cuts and traffic signals required in connection with the operation of the Project are complete or are approved for construction by all necessary governmental authorities.

(d) Notice of the inability of the Board to affirm the completeness and accuracy of the representations and warranties in Section 5.02(a) hereof in regard to a Requisition shall be promptly given to the applicable Credit Enhancer, however, such inability shall not cause the Trustee to not honor the request to pay the amounts described in such Requisition unless the Board is in default under this Lease Agreement.

#### **SECTION 5.03. QUIET ENJOYMENT.**

The parties hereto mutually covenant that the Board, by keeping and performing the covenants and agreements herein contained, shall at all times during the term of this Lease Agreement peaceably and quietly have, hold and enjoy each Project without suit, trouble or hindrance from the Corporation.

#### **SECTION 5.04. PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE.**

The Board shall maintain or cause to be maintained, throughout the Lease Term, subject to the requirements of State law a standard comprehensive general accident and public liability insurance policy or policies in protection of the Board, the Corporation and the Trustee, their members, officers, agents, and employees. Said policy or policies shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by the acquisition, installation or operation of the Projects. Said policy or policies shall provide coverage equal to the maximum liability limits set forth in Section 768.28, Florida Statutes, as the same may be amended from time to time, and in a minimum amount of \$1,000,000 for damage to property (subject, in each case, to a deductible clause of not to exceed \$25,000). Such liability insurance may be maintained as part or in conjunction with any other liability insurance coverage carried or required to be carried by the Board, and may be maintained in whole or in part in the form of self-insurance by the Board, provided such self-insurance complies with the provisions of Section 5.07 hereof. The Net Proceeds of such liability insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which the Net Proceeds of such insurance shall have been paid.

#### **SECTION 5.05. FIRE AND EXTENDED COVERAGE INSURANCE AND FLOOD INSURANCE.**

The Board shall procure and maintain, or cause to be procured and maintained, throughout the Lease Term, subject to the requirements of State law, insurance against loss or damage to any part of the Projects by fire or lightning, with extended coverage and vandalism and malicious mischief insurance. Said extended

coverage insurance shall, as nearly as practicable, also cover loss or damage by explosion, windstorm, riot, aircraft, vehicle damage, smoke and such other hazards as are normally covered by such insurance. Such insurance shall be in an amount equal to one hundred percent (100%) of the replacement cost of the Projects, or the aggregate coverage of all such policies on the Projects shall at least equal the Principal Component of the Basic Rent Payments then remaining unpaid, whichever is greater (except that such insurance may be subject to deductible clauses not to exceed \$100,000 in the aggregate for any one loss). Such insurance may be maintained as part of or in conjunction with any other fire and extended coverage insurance carried or required to be carried by the Board, and except as provided in a Supplemental Trust Agreement for a Project, may be maintained in whole or in part in the form of self-insurance by the Board, provided such self-insurance complies with the provisions of Section 5.07 hereof. The Net Proceeds of such insurance shall be applied as provided in Section 5.06 hereof.

Flood insurance shall be separately maintained for any property included in a Project which is located in a federally designated flood plain, in such amounts per occurrence as are available at commercially reasonable costs and in minimum amounts necessary to qualify for Federal disaster relief programs.

#### **SECTION 5.06. NET PROCEEDS OF INSURANCE; FORM OF POLICIES.**

Each policy of insurance obtained pursuant to or required by Section 5.05 hereof which relates to the Projects shall provide that all proceeds thereunder shall be payable to the Trustee for the benefit of the owners of the Certificates. All policies shall name the Lessee, the Corporation and the Trustee as insureds or additional insureds. Proceeds of self-insurance maintained pursuant to Section 5.05 and 5.07 hereof shall be paid by the Board to the Trustee for the benefit of the Owners of the Certificates. Copies of all policies of insurance required by this Lease Agreement shall be delivered to the Trustee. The Board shall pay or cause to be paid when due the premiums for all insurance policies required by this Lease Agreement, and shall promptly furnish or cause to be furnished to the Trustee evidence of such payments. All such policies shall provide that the Trustee shall be given not less than thirty (30) days notice of each expiration, any intended cancellation and any intended reduction of the coverage provided thereby. The Trustee shall not be responsible for the sufficiency of any insurance herein required and shall be fully protected in accepting payment on account of such insurance or with the consent or at the direction of the applicable Credit Enhancer any adjustment, compromise or settlement of any loss agreed to by the Trustee.

#### **SECTION 5.07. SELF-INSURANCE.**

Any self-insurance maintained by the Board pursuant to the foregoing provisions, shall comply with the following terms:

(a) The self-insurance program shall be approved by each applicable Credit Enhancer and the Insurance Consultant;

(b) The self-insurance program shall include an actuarially determined claims reserve fund out of which each self-insured claim shall be paid; the adequacy of



such fund shall be evaluated on an annual basis by the Insurance Consultant; and any deficiencies in the fund shall be remedied in accordance with the recommendations of the Insurance Consultant;

(c) The self-insurance claims reserve fund shall be held in a separate trust fund credited for the purpose of maintaining such self-insurance funds and shall be maintained by an independent trustee;

(d) In the event the self-insurance program shall be discontinued, the actuarial soundness of its claims reserve fund shall be maintained; and

(e) The Board may obtain the required insurance coverages through a self-insured governmental pool which meets the criteria described above.

**SECTION 5.08. RISK OF LOSS; STIPULATED LOSS VALUES; USE OF PROCEEDS.**

(a) Between the Corporation and the Board, the Board hereby assumes the entire risk of loss, from any and every cause whatsoever to the Projects.

(b) Except as provided in Section 5.08(c) hereof, the Board shall cause the Net Proceeds relating to a Project of any insurance or condemnation award or of any appropriation made in connection with a self-insurance election received pursuant to Sections 5.05 and 5.07 hereof and of any title insurance award in excess of the Replacement Amount for such Project to be applied to the prompt repair, restoration or replacement of such destroyed, damaged, lost or condemned Project (which repair, restoration or replacement property shall become part of such Project). The title to all replacement portions to such Project, shall be held in the same manner as the portion replaced. Except as otherwise provided herein, any such Net Proceeds shall be deposited with the Trustee in the subaccount of the Project Account from which the acquisition and construction of such Project was financed and shall be disbursed by the Trustee in accordance with the Trust Agreement; provided, however, that any amounts remaining after completion of such repair, restoration or replacement shall be paid to the Board. If such Net Proceeds are insufficient to pay for such repair, restoration or replacement, the Board shall (from the Board's Available Revenues) simultaneously deposit the amount of such deficiency with the Trustee, which deficiency shall constitute Supplemental Rent. Any Net Proceeds of insurance or condemnation award or of any appropriation made in connection with self-insurance election which is equal to or less than the Replacement Amount for such Project may, at the option of the Board, be deposited to the subaccount of the Interest Account relating to Certificates which financed or refinanced such Project.

(c) The Board may elect not to repair, restore or replace a Project which has been destroyed, damaged, lost or condemned, or any portion thereof, with the Net Proceeds of any insurance or condemnation award or of any appropriation made in connection with a self-insurance election, by filing a certificate with the Trustee and the applicable Credit Enhancer stating that (i) it has made such election, (ii) it is not in the best interests of the Board to repair, restore or replace such Project, or portion thereof, and (iii) the Board intends to abandon and cease to operate such Project, or portion thereof, damaged, destroyed, lost or condemned; provided, further, there shall be a Mandatory Prepayment in the amount of the Stipulated Loss Value (as hereinafter

described) of the Project, or portion thereof, which is not repaired, restored or replaced, and if the Net Proceeds are insufficient therefore, the deficiency shall constitute Supplemental Rent hereunder and shall be immediately due and payable from Board's Available Revenues.

(d) The Stipulated Loss Value attributable to a loss of all of a Project shall be computed as the amount necessary to pay the Principal Component of, prepayment premium, if any, and Interest Component on the Series of Certificates and prepayment premium, if any, the proceeds of which financed or refinanced the acquisition and construction of such Project, on the next succeeding Mandatory Prepayment Date. In the event that less than all of a Project then subject to this Lease Agreement suffers such a loss, damage or destruction, the Stipulated Loss Value shall be the product of (i) the result computed by the foregoing sentence multiplied by (ii) a fraction, the numerator of which is the original Cost of the portion of such Project suffering such loss, damage or destruction and the denominator of which is the aggregate Project Cost for the entire Project then subject to this Lease Agreement, including those items suffering such loss, damage or destruction. In each case, the Stipulated Loss Value shall also include any Supplemental Rent then due hereunder. Upon payment of such Stipulated Loss Value by Board, such Stipulated Loss Value shall be deposited to the credit of the account established in the Prepayment Fund for the sole benefit of the Owners of the Series of Certificates, the proceeds of which were used to finance or refinance the acquisition and construction of such Project. In the event of payment of the Stipulated Loss Value of a portion of the Project, the schedule of Basic Rent Payments in the Lease Schedule for such Project shall be adjusted downward by the Trustee to reflect the reduction in the Principal Component and Interest Component and the remaining Basic Rent resulting from such mandatory prepayment. Such adjustment shall be done in such manner as to match remaining aggregate payments of Basic Rent relating to the destroyed, damaged or condemned Project with principal of and interest coming due on the Series of Certificates which remain Outstanding, the proceeds of which were used to finance or refinance the acquisition and construction of such Project.

#### **SECTION 5.09. PAYMENT OF TAXES.**

The Board will pay or cause to be paid all Real Estate Taxes, taxes, assessments and other governmental charges, if any, that may be levied, assessed or charged upon any Project, or any part thereof, promptly as and when the same shall become due and payable; provided, however, that the Board shall not be required to pay any such tax, assessment or charge, if the validity thereof shall concurrently be contested in good faith by appropriate proceedings and the interest of the Corporation and the Trustee therein shall not be in jeopardy, and if the Board shall set aside, or cause to be set aside, reserves deemed by it to be adequate with respect thereto; and, provided, further, that the Board, upon the commencement of any proceedings to foreclose the lien of any such tax, assessment, or charge, will forthwith pay, or cause to be paid, any such tax, assessment or charge, unless contested in good faith as aforesaid and execution upon the Project is stayed. The Board will not suffer any Project or any part thereof, to be sold for any Real Estate Taxes, taxes, assessments or other charges whatsoever, or to be forfeited therefor. The Board will also pay or cause to be paid all taxes, assessments and other governmental charges which may be imposed on the

Corporation or its operations as a result of the transactions contemplated by this Lease Agreement.

#### **SECTION 5.10. CARE AND USE OF PROJECTS.**

(a) The Board, at its expense, shall maintain each Project in good operating condition, repair and appearance, and protect same from deterioration other than normal wear and tear; shall cause each Project to be used in compliance with the requirements of applicable laws, ordinances and regulations and the requirements of any policy of insurance required under Sections 5.04 and 5.05 hereof and, with respect to Designated Equipment, within the guidelines of the applicable manufacturers specifications; shall cause each Project to be operated by competent persons only and shall obtain, at the Board's expense, all permits and licenses, if any, required by law for the operation of each Project. The Board agrees that neither the Corporation nor the Trustee shall be responsible for latent defects, wear and tear or gradual deterioration or loss of service or use of any Project or any part thereof. The Board shall have the benefit of all warranties, contracts and rights against any Vendor, Contractor, Developer, materialmen or supplier. Neither the Corporation nor the Trustee shall be liable to the Board or anyone else for any liability, injury, claim, loss, damage or expense of any kind or nature caused directly or indirectly by the inadequacy of any Project or any item supplied by any Vendor, Contractor, Developer, materialmen or any item supplier or any other party, any interruption of use or loss of service or use or performance of any Project, any loss of business or other consequence or damage, whether or not resulting directly or indirectly from any of the foregoing.

(b) The Board agrees that at all times during the applicable Lease Term, the Board will, at the Board's own cost and expense, repair and maintain the Projects and Premises, both interior and exterior and both structural and nonstructural, whether foreseeable or not foreseeable. The Board shall keep or cause to be kept the foundations, roof and structural portions of the walls of the Projects in first-class order, repair and condition. The Board shall commence required repairs as soon as practicable. The Board shall at all times keep the Projects (including all entrances and vestibules) and all partitions, window and window frames and moldings, glass, store fronts, doors, door openers, fixtures, equipment and appurtenances thereof (including lighting, heating, electrical, plumbing, ventilating and air conditioning fixtures and systems and other mechanical equipment and appurtenances within the Projects and all parts of the Projects, in good order, condition and repair and clean, orderly, sanitary and safe (including but not limited to doing such things as are necessary to cause the Projects to comply with applicable laws, ordinances, rules, regulations and orders of governmental and public bodies and agencies having jurisdiction over the Projects). If replacement of equipment, fixtures and appurtenances thereto is necessary, the Board shall replace all of same with new or completely reconditioned equipment, fixtures and appurtenances, and repair and all damages done in or by such replacement. Furthermore, with respect to each Project and throughout the applicable Lease Term, the Board:

(1) shall maintain all heating, ventilation and air conditioning equipment in satisfactory operating condition at all times;

(2) agrees to furnish any necessary janitorial services and all necessary janitorial supplies;

(3) shall be responsible for replacement of all bulbs, lamps, tubes and starters used in the light fixtures for the purpose of furnishing light;

(4) agrees to furnish any necessary pest control services including without limitation, those necessary to control or eradicate wood destroying organisms; and

(5) will promptly pay all gas, water, sewage, power and electric rates or charges which may become payable for the gas, water, sewage and electricity used by the Board.

(c) All obligations of the Board under this Section 5.10 shall be at the Board's sole cost and expense and the Board shall take all actions necessary to assure that no liens arise against the Projects as a result of the Board's failure to pay for gas, water, sewer, electricity, telephone or other utility services or charges. In no event shall the Corporation, the Trustee, or the Credit Enhancer be responsible for the quality, quantity, failure or interruption of any such utility services to the Projects. The Board shall be responsible for and required to deliver any and all security deposits that may be required to provide utility services to the Projects.

(d) If the Board fails to perform any of its obligations under this Section 5.10, the Trustee, without notice, may (but shall not be obligated to) perform the Board's obligations or perform work resulting from the Board's acts, actions or omissions and the cost thereof (together with interest at the Overdue Rate from the date of such expense until the date of reimbursement) shall be immediately due and payable hereunder as Supplemental Rent.

(e) All obligations of the Board under this Section shall be at the Board's sole cost and expense. All costs of operation of each Project and all costs or repair and replacement of each Project resulting from ordinary wear and tear or want of care on the part of the Board shall be the sole responsibility of the Board.

#### **SECTION 5.11. INVENTORY.**

The Board shall maintain a detailed inventory of the Equipment and the Designated Equipment, which inventory may describe the Equipment by category or type or other general description.

#### **SECTION 5.12. OTHER LIENS.**

(a) The Board shall keep each Project and all parts thereof free from judgements and, except as to Permitted Encumbrances, free from all liens, claims, demands and encumbrances of whatsoever nature or character, to the end that each Project may at all time be maintained and preserved, and the Board shall keep each Project free from any claims or liability which might impair or impede the operation of such Project; provided, however, that the Board shall not be required to pay any such liens, claims or demands if the validity thereof shall concurrently be contested in good



faith by appropriate proceedings and the interest of the Corporation and the Trustee therein shall not be in jeopardy, and if the Board shall set aside or cause to be set aside reserves deemed by it to be adequate with respect thereto; and, provided, further, that the Board upon the commencement of any proceedings to foreclose the lien of any such charge or claim, will forthwith pay or cause to be paid any such charge or claim unless contested in good faith as aforesaid and execution is stayed. The Board agrees not to lease-purchase any equipment hereunder except to the extent consented to by the Department or otherwise permitted by applicable law.

(b) The Board shall never, under any circumstances, have the power to subject the interest of the Corporation in the Project to any mechanic's or materialman's lien of any kind.

(c) The Board covenants and agrees with the Corporation that the Board will not permit or suffer to be filed or claimed against the interests of the Corporation in the Project during the Lease Term any lien or claim of any kind and, if such lien be claimed or filed, it shall be the duty of the Board, within thirty (30) days after the Board shall have been given written notice of such claim being filed in the Public Records of Walton County, Florida, to cause the Project to be released from such claim, either by payment or by posting of a bond or by the payment into a court of competent jurisdiction the amount necessary to relieve and release the Project from such claim or in any other manner which, as a matter of law, will result within such period of thirty (30) days in releasing the Corporation and the Corporation's interests from such claim.

#### **SECTION 5.13. ENCUMBRANCES OR SALES.**

(a) Except as permitted in this Lease Agreement and except for Permitted Encumbrances, the Board will not create or suffer to be created any mortgage, pledge, lien, charge or encumbrance upon any Project or any portion thereof, or upon any real or personal property (which is not a portion of the Project) essential to the operation of such Project. The Board will not sell or otherwise dispose of any portion of a Project or any such property essential to the proper operation of a Project, except as provided below and in Section 5.14 hereof.

(b) In the manner and subject to the conditions for disposal of property of the Board by law and any applicable rules and regulations of DOE, the Board may sell portions of a Project, for fair market value (as determined by MAI appraisal) upon the following conditions:

(i) The Board shall give notice to the Trustee of each such sale not less than thirty (30) days prior to such sale;

(ii) The Board determines pursuant to a certificate of any Authorized Officer of the Board that such portion of a Project is no longer needed for the purposes of such Project or such portion should be replaced with property having greater usefulness or value;

(iii) Such disposition shall not, in the opinion of Special Counsel, cause the Interest Component of the Basic Rent Payments received by the

Owners of the Certificates (other than Taxable Certificates) to become includible in gross income of such Owners for purposes of federal income taxation;

(iv) The Board shall use the proceeds of such sales to provide property (which shall become a part of the Project) of the same fair market value (as determined by an MAI appraisal), equal usefulness and value to the Board, and free of encumbrances other than Permitted Encumbrances; provided, however, that if the value exceeds the corresponding Prepayment Amount, the Board may elect to apply such proceeds as payment of Stipulated Loss Value pursuant to Section 5.08(d) hereof; and

(v) The Board shall receive the prior written consent of the related Credit Enhancer, provided; however, such consent shall not be required until the aggregate of all dispositions made pursuant to this Section 5.13 exceeds \$300,000.

(c) No sale or disposition of the Project or any portion thereof shall entitle the Board to any reimbursement of any Lease Payments from the Lessor, the Trustee or the Certificate Owners, nor shall the Board be entitled to any abatement or diminution in Lease Payments.

#### **SECTION 5.14. SUBSTITUTION OF EQUIPMENT.**

Subsequent to the Completion Date of a Project, the Board may (but only with the written consent of the applicable Credit Enhancer as to any equipment costing more than 10% of the original amount deposited in the Project Account related to such Project) substitute for an item of Equipment which constitutes a part of such Project other equipment by filing with the Trustee, as assignee of the Corporation, a certificate of an Authorized Officer of the Board stating that such substitute equipment (a) has the same or a greater remaining useful life than the Equipment to be substituted (determined at the time of substitution), (b) has a fair market value equal to or greater than the fair market value of the item of Equipment for which it is substituted (determined at the time of substitution), (c) is free and clear of all liens and encumbrances, except the Permitted Encumbrances, (d) has been titled in the same manner as the Equipment being replaced hereunder, (e) of substantially equal utility as the Equipment replaced and (f) constitutes "Equipment" under this Lease Agreement. The Board may substitute Equipment which does not meet any of the foregoing provisions if it receives the written consent of Credit Enhancer for the Certificates, the proceeds of which were used to finance the acquisition of such Equipment, to do so.

#### **SECTION 5.15. PROSECUTION AND DEFENSE OF SUITS.**

(a) The Board shall promptly, upon request of the Corporation, or its assignee, from time to time take or cause to be taken such action as may be necessary or proper to remedy or cure any defect in or cloud upon the title to any Project, or any portion thereof, and shall prosecute all such suits, actions and other proceedings as may be appropriate for such purpose and shall, to the extent permitted and limited by applicable law and only from Available Revenues, indemnify or cause to be indemnified the Corporation, and its assigns, for all loss, cost, damage and expense, including

reasonable attorneys' fees, which they or any of them may incur by reason of any such defect, cloud, suit, action or proceedings.

(b) The Board shall defend, or cause to be defended against every suit, action or proceeding at any time brought against the Corporation, or its assignee, or its or their directors, officers and employees upon any claim arising out of the receipt, application or disbursement of any moneys held by the Trustee or involving the rights of the Corporation, or its assignee, or its or their directors, officers and employees under this Lease Agreement or any act or omission of the directors, officers and employees done or omitted to be done within the scope of their respective office or employment, other than an act or omission which is the result of misconduct or negligence by such parties; provided, that the Corporation, and its assignee, at their election, may appear in and defend any such suit, action or proceeding. To the extent permitted and limited by applicable law and only from Available Revenues, the Board shall indemnify or cause to be indemnified the Corporation, and its assignee, against any and all claims, demands, costs or liability claimed or asserted by any person, arising out of such receipt, application or disbursement.

#### **SECTION 5.16. FURTHER ASSURANCES.**

Whenever and so often as requested so to do by the Corporation, or its assignee, the Board will promptly execute and deliver or cause to be delivered all such other and further instruments, documents or assurances, and promptly do or cause to be done all such other and further things, as may be necessary or reasonably required in order to further and more fully to vest in the Corporation, or its assignee, all rights, interest, powers, benefits, privilege and advantages conferred or intended to be conferred upon the Corporation by this Lease Agreement.

#### **SECTION 5.17. REPORTING REQUIREMENTS.**

Upon request, the Board will furnish, or cause to be furnished, to the Corporation, or its assignee, and each Credit Enhancer (i) within 180 days after the end of each Fiscal Year, detailed certified reports of audit covering the operations of the Board for said Fiscal Year showing the general funds, revenues and expenses for such period, (ii) a copy of the Board's annual budget within thirty (30) days of its final approval, (iii) the Official Statement or other offering document, if any, prepared in connection with the issuance of additional indebtedness of the Board within 30 days after the incurrence thereof, (iv) notice of any failure of the Board to make any payment required hereunder within two Business Days after knowledge thereof, (v) copies of all reports, certificates and notices required to be delivered by the Board hereunder, and (vi) such additional information as the Credit Enhancer from time to time may reasonably request.

Upon delivery of the annual audited financial statements of the Board, a certificate of the chief financial officer of the Board stating that, to the best of such individual's knowledge following reasonable inquiry, no Event of Default or Event of Non-Appropriation has occurred, specifying the nature thereof and, if the Board has a right to cure pursuant to Section 7.02(d) hereof, stating in reasonable detail the steps, if any, being taken by the Board to cure such Event of Default.

**SECTION 5.18. CORPORATION NOT LIABLE.**

Neither the Corporation nor its members, officers, agents, employees, nor its assignee, shall be liable to the Board or to any other party whomsoever for any death, injury or damage that may result to any Person or property by or from any cause whatsoever in, on or about any Project. To the extent permitted and limited by applicable law and solely from Available Revenues, the Board shall indemnify or cause to be indemnified and hold the Corporation, its members, officers, agents, employees, and its assignees, harmless from, and defend or cause to be defended each of them against, any and all claims, liens and judgments for death of or injury to any Person or damage to property whatsoever occurring in, on or about any Project.

**SECTION 5.19. INDEMNIFICATION DUE TO TRUSTEE AND CORPORATION.**

The Board shall pay, or cause to be paid, to the Corporation and the Trustee, as assignee of the Corporation, reasonable fees, compensation and reasonable expenses, including attorneys fees and expenses, due under the Trust Agreement in the amounts set forth in the Lease Schedules or the Trust Agreement and for substantiated and necessary reasonable fees and expenses upon billing therefor by the Corporation or the Trustee, as assignee of the Corporation. In addition, to the extent permitted and limited by applicable law and solely from Available Revenues, the Board shall and hereby agrees to indemnify, or cause indemnification of, and hold, or cause to be held, the Corporation and the Trustee, as assignee of the Corporation, harmless from and against all claims, losses and damages, including reasonable legal fees and expenses, arising out of (a) the use, maintenance, condition or management of the Projects by the Board, (b) any breach or default on the part of the Board in the performance of any of its obligations under this Lease Agreement, (c) any act of negligence of the Board, or of its agents, contractors, servants, employees or licensees with respect to the Projects, (d) the authorization of payment of Project Costs by the Board, (e) the defense against actions or proceedings in which the validity of this Lease Agreement is or might be questioned and the payment or compromise of claims or demands asserted in any such actions or proceedings, or (f) the issuance of the Certificates. No indemnification will be made under this Section or elsewhere in this Lease Agreement for willful misconduct, gross negligence, negligence or breach of duty by the Corporation or the Trustee, or their officers, agents, employees, successors or assigns.

**SECTION 5.20. NO RECOURSE UNDER AGREEMENT.**

All covenants, stipulations, promises, agreements and obligations of the parties hereto contained in this Lease Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the parties hereto, respectively, and not of any member, officer, employee or agent of the parties hereto in an individual capacity, and no recourse shall be had for the payment of Lease Payments pursuant to Section 4.03 hereof or for any claim based thereon under this Lease Agreement against any member, officer, employee or agent of the parties hereto.



**SECTION 5.21. RESTRICTION AGAINST PLEDGE.**

The Corporation shall not pledge Lease Payments or other amounts derived from the Projects or from rights of the Corporation under this Lease Agreement nor shall the Corporation mortgage, convey, transfer, encumber or suffer or permit any lien to be placed upon its interest in the Projects, except as otherwise provided in this Lease Agreement, the Trust Agreement and the Assignment Agreement.

**SECTION 5.22. ASSIGNMENT BY CORPORATION.**

(a) Unless directed by the Board as provided in paragraph (b) of this section and except pursuant to the Assignment Agreement or as set forth herein, the Corporation shall not assign this Lease Agreement or the Ground Lease, its rights to receive Lease Payments or its duties and obligations hereunder or thereunder. Except pursuant to the Assignment Agreement and except as set forth herein, the Corporation shall not assign this Lease Agreement, its rights to receive Lease Payments or its duties and obligations hereunder.

(b) At the discretion of the Board and upon written approval of the Credit Enhancers, and so long as no Event of Default or Event of Non-Appropriation shall have occurred and be continuing, the Board may direct the Corporation to assign this Lease Agreement, all of its rights hereunder including its rights to receive Lease Payments and its duties and obligations hereunder to a non-profit educational organization or other corporation or association which is permitted by law to act in the same capacity as the Corporation, subject, however, to the Board receiving an opinion of Special Counsel stating that no such assignment shall cause the Interest Component of the Basic Rent Payments received by the Owners of the Certificates (other than Taxable Certificates) to be includible within gross income of the Owners for purposes of federal income taxation.

**SECTION 5.23. NO VIOLATION OF OTHER AGREEMENTS.**

The Board hereby represents that neither the execution and delivery of this Lease Agreement, the Assignment Agreement, the Ground Lease and the Trust Agreement, nor the fulfillment of and compliance with the terms and conditions hereof and thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of terms or violation of any other agreement to which the Board is a party or by which the Board is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Board, or upon the Projects, except Permitted Encumbrances.

**SECTION 5.24. DEBT NOT ASSUMED BY CORPORATION.**

The parties hereto expressly acknowledge and agree that the Corporation, by the entering into of this Lease Agreement and the related documents, does not assume or guarantee, or otherwise obligate itself for, or become liable for, the payment of, or contingently agree to purchase, any debt of any Person, including without limitation, the Board.

**SECTION 5.25. CONSENT TO DISMISS.**

The Board acknowledges that the Corporation is a third party lease purchase financing source for the Projects and the Board hereby agrees to consent to, and to refrain from objection to, a motion made by the Corporation to be dismissed from any lawsuit brought by a third party arising out of or in any way relating to this Lease Agreement with respect to any Project or the ownership, rental, possession, operation, condition, sale or return of any Project. This covenant by the Board to consent to and refrain from objection to such a motion to dismiss shall include the Corporation's assigns and their respective agents, employees, officers and directors. It is understood by and between the Corporation and the Board that this covenant is not intended to be and is not indemnity.

**SECTION 5.26 WAIVER OF LAWS.**

The Board shall not at any time insist upon or plead in any manner whatsoever, or claim or suffer or take the benefit or advantage of any stay or extension law now or at any time hereafter in force which may adversely affect the covenants and agreements contained in this Lease Agreement and the benefit and advantage of any such law or laws is hereby expressly waived by the Board to the extent that the Board may legally make such waiver.

**SECTION 5.27. LIMITATION OR INDEMNIFICATION.**

The amount of indemnification provided by the Board to the Corporation in Sections 5.15, 5.18 and 5.19 shall not exceed the liability limits set forth in Section 768.28, Florida Statutes.

**SECTION 5.28. VEHICLES.**

The Board and the Corporation agree not to lease-purchase any vehicles or rolling stock under the terms of this Lease Agreement.

**SECTION 5.29 WAIVER OF DAMAGES.**

Neither the Corporation, the Trustee nor the Credit Enhancer, nor their respective agents and employees, shall be liable for, and the Board waives, for each of their benefit, all claims for damages, including but not limited to consequential damages, to person, property or otherwise, sustained by the Board or any person claiming through the Board resulting from any accident or occurrence in or upon any part of the Projects or Premises including, but not limited to, claims, for damage resulting from: (a) any equipment or appurtenances becoming out of repair; (b) the Board's failure to keep any part of the Projects or Premises in repair; (c) injury done or caused by wind, water, or other natural element; (d) any defect in or failure of plumbing, heating or air conditioning equipment, electric wiring or installation thereof, gas, water, and steam pipes, stairs, porches, railing or walks; (e) broken glass; (f) the backing up of any sewer pipe or down spout; (g) the bursting, leaking or running of any tank, tub, washstand, water closet, waste pipe, drain or any other pipe or tank upon or about the Projects or Premises; (h) the escape of steam or hot water; (i) water, snow or ice upon the Projects or Premises; (j) the falling of any fixture, plaster or

stucco; (k) damage to or loss by theft or otherwise of property of the Board or others; (l) acts or omissions of person in the Projects or Premises, other tenants in the Projects or Premises, occupants of nearby properties, or any other persons; and (m) any act or omission of owners of adjacent or contiguous property, or of the Corporation, the Trustee and the Credit Enhancers, and their respective agents or employees. All property of the Board kept in the Projects or Premises shall be so kept at the Board's risk only and the Board shall save the Corporation, the Trustee and the Credit Enhancers, and their respective agents and employees harmless from claims arising out of damage to the same, including subrogation claims by the Board's insurance carrier.

#### **SECTION 5.30.      OFFSET STATEMENT.**

Within ten (10) days after written request by either the Corporation or the Board the other party shall deliver, executed in recordable form, a declaration to any Person designated by the requesting party (a) ratifying this Lease Agreement and any Lease Schedule hereunder; (b) stating the commencement and termination dates; and (c) certifying (i) that this Lease Agreement and any Lease Schedule hereunder is in full force and effect and has not been assigned, modified, supplemented or amended (except by such writings as shall be stated); (ii) that all conditions under this Lease Agreement and any Lease Schedule hereunder to be performed by the other parties have been satisfied (stating exceptions, if any), to the extent known; (iii) that no defenses or offsets against the enforcement of this Lease Agreement and any Lease Schedule hereunder by the requesting party exist (or stating those claimed); (iv) as to advance Lease Payments, if any, paid by the Board; and (v) the date to which Lease Payments have been paid, and such other information as the requesting party reasonably requires. Persons receiving such statement shall be entitled to rely upon them.

#### **SECTION 5.31      ADVANCES.**

In the event that Board shall not elect to self-insure any risk that would otherwise require the maintenance of insurance coverage hereunder, and shall fail to maintain the full insurance coverage required hereunder, the Corporation shall, to the extent the costs thereof are advanced to it for such purposes, purchase the required policies of insurance and pay the premiums on the same, or if the Board shall fail to keep the Projects in good repair and operating condition, the Corporation shall, to the extent the costs thereof are advanced to it for such purposes, make such repairs or replacements as are necessary and provide for the payment thereof; and all amounts so advanced therefor by the Corporation shall become immediately due and payable as a Supplemental Rent under this Lease Agreement relating to such Projects which amounts, together with interest thereon (at an annual interest rate equal to the Overdue Rate) until paid, the Board agrees to pay from funds legally available for such purpose.

#### **SECTION 5.32.      ENVIRONMENTAL MATTERS.**

The Board shall comply with the provisions set forth in the Ground Lease in respect of environmental matters.

## **ARTICLE VI**

### **ASSIGNMENT; SUBLEASING; NET LEASE; AMENDMENT**

#### **SECTION 6.01. ASSIGNMENT AND SUBLEASING BY THE BOARD.**

(a) Except as provided herein, this Lease Agreement may not be assigned by the Board without the prior written consent of the Credit Enhancer and the Corporation, or its assignee.

(b) Notwithstanding any other provision of this Lease Agreement any Project, or portion thereof, may be subleased by the Board, subject to Permitted Encumbrances, in whole or in part, without the consent of the Corporation but with the consent of the Credit Enhancer subject, however, to each of the following conditions:

(i) no such sublease shall in any way adversely affect or release the Board from any of its duties, obligations and covenants under this Lease Agreement, including without limitation, the obligation of the Board to make Lease Payments hereunder shall not be adversely affected;

(ii) no such sublease shall, in the opinion of Special Counsel, cause the Interest Component of the Basic Rent Payments received by the Owners of the Certificates (other than Taxable Certificates) to become includible within gross income of the Owners for purposes of federal income taxation; and

(iii) any such Sublease shall (1) not exceed for longer than the Lease Term, (2) be cancellable by the Trustee upon an Event of Default or Non-Appropriation and (3) not allow the assignee or sublessee to in any way encumber or dispose of the Project.

(c) Nothing herein shall prohibit the Board from permitting temporary use of any Project, or portion thereof, by third parties.

(d) If an Event of Default or an Event of Non-Appropriation occurs under this Lease Agreement, all proceeds of any sublease entered into by the Board pursuant to this Section shall be remitted to the Trustee and shall be credited against Basic Rent Payments to be made by the Board. Any sublease agreement must be made terminable by the Trustee in the event this Lease Agreement is terminated for any reason.

#### **SECTION 6.02. TRANSFER OF TAX BENEFITS.**

Nothing herein shall be deemed to prevent the Board from entering into any agreement or making any disposition for the sole purpose of transferring to one or more corporations, partnerships or individuals federal or state income tax benefits which would be available for any Project, or portion thereof, if owned by a private person, subject, however, to each of the following conditions:



(a) this Lease Agreement and the obligation of the Board to make Lease Payments hereunder shall not be adversely affected;

(b) no such agreement or disposition shall, in the opinion of the related Credit Enhancer, have a material adverse effect on the rights and interests of the Certificate Owners; and

(c) no such agreement or disposition shall, in the opinion of Special Counsel, cause the Interest Component of the Basic Rent Payments received by the Owners of the Certificates to become includible in gross income of such Owners for purposes of federal income taxation.

#### **SECTION 6.03. TAX COVENANTS.**

(a) The Board and the Corporation hereby covenant that, notwithstanding any other provision of this Lease Agreement, neither of them will make any use nor permit or direct the Trustee to make any use of the proceeds of the Certificates which will cause any of the Certificates or the Lease Agreement to be "arbitrage bonds" within the meaning of Section 148 of the Code.

(b) The Board and the Corporation hereby agree that they will make no use nor permit any use to be made of the proceeds of the Certificates, Lease Payments or any Project, or portion thereof, which would cause any of the Certificates or the Lease Agreement to be "private activity bonds" within the meaning of Section 141 (a) of the Code.

(c) Except for the exercise by the Board of its right to non-appropriate as set forth in Section 7.01 hereof, the Board hereby covenants that it will comply with all provisions of the Code necessary to maintain the exclusion of the Interest Component of the Basic Rent Payments from gross income for purposes of federal income taxation, including in particular, the payment of any amount required to be rebated to the U.S. Treasury pursuant to the Code.

(d) The Corporation hereby covenants that it will not knowingly take any action which would adversely affect the exclusion of the Interest Component of the Basic Rent Payments from gross income for purposes of federal income taxation.

(e) Notwithstanding the foregoing provisions contained in this Section, the Board and the Corporation may agree to enter into a Lease Schedule pursuant to which the Interest Component on the Basic Rent Payments shall not be excluded from gross income for purposes of federal income taxation; provided, however, that fact must be clearly stated on the Certificates. Provisions herein relating to the requirement to maintaining the exclusion of such Interest Component from gross income for federal income taxation purposes shall not apply to such Basic Rent Payments.

#### **SECTION 6.04. NET LEASE.**

The Board intends the Lease Payments hereunder to be net to the Corporation. The Board shall comply with all liabilities and pay from Available Revenues all required local, state and federal taxes, including without limitation, Real Estate Taxes, income, franchise, gross receipts, sales, use, documentary stamp, excise, and personal property taxes, assessments, licenses, registration fees, freight and transportation charges and any other charges imposed or liabilities incurred with respect to the ownership, possession or use of the Projects, payment of Lease Payments or any other payments by the Board hereunder, and any penalties, fines or interest imposed on the Board hereunder, and any penalties, fines or interest imposed on any of the foregoing, during the term of this Lease Agreement; and the Board will pay all reasonable expenses incurred by the Corporation or the Trustee in connection with all filings or recordings of any documents relating to this Lease Agreement or the Corporation's or the Trustee's rights hereunder. The Corporation and the Trustee shall have the right, after reasonable written notice to the Board, to make any of the payments required of the Board under this Section with respect to the Projects, but shall not be obligated to pay the same, and may charge such payment with interest at the Overdue Rate from the date of payment, as Supplemental Rent to be paid by the Board within thirty (30) days thereafter.

#### **SECTION 6.05. AMENDMENT.**

(a) This Lease Agreement may be amended in writing by the parties hereto or by their assignees on their behalf or in their name, without the consent of the Owners of the Certificates but with the prior written consent of the applicable Credit Enhancers, for the purpose of (i) curing any ambiguity or of curing, correcting or supplementing any defective provision contained herein, or (ii) resolving any questions arising under this Lease Agreement, (iii) providing for additional security, (iv) providing for Lease Schedules, including adding to or deleting the covenants, representations and agreements contained herein as the same shall effect a particular Project, and (v) any other amendment, which in the judgement of Special Counsel does not materially, adversely affect the interests of the Owners of the Certificates; provided, however, that no such amendment shall, in the opinion of Special Counsel, cause the Interest Component of Basic Rent Payments to become includible in gross income of the recipients thereof for purposes of federal income taxation; and provided, further, that the parties hereto or their assignees may rely in entering into any such amendment pursuant to this Section upon the opinion of Special Counsel stating that the requirements of this sentence have been met with respect to such amendment.

(b) In addition to the amendments authorized to be made pursuant to Section 6.05 (a) hereof, this Lease Agreement may also be amended with the consent of the applicable Credit Enhancer, upon approval of a majority of aggregate principal amount of the Owners of Certificates of a Series then Outstanding affected by such amendment or, if all Outstanding Certificates affected by such amendment are secured by Credit Enhancers and/or municipal bond insurance policies, upon the approval of the Credit Enhancers of all Certificates of a Series then Outstanding; provided that no such amendment shall impair the right of any Owners to receive his proportionate share of any Basic Rent Payment in accordance with his Certificate unless approved by the Owners of all Certificates then Outstanding.

## ARTICLE VII

### EVENT OF NON-APPROPRIATION; EVENTS OF DEFAULT AND REMEDIES

#### SECTION 7.01. EVENT OF NON-APPROPRIATION.

(a) As provided herein, this Lease Agreement shall initially terminate at the end of the Initial Lease Term relating to a Project, but shall automatically be renewed for all Renewal Lease Terms relating thereto; provided, that such automatic renewal shall not occur with respect to the Projects financed from the proceeds of Certificates if the Board does not approve a tentative Budget and a final Budget in accordance with State law which appropriates sufficient funds from Available Revenues for such purposes to continue making Lease Payments in full for the next succeeding Renewal Lease Term for all such Projects contained in the Lease Schedules and leased hereunder beyond the end of the Initial Lease Term or the last Renewal Lease Term for which Lease Payments had been budgeted and appropriated (an "Event of Non-Appropriation"). This Lease Agreement shall terminate at the end of the Initial Lease Term or the last Renewal Lease Term for which Lease Payments had been budgeted and appropriated upon an Event of Non-Appropriation; provided, that in the event the Board's tentative or final Budget for such ensuing Renewal Lease Term is not enacted prior to the expiration of the then current Initial Lease Term or Renewal Lease Term relating to a Project, the Lease Term relating thereto shall be deemed renewed pending the enactment of such tentative Budget and final Budget and the Board shall be liable for any Lease Payments coming due during such period but only if the tentative Budget and final Budget makes available to the Board moneys which may legally be used to make the Lease Payments coming due during such period. Notwithstanding the proviso of the immediately proceeding sentence, failure of the Board to adopt a final Budget prior to November 15 of any Fiscal Year shall be deemed an Event of Non-Appropriation. Upon the occurrence of an Event of Non-Appropriation, the Board will not be obligated to pay Lease Payments beyond the then current Fiscal Year. The Board shall deliver notice of the Event of Non-Appropriation to the Corporation, each Credit Enhancer and the Trustee within at least three Business Days thereof, provided, however, that (i) failure to give such notice shall not affect the validity of such non-appropriation and (ii) obligations arising hereunder prior to such non-appropriation shall survive such termination.

(b) If an Event of Non-Appropriation shall occur, the Board shall peaceably return to the Corporation, or its assignee or designee, the use, control and possession of each and every Project then under Lease, upon the later of seven Business Days after the date on which such Event of Non-Appropriation occurs or the end of the last Lease Term for which Lease Payments have been budgeted and appropriated. The obligation to return the Projects shall survive the termination of this Lease Agreement. Under no circumstances shall the failure of the Board to appropriate sufficient moneys to pay Lease Payments constitute a Default or Event of Default hereunder or require payment of a penalty, or in any way limit the right of the Board to purchase or utilize property similar in function to the property leased hereunder.

(c) To the extent permitted by law, in the event the Board occupies the Projects during any fiscal year in which an Event of Non-Appropriation occurs, the

Board shall pay to the Corporation the pro-rata share of Lease Payments which would have been due during such Fiscal Year, computed on a daily basis for the actual number of days in which the Board so occupied such Projects.

(d) The Board hereby provides that to the extent permitted by law, it will not exercise its power of eminent domain to acquire the Project or the Leased Premises, or any interest of the Trustee or the Corporation therein.

#### **SECTION 7.02. EVENTS OF DEFAULT.**

The following shall be "Events of Default" under this Lease Agreement and the terms "Events of Default" and "Default" shall mean, whenever they are used in this Lease Agreement any one or more of the following events:

(a) Failure by the Board to pay any Basic Rent Payment required to be paid hereunder on the Basic Rent Payment Date to which such Basic Rent Payment pertains, other than as a result of an Event of Non-Appropriation; or

(b) Failure by the Board to pay any Supplemental Rent required to be paid hereunder at the time specified herein and the continuation of said failure for 30 days, other than as a result of an Event of Non-Appropriation; or

(c) The Board fails to (i) return possession of all the applicable Projects, other than Designated Equipment, to the Corporation, or its designee or assignee, subsequent to an Event of Non-Appropriation as required by Section 7.01 hereof, or (ii) transfer title to and possession of the Designated Equipment for which Basic Rent Payments have not been paid in full to the Corporation, or its designee or assignee, subsequent to termination of the Lease Agreement as required by Section 4.07(b) hereof; or

(d) Failure by the Board to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in Section 7.02(a) hereof, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to the Board by the Corporation, or its assignee, or the applicable Credit Enhancer, unless the Corporation, or its assignee, and the applicable Credit Enhancer shall agree in writing to extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the Corporation, or its assignee, and the applicable Credit Enhancer will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the Board within the applicable period and diligently pursued until the default is corrected; or

(e) Any representation of the Board hereunder or in a Lease Schedule shall prove to have been false in any materially adverse respect at the time same was made, subject to the right of the Board to cure such misrepresentation in the manner set forth in Section 7.02(d) hereof; or

(f) A court having jurisdiction in the premises shall enter a decree or order for relief in respect of the Board in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or appointing a



receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of the Board or for any substantial part of its property, or ordering the winding up or liquidation of its affairs, and such decree or order shall remain unstayed and in effect for a period of sixty (60) days; or

(g) The Board shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or shall consent to the entry of an order for relief in an involuntary case under any such law, or shall consent to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or similar official) of the Board or for any substantial part of its property, or shall make any general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due or shall take any corporate action in furtherance of any of the foregoing.

### **SECTION 7.03. REMEDIES ON DEFAULT.**

(a) Upon the occurrence of an Event of Default as described in Section 7.02 hereof, the Corporation, or its assignee, may, subject to the provisions of Section 7.11 hereof, exercise any and all remedies available pursuant to law or granted pursuant to this Lease Agreement, including, without limitation:

(i) Except in the case of an Event of Default under Section 7.02(c)(ii) hereof, without terminating this Lease Agreement, to re-enter and take possession of the Projects, or any portion thereof, other than Designated Equipment, and exclude the Board from using the same until the Default is cured; or

(ii) Except in the case of an Event of Default under Section 7.02(c)(ii) hereof, without terminating this Lease Agreement, to re-enter and take possession of the Projects, or any portion thereof, other than Designated Equipment, and sell, lease or sublease such Projects, or any portion thereof, in accordance with applicable law, for the account of the Board, holding the Board liable for the difference between (i) the purchase price, rent and other amounts paid by the purchaser, lessee or sublessee pursuant to such sale, lease or sublease, and (ii) the Lease Payments and other amounts currently payable by the Board under and pursuant to this Lease Agreement; provided, however, that prior to termination of this Lease Agreement, the Projects, or any portion thereof, may be sold, re-let or otherwise disposed of only to such Person or Persons as shall not adversely affect the exclusion of the Interest Component of the Basic Rent Payments from gross income for purposes of federal income taxation; or

(iii) Except in the case of an Event of Default under Section 7.02(c)(ii) hereof, to take whatever action at law or in equity that may appear necessary or desirable to collect the Lease Payments then due and thereafter to become due during the current Lease Term of this Lease Agreement, or enforce performance and observance of any obligation, agreement or covenant of the Board under this Lease Agreement; or

(iv) Subject to the provisions of Section 7.03(b) hereof, to terminate this Lease Agreement, if it has not been previously terminated pursuant to Section 7.01 hereof, and require the Board to surrender and transfer possession of all the Projects to the Corporation, in which event the Board shall take all actions necessary to authorize, execute and deliver to the Corporation all documents necessary to vest in the Corporation all of the Board's interest in and to the Projects hereunder, and to discharge any lien created by or pursuant to this Lease Agreement in order that the Corporation may sell or re-let its interest in the Projects in accordance with applicable law; and shall upon request by the Corporation, remove any Equipment from the Board's property to such location within the State of Florida as is specified by the Corporation; or

(v) Subject to the provisions of Section 7.03(b) hereof, to terminate this Lease Agreement, if it has not been previously terminated pursuant to Section 7.01 hereof, and, upon notice to the Board, enter into and upon the property of the Board, or any part thereof, and repossess and retake the Projects and thereby restore the Corporation, or its assignee, to its former possessory estate as tenant or as owner, as the case may be, and expel the Board and remove its effects forcibly, if necessary, without being taken or deemed to be guilty of any manner of trespass in order that the Corporation may sell or re-lease the Projects in accordance with applicable law, and thereupon this Lease Agreement shall terminate and upon such termination the Board shall have no further possessory right whatsoever in the Projects; and the Board shall be responsible for the payment of damages in an amount equal to the Lease Payments which would have accrued hereunder, calculated on a daily basis, for any period during which the Board fails to surrender the Projects or for any other loss suffered by the Corporation as a result of the Board's failure to surrender the Projects, all without prejudice to any remedy which might otherwise be available to the Corporation for arrears of Lease Payments or for any breach of the Board's covenants herein contained.

(b) If the Board refuses or fails to voluntarily transfer all of the Designated Equipment for which Basic Rent Payments have not been paid in full as provided in Section 4.07(b) hereof, then the Stipulated Loss Value of such Designated Equipment shall become immediately due and payable but only from the Board's Available Revenues and the Corporation's sole remedy shall be to seek a judgment against the Board for the Stipulated Loss Value of such Designated Equipment, which judgment shall be enforceable solely against the Board's Available Revenues. The Corporations' damages hereunder shall include the cost of enforcement hereof and of collection of any judgment, including reasonable Attorneys' fees and court costs as delineated in Section 7.09(b). The Corporation's and the Board each understand and agree that notwithstanding the Board's agreement to transfer title to and possession of such Designated Equipment pursuant to Section 4.07(b) hereof (i) there is no intention to create a right in the Corporation under this Lease Agreement to involuntarily dispossess the Board of title to or use of any item of Designated Equipment, (ii) the sole remedy of the Corporation for an Event of Default by the Board under Section 7.01(c)(ii) hereof is to sue for compensatory damages calculated in accordance with and proceed under this Section 7.03(b), and (iii) in consideration of such remedy set forth in this Section 7.03(b), the Corporation irrevocably waives any right to specific

performance of the Board's covenant to return title to and possession thereof to the Corporation upon an Event of Non-Appropriation.

**SECTION 7.04. PROCEEDS OF SALE OR RE-LETTING.**

Moneys received by the Corporation, or its assignee, from the sale or re-letting of its interest in the Projects, or any portion thereof, as a result of an Event of Non-Appropriation or an Event of Default shall be the absolute property of the Corporation, or its assignee, and the Board shall have no right thereto. In the event that moneys received by the Corporation, or its assignee, from the sale or other disposition of a Project, including moneys or damages received pursuant to Section 7.03(b) hereof, exceed the amount necessary to pay the principal of and interest due on the Certificates which financed the acquisition and construction thereof to the date of payment thereof, together with all other amounts owing in regard to such Project, including Trustee fees and expenses and the fees and expenses of the applicable Credit Enhancer and amount owing in regard to any Ground Lease relating to such Project, the Corporation, or its assignee, shall pay such surplus to the Board. Neither notice of sale or notice to pay rent or to deliver up possession of the Projects given pursuant to law nor any proceeding in unlawful detainer taken by the Corporation, or its assignee and the applicable Credit Enhancer, shall of itself operate to terminate this Lease Agreement, and no termination of this Lease Agreement on account of an Event of Default by the Board shall be or become effective by operation of law, or otherwise, unless and until the Corporation, or its assignee, shall have given written notice to the Board of the election on the part of the Corporation, or its assignee, to terminate this Lease Agreement as a result of such Event of Default.

**SECTION 7.05. APPOINTMENT OF CORPORATION AS AGENT.**

The Board hereby irrevocably appoints the Corporation, and its assignee, as the agent and attorney-in-fact of the Board to enter upon and sell or re-let the Projects in accordance with the terms hereof upon the happening of an Event of Default or an Event of Non-Appropriation. To the greatest extent permitted by applicable law and only from Available Revenues, the Board hereby exempts and agrees to save harmless, the Corporation, and its assignee, from any costs, loss or damage whatsoever arising or occasioned by any such entry upon and the sale or letting of the Projects. The Board hereby waives any and all claims for damages caused, or which may be caused, by the Corporation, or its assignee, in taking possession of the Projects, for all claims for damages that may result from the destruction of or injury to the Projects, and all claims for damages to or loss of any property belonging to the Board that may be in or upon the Projects. The Board agrees that the terms of this Lease Agreement constitute full and sufficient notice of the right of the Corporation, or its assignee, to enter and sell or re-let its interest in the Projects in accordance with the terms hereof. Notwithstanding the foregoing, the Board shall not be responsible for any costs incurred by the Corporation, or its assignee, to make the Projects suitable for reletting.

Nothing herein shall be deemed to delegate to any person any non-delegable governmental powers of the Board; and all power delegated to the Corporation by the Board hereunder shall be ministerial in nature.

**SECTION 7.06            NON-WAIVER.**

Nothing in this Article VII or in any other provision of this Lease Agreement shall affect or impair the obligation of the Board to pay the Lease Payments, to the extent herein provided. No delay or omission of the Corporation, or its assignee, to exercise any right or power arising upon the happening of any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or any acquiescence therein, and every power and remedy given by this Article VII to the Corporation, and its assignee, may be exercised from time to time and as often as shall be deemed expedient by the Corporation, or its assignee.

**SECTION 7.07.            REMEDIES NOT EXCLUSIVE.**

No remedy herein or by law conferred upon or reserved to the Corporation, and its assignee, is intended to be exclusive of any other remedy, but each such remedy is cumulative and in addition to every other remedy, and every remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise may be exercise without exhausting and without regard to any other remedy conferred or by any law.

**SECTION 7.08.            STATUS QUO ANTE.**

In case any suit, action or proceeding to enforce any right or exercise any remedy shall be brought or taken and then discontinued or abandoned, then, and in every such case, the Corporation, and its assignee, and the Board shall be restored to its and their former position and rights and remedies as if no such suit, action or proceedings had been brought or taken.

**SECTION 7.09.            NO MORTGAGE; ATTORNEY FEES.**

(a) The parties hereto explicitly intend to create a relationship of landlord and tenant and not a mortgage.

(b) The Corporation's damages hereunder shall include the cost of enforcement hereof and the collection of any judgment, including reasonable Attorneys' and Paralegals' fees and court costs of all trial and appellate levels and post judgment proceedings. All payments by the Board under this Article VII shall be made solely from funds legally available for such purpose.

**SECTION 7.10.            NO WAIVER OF REMEDIES; LATE PAYMENTS; ACCORD AND SATISFACTION.**

(a) No failure on the part of either party to exercise, and no delay in exercising, any right or remedy provided for herein shall operate as a waiver thereof, nor shall any single or partial exercise by either party of any right or remedy provided hereunder, preclude any other or further exercise of any other right or remedy provided hereunder. Any provision of this Lease Agreement may be waived by an instrument in writing executed by the Board, the Corporation and the Trustee and the related Credit Enhancer, if any, and only in that manner.



(b) Whenever any payment is not made when due hereunder, the Board promises to pay to the Corporation and its assignee, in addition to the amount due, interest thereon at the Overdue Rate, for the period of delay.

(c) The Corporation is entitled to accept, receive and cash or deposit any payment made by the Board for any reason or purpose in any amount whatsoever. No endorsement or statement on any check, letter or other communication of the Board shall be deemed as accord and satisfaction or otherwise recognized for any purpose whatsoever. The acceptance of any such payment shall be without prejudice to the Corporation's right to recover any and all amounts owed by the Board hereunder and the Corporation's right to pursue any other available remedy but in all events payable only from funds legally available for such purpose.

**SECTION 7.11. CONTROL BY CREDIT ENHANCER.**

Anything in this Lease Agreement to the contrary notwithstanding, upon the occurrence and continuance of an Event of Default or Event of Non-Appropriation hereunder, the applicable Credit Enhancer, if any, shall be entitled to control and direct the enforcement of all rights and remedies granted to the Corporation and/or its assigns under this Lease Agreement.

**ARTICLE VIII**  
**ADMINISTRATIVE PROVISIONS**

**SECTION 8.01.        PRESERVATION AND INSPECTION OF DOCUMENTS.**

All documents received by the Corporation, or its assignee, or the Board under the provisions of this Lease Agreement shall be retained in their respective possessions and shall be subject at all reasonable times to the inspection of the other party hereto and its assigns, agents and representatives, any of whom may make copies thereof.

**SECTION 8.02.        PARTIES OF INTEREST.**

Nothing in this Lease Agreement, expressed or implied, is to or shall be construed to confer upon or to give any person or party other than the Corporation, and its assignee, the applicable Credit Enhancer, if any, and the Board any rights, remedies or claims under or by reason of this Lease Agreement or any covenants, condition or stipulations hereof; and all covenants, stipulations, promises and agreements in this Lease Agreement contained by or on behalf of the Corporation or the Board shall be for the sole and exclusive benefit of the Corporation, and its assignee, the applicable Credit Enhancer, if any, and the Board. Each Credit Enhancer in respect of a Series of Certificates shall be deemed to be a third party beneficiary of this Lease Agreement as the same relates to such Series of Certificates.

**SECTION 8.03.        NO RECOURSE UNDER AGREEMENT.**

All covenants, stipulations, promises, agreements and obligations of the parties hereto contained in this Lease Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the parties hereto, respectively, and not of any member, officer, employee or agent of the parties hereto in an individual capacity, and no recourse shall be had for the payment of the Lease Payments or for any claim based thereon under this Lease Agreement against any member, officer, employee or agent of the parties hereto.

**SECTION 8.04.        NOTICES.**

All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or deposited in the United States mail with postage fully prepaid

If to the Board:	School Board of Walton County, Florida Tivoli Administrative Center 145 Part Street, Suite 3 DeFuniak Springs, Florida 32433 Attention: Superintendent
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