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AFTER RECORDING PLEASE RETURN TO:

Kutak Rock LLP

1801 California Street, Suite 3000

Denver, CO 80202

Attention: Micah Halverson, Esq.

**LEASE PURCHASE AGREEMENT**

by and between

**UMB BANK, N.A.,**

solely in its capacity as Trustee under an Indenture of Trust dated as of the date hereof,  
as Lessor

and

**BOARD OF DIRECTORS OF THE  
AURARIA HIGHER EDUCATION CENTER,  
in Denver County, Colorado,  
as Lessee**

Dated as of March 1, 2015

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## LEASE PURCHASE AGREEMENT

**THIS LEASE PURCHASE AGREEMENT** (this "Lease") is dated as of March 1, 2015 and is entered into by and between **UMB BANK, N.A.**, a national banking association duly organized and validly existing under the laws of the United States, solely in its capacity as trustee under the Indenture (defined herein) (in such capacity, the "Trustee"), and the **BOARD OF DIRECTORS OF THE AURARIA HIGHER EDUCATION CENTER**, a body corporate and agency of the state of Colorado (the "Board").

Capitalized terms not otherwise defined herein shall have the same meanings as set forth in Article I hereof.

### WITNESSETH:

WHEREAS, the Board is duly organized and validly existing as a body corporate and State agency under the laws of the State; and

WHEREAS, the Trustee (a) is a national banking association that is duly organized, validly existing and in good standing under the laws of the United States; (b) is duly qualified to do business in the State; (c) is the lessee of the Facilities Leased Property pursuant to the Facilities Lease, dated as of the date hereof (the "Facilities Lease"), by and between the Board as facilities lessor, and the Trustee, solely in its capacity as trustee under the Indenture, as facilities lessee; and (d) is authorized, under its articles of association and bylaws and applicable law, to act as trustee under the Indenture, to lease the Facilities Leased Property from the Board, to lease the Leased Property to the Board and to execute, deliver and perform its obligations under this Lease; and

WHEREAS, pursuant to the Facilities Lease, the Board has leased the Facilities Leased Property to the Trustee, as authorized by Article 70 of Title 23, Colorado Revised Statutes, as amended (the "Act"); and

WHEREAS, the Board is authorized, under the Act, to lease the Leased Property from the Trustee and to execute, deliver and perform its obligations under this Lease; and

WHEREAS, the Board has determined that the lease of the Leased Property from the Trustee pursuant to this Lease serves a public purpose and is in the best interests of the Board and the residents of the State; and

WHEREAS, the Trustee desires to lease the Leased Property to the Board and the Board desires to lease the Leased Property from the Trustee pursuant to this Lease; and

WHEREAS, in order to refund all of its outstanding Refunded Certificates, which series of certificates evidence the assignments of the right to receive revenues payable by the Board under a Master Lease Purchase Agreement dated as of September 1, 2005, as amended, the Certificates shall be executed and delivered to the Owners thereof pursuant to the Indenture; and

WHEREAS, the Base Rentals and Additional Rentals payable by the Board hereunder shall constitute currently appropriated expenditures of the Board and shall not constitute a debt or multiple Fiscal Year direct or indirect obligation whatsoever of the Board or a mandatory charge or requirement against the Board in any Fiscal Year beyond the Fiscal Year for which such payments have been appropriated; and

WHEREAS, the Certificates shall evidence undivided interests in the right to receive Lease Revenues (defined in the Indenture), shall be payable solely from the Trust Estate (defined in the Indenture) and no provision of the Certificates, the Indenture, the Facilities Lease or this Lease shall be construed or interpreted (a) to directly or indirectly obligate the Board to make any payment in any Fiscal Year in excess of amounts appropriated for such Fiscal Year; (b) as creating a debt or multiple Fiscal Year direct or indirect debt or other financial obligation whatsoever of the Board within the meaning of Article XI, Section 6 or Article X, Section 20 of the Colorado Constitution or any other constitutional or statutory limitation or provision; (c) as a delegation of governmental powers by the Board; (d) as a loan or pledge of the credit or faith of the Board or as creating any responsibility by the Board for any debt or liability of any person, company or corporation within the meaning of Article XI, Section 1 of the Colorado Constitution; or (e) as a donation or grant by the Board to, or in aid of, any person, company or corporation within the meaning of Article XI, Section 2 of the Colorado Constitution; and

WHEREAS, the execution, delivery and performance of this Lease by the Trustee has been duly authorized by the Trustee and, upon the execution and delivery of this Lease by the Trustee and the Board, this Lease will be enforceable against the Trustee in accordance with its terms, limited only by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally, by equitable principles, whether considered at law or in equity, by the exercise by the State and its governmental bodies of the police power inherent in the sovereignty of the State and by the exercise by the United States of America of the powers delegated to it by the Constitution of the United States of America; and

WHEREAS, the execution, delivery and performance of this Lease by the Board has been duly authorized by the Board and, upon the execution and delivery of this Lease by the Board and the Trustee, this Lease will be enforceable against the Board in accordance with its terms, limited only by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally, by equitable principles, whether considered at law or in equity, by the exercise by the State and its governmental bodies of the police power inherent in the sovereignty of the State and by the exercise by the United States of America of the powers delegated to it by the Constitution of the United States of America;

NOW, THEREFORE, for and in consideration of the mutual covenants and the representations, covenants and warranties herein contained, the parties hereto agree as follows:

## **ARTICLE I**

### **DEFINITIONS**

The following capitalized terms shall have the following meanings in this Lease:

“*Act*” means Article 70 of Title 23, Colorado Revised Statutes, as amended.

“*Additional Rentals*” means the costs and expenses incurred by the Board in performing its obligations under this Lease with respect to the Leased Property, this Lease, the Facilities Lease, the Indenture, the Certificates and any matter related thereto; the costs and expenses incurred by the Board in paying the reasonable fees and expenses of the Trustee pursuant to Sections 10.03 and 10.06 hereof; all amounts paid by the Board to the Trustee to fund the Rebate Fund pursuant to Section 10.07 hereof; and all other costs and expenses incurred by the Board in connection with the foregoing; provided, however, that Additional Rentals do not include the Base Rentals or the Purchase Option Price.

“*Base Rental Payment Date*” means one of the dates in the “Base Rental Payment Date” column in Exhibit B hereto, as from time to time amended or supplemented.

“*Base Rentals*” means the payments by the Board pursuant to Section 6.01 hereof for and in consideration of the right to use the Leased Property during the Lease Term.

“*Board*” means the Board of Directors of the Auraria Higher Education Center, in Denver County, Colorado.

“*Board Representative*” means any officer of the Board; and any other Person or Persons designated to act on behalf of the Board for the purposes of performing any act under this Lease, the Facilities Lease, and the Indenture by a written certificate furnished to the Trustee containing the specimen signature of such Person and signed on behalf of the Board by any officer of the Board. The identity of the Board Representative may be changed by the Board from time to time by furnishing a new certificate to the Trustee.

“*Business Day*” means any day other than a Saturday, a Sunday or a day on which banks in New York, New York or Denver, Colorado are authorized by law to remain closed.

“*Certificate Fund*” is defined in the Indenture.

“*Certificates*” is defined in the Indenture.

“*Equipment*” means the equipment and other personal property, if any, described in Exhibit A hereto, as such equipment and other personal property is modified pursuant to Sections 8.06, 8.07 or 8.08, and less any equipment or other personal property released from this Lease.

“*Event of Default*” means an event described in Section 12.01 hereof.

“*Event of Nonappropriation*” means an event described in Section 6.04(b) hereof.

“*Facilities Lease*” means the Facilities Lease dated as of the date hereof, by and between the Board, as facilities lessor, and the Trustee, solely in its capacity as trustee under the Indenture, as facilities lessee, pursuant to which the Facilities Leased Property is being leased by the Board to the Trustee, and any amendment or supplement thereto.

*“Facilities Leased Property”* means the property leased by the Board to the Trustee pursuant to the Facilities Lease, which is the property described in Exhibit A hereto, as the same may be amended from time to time in accordance with the provisions hereof.

*“Fiscal Year”* means the Board’s fiscal year, which begins on July 1 of each year and ends on June 30 of the following year.

*“Force Majeure”* means any event that is not within the control of the Board or the Trustee, as applicable, including, without limitation, acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America or of the State or any of their departments, agencies or officials or any civil or military authority; insurrection; riots; landslides; earthquakes; fires; storms; droughts; floods; explosions; or breakage or accidents affecting machinery, transmission pipes or canals.

*“Improvements”* means the buildings, site improvements and other real property described in Exhibit A hereto, as such buildings, site improvements and other real property may be modified pursuant to Section 8.06 or 8.08 hereof.

*“Indenture”* means the Indenture of Trust dated as of the date hereof providing for the initial delivery of the Certificates to the Owners thereof, and any amendment or supplement thereto.

*“Independent Counsel”* is defined in the Indenture.

*“Initial Term”* means the period commencing on the date the Certificates are initially delivered to the Owners thereof and ending on June 30, 2015.

*“Lease”* means this Lease Purchase Agreement and any amendment or supplement hereto.

*“Leased Property”* means, collectively, the Board’s leasehold interest pursuant to this Lease in, collectively, the Facilities Leased Property, the Improvements, if any, and the Equipment, if any.

*“Lease Term”* is defined in Section 4.01 hereof.

*“Net Proceeds”* means (a) the gross proceeds received from any event referred to in Section 8.07(a) hereof or Section 8.08(a) hereof, minus (b) all expenses incurred in the collection of such gross proceeds or award. The trade in of Equipment pursuant to Section 8.07(a)(ii) hereof shall be deemed to have generated gross proceeds for purposes of this definition in an amount equal to the credit received upon such trade in.

*“Outstanding”* is defined in the Indenture.

*“Owners”* is defined in the Indenture.



*“Permitted Encumbrances”* means, as of any particular time, (a) liens for taxes and assessments not then delinquent, or liens which may remain unpaid pursuant to Section 9.02(b) hereof; (b) the Facilities Lease, this Lease and the Indenture; (c) easements, licenses, rights of way, rights and privileges, restrictions and exceptions which the Board Representative certifies will not materially adversely affect the value, or interfere with or impair the effective use or operation, of the Leased Property, including easements granted pursuant to Section 8.03 hereof; (d) any financing statements filed with respect to the Trustee’s interest in the Leased Property or this Lease; (e) any encumbrance represented by financing statements filed to perfect purchase money security interests in any portion of or all of the Leased Property; (f) any claim filed pursuant to Section 38-26-107, Colorado Revised Statutes, as amended; (g) any applicable zoning requirements; and (h) such minor defects, irregularities, encumbrances and clouds on title as normally exist with respect to property of the general character of the Leased Property and as do not, as certified by the Board to the Trustee, materially impair title to the Leased Property.

*“Person”* is defined in the Indenture.

*“Purchase Option Price”* means the amount that the Board must pay to purchase the Leased Property pursuant to Section 9.01 hereof.

*“Rebate Fund”* is defined in the Indenture.

*“Renewal Term”* means each twelve-month period, commencing on July 1 of each year and ending on June 30 of such year, for which the Board renews the Lease Term, commencing immediately following the Initial Term.

*“Requirement(s) of Law”* means any federal, state or local statute, ordinance, rule or regulation, any judicial or administrative order (whether or not on consent), request or judgment, any common law doctrine or theory, any provision or condition of any permit or any other binding determination of any governmental authority relating to the ownership or operation of property, including but not limited to any of the foregoing relating to zoning, environmental, health or safety issues.

*“Scheduled Lease Term”* means the period from the commencement of the Initial Term through the date described in Section 4.01(b)(i) hereof.

*“State”* means the State of Colorado.

*“Trustee”* means UMB Bank, n.a., or any successor thereto, acting solely in its capacity as trustee under the Indenture, and not in its own corporate capacity, or any successor trustee under the Indenture. Pursuant to Section 13.01 hereof, any successor trustee under the Indenture will automatically succeed to the interest of the previous trustee in the Leased Property and the previous trustee’s rights, title, interest and obligations in, to and under this Lease.

*“Trustee Representative”* means an authorized representative of the Trustee.

*“Trust Estate”* is defined in the Indenture.

## ARTICLE II

### REPRESENTATIONS, COVENANTS AND WARRANTIES

**Section 2.01. Representations, Covenants and Warranties by Trustee.** The Trustee represents, covenants and warrants that:

(a) The Trustee (i) is a national banking association that is duly organized, validly existing and in good standing under the laws of the United States; (ii) is duly qualified to do business in the State; (iii) solely in its capacity as trustee under the Indenture, is the facilities lessee of the Facilities Leased Property pursuant to the Facilities Lease; and (iv) is authorized, under its articles of association and bylaws and applicable law, to act as trustee under the Indenture, to lease the Facilities Leased Property from the Board, to lease the Leased Property to the Board and to execute, deliver and perform its obligations under this Lease.

(b) The execution, delivery and performance of this Lease by the Trustee have been duly authorized by the Trustee.

(c) This Lease is enforceable against the Trustee in accordance with its terms, limited only by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally, by equitable principles, whether considered at law or in equity, by the exercise by the State and its governmental bodies of the police power inherent in the sovereignty of the State and by the exercise by the United States of America of the powers delegated to it by the Constitution of the United States of America.

(d) The execution, delivery and performance of the terms of this Lease by the Trustee does not and will not conflict with or result in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Trustee is now a party or by which the Trustee is bound, or constitute a default under any of the foregoing or, except as specifically provided in this Lease, the Facilities Lease or the Indenture, result in the creation or imposition of a lien or encumbrance whatsoever upon any of the property or assets of the Trustee.

(e) There is no litigation or proceeding pending or to the best of its knowledge threatened against the Trustee or any other Person affecting the right of the Trustee to execute, deliver or perform its obligations under this Lease.

(f) The Trustee acknowledges and recognizes that this Lease will be terminated upon the occurrence of an Event of Nonappropriation, and that a failure by the Board to appropriate funds in a manner that results in an Event of Nonappropriation is solely within the discretion of the Board.

**Section 2.02. Representations, Covenants and Warranties by the Board.** The Board represents, covenants and warrants that:

(a) The Board is a duly organized and validly existing body and instrumentality created by the State.

(b) Pursuant to the Facilities Lease, the Board has leased the Facilities Leased Property to the Trustee, as authorized by the Act.

(c) The Board is authorized, under the Act, to lease the Leased Property from the Trustee and to execute, deliver and perform its obligations under this Lease.

(d) The lease of the Leased Property from the Trustee pursuant to this Lease serves a public purpose and is in the best interests of the Board.

(e) The lease of the Leased Property from the Trustee pursuant to this Lease serves a public purpose and is in the best interests of the Board and the residents of the Board.

(f) The execution, delivery and performance of this Lease by the Board has been duly authorized by the Board.

(g) This Lease is enforceable against the Board in accordance with its terms, limited only by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally, by equitable principles, whether considered at law or in equity, by the exercise by the State and its governmental bodies of the police power inherent in the sovereignty of the State and by the exercise by the United States of America of the powers delegated to it by the Constitution of the United States of America.

(h) The execution, delivery and performance of the terms of this Lease by the Board does not and will not conflict with or result in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Board is now a party or by which the Board is bound, or constitute a default under any of the foregoing or, except as specifically provided in this Lease, the Facilities Lease or the Indenture, result in the creation or imposition of a lien or encumbrance whatsoever upon any of the property or assets of the Board.

(i) There is no litigation or proceeding pending or to the best of its knowledge threatened against the Board or any other Person affecting the right of the Board to execute, deliver or perform its obligations of the Board under this Lease.

(j) The Board will recognize economic and other benefits by the leasing of the Leased Property pursuant to this Lease; the Leased Property is, and any Leased Property substituted for the initial Leased Property will be, property that is necessary and essential to the Board's purpose and operations; and the Board expects that the Leased Property will adequately serve the needs for which it is being leased throughout the Scheduled Lease Term.

(k) The Base Rentals payable in each Fiscal Year during the Lease Term are not more than the fair value of the use of the Leased Property during such Fiscal Year. The Base Rentals and Additional Rentals payable in each Fiscal Year during the Lease Term do not exceed a reasonable amount so as to place the Board under an economic compulsion (i) to continue this Lease beyond any Fiscal Year, (ii) not to exercise its right to terminate this Lease at any time through an Event of Nonappropriation or (iii) to exercise any of its options to purchase the Leased Property hereunder. The Purchase Option Price is the Board's best estimate of the fair purchase price of the Leased Property at the time of exercise of the Board's option to purchase the Leased Property by paying the Purchase Option Price. The Scheduled Lease Term and the final maturity of the Certificates do not exceed the weighted average useful life of the Improvements or any other real property improvements currently located on the Facilities Leased Property. The period from the beginning of the Lease Term through the date on which each item of Equipment is to be released from this Lease does not exceed the remaining useful life of such item of Equipment. In making the representations, covenants and warranties set forth above in this subsection, the Board has given due consideration to the purposes for which the Leased Property will be used by the Board, the benefits to the Board from the use of the Leased Property, the Board's options to purchase the Leased Property hereunder and the terms of this Lease governing the use of, and the Board's options to purchase, the Leased Property.

(l) The Board presently intends and expects to continue this Lease annually until the leasehold interest in the Leased Property is acquired by the Board pursuant to this Lease; but this representation does not obligate or otherwise bind the Board.

(m) The Board is not aware of any current violation of any Requirement of Law relating to the Leased Property.

(n) The Board has appropriated sufficient legally available moneys to pay the Base Rentals payable in the current Fiscal Year and the Additional Rentals estimated to be payable in the current Fiscal Year.

### **ARTICLE III**

#### **DEMISING CLAUSE; ENJOYMENT OF LEASED PROPERTY**

**Section 3.01. Demising Clause.** The Trustee demises and leases the Leased Property to the Board in accordance with the terms of this Lease, subject only to Permitted Encumbrances, to have and to hold for the Lease Term.

**Section 3.02. Enjoyment of Leased Property.** The Trustee covenants that, during the Lease Term and so long as no Event of Default shall have occurred, the Board shall peaceably and quietly have, hold and enjoy the Leased Property without suit, trouble or hindrance from the Trustee, except as expressly required or permitted by this Lease.

## **ARTICLE IV**

### **LEASE TERM; TERMINATION OF LEASE**

#### **Section 4.01. Lease Term.**

(a) The Lease Term shall be comprised of the Initial Term and successive one-year Renewal Terms, subject to subsection (b) of this Section.

(b) This Lease Term shall expire upon the earliest of any of the following events:

(i) the last day of the month in which the final Base Rental payment is scheduled to be paid in accordance with Exhibit B hereto;

(ii) June 30 of the Initial Term or June 30 of any Renewal Term during which, in either case, an Event of Nonappropriation has occurred;

(iii) the purchase of the Leased Property by the Board pursuant to Section 9.01 hereof; or

(iv) termination of this Lease following an Event of Default in accordance with Section 12.02(a) hereof.

**Section 4.02. Effect of Termination of Lease Term.** Upon termination of the Lease Term:

(a) All unaccrued obligations of the Board hereunder shall terminate, but all obligations of the Board that have accrued hereunder prior to such termination shall continue until they are discharged in full; and

(b) If the termination occurs because of the occurrence of an Event of Nonappropriation or an Event of Default, the Board's right to possession of the Leased Property hereunder shall terminate and (i) the Board shall, within 45 days, (A) vacate the Facilities Leased Property and the Improvements and (B) deliver the Equipment to the Trustee at the location at which it is being used; and (ii) if and to the extent the Board has appropriated funds for payment of Base Rentals and Additional Rentals payable during, or with respect to the Board's use of the Leased Property during, the period between termination of the Lease Term and the date the Facilities Leased Property and Improvements are vacated and the Equipment is delivered to the Trustee pursuant to clause (i), the Board shall pay such Base Rentals and Additional Rentals to the Trustee or, in the case of Additional Rentals, the other Person entitled thereto.

## **ARTICLE V**

### **RESERVED**

## **ARTICLE VI**

### **BASE RENTALS AND ADDITIONAL RENTALS; EVENT OF NONAPPROPRIATION**

#### **Section 6.01. Payment of Base Rentals.**

(a) The Board shall, subject only to the other Sections of this Article, pay Base Rentals directly to the Trustee during the Lease Term in immediately available funds in the amounts and on the Base Rental Payment Dates set forth in Exhibit B hereto, as it may be modified from time to time; provided, however, that there shall be credited against the amount of Base Rentals payable on any Base Rental Payment Date the amount on deposit in the Certificate Fund representing (i) accrued interest and capitalized interest, if any, from the sale of Certificates, (ii) earnings from the investment of moneys in the Certificate Fund, and (iii) moneys delivered to the Trustee by the Board or any other Person that are accompanied by instructions to apply the same to the payment of Base Rentals or to deposit the same in the Certificate Fund. Thirty days prior to each Base Rental Payment Date, the Trustee shall notify the Board as to the exact amounts that will be credited against the Base Rentals due on such date. If further amounts that are to be credited against Base Rentals accrue during such 30 day period, such amounts shall be carried over to be applied as a reduction of the Base Rentals payable on the next succeeding Base Rental Payment Date.

(b) A portion of each payment of Base Rentals is paid as, and represents payment of, interest and principal, and Exhibit B hereto sets forth the interest and principal component of each payment of Base Rentals. Upon receipt by the Trustee of each payment of Base Rentals, the Trustee shall apply the amount of each Base Rentals payment in the following manner and order:

(i) FIRST, the amount of such payment of Base Rentals designated and paid as interest under Exhibit B, as from time to time amended or supplemented, plus the amount of any past due interest on the Certificates, shall be deposited in the Interest Account of the Certificate Fund; and

(ii) SECOND, the remaining portion of such payment of Base Rentals shall be deposited in the Principal Account of the Certificate Fund.

**Section 6.02. Payment of Additional Rentals.** The Board shall, subject only to Sections 7.01(b) and 8.02(b) hereof and the other Sections of this Article, pay Additional Rentals directly to the Persons to which they are owed (which, in the case of payments required to be made to fund the Rebate Fund pursuant to the Indenture, is the Trustee) in immediately available funds in the amounts and on the dates on which they are due.

**Section 6.03. Unconditional Obligations.** The obligation of the Board to pay Base Rentals during the Lease Term shall, subject only to the other Sections of this Article, and the

obligation of the Board to pay Additional Rentals during the Lease Term shall, subject to Sections 7.01(b) and 8.02(b) hereof and the other Sections of this Article, including, without limitation, Sections 6.04 and 6.05 hereof, be absolute and unconditional and shall not be abated or offset for any reason related to the Leased Property. Notwithstanding any dispute between the Board and the Trustee or between the Board or the Trustee and any other Person relating to the Leased Property, the Board shall, during the Lease Term, make all payments of Base Rentals and Additional Rentals when due; the Board shall not withhold any Base Rentals or Additional Rentals payable during the Lease Term pending final resolution of such dispute and shall not assert any right of set off or counter claim against its obligation to pay Base Rentals or Additional Rentals, provided, however, that the making of any Base Rental or Additional Rental payment shall not constitute a waiver by the Board of any rights, claims or defenses which the Board may assert; and no action or inaction on the part of the Trustee shall affect the Board's obligation to pay Base Rentals or Additional Rentals during the Lease Term. Nothing herein shall be construed to release the Trustee from the performance of its obligations hereunder, and if the Trustee should fail to perform any such obligation, the Board may institute such legal action against the Trustee as the Board may deem necessary to compel the performance of such obligations to recover damages therefor.

#### **Section 6.04. Event of Nonappropriation.**

(a) The officer or employee of the Board who is responsible for formulating budget proposals with respect to payments of Base Rentals and Additional Rentals is hereby directed (i) to estimate the Additional Rentals payable in the next ensuing Fiscal Year prior to the submission of each annual budget proposal to the Board during the Lease Term and (ii) to include in each annual budget proposal submitted to the Board during the Lease Term the entire amount of Base Rentals scheduled to be paid and the Additional Rentals estimated to be payable during the next ensuing Fiscal Year; it being the intention of the Board that any decision to continue or to terminate this Lease shall be made solely by the Board, in its sole discretion, and not by any other department, agency or official of the Board.

(b) An Event of Nonappropriation shall be deemed to have occurred:

(i) On June 30 of any Fiscal Year if the Board has, on such date, failed, for any reason, to appropriate sufficient amounts authorized and directed to be used to pay all Base Rentals scheduled to be paid and all Additional Rentals estimated to be payable in the next ensuing Fiscal Year; or

(ii) If:

(A) an event described in Section 8.08(a) hereof has occurred;

(B) the Net Proceeds received as a consequence of such event are not sufficient to repair, restore, modify, improve or replace the Leased Property in accordance with Section 8.08 hereof; and

(C) the Board has not appropriated amounts sufficient to proceed under clause (i) of Section 8.08(c) hereof by June 30 of the Fiscal

Year in which such event occurred or by June 30 of any subsequent Fiscal Year in which the insufficiency of Net Proceeds to repair, restore, modify, improve or replace the Leased Property becomes apparent, on June 30 of the Fiscal Year in which such event occurred or on June 30 of any subsequent Fiscal Year in which such insufficiency became apparent, as applicable.

(c) Notwithstanding subsection (b) of this Section, the Trustee may waive any such failure to appropriate under subsection (b) of this Section which is cured by the Board within a reasonable period of time following written notice thereof to the Board.

(d) In the event that the Board shall determine to exercise its annual right to terminate this Lease effective on June 30 of any Fiscal Year, the Board shall give written notice to such effect to the Trustee not later than May 1 of such Fiscal Year; provided, however, that a failure to give such notice shall not (i) constitute an Event of Default, (ii) prevent the Board from terminating this Lease or (iii) result in any liability on the part of the Board.

(e) The Board shall furnish the Trustee with copies of all appropriation measures relating to Base Rentals, Additional Rentals or the Purchase Option Price promptly upon the adoption thereof by the Board, but not later than 30 days following the adoption thereof by the Board; provided however, that a failure to furnish copies of such measures shall not (i) constitute an Event of Default, (ii) prevent the Board from terminating this Lease or (iii) result in any liability on the part of the Board.

#### **Section 6.05. Limitations on Obligations of the Board.**

(a) Payment of Base Rentals and Additional Rentals by the Board shall constitute currently appropriated expenditures of the Board and may be paid from any legally available funds of the Board.

(b) The Board's obligations under the Lease shall be subject to the Board's annual right to terminate this Lease upon the occurrence of an Event of Nonappropriation.

(c) No provision of the Certificates, the Indenture, the Facilities Lease or this Lease shall be construed or interpreted (i) to directly or indirectly obligate the Board to make any payment in any Fiscal Year in excess of amounts appropriated for such Fiscal Year; (ii) as creating a debt or multiple Fiscal Year direct or indirect debt or other financial obligation whatsoever of the Board within the meaning of Article XI, Section 6 or Article X, Section 20 of the Colorado Constitution or any other constitutional or statutory limitation or provision; (iii) as a delegation of governmental powers by the Board; (iv) as a loan or pledge of the credit or faith of the Board or as creating any responsibility by the Board for any debt or liability of any person, company or corporation within the meaning of Article XI, Section 1 of the Colorado Constitution; or (v) as a donation or grant by the Board to, or in aid of, any person, company or corporation within the meaning of Article XI, Section 2 of the Colorado Constitution.



(d) The Board shall be under no obligation whatsoever to exercise its option to purchase the Leased Property.

(e) No provision of this Lease shall be construed to pledge or to create a lien on any class or source of moneys of the Board, nor shall any provision of this Lease restrict the future issuance of any obligations of the Board, payable from any class or source of moneys of the Board; provided, however, that the restrictions set forth in the Indenture shall apply to the delivery of any Additional Certificates.

## **ARTICLE VII**

### **OPERATION AND MAINTENANCE OF LEASED PROPERTY**

#### **Section 7.01. Taxes, Utilities and Insurance.**

(a) The Board shall pay, as Additional Rentals, all of the following expenses with respect to the Leased Property:

(i) all taxes, assessments and other charges lawfully made by any governmental body, provided that any such taxes, assessments or other charges that may lawfully be paid in installments may be paid in installments as such installments are due;

(ii) all gas, water, steam, electricity, heat, power and other utility charges incurred in connection with the Leased Property;

(iii) casualty and property damage insurance with respect to the Leased Property in an amount equal to the greater of: (A) the principal amount of all Certificates Outstanding or (B) the full replacement value of the Improvements and the Equipment; and

(iv) public liability insurance with respect to the activities to be undertaken by the Board in connection with the Leased Property and this Lease in an amount equal to the maximum amount for which recovery could be claimed under Section 24-10-114, Colorado Revised Statutes, as amended, or any successor statute.

(b) Except for Permitted Encumbrances, the Board shall not allow any liens for taxes, assessments, other governmental charges or utility charges to exist with respect to any portion of the Leased Property. If the Board shall first notify the Trustee of the intention of the Board to do so, the Board may, however, in good faith contest any such tax, assessment, other governmental charge or utility charge and, in the event of any such contest, may permit the tax, assessment, other governmental charge or utility charge so contested to remain unpaid during the period of such contest and any appeal therefrom, unless the Trustee shall notify the Board that, in the opinion of Independent Counsel, whose fees and expenses shall be paid by the Board from Additional Rentals appropriated for the Fiscal Year in which such fees and expenses are due, by nonpayment of any such item the interest of the Trustee in the Leased Property will be materially interfered with

or endangered or the Leased Property or any portion thereof will be subject to loss or forfeiture, in which event such tax, assessment, other governmental charge or utility charge shall be paid forthwith; provided, however, that such payment shall not constitute a waiver of the right to continue to contest such tax, assessment, other governmental charge or utility charge. At the request of the Board, the Trustee will cooperate fully with the Board in any such contest.

(c) The insurance policies provided pursuant to subsection (a) of this Section shall meet the following conditions: (i) any insurance policy may have a deductible clause in an amount deemed reasonable by the Board; (ii) each insurance policy shall be so written or endorsed as to make losses, if any, payable to the Board and the Trustee, as their respective interests may appear, and the Trustee shall be named as an additional insured; (iii) each insurance policy shall contain a provision to the effect that the insurance company shall not cancel the policy without first giving written notice thereof to the Board at least 10 days in advance of such cancellation; and upon receipt of such notice from the insurance company, the Board will immediately provide such notice to the Trustee; (iv) the insurance company shall not modify an insurance policy without first giving written notice thereof to the Board at least 10 days in advance of such modification; and upon receipt of such notice from the insurance company, the Board will immediately provide such notice to the Trustee; (v) each insurance policy, or each certificate evidencing such policy, shall be deposited with the Trustee; (vi) full payment of insurance proceeds under any insurance policy up to the dollar limit required by this Section in connection with damage to the Leased Property shall not, under any circumstance, be contingent on the degree of damage sustained at other property owned or leased by the Board; (vii) each insurance policy shall explicitly waive any co-insurance penalty; and (viii) coverage under each insurance policy shall apply exclusively to the Leased Property (except as provided in subsection (d) of this Section) and must be available to repair or rebuild the Leased Property under all circumstances after the occurrence of an insured peril.

(d) The Board may provide any of the insurance required by subsection (a) of this Section under blanket insurance policies which insure not only the risks required to be insured hereunder but also other similar risks.

(e) The Board may, in its discretion, provide all or any portion of the insurance required by subsection (a) of this Section by self-insurance, provided that the following conditions are met: (i) the self-insurance program is approved by an independent insurance consultant referred to in subsection (f) of this Section; (ii) the self-insurance program is maintained on an actuarially sound basis; (iii) the self-insurance fund is held in a separate trust fund by an independent trustee; and (iv) in the event the self-insurance program is discontinued, the actuarial soundness of the claim reserve fund is maintained.

(f) The Board shall cause an insurance consultant, which may be the Person providing the insurance, to annually review the coverage of the policies of insurance or self-insurance maintained pursuant to this Section and to make recommendations thereon, and the Board shall comply with such recommendations. The Board shall cause such

insurance consultant to annually certify to the Trustee on or before June 30 of each Fiscal Year that the Board is in compliance with the insurance provisions of this Lease.

**Section 7.02. Maintenance and Operation of Leased Property.** The Board shall maintain, preserve and keep the Leased Property, or cause the Leased Property to be maintained, preserved and kept, in good repair, working order and condition, subject to normal wear and tear, shall operate the Leased Property, or cause the Leased Property to be operated, in an efficient manner and at a reasonable cost, and shall make or cause to be made all necessary and proper repairs, except as otherwise provided in Sections 8.06, 8.07 and 8.08 hereof.

## **ARTICLE VIII**

### **OWNERSHIP, ENCUMBRANCES, MODIFICATIONS OR ADDITIONS TO LEASED PROPERTY; DAMAGE OR CONDEMNATION OF LEASED PROPERTY**

**Section 8.01. Rights in the Leased Property.** The Trustee shall hold a leasehold interest in and to the Leased Property pursuant to the Facilities Lease until the Leased Property is transferred or otherwise disposed of as provided herein, and the Board's ownership in the Leased Property is subject to the Trustee's leasehold interest therein pursuant to the Facilities Lease, and the Board shall have no other right, title or interest in the Leased Property except as expressly set forth herein. The Board and the Trustee hereby acknowledge that the Trustee: (a) did not select the Leased Property; (b) has no responsibility for the value or condition thereof; (c) holds the Leased Property solely in its capacity as Trustee under the Indenture and not in its own corporate capacity; (d) is not responsible for any failure of the Leased Property to be in conformance with any Requirement of Law; and (e) shall not be deemed to be an owner or operator of the Leased Property for purposes of any environmental law.

#### **Section 8.02. Limitations on Disposition of and Encumbrances on Leased Property.**

(a) Except as otherwise permitted in this Article or Article IX or XII hereof and except for Permitted Encumbrances, (i) neither the Trustee nor the Board shall sell, assign, transfer or convey any portion of or any interest in the Leased Property or directly or indirectly create, incur or assume any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Leased Property, and (ii) the Board shall promptly take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrance or claim.

(b) Notwithstanding subsection (a) of this Section, if the Board shall first notify the Trustee of the intention of the Board to do so, the Board may in good faith contest any such mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Leased Property, and in the event of any such contest, may permit the item so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom, unless the Trustee shall notify the Board that, in the opinion of Independent Counsel, whose fees shall be paid by the Board as Additional Rentals, by failing to discharge or satisfy such item the interest of the Trustee in the Leased Property will be materially interfered with or endangered, or the Leased Property or any part thereof will be subject to loss or forfeiture, in which event such item shall be satisfied and

discharged forthwith; provided, however, that such satisfaction and discharge shall not constitute a waiver by the Board of the right to continue to contest such item. At the request of the Board, the Trustee will cooperate fully with the Board in any such contest.

### **Section 8.03. Granting of Easements.**

(a) As long as no Event of Nonappropriation or Event of Default shall have happened and be continuing, the Trustee shall, at the request of the Board:

(i) consent to the grant of easements, licenses, rights of way (including the dedication of public highways) and other rights or privileges in the nature of easements with respect to the real property included in the Leased Property, free from this Lease and any security interest or other encumbrance created hereunder, or under the Indenture or the Facilities Lease;

(ii) consent to the release of existing easements, licenses, rights of way and other rights and privileges with respect to the Facilities Leased Property and the Improvements, free from this Lease, the Facilities Lease and the Indenture and any security interest or other encumbrance created hereunder or thereunder, with or without consideration; and

(iii) execute and deliver any instrument necessary or appropriate to confirm and grant or release any easement, license, right of way or other grant or privilege under subsection (a) or (b) of this Section, upon receipt of: (i) a copy of the instrument of grant or release; and (ii) a written application signed by the Board Representative requesting such instrument and stating that such grant or release will not materially adversely affect the value, or interfere with the effective use or operation, of the Leased Property.

(b) Nothing in this Section is intended to require that any proceeds from the grant of any easement, license, right of way and other right and privilege be paid to the Trustee, and any such proceeds shall not thereby become a part of the Trust Estate.

**Section 8.04. Subleasing by the Board.** The Board may, subject to Section 10.04 hereof, sublease or grant the right to use or otherwise permit other Persons to use all or any portion of the Leased Property for other purposes, provided that the following conditions are satisfied for any sublease, grant or use:

(a) this Lease, and the obligations of the Board hereunder, shall remain obligations of the Board, and the Board shall maintain its direct relationship with the Trustee, notwithstanding any such sublease, grant or use; and

(b) if the sublease, grant or use is either (i) with respect to all the Leased Property or (ii) makes it impossible or impractical for the Board to use any substantial portion of the Leased Property for any substantial period of time, the Trustee must consent to such sublease, grant or use, which consent shall not be unreasonably withheld.

### **Section 8.05. Reserved.**

**Section 8.06. Modification and Substitution of Leased Property.** The Board, at its own expense, may remodel, or make substitutions, additions, modifications or improvements to, the Leased Property, provided that: (a) such remodeling, substitutions, additions, modifications and additions (i) shall not in any way damage the Leased Property as it existed prior thereto and (ii) shall become part of the Leased Property; (b) the value of the Leased Property after such remodeling, substitutions, additions, modifications and additions shall be at least as great as the value of the Leased Property prior thereto; and (c) the Leased Property, after such remodeling, substitutions, additions, modifications and additions, shall continue to be used as provided in, and shall otherwise be subject to the terms of, this Lease.

**Section 8.07. Replacement and Substitution of Equipment.**

(a) The Board shall have no obligation to renew, repair or replace any inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary Equipment. In any instance where the Board determines that any Equipment has become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary, the Board may (acting for the Trustee) sell, trade in, exchange or otherwise dispose of such Equipment (as a whole or in part) without any responsibility or accountability to the Trustee therefor; provided, however, that if any Equipment has an original purchase price of at least \$1,000 individually, or at least \$1,000,000 collectively (counting only those items of Equipment with individual purchase prices of \$1,000 or more), the Board shall comply with one of the following two conditions with the sale, trade in, exchange or other disposition of such Equipment:

(i) the Board shall substitute (by direct payment of the costs thereof or by designating equipment or personal property not theretofore included as part of the Leased Property) other equipment or personal property having (A) equal or greater value and utility (but not necessarily having the same function) in the operation of the Leased Property and (B) a useful life of not less than the remaining useful life of the item of Equipment for which it is substituted; or

(ii) the Board shall not make any such substitution, provided that (A) if the item of Equipment is sold to anyone other than the Board, the Board shall pay to the Trustee for deposit in the Principal Account of the Certificate Fund the Net Proceeds from such sale, (B) if the item of Equipment is traded in for other equipment or personal property that is not to be included in the Leased Property, the Board shall pay to the Trustee for deposit in the Principal Account of the Certificate Fund the Net Proceeds of the credit received by it in such trade in and (C) if the item of Equipment is sold or disposed of to the Board, the Board shall pay to the Trustee for deposit in the Principal Account of the Certificate Fund an amount equal to the original purchase price thereof less depreciation at rates calculated in accordance with generally accepted accounting principles.

(b) The Board shall promptly report in writing to the Trustee each substitution, sale, trade in, exchange or other disposition that must meet one of the conditions set forth in clause (i) or (ii) of subsection (a) of this Section and will pay amounts due to the Trustee thereunder promptly following any sale or disposition

pursuant to clause (ii) of subsection (a) of this Section. All equipment or personal property substituted for Equipment pursuant to this Section shall be free of all liens and encumbrances that are not Permitted Encumbrances and shall become a part of the Equipment, and the Board shall execute and deliver to the Trustee a bill of sale transferring title to the substituted equipment or personal property to the Trustee.

(c) The Board will not remove, or permit the removal of, any of the Equipment except in accordance with this Section, Section 8.06 or 8.08 or Article IX hereof. The Trustee shall cooperate with the Board in implementing the Board's rights to dispose of Equipment pursuant to this Section and will execute any and all conveyances, releases or other documents necessary or appropriate in connection therewith as may be reasonably requested by the Board.

(d) The disposal of any portion of the Equipment pursuant to this Section shall not entitle the Board to any postponement, abatement or diminution of the Base Rentals or Additional Rentals required to be paid hereunder.

**Section 8.08. Damage to, Condemnation of, Material Defect in or Loss of Title to Leased Property.**

(a) If (i) the Leased Property (or any portion thereof) is destroyed or damaged by fire or other casualty, (ii) title to, or the temporary or permanent use of, the Leased Property (or any portion thereof) or the estate of the Board or the Trustee in the Leased Property (or any portion thereof), is taken under the exercise of the power of eminent domain by any governmental body or by any Person acting under governmental authority, (iii) a breach of warranty or any material defect with respect to the Leased Property (or any portion thereof) becomes apparent or (iv) title to or the use of the Leased Property (or any portion thereof) is lost by reason of a defect in the title thereto, then, the Net Proceeds of any insurance, performance bond or condemnation award or the Net Proceeds received as a consequence of any default or breach of warranty under any contract relating to the Leased Property shall be deposited into a special trust fund held by the Trustee.

(b) If the costs of the repair, restoration, modification, improvement or replacement of the Leased Property following an event described in subsection (a) of this Section are equal to or less than the Net Proceeds available, such Net Proceeds shall be used promptly to repair, restore, modify, improve or replace the Leased Property (or portion thereof) and any excess shall be delivered to the Board.

(c) If the costs of the repair, restoration, modification, improvement or replacement of the Leased Property following an event described in subsection (a) of this Section are more than the amount of Net Proceeds available, then:

(i) The Board may elect either:

(A) to use the Net Proceeds promptly to repair, restore, modify or improve or replace the Leased Property (or portion thereof) with property of a value equal to or in excess of the value of the Leased

Property (or applicable portion thereof), and pay (subject to Article V hereof) as Additional Rentals the costs thereof in excess of the amount of the Net Proceeds; or

(B) to pay (subject to Article VI hereof) the Purchase Option Price, in which case the Net Proceeds shall be delivered to the Board.

(ii) If, by June 30 of the Fiscal Year in which the event described in subsection (a) of this Section occurred (or June 30 of any subsequent Fiscal Year in which the insufficiency of Net Proceeds to repair, restore, modify, improve or replace the Leased Property becomes apparent), the Board has not appropriated amounts sufficient to proceed under either clause (i)(A) or (B) of this subsection, an Event of Nonappropriation shall be deemed to have occurred.

(d) The Board shall not voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim, performance or payment bond claim, prospective or pending condemnation proceeding, or any action relating to default or breach of warranty under any contract relating to the Leased Property without the written consent of the Trustee, which consent shall not be unreasonably withheld.

(e) No event described in subsection (a) of this Section shall affect the obligation of the Board to pay Base Rentals or Additional Rentals hereunder, regardless of whether the Leased Property is repaired, modified, improved or replaced in full or in part, subject, however, to Article VI hereof.

**Section 8.09. Condemnation by the Board.** The Board agrees that, to the extent permitted by law, in the event it brings an eminent domain or condemnation proceeding with respect to all or any portion of the Leased Property, the value of the condemned portion of the Leased Property shall be not less than the greater of (a) if the Certificates are then subject to redemption under the Indenture, the Redemption Price of the Certificates that are attributable to the condemned property or (b) if the Certificates are not then subject to redemption, the amount necessary to defease the Certificates attributable to the condemned property to the first date on which the Certificates are subject to redemption under the Indenture.

**Section 8.10. Personal Property of the Board.** The Board, at its own expense, may install equipment and other personal property in or on the Leased Property, which equipment or other personal property shall not become part of the Leased Property unless it is permanently affixed to the Leased Property or removal of it would materially damage the Leased Property, in which case it will become part of the Leased Property.

## **ARTICLE IX**

### **THE BOARD'S PURCHASE OPTION; RELEASE OF LEASED PROPERTY**

**Section 9.01. The Board's Purchase Option.** The Board is hereby granted the option to purchase the Leased Property by paying to the Trustee an amount (the "Purchase Option Price") which, together with other amounts then on deposit in the Certificate Fund that are available for such purpose, is sufficient (a) to pay all the Outstanding Certificates at maturity, to

redeem all the Outstanding Certificates in accordance with the redemption provisions of the Indenture or to defease all the Outstanding Certificates in accordance with the defeasance provisions of the Indenture and (b) to pay all Additional Rentals payable through the date of conveyance of the Leased Property to the Board or its designee pursuant to this Article, including, but not limited to, all fees and expenses of the Trustee relating to the conveyance of the Leased Property and the payment, redemption or defeasance of the Certificates.

#### **Section 9.02. Exercise of the Board's Purchase Option.**

(a) The Board may exercise its option to purchase the Leased Property pursuant to Section 9.01 hereof by (i) giving written notice to the Trustee prior to the end of the Scheduled Lease Term (A) stating that the Board intends to purchase the Leased Property pursuant to Section 9.01 hereof, (B) identifying the source of funds it will use to pay the Purchase Option Price and (C) specifying a closing date for such purpose which is at least 40 and no more than 90 days after the delivery of such notice and (ii) paying the Purchase Option Price to the Trustee in immediately available funds on the closing date.

(b) At the closing of any purchase of the Leased Property pursuant to this Section, the Trustee shall execute and deliver to the Board or its designee all necessary documents assigning, transferring and conveying to the Board or its designee the same ownership in the Leased Property that was conveyed to the Trustee, subject only to the following: (i) Permitted Encumbrances, other than this Lease, the Facilities Lease and the Indenture; (ii) all liens, encumbrances and restrictions created or suffered to exist by the Trustee as required or permitted by this Lease or the Facilities Lease or arising as a result of any action taken or omitted to be taken by the Trustee as required or permitted by this Lease or the Facilities Lease; (iii) any lien or encumbrance created or suffered to exist by action of the Board; and (iv) those liens and encumbrances (if any) to which the Leased Property was subject when acquired by the Trustee.

**Section 9.03. Transfer of Leased Property to the Board at End of Scheduled Lease Term.** If all Base Rentals scheduled to be paid through the end of the Scheduled Lease Term and all Additional Rentals payable through the date of transfer of the Leased Property to the Board pursuant to this Section shall have been paid, the Leased Property shall be assigned and transferred to the Board at the end of the Scheduled Lease Term in the manner described in Section 9.02(b) hereof without any additional payment by the Board.

### **ARTICLE X**

#### **GENERAL COVENANTS**

**Section 10.01. Further Assurances and Corrective Instruments.** So long as this Lease is in full force and effect and no Event of Nonappropriation or Event of Default shall have occurred, the Trustee and the Board shall have full power to carry out the acts and agreements provided herein and the Board and the Trustee, at the written request of the Board, shall from time to time, execute, acknowledge and deliver or cause to be executed, acknowledged and delivered such supplements hereto and such further instruments as may reasonably be required



for correcting any inadequate or incorrect description of the Leased Property leased or intended to be leased hereunder, or for otherwise carrying out the intention of or facilitating the performance of this Lease.

**Section 10.02. Compliance with Requirements of Law.** On and after the date hereof, neither the Board nor the Trustee shall take any action that violates the terms hereof or is contrary to the provisions of any Requirement of Law in performing their respective obligations with respect to the Leased Property hereunder. Without limiting the generality of the preceding sentence, the Board shall use the Leased Property in a manner such that (a) the Leased Property at all times is operated in compliance with all Requirements of Law; (b) all permits required by Requirements of Law in respect of the Board's use of the Leased Property are obtained, maintained in full force and effect and complied with; (c) there shall be no hazardous substance, pollutant or contaminant (as those terms are defined in the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. § 9601, et seq., any applicable state law or regulations promulgated under either), solid or hazardous waste (as defined in the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6901, et seq., any applicable state law or regulations promulgated under either), special waste, petroleum or petroleum derived substance, radioactive material or waste, polychlorinated biphenyls, asbestos or any constituent of any of the foregoing located on, in or under the Leased Property in such manner as would constitute a violation of any Requirements of Law; (d) there shall be no disposal of any of the items referred to in clause (c) on, from, into or out of the Leased Property in violation of any Requirements of Law; and (e) there shall be no spillage, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leeching, dumping, disposing, depositing or dispersing of any of the items referred to in clause (c) into the indoor or outdoor environment from, into or out of the Leased Property including but not limited to the movement of any such items through or in the air, soil, surface water, ground water from, into or out of the Leased Property or the abandonment or discard of barrels, containers or other open or closed receptacles containing any such items from, into or out of the Leased Property in violation of any Requirements of Law.

**Section 10.03. Participation in Legal Actions.**

(a) At the request of and at the cost of the Board (payable as an Additional Rental hereunder), the Trustee shall join and cooperate fully in any legal action in which the Board asserts its right to the enjoyment of the Leased Property; that involves the imposition of any charges, costs or other obligations or liabilities on or with respect to the Leased Property or the Board's enjoyment of the Leased Property for which the Board is responsible hereunder; or that involves the imposition of any charges, costs or other obligations with respect to the Board's execution, delivery and performance of its obligations hereunder.

(b) At the request of the Trustee and upon a determination by the Board that such action is in the best interests of the Board, the Board shall, at the cost of the Board (payable as an Additional Rental hereunder), join and cooperate fully in any legal action in which the Trustee asserts its ownership of or interest in the Leased Property; that involves the imposition of any charges, costs or other obligations on or with respect to the Leased Property for which the Trustee is responsible hereunder; or that involves the

imposition of any charges, costs or other obligations with respect to the execution and delivery of this Lease by the Trustee or the performance of its obligations hereunder.

**Section 10.04. Tax Covenant of the Board.** The Board will not use or permit others to use the Leased Property in a manner that would cause interest on the Certificates to be included in gross income for federal income tax purposes or to be an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations (except, with respect to corporations, as such interest is required to be taken into account in determining “adjusted current earnings” for the purpose of computing the alternative minimum tax imposed on such corporations).

**Section 10.05. Reserved.**

**Section 10.06. Payment of Fees and Expenses of the Trustee.** The Board shall pay as Additional Rentals the reasonable fees and expenses of the Trustee for its ordinary services hereunder, which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust, including the reasonable legal fees and expenses of the Trustee, in connection with the Leased Property, this Lease, the Facilities Lease, the Indenture, the Certificates or any matter related thereto, including, but not limited to, costs of defending any claim or action brought against the Trustee or its directors or officers relating to the foregoing, excepting, however, any liability for any action constituting negligence or willful or wanton misconduct of the Trustee or its directors or officers. In the event that it should become necessary for the Trustee to perform extraordinary services, the Trustee shall be entitled to reasonable additional compensation therefor and to reimbursement for reasonable and necessary extraordinary expenses in connection therewith; provided that if such extraordinary services or extraordinary expenses are occasioned by the negligence or willful misconduct of the Trustee it shall not be entitled to compensation or reimbursement therefor.

**Section 10.07. Payments to Rebate Fund.** The Board shall pay to the Trustee as Additional Rentals all amounts required to be deposited into the Rebate Fund as and when required by the Indenture.

## **ARTICLE XI**

### **LIMITS ON OBLIGATIONS OF TRUSTEE**

**Section 11.01. Disclaimer of Warranties.** THE TRUSTEE MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR FITNESS FOR USE OF THE LEASED PROPERTY OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE LEASED PROPERTY OR ANY PORTION THEREOF. EXCEPT WITH RESPECT TO THE TRUSTEE’S VIOLATION OF ARTICLE XIII OR ITS NEGLIGENCE OR WILLFUL MISCONDUCT, IN NO EVENT SHALL THE TRUSTEE BE LIABLE FOR ANY DIRECT OR INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGE IN CONNECTION WITH OR ARISING OUT OF THIS LEASE OR THE EXISTENCE,

FURNISHING, FUNCTIONING OR USE BY THE BOARD OF ANY ITEM, PRODUCT OR SERVICE PROVIDED FOR HEREIN.

**Section 11.02. Financial Obligations of Trustee Limited to Available Funds.** NOTWITHSTANDING ANY OTHER PROVISION HEREOF, ALL FINANCIAL OBLIGATIONS OF THE TRUSTEE UNDER THIS LEASE, EXCEPT THOSE RESULTING FROM ITS NEGLIGENCE OR WILLFUL MISCONDUCT, ARE LIMITED TO THE TRUST ESTATE.

## **ARTICLE XII**

### **EVENTS OF DEFAULT AND REMEDIES**

#### **Section 12.01. Events of Default Defined.**

(a) Any of the following shall constitute an "Event of Default" under this Lease:

(i) failure by the Board to pay any specifically appropriated Base Rentals to the Trustee on or before the applicable Base Rental Payment Date; provided, however, that a failure by the Board to pay Base Rentals on the applicable Base Rental Payment Date shall not constitute an Event of Default if such payment is received by the Trustee within five days following such Base Rental Payment Date;

(ii) failure by the Board to pay any Additional Rental for which funds have been specifically appropriated when due, or if such Additional Rental is payable to a Person other than the Trustee, when nonpayment thereof has, or may have, a material adverse effect upon the Certificates, the Leased Property or the interest of the Trustee in the Leased Property;

(iii) failure by the Board to vacate the Facilities Leased Property and the Improvements and to surrender the Equipment included in the Leased Property within 45 days following an Event of Nonappropriation in accordance with Section 4.02(b) hereof;

(iv) any sublease, assignment, encumbrance, conveyance or other transfer of the interest of the Board in all or any portion of the Lease or the Leased Property in violation of Section 13.02(a) hereof or any succession to all or any portion of the interest of the Board in the Leased Property in violation of Section 13.02(b) hereof;

(v) 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 clause (i), (ii), (iii) or (iv) above, for a period of 30 days after written notice, specifying such failure and requesting that it be remedied shall be given to the Board by the Trustee, unless the Trustee shall agree in writing to an extension of such time prior to its expiration; provided, however, that if the failure

stated in the notice cannot be corrected within the applicable period, the Trustee shall not withhold its consent to an extension of such time if corrective action shall be instituted within the applicable period and diligently pursued until the default is corrected; or

(vi) an order or decree by a court of competent jurisdiction declaring the Board bankrupt under federal bankruptcy law or appointing a receiver of all or any material portion of the Board's assets or revenues is entered with the consent or acquiescence of the Board or is entered without the consent or acquiescence of the Board but is not vacated, discharged or stayed within 30 days after it is entered.

(b) The provisions of subsection (a) of this Section are subject to the following limitations:

(i) the Board shall be obligated to pay Base Rentals and Additional Rentals only during the Lease Term, except as otherwise expressly provided in Section 4.02(b)(ii) hereof; and

(ii) if, by reason of Force Majeure, the Board shall be unable in whole or in part to carry out any agreement on its part herein contained, other than its obligation to pay Base Rentals or Additional Rentals hereunder, the Board shall not be deemed in default during the continuance of such inability; provided, however, that the Board shall, as promptly as legally and reasonably possible, remedy the cause or causes preventing the Board from carrying out such agreement.

**Section 12.02. Remedies on Default.** Whenever any Event of Default shall have happened and be continuing, the Trustee, who may depend on the advice of counsel, may take one or any combination of the following remedial steps:

(a) terminate the Lease Term and give notice to the Board to immediately vacate the Facilities Leased Property and the Improvements and to surrender the Equipment, in the manner provided in Section 4.02(b) hereof;

(b) exercise all the rights and remedies of a secured party under the Uniform Commercial Code with respect to the Equipment and otherwise repossess, liquidate or otherwise dispose of the Equipment in any lawful manner; provided, however, that the Trustee may not recover from the Board any deficiency which may exist following the liquidation of the Equipment;

(c) sell or lease all or any portion of the Leased Property;

(d) recover from the Board:

(i) the portion of Base Rentals and Additional Rentals payable pursuant to Section 4.02(b)(ii) hereof;

(ii) the portion of Base Rentals for the then current Fiscal Year that has been specifically appropriated by the Board, regardless of when the Board vacates the Facilities Leased Property and Improvements, if any, and delivers the Equipment, if any, to the Trustee; and

(iii) the portion of the Additional Rentals for the then current Fiscal Year that has been specifically appropriated by the Board, but only to the extent such Additional Rentals are payable prior to the date, or are attributable to the use of the Leased Property prior to the date, the Board vacates the Facilities Leased Property and Improvements, if any, and delivers the Equipment, if any, to the Trustee;

(e) enforce any provision of this Lease by equitable remedy, including, but not limited to, enforcement of the restrictions on assignment, encumbrance, conveyance, transfer or succession under Article XIII hereof by specific performance, writ of mandamus or other injunctive relief; and

(f) take whatever action at law or in equity may appear necessary or desirable to enforce its rights in and to the Leased Property under this Lease, subject, however, to the limitations on the obligations of the Board set forth in Sections 6.05 and 12.03 hereof and the limitations on the obligations of the Trustee set forth in Article XI hereof.

**Section 12.03. Limitations on Remedies.** A judgment requiring a payment of money may be entered against the Board by reason of an Event of Default only as to the Board's liabilities described in Section 12.02(d) hereof. A judgment requiring a payment of money may be entered against the Board by reason of an Event of Nonappropriation, or a failure to vacate the Facilities Leased Property and the Improvements and deliver the Equipment to the Trustee following an Event of Nonappropriation, only to the extent provided in Section 12.02(d)(i) hereof.

**Section 12.04. No Remedy Exclusive.** Subject to Section 12.03 hereof, no remedy herein conferred upon or reserved to the Trustee is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Trustee to exercise any remedy reserved in this Article, it shall not be necessary to give any notice, other than such notice as may be required in this Article.

**Section 12.05. Waivers.**

(a) The Trustee may waive any Event of Default under this Lease and its consequences. In the event that any agreement contained herein should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

(b) In the event the Trustee waives any Event of Default described in Section 12.01(a)(i) hereof, any subsequent payment by the Board of Base Rentals then due and owing shall be paid to the Trustee to be applied in accordance with the terms of the Indenture.

## **ARTICLE XIII**

### **TRANSFERS OF INTERESTS IN LEASE OR LEASED PROPERTY**

**Section 13.01. Trustee's Rights, Title and Interest in Trust for Benefit of Owners; Successor Trustee; Assignment by Trustee.** The Trustee shall hold its interest in the Leased Property and its rights, title and interest in, to and under this Lease (other than the Trustee's rights to payment of its fees and expenses and the rights of third parties to Additional Rentals payable to them) in trust for the benefit of the Owners pursuant to the Indenture. Any successor trustee under the Indenture shall automatically succeed to the previous trustee's interest in the Leased Property and the previous trustee's rights, title, interest and obligations in, to and under this Lease. The Trustee shall not, except as provided in this Section or as otherwise provided elsewhere in this Lease or in the Indenture, assign, convey or otherwise transfer to any Person any of the Trustee's interest in the Leased Property or the Trustee's rights, title or interest in, to or under this Lease.

**Section 13.02. Transfer of the Board's Interest in Lease and Leased Property Prohibited.**

(a) Except as otherwise permitted by Section 8.04 hereof with respect to subleases, grants or uses of the Leased Property or subsection (b) of this Section with respect to transfers of the Leased Property following termination of this Lease or as otherwise required by law, the Board shall not sublease, assign, encumber, convey or otherwise transfer all or any portion of its interest in this Lease or the Leased Property to any Person, whether now in existence or organized hereafter.

(b) Notwithstanding subsection (a) of this Section, the Board may transfer its interest in the Leased Property after, and only after, this Lease has terminated and the Leased Property has been conveyed to the Board pursuant to Article IX hereof following the payment of the Purchase Option Price or all Base Rentals scheduled to be paid through the end of the Scheduled Lease Term, together with all other amounts required to be paid as a condition of such conveyance pursuant to Article IX hereof, and the payment or defeasance of all the Certificates in accordance with the Indenture.

## **ARTICLE XIV**

### **MISCELLANEOUS**

**Section 14.01. Binding Effect.** This Lease shall inure to the benefit of and shall be binding upon the Trustee and the Board and their respective successors and assigns, subject, however, to the limitations set forth in Article XIII hereof. This Lease and the covenants set

forth herein are expressly intended to be covenants, conditions and restrictions running with the Leased Property and the leasehold estate in the Leased Property under this Lease.

**Section 14.02. Acknowledgement of Indenture.** The Board has received a copy of, and acknowledges the terms of, the Indenture.

**Section 14.03. Trustee and the Board Representatives.** Whenever under the provisions hereof the approval of the Trustee or the Board is required, or the Board or the Trustee is required to take some action at the request of the other, unless otherwise provided, such approval or such request shall be given for the Trustee by the Trustee Representative and for the Board by the Board Representative and the Board and the Trustee shall be authorized to act on any such approval or request.

**Section 14.04. Manner of Giving Notices.** All notices, certificates or other communications hereunder shall be in writing and shall be deemed given when mailed by certified mail, postage prepaid, addressed as follows: if to the Board, to the Board of Directors of the Auraria Higher Education Center, Campus Box B, P.O. Box 173361, Denver, Colorado 80217-3361, Attention: Assistant Vice President of Business Services/CFO, and, if to the Trustee, to UMB Bank, n.a., 1670 Broadway, Denver, CO 80202, Attention: Corporate Trust & Escrow Services. The Board and the Trustee may, by written notice, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

**Section 14.05. No Individual Liability.** All covenants, stipulations, promises, agreements and obligations of the Board or the Trustee, as the case may be, contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Board or the Trustee, as the case may be, and not of any member, director, officer, employee, servant or other agent of the Board or the Trustee in his or her individual capacity, and no recourse shall be had on account of any such covenant, stipulation, promise, agreement or obligation, or for any claim based thereon or hereunder, against any member, director, officer, employee, servant or other agent of the Board or the Trustee or any natural Person executing this Lease or any related document or instrument.

**Section 14.06. Amendments, Changes and Modifications.** Except as otherwise provided herein and in the Indenture, this Lease may not be effectively amended, changed, modified or altered other than by the execution of a subsequent document in the same manner as this Lease is executed.

**Section 14.07. Events Occurring on Days That Are Not Business Days.** If the date for making any payment or the last day for performance of any act or the exercising of any right under this Lease is a day that is not a Business Day, such payment may be made, such act may be performed or such right may be exercised on the next succeeding Business Day, with the same force and effect as if done on the nominal date provided in this Lease.

**Section 14.08. Severability.** In the event that any provision of this Lease, other than the obligation of the Board to pay Base Rentals or Additional Rentals and the Purchase Option Price hereunder and the obligation of the Trustee to provide quiet enjoyment of the Leased Property

and to convey the Leased Property to the Board pursuant to Article IX hereof, shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**Section 14.09. Captions.** The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Lease.

**Section 14.10. Applicable Law.** The laws of the State shall be applied in the interpretation, execution and enforcement of this Lease.

**Section 14.11. Execution in Counterparts.** This Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 14.12. Electronic Transactions.** The parties hereto agree that the transactions described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

**Section 14.13. Employee Financial Interest.** The signatories to this Lease aver that, to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described herein.


**Section 14.14. Relationship of Parties.** The sole relationship created by this Lease is that of landlord and tenant. The parties acknowledge and agree that they are each independent contractors and that neither party shall hold itself out as a partner, joint-venturer, affiliate, associate, agent, employee, or legal representative of the other. Neither party is authorized to act for or on behalf of the other, to legally bind the other, or to make any agreement, warranty, covenant, or other representation or to create any obligation, express or implied, on behalf of the other, and neither party shall represent that it has any right or power to perform any such acts.

**Section 14.15. No Violation of Law.** The signatories hereto aver that they are familiar with § 18-8-301, et seq. (Bribery and Corrupt Influences) and § 18-8-401, et seq. (Abuse of Public Office), C.R.S., as amended, and that no violation of such provisions is present.



IN WITNESS WHEREOF, the Trustee and the Board have executed this Lease as of the date first above written.

UMB BANK, n.a., solely in its capacity as  
trustee under the Indenture

By   
Colleen A. Carwin  
Vice President

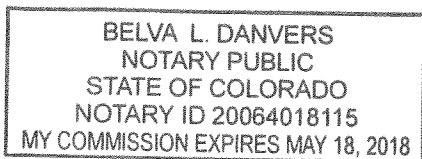
[Signature Page to Lease Purchase Agreement]

STATE OF COLORADO )  
 ) ss.  
CITY AND COUNTY OF DENVER )

The foregoing instrument was acknowledged before me this 25<sup>th</sup> day of March, 2015, by Colleen A. Carwin, as Vice President of UMB Bank, n.a.

WITNESS MY HAND AND OFFICIAL SEAL, the day and year above written.

[NOTARIAL SEAL]

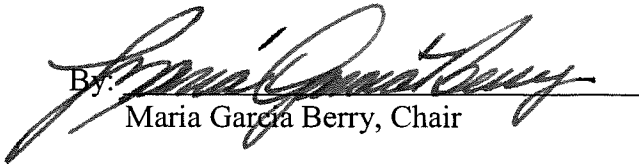


Belva L. Danvers  
Notary

[Notary Page to Lease Purchase Agreement]

[SEAL]

STATE OF COLORADO,  
by and through the Board of Directors of the  
Auraria Higher Education Center

By:   
Maria Garcia Berry, Chair

**APPROVED:**

By:   
Bill Mummert, Assistant Vice President of  
Business Services & Chief Financial Officer

**Approved as to Legal Form:**

By:   
Fred C. Kuhlwilm, General Counsel

**APPROVED:**

STATE OF COLORADO,  
Department of Personnel & Administration  
Office of State Architect Real Estate Programs  
(or authorized designee)

By:   
Authorized Designee

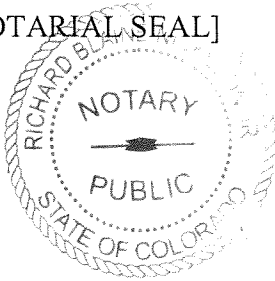
[Signature Page to Lease Purchase Agreement]

STATE OF COLORADO )  
 ) ss.  
CITY AND COUNTY OF DENVER )

The foregoing instrument was acknowledged before me this 25 day of March, 2015, by Maria Garcia Berry, Chair, Bill Mummert, Assistant Vice President of Business Services & Chief Financial Officer, Fred C. Kuhlwillm, General Counsel and Brandon Ates, RE Specialist, on behalf of the Board of Directors of the Auraria Higher Education Center, in Denver County, Colorado.

WITNESS MY HAND AND OFFICIAL SEAL, the day and year above written.

[NOTARIAL SEAL]



~~Notary~~

**My Commission Expires  
May 22, 2016**

[Notary Page to Lease Purchase Agreement]

## **EXHIBIT A**

### **FACILITIES LEASED PROPERTY**

The term "Facilities Leased Property" collectively means all of the real property, personal property, Improvements, fixtures, furnishing and Equipment commonly known as the "Auraria Higher Education Center Administration Building" located on the property described as follows:

A PARCEL OF LAND BEING A PORTION OF LOTS 3 AND 10, ALL OF LOTS 1, 2, 11, 12 OF BLOCK 256, AND A PORTION OF LAWRENCE STREET AND 6TH STREET, ALL IN WEST DENVER SUBDIVISION, CITY AND COUNTY OF DENVER RECORDS, CITY AND COUNTY OF DENVER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHERLY CORNER OF SAID BLOCK 256;  
THENCE SOUTHEASTERLY 40 FEET ALONG THE NORTHEASTERLY LINE OF 5TH STREET TO THE CENTERLINE OF SAID LAWRENCE STREET;  
THENCE NORTHEASTERLY 320.5 FEET, MORE OR LESS, ALONG SAID CENTERLINE;  
THENCE NORTHWESTERLY 182.4 FEET, MORE OR LESS, ALONG THE CENTERLINE OF SAID 6TH STREET,  
THENCE SOUTHWESTERLY 320.5 FEET, MORE OR LESS, ALONG A LINE WHICH LIES 10 FEET NORTHWEST OF AND PARALLEL WITH THE SOUTHEASTERLY LINE OF SAID LOTS 3 AND 10 TO THE SOUTHWESTERLY LINE OF SAID BLOCK 256;  
THENCE SOUTHEASTERLY 142.4 FEET ALONG SAID SOUTHWESTERLY LINE TO THE POINT OF BEGINNING.

**EXHIBIT B****BASE RENTAL PAYMENT SCHEDULE**

<b>Base Rental Payment Date*</b>	<b>Principal</b>	<b>Interest</b>	<b>Total Base Rentals</b>
05/01/2015	\$ 895,000	\$ 27,933.89	\$ 922,933.89
11/01/2015		133,815.00	133,815.00
05/01/2016	820,000	133,815.00	953,815.00
11/01/2016		124,795.00	124,795.00
05/01/2017	840,000	124,795.00	964,795.00
11/01/2017		115,555.00	115,555.00
05/01/2018	855,000	115,555.00	970,555.00
11/01/2018		106,150.00	106,150.00
05/01/2019	875,000	106,150.00	981,150.00
11/01/2019		96,525.00	96,525.00
05/01/2020	890,000	96,525.00	986,525.00
11/01/2020		86,735.00	86,735.00
05/01/2021	910,000	86,735.00	996,735.00
11/01/2021		76,725.00	76,725.00
05/01/2022	935,000	76,725.00	1,011,725.00
11/01/2022		66,440.00	66,440.00
05/01/2023	950,000	66,440.00	1,016,440.00
11/01/2023		55,990.00	55,990.00
05/01/2024	980,000	55,990.00	1,035,990.00
11/01/2024		45,210.00	45,210.00
05/01/2025	990,000	45,210.00	1,035,210.00
11/01/2025		34,320.00	34,320.00
05/01/2026	1,015,000	34,320.00	1,049,320.00
11/01/2026		23,155.00	23,155.00
05/01/2027	1,040,000	23,155.00	1,063,155.00
11/01/2027		11,715.00	11,715.00
05/01/2028	<u>1,065,000</u>	<u>11,715.00</u>	<u>1,076,715.00</u>
	<u>\$13,060,000</u>	<u>\$1,982,193.89</u>	<u>\$15,042,193.89</u>