

Lease

Agreement

EXECUTION COPY

**NEW YORK CITY
INDUSTRIAL DEVELOPMENT AGENCY**

AND

THE CHURCHILL SCHOOL AND CENTER FOR LEARNING DISABILITIES, INC.

LEASE AGREEMENT

Dated as of December 1, 1999

\$22,000,000

New York City Industrial Development Agency
Short Term Auction Rate Securities (STARS) Civic Facility Revenue Bonds
(The Churchill School and Center for Learning Disabilities, Inc. Project), Series 1999

Affecting that real property described in
the Description of Facility Realty in the appendices to
this Lease Agreement, in the County of New York, City and State
of New York and which is also known as Section 3, Block 935, Lot 6
on the Official Tax Map of New York County all as more particularly described in
Appendix A to this Lease Agreement

Record and Return to:
Whitman Breed Abbott & Morgan LLP
200 Park Avenue
New York, New York 10166
Attention: H. Sidney Holmes, Esq.
File No.: 0067741-0060

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LEASE AGREEMENT

THIS LEASE AGREEMENT, made and entered into as of December 1, 1999, by and between **NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY**, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, duly organized and existing under the laws of the State of New York (the "Agency"), having its principal office at 110 William Street, New York, New York 10166, party of the first part, and **THE CHURCHILL SCHOOL AND CENTER FOR LEARNING DISABILITIES, INC.** (the "Lessee"), a not-for-profit educational corporation organized and existing under and by virtue of the laws of the State of New York, having an office at 22 East 95th Street, New York, New York 10128, party of the second part:

WITNESSETH:

WHEREAS, the New York State Industrial Development Agency Act, constituting Title 1 of ARTICLE 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") authorizes and provides for the creation of industrial development agencies in the several counties, cities, villages and towns in the State of New York and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and furnish land, any building or other improvement, and all real and personal properties, including but not limited to machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial, industrial or civic purposes and which may include or mean a civic facility to the end that such agencies may be able to promote, develop, encourage, assist and advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living; and

WHEREAS, pursuant to and in accordance with the provisions of the Enabling Act the Agency was established by Chapter 1082 of the 1974 Laws of New York, as amended (together with the Enabling Act, the "Act"), for the benefit of The City of New York and the inhabitants thereof; and

WHEREAS, to accomplish the purposes of the Act the Agency has entered into negotiations with the Lessee in order to acquire, renovate, expand and equip an approximately 52,000 square foot educational facility to be located at 301 East 29th Street, New York, New York (the "Facility Realty"), and to proceed with the renovating, expanding and equipping of a five story building for use by the Institution in providing special educational services to elementary, middle school and high school students (such Facility Realty, acquisition, renovating, expanding and equipping being referred to herein as the "Project"), within The City of New York, and in furtherance of said purpose on November 9, 1999 the Agency adopted a resolution (the "Bond Resolution"), authorizing the Project, and undertaking to permit the issuance of its revenue bonds to finance such Project and thereupon to lease the Facility from the Lessee pursuant to a lease agreement (the "Company Lease Agreement") and to sublease the Facility back to the Lessee pursuant to this sublease agreement (the "Lease Agreement"); and

WHEREAS, Agency financing assistance is beneficial for the economy of The City of New York and is reasonably necessary to induce the Lessee to proceed with the Project; and

WHEREAS, the Agency, in order to provide funds for a portion of the cost of the Project and for a portion of incidental and related costs thereto, will issue and sell its Short Term Auction Rate Securities (STARS) Civic Facility Revenue Bonds (The Churchill School and Center for Learning Disabilities, Inc. Project), Series 1999 in the aggregate principal amount of \$22,000,000 (the "Series 1999 Bonds") pursuant to the Act, the Bond Resolution and an Indenture of Trust dated as of December 1, 1999 by and between the Agency and United States Trust Company of New York, as Trustee, securing said Bonds and any Additional Bonds (as hereinafter defined) issued thereunder; and

WHEREAS, in order to further secure the payment of the Series 1999 Bonds, the Lessee concurrently with the execution hereof will (i) grant, together with the Agency, one or more leasehold mortgage liens on and security interests in the Facility to the Trustee and (ii) enter into the Guaranty Agreement of even date herewith, by the Lessee in favor of the Trustee, whereunder the Lessee guarantees the payment of the principal of, and redemption premium, if applicable, and interest on the Series 1999 Bonds; and

WHEREAS, concurrently with the execution hereof and in order to secure the obligations of the Lessee owed or owing to the Agency hereunder, the Agency will grant a mortgage on and security interest in the Facility to the Trustee;

NOW, THEREFORE, in consideration of the premises and the respective representations and agreements hereinafter contained, the parties hereto agree as follows (provided that in the performance of the agreements of the Agency herein contained, any obligation it may incur for the payment of money shall not subject the Agency to any pecuniary liability or other liability nor create a debt of the State of New York or of The City of New York, and neither the State of New York nor The City of New York shall be liable on any obligation so incurred, but any such obligation shall be payable solely out of the lease rentals, revenues and receipts derived from or in connection with the Facility, including moneys received under this Lease Agreement):

ARTICLE I.

Definitions and Representations

SECTION 1.1. Definitions.

Terms not otherwise defined herein shall have the same meanings as used in the Indenture, the Tax Certificate or the Guaranty Agreement hereinbelow defined. The following terms shall have the following meanings in this Lease Agreement:

Additional Bonds shall mean any Bonds of a Series, other than the Series 1999 Bonds, authorized to be issued pursuant to a Supplemental Indenture and issued under and pursuant to the Indenture.

Agency shall mean the New York City Industrial Development Agency, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State, duly organized and existing under the laws of the State, and any body, board, authority, agency or other governmental agency or instrumentality which shall hereafter succeed to the powers, duties, obligations and functions thereof.

Agency Mortgage shall mean, collectively, the Agency Mortgage and Security Agreement (Project Loan), the Agency Mortgage and Security Agreement (Building Loan) and the Agency Mortgage and Security Agreement (Indirect Costs), each of even date herewith from the Agency and the Lessee to the Trustee, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith and herewith.

Agreement shall mean this Lease Agreement dated as of December 1, 1999 between the Agency and the Lessee, and shall include any and all amendments and supplements thereto hereafter made in conformity herewith and with the Indenture.

Authorized Representative shall mean (i) in the case of the Agency, the Chairman, Vice Chairman, Treasurer, Assistant Treasurer, Secretary, Assistant Secretary, Executive Director, General Counsel or Vice President for Legal Affairs or Deputy Executive Director of the Agency, or any other officer or employee of the Agency authorized to perform specific acts or to discharge specific duties hereunder and of whom another Authorized Representative of the Agency gives written notice to the Trustee and the Lessee, and (ii) in the case of the Lessee, its Head, Business Manager, and any other officer of the Lessee so designated in writing by the Head to the Agency and the Trustee.

Bonds shall mean the Series 1999 Bonds and any Additional Bonds.

Building Loan Agreement shall mean the Building Loan Agreement dated as of December 1, 1999 by and among the Agency, the Trustee and the Lessee, and shall include any and all amendments and supplements thereto.

Code shall mean the Internal Revenue Code of 1986, as amended, including the regulations promulgated thereunder, and any successor codes, statutes or regulations.

Company Lease Agreement shall mean the Company Lease Agreement, dated as of December 1, 1999 between the Agency and the Lessee, and shall include any and all amendments and supplements thereto hereafter made in conformity herewith and with the Indenture.

Continuing Disclosure Agreement shall mean the Continuing Disclosure Agreement, dated as of December 1, 1999, by and between the Lessee and the Trustee.

Event of Default shall have the meaning specified in Section 7.1 hereof.

Facility shall mean, collectively, the Facility Realty, all buildings, structures and improvements now or hereafter located thereon (including, without limitation, the building and addition to be located thereon, and any Facility Equipment).

Facility Equipment shall mean all fixtures, machinery, equipment, chattels and ARTICLES of personal property and all appurtenances and additions thereto and substitutions and replacements thereof, now or hereafter attached to or contained in or located on the Land and/or the Improvements located thereon or placed on any part thereof, though not attached thereto, which are used or usable in connection with the present or future operation thereof or the activities at any time conducted therein and all other property used in connection with the production of income from the Land and/or the Improvements located thereon or adapted for use therein, including, without limitation, any machinery, equipment and other tangible personal property acquired and installed as part of the Project pursuant to Section 2.1 hereof, together with all repairs, replacements, improvements, substitutions and renewals thereof or therefor, and all parts, additions and accessories incorporated therein or affixed thereto but excluding Lessee's Property within the meaning of Section 4.1(c) hereof and all machinery, equipment and other personal property installed by the Lessee prior to the date hereof or Existing Facility Property released pursuant to Section 4.2 hereof. Notwithstanding the foregoing, Facility Equipment shall, in accordance with the provisions of Sections 4.2 and 5.1 hereof, include all property substituted for or replacing items of Facility Equipment (as provided for in this Agreement and the Agency Mortgage) and exclude all items of Facility Equipment so substituted for or replaced.

Facility Realty shall mean, collectively, the Land and the Improvements.

Fiscal Year of the Lessee shall mean a year of 365 or 366 days, as the case may be, commencing on July 1 and ending on June 30, or such other year of similar length as to which the Lessee shall have given prior written notice thereof to the Agency and the Trustee at least ninety (90) days prior to the commencement thereof.

Guaranty Agreement shall mean the Guaranty Agreement of even date herewith from the Lessee to the Trustee, and shall include any and all amendments thereof and supplements thereto.

Improvements shall mean all buildings, structures, foundations, related facilities, fixtures and other improvements existing on the effective date hereof or at any time made, erected or situated on the Land (including any improvements made as part of the Project pursuant to Section 2.2 hereof) and all replacements, improvements, extensions, substitutions, restorations, repairs or additions thereto, but excluding any improvements released pursuant to Section 4.2 hereof and expressly excluding any improvements existing on the effective date hereof or any other improvements made at Lessee's sole cost and expense and not from the proceeds of bonds.

Indenture shall mean the Indenture of Trust dated as of December 1, 1999 by and between the Agency and the Trustee, as from time to time amended or supplemented by Supplemental Indentures in accordance with ARTICLE XI of the Indenture.

Land shall mean, collectively, the real property located on that certain lot, piece or parcel of land generally known by the street address 301 East 29th Street, New York, New York all as more particularly described in the Lease Agreement, together with all easements, rights and interests now or hereafter appurtenant or beneficial thereto.

Lessee shall mean The Churchill School and Center for Learning Disabilities, Inc., a not-for-profit educational corporation organized and existing under the laws of the State of New

York, and its permitted successors and assigns pursuant to Sections 6.1 or 9.3 hereof (including any surviving, resulting or transferee corporation as provided in Section 6.1 hereof).

Net Proceeds shall mean, when used with respect to any insurance proceeds or condemnation award, compensation or damages, the gross amount from any such proceeds, award, compensation or damages less all expenses (including attorneys' fees and any extraordinary expenses of the Agency or the Trustee) incurred in the collection thereof.

Opinion of Counsel shall mean a written opinion of counsel, who may (except as otherwise expressly provided in the Indenture or this Agreement) be counsel for the Lessee or the Agency and who shall be acceptable to the Agency and the Trustee (such approvals not to be unreasonably withheld), and which opinion shall be in a form reasonably acceptable to the Agency and the Trustee.

Permitted Encumbrances shall mean:

- (i) this Agreement, the Company Lease and the Agency Mortgages;
- (ii) liens for real estate taxes, assessments, levies and other governmental charges, the payment of which is not yet due and payable;
- (iii) utility, access and other easements and rights-of-way, restrictions and exceptions that will not materially interfere with or impair the Lessee's use and enjoyment of the Facility as herein provided;
- (iv) such minor defects, irregularities, encumbrances, easements, rights-of-way and clouds on title as normally exist with respect to property similar in character to the Facility as do not, either singly or in the aggregate, render title to the Facility unmarketable or materially impair the property affected thereby for the purpose for which it was acquired and held by the Agency hereunder;
- (v) those exceptions to title to the Facility enumerated in the title insurance policy delivered pursuant to Section 2.3 hereof insuring the Agency's leasehold title interest in the Facility, copies of which are on file at the principal corporate trust office of the Trustee and at the office of the Agency;
- (vi) any mortgage, lien, security interest or other encumbrance which exists in favor of the Trustee;
- (vii) any lien created in compliance with Section 6.10 hereof.
- (viii) liens arising out of judgments or awards against Lessee with respect to which an appeal or proceeding for review is being prosecuted diligently and in good faith; and
- (ix) materialmen's, mechanics or other like liens for amounts the payment of which is not yet delinquent or is being contested diligently and in good faith.

Prohibited Person shall mean:

(i) any Person (A) that is in default or in breach, beyond any applicable grace period, of its obligations under any material written agreement with the City or the Agency, or (B) that directly or indirectly controls, is controlled by, or is under common control with, a Person that is in default or in breach, beyond any applicable grace period, of its obligations under any material written agreement with the City or the Agency, unless such default or breach has been waived in writing by the City or the Agency, respectively;

(ii) any Person (A) that has been convicted in a criminal proceeding for a felony or any crime involving moral turpitude or that is an organized crime figure or is reputed to have substantial business or other affiliations with an organized crime figure, or (B) that directly or indirectly controls, is controlled by, or is under common control with a Person that has been convicted in a criminal proceeding for a felony or any crime involving moral turpitude or that is an organized crime figure or is reputed to have substantial business or other affiliations with an organized crime figure;

(iii) any government, or any Person that is directly or indirectly controlled (rather than only regulated) by a government, that is finally determined to be in violation of (including, but not limited to, any participant in an international boycott in violation of) the Export Administration Act of 1979, or its successor, or the regulations issued pursuant thereto, or any government that is, or any Person that, directly or indirectly, is controlled (rather than only regulated) by a government that is subject to the regulations or controls thereof; or

(iv) any government, or any Person that, directly or indirectly, is controlled (rather than only regulated) by a government, the effects of the activities of which are regulated or controlled pursuant to regulations of the United States Treasury Department or executive orders of the President of the United States of America issued pursuant to the Trading with the Enemy Act of 1917, as amended (including the Arms Export Control Act of 1979, as amended).

Project shall mean the acquisition, construction and equipping of and improvements to the Facility more particularly described in the Description of Project in Appendix A attached hereto, along with certain related expenses.

Project Supervisor shall mean the Head or Business Manager of the Lessee or any other person designated by the Lessee upon written notice to the Agency and the Trustee.

Security Documents shall mean, collectively and severally, the Lease Agreement, the Company Lease Agreement, the Guaranty Agreement, the Agency Mortgage, and the Indenture, together with any and all other agreements or instruments delivered or assigned to the Trustee as security for the payment of the principal of and redemption premium, if any, and interest on the Bonds.

Series 1999 Bonds shall mean the \$22,000,000 Short Term Auction Rate Securities (STARS) Civic Facility Revenue Bonds (The Churchill School and Center for Learning Disabilities, Inc. Project), Series 1999 of the Agency issued, executed, authenticated and delivered under the Indenture.

Tax Certificate shall mean the "Tax Certificate As To Arbitrage and Provisions of Section 103(a) of the Internal Revenue Code of 1986", dated the date of original issuance of the Bonds, executed by Authorized Representatives of the Agency and the Lessee and delivered to the Agency, the Lessee and the Trustee and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith and herewith.

Tax-Exempt Organization shall mean a Person organized under the laws of the United States of America or any state thereof which is an organization described in Section 501(c)(3) of the Code and exempt from federal income taxes under Section 501(a) of the Code, or corresponding provisions of federal income tax laws from time to time in effect.

Trustee shall mean United States Trust Company of New York, New York, New York, in its capacity as Trustee, and its successors in such capacity and their assigns hereafter appointed in the manner provided in the Indenture.

Tuition shall mean the fees and charges imposed on its students by the Lessee for academic instruction.

SECTION 1.2. Construction.

In this Agreement, unless the context otherwise requires:

(a) The terms "hereby", "hereof", "hereto", "herein", "hereunder" and any similar terms, as used in this Agreement, refer to this Agreement, and the term "hereafter" shall mean after, and the term "heretofore" shall mean before, the date of the execution and delivery of this Agreement.

(b) Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders and words importing the singular number shall mean and include the plural number and vice versa.

(c) Words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons.

(d) Any headings preceding the texts of the several ARTICLES and Sections of this Agreement, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

SECTION 1.3. Representations and Warranties by Agency.

The Agency makes the following representations and warranties:

(a) The Agency is a corporate governmental agency constituting a body corporate and politic and a public benefit corporation duly organized and existing under the laws of the State, and is authorized and empowered to enter into the transactions contemplated by this

Agreement and to carry out its obligations hereunder. By proper action of its directors, the Agency has duly authorized the execution and delivery of this Agreement.

(b) In order to finance a portion of the cost of the Project, the Agency proposes to issue the Series 1999 Bonds in the aggregate principal amount of \$22,000,000. The Series 1999 Bonds will mature, bear interest, be redeemable and have the other terms and provisions specified in the Form of the Bonds set forth in the Indenture.

SECTION 1.4. Findings by Agency.

The Agency, based upon the representations and warranties of the Lessee contained in this Agreement and the information contained in the application and other materials heretofore submitted by or on behalf of the Lessee to the Agency, hereby finds and determines that the acquisition, construction, equipping and renovation of the Facility and the financing thereof by the Agency pursuant to the Act will promote and is authorized by and will be in furtherance of the policy of the State as set forth in said Act and in furtherance of the Agency's policies for the promotion, encouragement and development of economically sound industry for the purpose of preventing unemployment and economic deterioration.

SECTION 1.5. Representations and Warranties by Lessee.

The Lessee makes the following representations and warranties:

(a) The Lessee is a not-for-profit educational corporation chartered by the Board of Regents of the University of the State of New York for and on behalf of the State Education Department of the State of New York, duly organized, validly existing and in good standing under the laws of the State of New York, is not in violation of any provision of its charter or by-laws, has the corporate power and authority to own property and assets, to carry on its business as now being conducted by it and to execute, deliver and perform this Agreement.

(b) The execution, delivery and performance of this Agreement, each other Security Document to which it shall be a party and the Auction Agency Agreement and the consummation of the transactions herein and therein contemplated have been duly authorized by all requisite corporate action on the part of the Lessee and will not violate any provision of law, any order of any court or agency of government, or the charter or by-laws of the Lessee, or any indenture, agreement or other instrument to which the Lessee is a party or by which it or any of its property is bound, or be in conflict with or result in a breach of or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument or result in the imposition of any lien, charge or encumbrance of any nature whatsoever other than Permitted Encumbrances.

(c) Expenses for supervision by the officers or employees of the Lessee and expenses for work done by such officers or employees in connection with the Project will be included as a Project Cost only to the extent that such Persons were specifically employed for such particular purpose, the expenses do not exceed the actual cost thereof and are to be treated on the books of the Lessee as a capital expenditure in conformity with generally accepted accounting principles applied on a consistent basis.

(d) Except as set forth in the notes to the Lessee's financial statements, there is no action or proceeding pending, or threatened by or against the Lessee by or before any court or administrative agency that would adversely affect the ability of the Lessee to perform its obligations under this Agreement, each other Security Document to which it shall be a party and the Auction Agency Agreement and all authorizations, consents and approvals of governmental bodies or agencies required to be obtained by the Lessee as of the date hereof in connection with the execution and delivery of this Agreement, each other Security Document to which the Lessee shall be a party and the Auction Agency Agreement or in connection with the performance of the obligations of the Lessee hereunder, under each of the Security Documents and under the Auction Agency Agreement have been obtained.

(e) The assistance of the Agency in the financing of a portion of the costs of the Project is reasonably necessary to induce the Lessee to proceed with the Project.

(f) The Facility will constitute a "civic facility" under the Act.

(g) The Lessee is organized and operated exclusively for not-for-profit purposes, and no part of the earnings of the Lessee inures to the benefit of any person, private shareholder or individual.

(h) The financial assistance (within the meaning of the Act) provided by the Agency to the Lessee through the issuance of the Bonds and as contemplated by this Agreement is reasonably necessary to induce the Lessee to proceed with the Project.

(i) The total of those certain Project Costs being financed with proceeds of the Bonds is at least equal to the aggregate principal amount of the Bonds, and such Project Costs are less than the total cost of the Project.

(j) The completion of the Project will not result in the removal of an industrial, manufacturing, warehousing or commercial plant or facility of the Lessee from one area of the State to another area of the State or in the abandonment of one or more of such plants or facilities of the Lessee within the State.

(k) Except as set forth in the Tax Certificate, any costs incurred with respect to that part of the Project paid from the proceeds of the sale of the Bonds shall be treated on the books of the Lessee as capital expenditures in conformity with generally accepted accounting principles applied on a consistent basis.

(l) The property included in the Facility is either property of the character subject to the allowance for depreciation under Section 167 of the Code, or land.

(m) Except as set forth in the Tax Certificate, no part of the proceeds of the Bonds will be used to finance inventory or will be used for working capital, or to refinance any cost other than costs of the acquisition, construction and renovation of the Facility, and such costs of acquisition, construction and renovation shall constitute Project Costs treated by the Lessee as capital expenditures in conformity with generally accepted accounting principles applied on a consistent basis.

(k) The Project is included within the definition of "project" under the Act.

(l) This Agreement, the other Security Documents and the Auction Agency Agreement to which the Lessee is a party constitute the legal, valid and binding obligations of the Lessee enforceable against the Lessee in accordance with their respective terms, except to the extent enforcement may be limited by bankruptcy, moratorium, reorganization and other similar laws affecting creditors' rights generally and by application of equitable principles.

(m) The Project has been designed, and the operation of the Project will be, in compliance with all applicable Federal, State and local laws or ordinances (including rules and regulations) relating to zoning, building, safety and environmental quality.

(n) The Facility Realty does not include convention centers or housing facilities within the meaning of the Act.

(o) Except as set forth in the Tax Certificate, no portion of the proceeds of the Series 1999 Bonds will be used to refinance any cost other than costs of acquisition, construction and renovation of the Facility.

(p) All consents, approvals or authorizations, if any, of any governmental bodies or agencies required to be obtained on the part of the Lessee in connection with the conveyance of the Facility Realty by the Lessee to the Agency concurrently with the issuance and delivery of the Series 1999 Bonds, have been duly obtained.

(q) The representations set forth in the Certificate of The Churchill School and Center for Learning Disabilities, Inc. as to 501(c)(3) status and as to Representations and Information Regarding Arbitrage, dated the date of delivery of the Bonds, executed by The Churchill School and Center for Learning Disabilities, Inc., are true and correct as of the date of such Certificate and are incorporated by reference into this Agreement as if fully set forth herein.

(r) The aggregate rentable square footage of the Facility is approximately 52,000 square feet and the aggregate square footage of the Facility Realty is approximately 18,319 square feet.

(s) The Fiscal Year of the Lessee shall mean a year of 365 or 366 days, as the case may be, commencing on July 1 and ending on June 30.

(t) Neither the Lessee nor any affiliate thereof is a Prohibited Person.

ARTICLE II.

The Project

SECTION 2.1. The Project.

(a) The Lessee conveys to the Agency at the time of the delivery and payment of the Series 1999 Bonds good and marketable leasehold title to the Facility Realty, and good and

marketable leasehold title to such items of the Facility Equipment (to the fullest extent that the Lessee is capable of doing with regard to any leased Facility Equipment) as shall have been acquired at the time of such delivery and payment, in each case free and clear of all liens, claims, charges, encumbrances, security interests and servitudes other than Permitted Encumbrances, all against payment therefor by the Agency from the proceeds of the Series 1999 Bonds deposited in the Project Fund to the extent permitted in Section 2.2 hereof and Section 5.02 of the Indenture.

(b) As promptly as practicable after receipt of the proceeds of sale of the Series 1999 Bonds and out of said proceeds of sale, the Agency will, subject to the provisions of Section 2.2 hereof, cause the Lessee, on behalf of the Agency, to complete the Project. A portion of the cost of the Project shall be paid from the Project Fund established under the Indenture or as otherwise provided in Section 2.2 hereof.

(c) In order to accomplish the purposes of the Agency, and to assure the effectuation of the Project in conformity with the requirements of the Lessee, the Lessee shall undertake to proceed with the Project to substantial completion. Project work, if any, shall be supervised by the Project Supervisor.

(d) The Lessee shall pay (i) all of the costs and expenses in connection with the preparation of any instruments of conveyance and transfer of the Facility to the Agency, the delivery of any instruments and documents and their filing and recording, if required, (ii) all taxes and charges payable in connection with such conveyance and transfer, or attributable to periods prior to the conveyance and transfer, to the Agency as set forth in Section 2.1(a) hereof, and (iii) all shipping and delivery charges and other expenses or claims incurred in connection with the Project.

(e) The Lessee covenants that it will obtain or cause to be obtained all necessary approvals from any and all governmental agencies requisite to the completion of the Project and the operation of the Facility, all of which will be done in compliance with all Federal, State and local laws, ordinances and regulations applicable thereto, including, with respect to any item of Facility Equipment, all manufacturers' instructions and warranty requirements, and with the conditions and requirements of all policies of insurance with respect to the Facility and this Agreement. Upon completion of the Project, the Lessee will as promptly as practicable obtain or cause to be obtained all required occupancy and operation permits, authorizations and licenses from appropriate authorities, if any are required, authorizing the occupancy, operation and use of the Facility for the purposes contemplated by this Agreement and shall furnish copies of the same to the Agency and the Trustee immediately upon receipt thereof.

(f) Upon written request, the Lessee will extend to the Trustee all extendable vendors' warranties received by the Lessee in connection with the Project, including any warranties given by contractors, manufacturers or service organizations who perform work with respect to the Project.

(g) The Lessee shall take such action and institute such proceedings as shall be reasonably necessary to cause and require all contractors and material suppliers to complete their contracts diligently in accordance with the terms of said contracts, including, without limitation, the correcting of any defective work, with all expenses incurred by the Lessee or the Agency in

connection with the performance of their obligations under this Section to be considered a Project Cost. Any amounts recovered by way of damages, refunds, adjustments or otherwise in connection with the foregoing, after deduction of expenses incurred in such recovery, if recovered prior to the date of completion of the Project, shall be deposited into the Construction Account of the Project Fund and made available for payment of Project Costs, or if recovered after such date of completion, be deposited in the Redemption Account of the Bond Fund for the redemption of the Series 1999 Bonds pursuant to said section.

(h) Leasehold title to all materials, equipment, machinery and other property intended to be incorporated or installed as part of the Facility and purchased with proceeds of the Series 1999 Bonds shall vest in the Agency immediately upon delivery to or installation or incorporation into the Facility Realty or payment therefor, whichever shall occur first. The Lessee shall take all action necessary to so vest leasehold title to the Facility Equipment in the Agency and to protect such leasehold title against claims of any third parties.

SECTION 2.2. Completion by Lessee.

The Lessee unconditionally covenants and agrees that it will complete the Project, or cause the Project to be completed, by April 1, 2001, and, subject to *force majeure*, that such completion will be effected in a first-class workmanlike manner, using high-grade materials, free of defects in materials or workmanship (including latent defects), as applicable, and in accordance with this Agreement and the Indenture and under the supervision of the Project Supervisor. In the event that moneys in the Project Fund are not sufficient to pay the costs necessary to complete the Project in full, the Lessee shall pay that portion of such costs of the Project as may be in excess of the moneys therefor in said Project Fund and shall not be entitled to any reimbursement therefor from the Agency, the Trustee or the Holders of any of the Bonds (except from the proceeds of Additional Bonds which may be issued for that purpose), nor shall the Lessee be entitled to any diminution of the rents payable or other payments to be made under this Agreement.

The date of completion for the Project shall be evidenced to the Agency and the Trustee by a certificate of the Project Supervisor, attached hereto as Schedule D, stating, except for any costs not then due and payable or the liability for payment of which is being contested or disputed in good faith by the Lessee (i) the date of completion of the Project, (ii) that all labor, services, machinery, equipment, materials and supplies used therefor have been paid for, (iii) that all other facilities necessary in connection with the Project have been completed and all costs and expenses incurred in connection therewith have been paid, (iv) that the Agency has good and marketable leasehold title, subject only to Permitted Encumbrances, to all property constituting part of the Facility (which certification may be delivered in reliance upon a leasehold title insurance continuation update) and all property of the Facility is subject to this Agreement and the lien and security interest of the Agency Mortgage, (v) that, in accordance with all applicable laws, regulations, ordinances and guidelines, the Facility has been made ready for occupancy, use and operation for its intended purposes, and (vi) the amount, if any, required in his or her opinion for the payment of any remaining part of the costs of the Project. Such certificate shall further certify as to the determination of the Rebate Requirement as provided in the Tax Certificate and the Indenture and shall direct any transfer to, or make payments of amounts for deposit in, the Rebate Fund. Notwithstanding the foregoing, such certificate shall state (x) that it

is given without prejudice to any rights of the Lessee against third parties which exist at the date of such certificate or which may subsequently come into being, (y) that it is given only for the purposes of this Section and Section 5.02 of the Indenture, and (z) that no Person other than the Agency and the Trustee may benefit therefrom. The certificate of completion shall be accompanied by (1) if required, a temporary amended certificate of occupancy (if promptly replaced with a permanent amended certificate of occupancy prior to its expiration) or a permanent certificate of occupancy, and any and all permissions, approvals, licenses or consents required of governmental authorities for the occupancy, operation and use of the Facility for the purposes contemplated by this Agreement; (2) a bill of sale from the Lessee conveying to the Agency all of the Lessee's right, title and interest, if any, in the Facility Equipment; (3) an opinion of counsel to the Agency and the Trustee to the effect that the Facility as completed is adequately described for purposes of granting a valid mortgage lien and a valid security interest therein under the Agency Mortgage; (4) surveys by a licensed surveyor, which survey shall (i) locate the building structures and improvements constructed as part of the Facility without any encroachment by any building or structural improvement on land outside of the Facility Realty, (ii) show the location of all building structures and improvements constituting part of the Facility Realty within lot and building lines in compliance with the applicable zoning requirements, and (iii) indicate all rights of way and rights of others of record with respect to the Facility Realty; and (5) a final endorsement to the title insurance policy theretofore delivered, indicating that since the last preceding advance of amounts on deposit in the Project Fund, there has been no change in the state of title and no survey exceptions not theretofore approved by the Trustee, which endorsements shall contain no exception for inchoate mechanic's liens (with such affirmative insurance relating thereto as the Trustee shall reasonably require) and shall have the effect of redating such policy to the date of such advance and increasing the coverage of the policy by an amount equal to the advance then being made if the policy does not by its terms provide for such an increase.

SECTION 2.3. Issuance of Series 1999 Bonds, Application of Proceeds of Series 1999 Bonds.

(a) Contemporaneously with the execution and delivery of this Agreement the Agency will sell and deliver the Series 1999 Bonds in the aggregate principal amount of \$22,000,000 under and pursuant to a resolution adopted by the Agency on November 9, 1999, authorizing the issuance of the Bonds under and pursuant to the Indenture. The proceeds of sale of the Series 1999 Bonds shall be applied as follows: (i) an amount representing accrued interest, if any, on the Series 1999 Bonds to their date of delivery to the initial purchasers thereof, shall be deposited in the Interest Account of the Bond Fund; (ii) an amount which, together with the maximum amount drawable or available under any Reserve Fund Facility on deposit in the Debt Service Reserve Fund, equals the Debt Service Reserve Fund Requirement shall be deposited in the Debt Service Reserve Fund; and (iii) the balance of the proceeds shall be deposited in the Project Fund to pay Project Costs.

(b) The application of the proceeds of the sale of the Series 1999 Bonds is subject to the "trust fund" provisions of Section 13 of the Lien Law of the State. The Lessee shall receive all advances of the proceeds of the Series 1999 Bonds to be made hereunder or under the Indenture and will hold the right to receive the same as a trust fund for the purpose of paying the

cost of the improvement and shall apply the same first to such payment before using any part thereof for any other purpose permitted hereunder or under the Indenture.

(c) The Agency and the Lessee recognize that under the provisions of and subject to the conditions set forth in the Indenture and so long as the Lease Agreement is in effect, one or more series of Additional Bonds may be issued, authenticated and delivered upon original issuance for any or all of the following purposes: (i) providing funds in excess of the net proceeds of insurance and condemnation awards necessary to repair, relocate, replace, rebuild or restore the Facility in the event of damage, destruction or taking by eminent domain, (ii) providing for the financing or refinancing of Project Costs in connection with the acquisition, construction or installation of additional Improvements or Facility Equipment for incorporation into the Facility as part of the Project, (iii) refunding any Bonds issued by the Agency or any indebtedness incurred by the Lessee to finance or refinance the acquisition or improvement of the Facility, and (iv) providing additional funds for the Debt Service Reserve Fund.

SECTION 2.4. Title Insurance.

Prior to the delivery of the Bonds to the original purchaser(s) thereof, the Lessee will obtain and deliver to the Agency (a) leasehold title insurance in an amount not less than \$500,000 insuring the Agency's leasehold interest in the Facility Realty against loss as a result of defects in the leasehold title of the Agency, (b) mortgagee title insurance on the Lessee's leasehold interest in an amount not less than \$22,000,000 insuring the Trustee's interest under the Agency Mortgage as holder of a first, second and third mortgage lien on the Facility Realty, in each case subject only to Permitted Encumbrances, and (c) a current survey of the site of the Facility Realty certified to the Agency and Trustee. Any proceeds of such leasehold title insurance or mortgage title insurance shall be paid to the Trustee for the benefit of the Bondholders for deposit in the Renewal Fund and applied to remedy the defect in title. If not so capable of being remedied, in the opinion of the Trustee or if any amounts remain, the amounts in the Renewal Fund shall be deposited by the Trustee in the Redemption Account of the Bond Fund to be applied in connection with the redemption of Bonds pursuant to Section 2.04(d) of the Indenture for the redemption of the Series 1999 Bonds pursuant to said section. Any proceeds of such mortgagee title insurance insuring against loss as a result of defects affecting the Trustee's interest as holder of a mortgage lien on the Facility Realty shall be paid to the Trustee and deposited by the Trustee in the Redemption Account of the Bond Fund to be applied in connection with the redemption of Bonds pursuant to Section 2.04(d) of the Indenture for the redemption of the Series 1999 Bonds pursuant to said section.

ARTICLE III.

Lease of Facility and Rental Provisions

SECTION 3.1. Lease of the Facility

The Agency hereby subleases to the Lessee, and the Lessee hereby subleases from the Agency, the Facility for and during the term herein provided and upon and subject to the terms and conditions herein set forth. The Lessee shall at all times during the term of this Agreement

occupy, use and operate the Facility as a civic facility in accordance with the provisions of the Act and for the educational, administrative and general purposes specified in the recitals to this Agreement. The Lessee shall not occupy, use or operate the Facility or allow the Facility or any part thereof to be occupied, used or operated for any unlawful purpose or in violation of any certificate of occupancy affecting the Facility or which may constitute a nuisance, public or private, or make void or voidable any insurance then in force with respect thereto. The Lessee further agrees that no part of the Facility shall be used for any purpose which would cause the Agency's financing of the Project to constitute a violation of the First Amendment of the United States Constitution, and, in particular, the Lessee will not restrict admission to the school to students of a particular religious faith or in any way discriminate in its admission or operational policies against any person on the basis of that person's race, creed, national origin or religious beliefs; the Lessee will not require students admitted to the school to receive instruction in the doctrines, principals, traditions, laws, customs and tenets of a particular religious faith; the Lessee agrees that no part of the Facility shall be used for any sectarian instruction for the purposes of advancement of religion or as a place of religious worship or in connection with any part of a program of a school or department of divinity for any religious denomination; and any proceeds of any sale, lease, taking by eminent domain of the Facility or other disposition thereof shall not be used for, or to provide a place for, such instruction, worship or program. The provisions of the foregoing sentence shall, to the extent permitted and required by law, survive termination of this Agreement. This Agreement is and shall be subject and subordinate in all respects to the Company Lease Agreement.

SECTION 3.2. Duration of Term.

The term of this Agreement shall commence on the date of execution and delivery of this Agreement and shall expire on December 1, 2029 or such earlier or later date as this Agreement may be terminated as hereinafter provided. The Agency hereby delivers to the Lessee and the Lessee hereby accepts sole and exclusive possession of the Facility.

SECTION 3.3. Rental Provisions; Pledge of Agreement and Rent.

(a) *Rentals.* The Lessee covenants to make rental payments which the Agency agrees shall be paid by the Lessee directly to the Trustee. Such rental shall, to the extent not paid from amounts on deposit in the Capitalized Interest Account of the Project Fund, be paid during the term of this Agreement, by wire transfer, not later than one (1) Business Day prior to each due date for the payment of the principal or Redemption Price, if applicable, of, and interest on, the Bonds as set forth in the Indenture until the principal or Redemption Price, if applicable, and interest on the Bonds shall have been fully paid, or provision for the payment thereof shall have been made in accordance with the provisions of Section 10.01 of the Indenture. The amount of each such rental payment shall be an amount sufficient, together with any amounts then available in the Bond Fund at the time of payment of such rental, to enable the Trustee to make payment, on each such due date, of the principal (whether at maturity or by redemption or acceleration or otherwise as provided in the Indenture) or Redemption Price, if applicable, of, and interest on (including interest due upon the occurrence of an Event of Default), the Bonds. Notwithstanding anything in the foregoing to the contrary, if the amount on deposit and available in the Bond Fund is not sufficient to pay the principal or Redemption Price, if applicable, of, and interest on (including interest due upon the occurrence of an Event of Default or upon a Determination of

Taxability), the Bonds when due (whether at maturity or by redemption or acceleration or otherwise as provided in the Indenture), the Agency shall, pursuant to the Indenture, require the Trustee to promptly give notice of such deficiency to the Lessee, and the Lessee agrees to pay forthwith the amount of such deficiency in immediately available funds to the Trustee for deposit in the Bond Fund. Any such payments, and any other amounts payable to the Agency hereunder, shall constitute rental payments under this Section 3.3. In the event the Lessee should fail to make or cause to be made any of the payments required under the foregoing provisions of this Section, the item or installment not so paid shall continue as an obligation of the Lessee until the amount not so paid has been paid in full. The Lessee agrees to pay additional amounts set forth in the Indenture to be paid by the Lessee with respect to interest on the Series 1999 Bonds in the event of a Determination of Taxability or an Event of Default.

(b) Consent to Assignment of Rentals. Pursuant to the Indenture, the Agency shall pledge and assign to the Trustee as security for the Bonds all of the Agency's right, title and interest in, to and under this Agreement (except for the Agency's Reserved Rights), including all rental payments hereunder, and in furtherance of said pledge the Agency will unconditionally assign such rental payments to the Trustee for deposit in the Bond Fund, in accordance with the Indenture. The Lessee hereby consents to the above-described pledge and assignment of this Agreement. The Lessee covenants and agrees that it will comply with the provisions of the Indenture with respect to the Lessee and that the Trustee shall have the power, authority, rights and protections provided to it in the Indenture. The Lessee further covenants to use its best efforts to cause there to be obtained for the Agency any documents or opinions required of the Agency under the Indenture.

(c) Rebate Payments. The Lessee covenants and agrees to provide to the Trustee sufficient moneys as necessary to meet the Rebate Requirement described in the Tax Certificate.

(d) Prepayments. The Lessee shall have the right to make advance rental payments without penalty under Section 8.1 of this Agreement to the Trustee for deposit in the Redemption Account of the Bond Fund as and to the extent provided in the Indenture for redemption of the Bonds.

(e) Defeasance. No further rental payments need be made to the Agency during the term of this Agreement when and so long as the amount of cash and/or Government Obligations on deposit in the Bond Fund is sufficient to satisfy and discharge the obligations of the Agency under the Indenture and pay the Bonds as provided in Section 10.01 of the Indenture.

(f) Agency Mortgage. Pursuant to the Indenture and the Agency Mortgage, the Agency shall grant a lien on and security interest in the Facility prior to the lien of this Agreement, and pledge and assign to the Trustee on behalf of the Bondholders as security for the Bonds all of the Agency's right, title and interest in this Agreement (except for the Agency's Reserved Rights), including all rental payments hereunder and thereunder, and in furtherance of said pledge the Agency will unconditionally assign such rental payments to the Trustee for deposit in the Lease Payments Fund, in accordance with the Indenture. The Lessee hereby consents to the above-described lien and security interest, and pledge and assignment of this Agreement.

(g) Debt Service Reserve Fund Withdrawals and Replenishment. Notwithstanding anything in the foregoing to the contrary, if the amount on deposit and available in any account of the Bond Fund is not sufficient to pay the principal, Sinking Fund Installment, or Redemption Price of and interest (including interest due upon the occurrence of an Event of Default or upon a Determination of Taxability) on the Bonds when due (whether at maturity or by redemption or acceleration or otherwise as provided in the Indenture), the Trustee shall cause to be disbursed from the Debt Service Reserve Fund into the Bond Fund moneys in an amount sufficient to fund any such deficiency. The Lessee covenants and agrees (i) to cause the Debt Service Reserve Fund to be maintained at the Debt Service Reserve Fund Requirement, subject to such withdrawals therefrom and to deficiencies therein based on a valuation of the assets thereof, (ii) to replenish any withdrawals from the Debt Service Reserve Fund, to the extent necessary to cause the Debt Service Reserve Fund to be funded at the Debt Service Reserve Fund Requirement, by making a payment to the Trustee, in immediately available funds, not later than ten (10) days from the date of such withdrawal, in an amount equal to the amount withdrawn from the Debt Service Reserve Fund, and (iii) to replenish any deficiencies in the Debt Service Reserve Fund based on a valuation of the assets thereof in each case by making six (6) monthly installments to the Trustee in an amount equal to one-sixth (1/6) of such valuation deficiency. The Lessee agrees that in the event that a Reserve Fund Facility is on deposit in the Debt Service Reserve Fund, the Trustee shall withdraw any moneys on deposit therein, and, if necessary, shall sell any securities on deposit therein, and apply such moneys or proceeds of the sale of such securities to fund any deficiencies in the accounts within the Bond Fund prior to making any claim under or drawing upon any such Reserve Fund Facility. The Lessee may restore the balance of amounts credited to the Debt Service Reserve Fund by causing the reinstatement of the maximum amounts available under any Reserve Fund Facility, provided that the moneys and value of securities on deposit in the Debt Service Reserve Fund, together with such maximum amounts, shall be in an amount sufficient to satisfy the Lessee's obligations under this Section 3.3(g).

(h) Missed Payments. In the event the Lessee should fail to make or cause to be made any of the payments required under the foregoing provisions of this Section, the item or installment not so paid shall continue as an obligation of the Lessee until the amount not so paid has been paid in full; provided, however, that in the event that the Lessee shall fail to make rental payments pursuant to subsection (a) of this Section and amounts are withdrawn from the Debt Service Reserve Fund as a result thereof, the Lessee shall be deemed to satisfy its obligation to make such missed rental payments by making full and timely payments, if any, as necessary to restore the Debt Service Reserve Fund to the Debt Service Reserve Fund Requirement pursuant to subsection (h) of this Section.

(i) Additional Rentals. Any payments made to the Trustee to restore the Debt Service Reserve Fund to the Debt Service Reserve Fund Requirement in accordance with subsection (g) of this Section or to provide the Trustee with sufficient moneys as necessary to meet the Rebate Requirement in accordance with subsection (c) of this Section shall constitute additional rental payments payable under this Section.

SECTION 3.4. Obligation of Lessee Unconditional.

The obligation of the Lessee to pay the rent and all other payments provided for in this Agreement and to maintain the Facility in accordance with Section 4.1 of this Agreement shall be an absolute, unconditional and general obligation of the Lessee, irrespective of any defense or any rights of setoff, recoupment or counterclaim or deduction and without any rights of suspension, deferment, diminution or reduction it might otherwise have against the Agency, the Trustee or the Holder of any Bond and the obligation of the Lessee shall arise whether or not the Project has been completed as provided in this Agreement. The Lessee further agrees that the payments required by this Agreement shall be paid by the Lessee to the Trustee and the Agency whether or not any student enrolled with the Lessee or any user or occupant of any part of the Project is delinquent in the payment of tuition, rentals or other charges owed to the Lessee, and whether or not any such person receives either partial or total reimbursement from any source as a credit against such payment. The Lessee will not suspend or discontinue any such payment or terminate this Agreement (other than such termination as is provided for hereunder) for any cause whatsoever, and the Lessee waives all rights now or hereafter conferred by statute or otherwise to quit, terminate, cancel or surrender this Agreement or any obligation of the Lessee under this Agreement or the Facility or any part thereof except as provided in this Agreement or to any abatement, suspension, deferment, diminution or reduction in the rentals or other payments hereunder.

SECTION 3.5. Grant of Security Interest.

In order to secure the payment of rentals and all the obligations of the Lessee hereunder, the Lessee hereby grants a security interest to the Agency in all of the Lessee's right, title, if any, and interest in and to the fixtures constituting part of the Facility Realty, and in and to the machinery, equipment and other property constituting part of the Facility Equipment, and in and to the proceeds of each thereof.

SECTION 3.6. Right of Set-Off.

The Lessee hereby grants to the Agency and the Trustee for the equal and ratable benefit of all Bondholders a lien and right of set-off for all the Lessee's liabilities and obligations under this Agreement and the other Security Documents to which it is a party against all the deposits, credits and property of the Lessee and any collateral of the Lessee now or hereinafter in the possession, under the control of the Agency and the Trustee, and agrees that the same may be applied against such liabilities and obligations at any time after an Event of Default has occurred under this Agreement.

SECTION 3.7. Covenant to Charge and Collect Sufficient Tuition.

The Lessee agrees to pay or cause to be paid the amounts required by this Agreement from all moneys legally available to the Lessee in the manner and at the times provided by this Agreement. Without limiting or qualifying, in any way, the agreement of the Lessee set forth in the immediately preceding sentence, the Lessee further agrees to charge and collect Tuition in such amount as will be, together with other moneys legally available to it or expected to be available, sufficient at all times: (i) to pay such amounts required by this Agreement when due;

(ii) to pay all amounts due with respect to any other Indebtedness of the Lessee when due; (iii) to pay all other obligations of the Lessee as the same become due and payable; and (iv) to provide for 1.00x payment of annual debt service due in each Fiscal Year.

SECTION 3.8. Reporting Requirements.

The Lessee hereby covenants and agrees with the Bond Insurer to provide notification to the Bond Insurer in the event of any significant change in the financial condition of the Lessee.

The Lessee shall covenant that while the Bonds are outstanding it will provide the Bond Insurer with timely information regarding the Lessee, including but not limited to:

(i) annual audited financial statements and evidence of compliance with the rate covenant reviewed by the auditor, within one hundred and twenty (120) days after the end of the Fiscal Year;

(ii) a copy of any audit, budget, or other material report of the Lessee within twenty (20) days of completion of such audit, budget or report and thereafter as updated;

(iii) a copy of any notice or report required to be given to the Trustee, the Insurance Trustee, the Paying Agent, the registered Owners of the Bonds or any other party to any of the Bond Documents executed in connection with the issuance of the Bonds, including, without limitation, notice of any redemption of or defeasance of Bonds, and any certificate rendered pursuant to the Indenture relating to the security for the Bonds;

(iv) a copy of any information filed by the Lessee with any NRMSIR under SEC Rule 15c-2(12), simultaneously with the filing with such NRMSIR and

(v) such additional information as the Bond Insurer may reasonably request.

The Lessee and the Agency will permit the Bond Insurer and/or the Insurance Trustee to discuss the affairs, finances and accounts of the Lessee or the Agency or any information the Bond Insurer may reasonably request regarding the security for the Bonds with appropriate officers of the Lessee or the Agency, their representatives and agents. The Lessee and the Agency will permit the Bond Insurer and/or the Insurance Trustee to have access to and make copies of all books and records relating to the Bonds, and the security therefor at any reasonable time.

SECTION 3.9. Reimbursement.

The Lessee shall pay or reimburse the Bond Insurer for any and all charges, fees, costs and expenses which the Insurer may reasonably pay or incur in connection with (i) the administration, enforcement, defense, or preservation of any rights or security hereunder, (ii) the pursuit of any remedies hereunder or otherwise afforded by law or equity, (iii) any amendment, waiver, or other action with respect to or related to this Agreement whether or not executed or completed, (iv) the violation by the Lessee of any law, rule, or regulation or any judgment, order or decree applicable to it, or (v) any litigation or other dispute in connection with this Agreement

or the transactions contemplated thereby, other than amounts resulting from the failure of the Bond Insurer to honor its payment obligations under the Policy. The Bond Insurer reserves the right to charge a reasonable fee as a condition to executing any amendment, waiver or consent proposed in respect of this Agreement.

The obligations of the Lessee to the Bond Insurer shall survive discharge and termination of this Agreement.

SECTION 3.10. Covenant to Maintain Expendable Resources.

The Lessee covenants and agrees to maintain Expendable Resources at all times in an amount not less than \$2,000,000. Expendable Resources shall equal Unrestricted Resources, or Unrestricted Net Assets minus Net Investment in Plant, plus Temporarily Restricted Net Assets.

ARTICLE IV.

Maintenance, Taxes, Payments in Lieu of Taxes and Insurance

SECTION 4.1. Maintenance, Alterations and Improvements.

(a) During the term of this Agreement, the Lessee will keep the Facility in good and safe operating order and condition, ordinary wear and tear excepted, will occupy, use and operate the Facility in the manner for which it was designed and intended and contemplated by this Agreement and in a careful, prudent and efficient manner, and will make all replacements, renewals and repairs thereto (whether ordinary or extraordinary, structural or nonstructural, foreseen or unforeseen) reasonably necessary to ensure that the security for the Bonds shall not be materially impaired. All replacements, renewals and repairs shall be substantially equivalent in quality, class and value to the original work and be made and installed in compliance with the requirements of all governmental bodies. The Agency shall be under no obligation to replace, service, test, adjust, erect, maintain or effect replacements, renewals or repairs of the Facility, to effect the replacement of any inadequate, obsolete, worn-out or unsuitable parts of the Facility, or to furnish any utilities or services for the Facility and the Lessee hereby agrees to assume full responsibility therefor.

(b) The Lessee shall have the privilege of making such alterations of or additions to the Facility or any part thereof from time to time as it in its discretion may determine to be desirable for its uses and purposes, provided that (i) the fair market value of the Facility is not reduced below its value immediately before such alteration or addition and the usefulness, structural integrity or operating efficiency of the Facility is not impaired, (ii) such additions or alterations are effected with due diligence, in a good and workerlike manner and in compliance with all applicable legal requirements, (iii) such additions or alterations are promptly and fully paid for by the Lessee in accordance with the terms of the applicable contract(s) therefor, and in order that the Facility shall at all times be free of any mortgage, lien, charge, encumbrance, security interest or claim other than Permitted Encumbrances, (iv) such additions or alterations are made, in case the estimated cost of such alteration or addition exceeds \$450,000, under the supervision of an Independent Engineer and in accordance with plans, specifications and cost estimates approved by the Agency and the Trustee and only after the Lessee shall have furnished

to the Agency and the Trustee, if requested, a labor and materials payment bond, or other security, reasonably satisfactory to the Agency and the Trustee and (v) such additions or alterations do not change the nature of the Facility so that it would not constitute a civic facility and a qualified "project" as defined in and as contemplated by the Act. All alterations of and additions to the Facility shall constitute a part of the Facility, subject to this Agreement, the Indenture, the Agency Mortgage and the other Security Documents, and the Lessee shall deliver or cause to be delivered to the Agency appropriate documents as may be necessary to convey leasehold title to such property to the Agency and to subject such property to this Agreement and the lien and security interest of the Indenture and the Agency Mortgage, free and clear of all liens, charges, encumbrances, security interests or claims other than Permitted Encumbrances.

(c) The Lessee shall have the right to install or permit to be installed at the Facility Realty machinery, equipment and other personal property not constituting part of the Facility (the "Lessee's Property") without conveying leasehold title to such property to the Agency nor subjecting such property to this Agreement and the lien and security interest of the Agency Mortgage, provided, that no such property would otherwise be subject to the Agency Mortgage or constitute part of the Facility Realty based on the description of collateral contained therein. The Agency shall not be responsible for any loss of or damage to the Lessee's Property. The Lessee shall have the right to create or permit to be created any mortgage, encumbrance, lien or charge on, or conditional sale or other title retention agreement with respect to, the Lessee's Property.

(d) The Lessee shall not create, permit or suffer to exist any mortgage, encumbrance, lien, security interest, claim or charge against the Facility or any part thereof, or the interest of the Lessee in the Facility or this Agreement except for Permitted Encumbrances. The Lessee covenants that it shall take or cause to be taken all action, including all filing and recording, as may be necessary to ensure that the Agency Mortgage shall constitute a first mortgage lien on the Facility.

(e) To the extent required by the New York State Finance Law §137, prior to executing any contract with any party for any improvement (as such term is defined in the New York Lien Law) in connection with the Project or the Facility or the provision of any goods or services in connection therewith, and prior to authorizing any party to undertake such improvement (or the provision of such goods and services) without a contract, the Lessee shall deliver to the Agency a copy of the proposed contract therefor along with a bond, in compliance with State Finance Law §137 and otherwise satisfactory to the Agency, guaranteeing prompt payment of monies due all persons furnishing labor or materials for the contractor or his subcontractor in the prosecution of his work provided for in such contract. The Agency shall have no liability or responsibility for the cost of such bond(s). Should the Lessee fail to comply with the foregoing requirement, the Lessee shall immediately cease to be the agent for the Agency in connection with the Project (such agency relationship being deemed to be immediately revoked).

SECTION 4.2. Removal of Property of the Facility.

(a) The Lessee shall have the privilege from time to time of removing from the Facility any fixture constituting part of the Facility Realty or any machinery, equipment or other

property constituting part of the Facility Equipment (the "Existing Facility Property"), provided that:

(i) such Existing Facility Property is substituted or replaced by property (A) having equal or greater fair market value, operating efficiency and utility, and (B) being free of all mortgages, liens, charges, encumbrances, claims and security interests other than Permitted Encumbrances; or

(ii) if such Existing Facility Property is not to be substituted or replaced by other property but is instead to be sold, scrapped, traded in or otherwise disposed of in an arms' length, bona fide transaction, and the aggregate fair market value of such items so removed for any Fiscal Year of the Lessee exceeds \$200,000, the Lessee shall pay to the Trustee for deposit in the Redemption Account of the Bond Fund for application in connection with the redemption of Bonds the amounts derived from such sale or scrapping, the trade-in value credit received or the proceeds received from such other disposition;

provided, however, no such removal as set forth in paragraph (i) or (ii) above shall be effected if (w) such removal would change the nature of the Facility as a qualified "project" as defined in and as contemplated by the Act, (x) such removal would impair the usefulness, structural integrity or operating efficiency of the Facility, (y) such removal would reduce the fair market value of the Facility below its value immediately before such removal (except by the amount deposited in the Redemption Account of the Bond Fund pursuant to paragraph (ii) above), or (z) if there shall exist and be continuing an Event of Default hereunder.

(b) The Lessee shall deliver or cause to be delivered to the Agency and the Trustee appropriate documents conveying to the Agency leasehold title to any property installed or placed upon the Facility Realty pursuant to Section 4.2(a)(i) hereof and subjecting such substitute or replacement property to this Agreement and the lien and security interest of the Agency Mortgage, and upon written request of the Lessee, the Agency shall deliver to the Lessee appropriate documents releasing any property removed from the Facility pursuant to Section 4.2(a) hereof from the lien thereon and security interest therein granted under the Agency Mortgage. The Lessee agrees to pay all costs and expenses (including reasonable counsel fees and disbursements incurred in subjecting to this Agreement and the lien and security interest of the Agency Mortgage of any property installed or placed on the Facility Realty as part of the Facility pursuant to this Section 4.2.

(c) The removal from the Facility of any Existing Facility Property pursuant to the provisions of Section 4.2(a) hereof shall not entitle the Lessee to any abatement or reduction in the rentals and other amounts payable by the Lessee under this Agreement.

(d) Within 120 days after the close of each Fiscal Year of the Lessee (i) during which Fiscal Year action was taken by the Lessee pursuant to Section 4.1(b) or 4.2(a) hereof, the Lessee shall furnish to the Agency and the Trustee a written report of an Authorized Representative of the Lessee summarizing the action taken by the Lessee during such preceding Fiscal Year and stating that, in his opinion, such action complied with the applicable provisions of Section 4.1(b) or 4.2(a) hereof, as the case may be; or (ii) during which Fiscal Year of the

Lessee no action was taken by the Lessee pursuant to Section 4.1(b) or 4.2(a) hereof, the Lessee shall furnish to the Agency and the Trustee a certificate of an Authorized Representative of the Lessee certifying to the fact that no such action was taken by the Lessee pursuant to such Section 4.1(b) or 4.2(a) during such preceding Fiscal Year.

SECTION 4.3. Payment in Lieu of Real Estate Taxes.

(a) Description and Address of Project:

The Project consists of the acquisition, renovation, expansion and equipping of an approximately 52,000 square foot educational facility to be located at 301 East 29th Street, New York, New York and the renovation, expansion and equipping of a five story building for use by the Institution in providing special educational services to elementary, middle school and high school students.

(b) Payments in Lieu of Real Estate Taxes, generally:

It is recognized that under the provisions of the Act the Agency is required to pay no real estate taxes upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities. In the event the Agency's interest in the Facility Realty shall exempt any portion of the Facility Realty from the payment of real estate taxes, then, so long as the Lessee remains an eligible not-for-profit educational corporation pursuant to the regulations of the New York City Department of Finance for purposes of determining exemption from New York City real estate taxes, and until the earlier of (i) the payment in full of all the Bonds Outstanding in accordance with Section 10.01 of the Indenture, or (ii) the date on which the Agency no longer has an interest in the Facility Realty, the Lessee shall make no payments in lieu of real estate taxes on the land, buildings and improvements constituting part of the Facility Realty.

SECTION 4.4. Taxes, Assessments and Charges (a) The Lessee shall pay when the same shall become due, and promptly provide to the Agency evidence of such payment, all taxes and assessments, general and specific, if any, levied and assessed upon or against the Facility, this Agreement, any estate or interest of the Agency or the Lessee in the Facility or the rentals hereunder during the term of this Agreement, and all water and sewer charges, special district charges, assessments and other governmental charges and impositions whatsoever, foreseen or unforeseen, ordinary or extraordinary, under any present or future law, and charges for public or private utilities or other charges incurred in the occupancy, use, operation, maintenance or upkeep of the Facility, all of which are herein called "Impositions". The Agency shall promptly forward to the Lessee any notice, bill or other statement received by the Agency concerning any Imposition. The Lessee may pay any Imposition in installments if so payable by law, whether or not interest accrues on the unpaid balance.

(b) The Lessee may at its sole expense contest (after prior written notice to the Agency and the Trustee), by appropriate action conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, of any Imposition, if (1) such proceeding shall suspend the execution or enforcement of such Imposition against the Facility or any part thereof or any interest therein, or in this Agreement or the Company Lease Agreement, of the

Agency, the Lessee or the Trustee or against any of the rentals or other amounts payable under this Agreement, (2) neither the Facility nor any part thereof or interest therein would be in any danger of being sold, forfeited or lost, (3) neither the Agency nor the Trustee would be in any reasonable danger of any civil or any criminal liability, other than normal accrual of interest, for failure to comply therewith, and (4) the Lessee shall have furnished such security, if any, as may be required in such proceedings; provided, however, if such proceeding could result in the Agency and the Trustee being in any reasonable danger of civil liability (including accrual of interest, fines and/or penalties), (y) the Lessee shall deliver a written confirmation to the Agency and the Trustee that the Lessee shall indemnify and hold the Agency and the Trustee harmless from any claims, liabilities, costs or expenses as may derive with respect thereto, and (z) the Lessee shall provide to the Agency and the Trustee such security as the Agency and the Trustee may reasonably require.

(c) At the written request of the Agency, the Lessee shall provide to the Agency all reasonable information as may be requested with respect to any Imposition (as described in Section 4.4(a) hereof), the status thereof, the amount in dispute, and the action taken or proposed to be taken by the Lessee in connection therewith.

SECTION 4.5. Insurance.

(a) At all times throughout the term of this Agreement, including without limitation during any period of construction or reconstruction of the Facility, the Lessee shall maintain insurance, with insurance companies licensed to do business in the State, against such risks, loss, damage and liability (including liability to third parties) and for such amounts as are customarily insured against by other enterprises of like size and type as that of the Facility, including, without limitation:

(i) To the extent not covered by the public liability insurance referred to below, Owners & Contractors Protective Liability Insurance for the benefit of the Lessee, the Agency and the Trustee in a minimum amount of \$10,000,000 aggregate coverage for personal injury and property damage;

(ii) During any period of the construction or reconstruction of any portion of the Facility, Builders' All Risk Insurance written on "100% builders' risk completed value, non-reporting form" including coverage therein for "completion and/or premises occupancy" during any period of construction or reconstruction of the Facility, and coverage for property damage insurance, all of which insurance shall include coverage for removal of debris, insuring the buildings, structures, machinery, equipment, facilities, fixtures and other property constituting a part of the Facility against loss or damage to the Facility by fire, lightning, vandalism, malicious mischief and other casualties, with standard extended coverage endorsement covering perils of windstorm, hail, explosion, aircraft, vehicles and smoke (except as limited in the standard form of extended coverage endorsement at the time in use in the State) at all times in an amount such that the proceeds of such insurance shall be sufficient to prevent the Lessee, the Agency, or the Trustee from becoming a co-insurer of any loss under the insurance policies but in any event in amounts equal to not less than the greater of (A) 80% of the actual replacement value of the Facility as determined by a qualified insurance appraiser or insurer (selected

by the Lessee and approved by the Agency and the Trustee) not less often than once every third year or such period required by the insurer, at the expense of the Lessee and (B) the principal amount of the Outstanding Bonds; any such insurance may provide that the insurer is not liable to the extent of the first \$10,000 with the result that the Lessee is its own insurer to the extent of \$10,000 of such risks;

(iii) Public liability insurance in accordance with customary insurance practices for similar operations with respect to the Facility and the business thereby conducted in a minimum amount of \$10,000,000, which insurance (A) will also provide coverage of the Lessee's obligations of indemnity under Section 6.2 hereof (other than under Section 6.2(a)(i) and (ii) and 6.2(c) hereof), (B) may be effected under overall blanket or excess coverage policies of the Lessee or any Affiliate thereof, provided, however, that at least \$500,000 is effected by a comprehensive liability insurance policy, and (C) shall not contain any provisions for deductible amount in excess of \$10,000;

(iv) Boiler and machine property damage insurance in respect of any steam and pressure boilers and similar apparatus located on the Facility Realty from risks normally insured against under boiler and machinery policies and in amounts and with deductibles customarily obtained for similar business enterprises and in each case approved by the Agency and the Trustee;

(v) Workers' compensation insurance, disability benefits insurance and such other forms of insurance which the Lessee or the Agency is required by law to provide covering loss resulting from injury, sickness, disability or death of the employees of the Lessee or any Affiliate thereof, or any contractor or subcontractor performing work with respect to the Facility; the Lessee shall require that all said contractors and subcontractors shall maintain all forms or types of insurance with respect to their employees required by laws; and

(vi) Such other insurance in such amounts and against such insurable hazards as the Agency or the Trustee from time to time may reasonably require, provided that such insurance is available generally at rates which are commercially reasonable.

(b) All insurance required by Section 4.5(a) above shall be procured and maintained in financially sound and generally recognized responsible insurance companies authorized to write such insurance in the State.

(c) Each of the policies or binders evidencing the insurance required above to be obtained shall:

(i) designate (except in the case of workers' compensation insurance) the Lessee, the Trustee and the Agency as additional insureds as their respective interests may appear;

(ii) provide that all insurance proceeds in excess of \$200,000 with respect to loss or damage to the property of the Facility be endorsed and made payable to the Trustee and shall name the Trustee as loss payee, as its interest shall appear under the standard loss payee clause and as mortgagees under the terms of a standard mortgagee

clause, which insurance proceeds in excess of \$200,000 shall be paid over to the Trustee and deposited in the Renewal Fund to be held by the Trustee for the benefit of the Holders of the Bonds;

(iii) provide that there shall be no recourse against the Agency or the Trustee for the payment of premiums or commissions or (if such policies or binders provide for the payment thereof) additional premiums or assessments;

(iv) provide that in respect of the respective interests of the Agency and the Trustee in such policies, the insurance shall not be invalidated by any action or inaction of the Lessee or any other Person and shall insure the Agency and the Trustee regardless of, and any losses shall be payable notwithstanding, any such action or inaction;

(v) provide that such insurance shall be primary insurance without any right of contribution from any other insurance carried by the Agency or the Trustee to the extent that such other insurance provides the Agency or the Trustee, as the case may be, with contingent and/or excess liability insurance with respect to its respective interest as such in the Facility;

(vi) provide that if the insurers cancel such insurance for any reason whatsoever, including the insured's failure to pay any accrued premium, or the same is allowed to lapse or expire, or there be any reduction in amount, or any material change is made in the coverage, such cancellation, lapse, expiration, reduction or change shall not be effective as to the Agency or the Trustee until at least thirty (30) days after receipt by the Agency and the Trustee, respectively, of written notice by such insurers of such cancellation, lapse, expiration or change;

(vii) waive any right of subrogation of the insurers thereunder against any Person insured under such policy, and waive any right of the insurers to any setoff or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any Person insured under such policy; and

(viii) contain such other terms and provisions as any owner or operator of facilities similar to the Facility would, in the prudent management of its properties, require to be contained in policies, binders or interim insurance contracts with respect to facilities similar to the Facility owned or operated by it.

(d) The Net Proceeds of any insurance in excess of \$200,000 received with respect to any loss or damage to the property of the Facility shall be deposited in the Renewal Fund (unless otherwise provided herein or in the Indenture) and applied in accordance with Section 5.1 hereof and the Indenture.

(e) Concurrently with the original issuance of the Series 1999 Bonds, the Lessee shall deliver or cause to be delivered to the Agency and the Trustee certificates of insurance, and as soon as practicable thereafter, duplicate copies of insurance policies and/or binders evidencing compliance with the insurance requirements of this Section 4.5. At least seven (7) Business Days prior to the expiration of any such policy, the Lessee shall furnish the Agency and the Trustee

with evidence that such policy has been renewed or replaced or is no longer required by this Agreement.

(f) The Lessee shall, at its own cost and expense, make all proofs of loss and take all other steps necessary or reasonably requested by the Agency or the Trustee to collect from insurers for any loss covered by any insurance required to be obtained by this Section 4.5. The Lessee shall not do any act, or suffer or permit any act to be done, whereby any insurance required by this Section 4.5 would or might be suspended or impaired. The Lessee agrees that it will not self-insure without the prior written consent of the Bond Insurer. The Lessee covenants that it will (i) cause an independent insurance consultant acceptable to the Bond Insurer to annually review the insurance coverage and to make recommendations and (ii) to comply with such recommendations.

(g) THE AGENCY DOES NOT IN ANY WAY REPRESENT THAT THE INSURANCE SPECIFIED HEREIN, WHETHER IN SCOPE OR COVERAGE OR LIMITS OF COVERAGE, IS ADEQUATE OR SUFFICIENT TO PROTECT THE BUSINESS OR INTERESTS OF THE LESSEE.

SECTION 4.6. Advances by Agency.

In the event the Lessee fails to make any payment or perform or observe any obligation required of it under this Agreement, the Agency or the Trustee, after first notifying the Lessee of any such failure on its part, may (but shall not be obligated to), and without waiver of any of the rights of the Agency or the Trustee under this Agreement, the Indenture or any other Security Document, make such payment or otherwise cure any failure by the Lessee to perform and observe its other obligations hereunder. All amounts so advanced therefor by the Agency or the Trustee shall become an additional obligation of the Lessee to the Agency or to the Trustee, as the case may be, which amounts, together with interest thereon at the rate per annum equal to the rate of interest established by the Trustee from time to time as its prime rate in New York, New York (which prime rate shall be effective for the purposes hereof on the date on which such rate is effective for the Trustee's purposes), plus five percent (5%) per annum, from the date advanced, the Lessee will pay upon demand therefor by the Agency or the Trustee, as the case may be. Any remedy herein vested in the Agency or the Trustee for the collection of the rental payments or other amounts due hereunder shall also be available to the Agency and the Trustee for the collection of all such amounts so advanced.

SECTION 4.7. Compliance with Law.

The Lessee agrees that it will, throughout the term of this Agreement and at its sole cost and expense, promptly observe and comply with all Federal, State and local statutes, codes, laws, acts, ordinances, orders, judgments, decrees, rules, regulations and authorizations, whether foreseen or unforeseen, ordinary or extraordinary, which shall now or at any time hereafter be binding upon or applicable to the Lessee, the Project, the Facility, any occupant, user or operator of the Facility or any portion thereof (including without limitation those relating to zoning, land use, environmental protection, air, water and land pollution, toxic wastes, hazardous wastes, solid wastes, wetlands, health, safety, equal opportunity, minimum wages, and employment practices) (the "Legal Requirements"), and will observe and comply with all conditions,

requirements, and schedules necessary to preserve and extend all rights, licenses, permits (including, without limitation, zoning variances, special exception and non-conforming uses), privileges, franchises and concessions. The Lessee will not, without the prior written consent of the Agency and the Trustee, initiate, join in or consent to any private restrictive covenant, zoning ordinance, or other public or private restrictions, limiting or defining the uses which may be made of the Facility or any part thereof. The Lessee shall indemnify and hold harmless the Indemnified Parties (as defined in Section 6.2 hereof) from and against all loss, cost, liability and expense (a) in any manner arising out of or related to any violation of or failure to comply with any Legal Requirement or (b) imposed upon the Lessee or any of the Indemnified Parties by any Legal Requirement; in case any action or proceeding is brought against any of the Indemnified Parties in respect to any Legal Requirement, the Lessee, at its own expense, shall upon notice from any of the Indemnified Parties defend such action or proceeding by counsel reasonably satisfactory to the Indemnified Party.

The Lessee may contest in good faith the validity, existence or applicability of any of the foregoing if (i) such contest shall not result in the Facility or any part of any thereof or interest therein being in any danger of being sold, forfeited or lost, (ii) such contest shall not result in the Lessee, the Agency or the Trustee being in any danger of any civil or any criminal liability other than normal accrual of interest, for failure to comply therewith, and (iii) the Lessee shall have furnished such security, if any, as may be reasonably requested by the Agency or the Trustee to protect the security intended to be offered by the Security Documents.

ARTICLE V.

Damage, Destruction and Condemnation

SECTION 5.1. Damage, Destruction and Condemnation.

(a) In the event that at any time during the term of this Agreement the whole or any part (with a replacement cost in excess of \$200,000) of the Facility shall be damaged or destroyed, or taken or condemned by a competent authority for any public use or purpose, or by agreement between the Agency and those authorized to exercise such right (to which agreement the Lessee shall have consented in writing), or if the temporary use of the Facility shall be so taken by condemnation or agreement (to which agreement the Lessee shall have consented in writing) (a "Loss Event"):

(i) the Agency shall have no obligation to rebuild, replace, repair or restore the Facility,

(ii) there shall be no abatement, postponement or reduction in the rent or other amounts payable by the Lessee under this Agreement, and

(iii) the Lessee will promptly give written notice of such Loss Event to the Agency and the Trustee, generally describing the nature and extent thereof.

(b) Upon the occurrence of a Loss Event, the Net Proceeds in excess of \$200,000 derived therefrom shall be paid to the Trustee for the benefit of the Bondholders and deposited in the Renewal Fund and the Lessee shall either:

(i) at its own cost and expense (except to the extent paid from the Net Proceeds deposited in the Renewal Fund as provided below and in Section 5.03 of the Indenture), promptly and diligently rebuild, replace, repair or restore the Facility to substantially its condition immediately prior to the Loss Event, or to a condition of at least equivalent value, operating efficiency and function, regardless of whether or not the Net Proceeds derived from the Loss Event shall be sufficient to pay the cost thereof, and the Lessee shall not by reason of payment of any such excess costs be entitled to any reimbursement from the Agency the Trustee or any Bondholder (other than from the proceeds of Additional Bonds as may be issued for such purpose or as otherwise provided in the Indenture), nor shall the rent or other amounts payable by the Lessee under this Agreement be abated, postponed or reduced, or

(ii) if, to the extent and upon the conditions permitted to do so under Section 8.1 hereof and under the Indenture, exercise its option to purchase the Facility and make advance rental payments to redeem the Bonds in whole. Not later than ninety (90) days after the occurrence of a Loss Event, the Lessee shall advise the Agency and the Trustee in writing of the action to be taken by the Lessee under this Section 5.1(b), a failure to so timely notify being deemed an election in favor of subdivision (i) above to be exercised in accordance with the provisions of clause (i) above. Sums less than \$200,000 shall be paid directly to the Lessee.

If the Lessee shall elect to or shall otherwise be required to rebuild, replace, repair or restore the Facility as set forth in subdivision (i) above, the Trustee shall disburse the Net Proceeds from the Renewal Fund in the manner set forth in Section 5.03 of the Indenture to pay or reimburse the Lessee, at the election of the Lessee, either as such work progresses or upon the completion thereof, provided, however, the amounts so disbursed by the Trustee to the Lessee shall not exceed the actual cost of such work. If, on the other hand, the Lessee shall, if permitted under this Agreement and the Indenture, exercise its option in subdivision (ii) above, the Trustee shall transfer the Net Proceeds from the Renewal Fund to the Redemption Account of the Bond Fund for application in connection with the redemption of Bonds in accordance with the Indenture.

(c) All such rebuilding, replacements, repairs or restorations shall

(i) automatically be deemed a part of the Facility and owned by the Agency and be subject to this Agreement and the lien and security interest of the Agency Mortgage,

(ii) be in accordance with plans and specifications and cost estimates approved in writing by the Agency and the Trustee which approval shall not be unreasonably withheld or delayed,

(iii) not change the nature of the Facility as a qualified "project" as defined in and as contemplated by the Act,

(iv) be preceded by the furnishing by the Lessee to the Agency and the Trustee of either (A) a labor and materials payment bond, or other security, reasonably satisfactory to the Agency and the Trustee, or (B) a fixed price contract or contracts reasonably satisfactory to the Agency and the Trustee as to content and the contractor thereunder,

(v) be effected with due diligence in a good and workmanlike manner, in compliance with all applicable legal requirements and be promptly and fully paid for by the Lessee in accordance with the terms of the applicable contract(s) therefor, and

(vi) (A) if the estimated cost of such rebuilding, replacement, repair or restoration is in excess of \$450,000, be effected under the supervision of an Independent Engineer; or (B) if the estimated cost of such rebuilding, replacement, repair or restoration is in excess of \$1,000,000, be effected under the supervision of an Independent Engineer and in accordance with plans, specifications and cost estimates approved in writing by the Agency and the Trustee (which approvals shall not be unreasonably withheld).

(d) Pending the disbursement or transfer thereof, the Net Proceeds in the Renewal Fund shall be applied and may be invested as provided in the Indenture.

(e) The Agency, the Trustee and the Lessee shall cooperate and consult with each other in all matters pertaining to the settlement, compromising, arbitration or adjustment of any claim or demand on account of any Loss Event, and the settlement, compromising, arbitration or adjustment of any such claim or demand shall be subject to the written approval of the Lessee and the Trustee (such approvals not to be unreasonably withheld or delayed).

(f) If all or substantially all of the Facility shall be taken or condemned, or if the taking or condemnation renders the Facility unsuitable for use by the Lessee as contemplated hereby the Lessee shall exercise its option to purchase the Facility pursuant to Section 8.1 hereof, and the amount of the Net Proceeds so recovered shall be transferred from the Renewal Fund and deposited in the Redemption Account of the Bond Fund for application in connection with the redemption of Bonds pursuant to Section 2.04 of the Indenture for the redemption of the Series 1999 Bonds pursuant to said section, and the Lessee shall thereupon pay to the Trustee for deposit in the Redemption Account of the Bond Fund for application in connection with the redemption of Bonds pursuant to Section 2.04 of the Indenture for the redemption of the Series 1999 Bonds pursuant to said section an amount which, when added to any amounts then in the Bond Fund and available for that purpose, shall be sufficient to retire and redeem the Bonds in whole at the earliest possible date (including, without limitation, principal and interest to the maturity or redemption date and redemption premium, if any), and to pay the expenses of redemption, the fees and expenses of the Agency, the Bond Registrar, the Trustee, the Paying Agents and the Auction Agent together with all other amounts due under the Indenture, this Agreement and the other Security Documents, if any, and such amount shall be applied, together

with such other available moneys in such Bond Fund, if applicable, to such redemption or retirement of the Bonds on said redemption or maturity date.

(g) The Lessee shall be entitled to any insurance proceeds or condemnation award, compensation or damages attributable to improvements, machinery, equipment or other property installed on or about the Facility Realty but which, at the time of such damage or taking, is not part of the Facility nor subject to the Agency Mortgage and is owned or leased by the Lessee.

(h) The Lessee hereby waives the provisions of Section 227 of the New York Real Property Law or any law of like import now or hereafter in effect.

ARTICLE VI.

Particular Covenants

SECTION 6.1. Dissolution or Merger of Lessee; Restrictions on Lessee.

The Lessee covenants and agrees that, at all times during the term of this Agreement, it will (i) maintain its corporate existence, (ii) continue to be a not-for-profit educational corporation as shall constitute a Tax-Exempt Organization subject to service of process in the State and either organized under the laws of the State, or organized under the laws of any other state of the United States and duly qualified to do business as a foreign corporation in the State, (iii) not liquidate, wind-up or dissolve or otherwise dispose of all or substantially all of its property, business or assets remaining after the execution and delivery of this Agreement, and (iv) not consolidate with or merge into another corporation or permit one or more corporations to consolidate with or merge into it. The Lessee may, however, without violating the foregoing, consolidate with or merge into another not-for-profit educational corporation as shall constitute a Tax Exempt Organization, or permit one or more not-for-profit educational corporations as shall constitute a Tax-Exempt Organization to consolidate with or merge into it, or sell or otherwise transfer all or substantially all of its property, business or assets to another such not-for-profit educational corporation as shall constitute a Tax-Exempt Organization (and thereafter liquidate, wind-up or dissolve or not, as the Lessee may elect) if (i) the Lessee is the surviving, resulting or transferee not-for-profit educational corporation as shall constitute a Tax-Exempt Organization, as the case may be, or (ii) in the event that the Lessee is not the surviving, resulting or transferee not-for-profit educational corporation as shall constitute a Tax-Exempt Organization, as the case may be, (1) such not-for-profit educational corporation (A) is a solvent not-for-profit educational corporation subject to service of process in the State and either organized under the laws of the State, or organized under the laws of any other state of the United States and duly qualified to do business as a foreign corporation in the State, (B) is a Tax-Exempt Organization, (C) assumes in writing all of the obligations of the Lessee contained in this Agreement and all other Security Documents to which the Lessee shall be a party, and in the Opinion of Counsel (x) such not-for-profit educational corporation is a Tax-Exempt Organization and shall be bound by all of the terms applicable to the Lessee of this Agreement and all other Security Documents to which the predecessor Lessee corporation shall have been a party, and (y) such action does not legally impair the security for the Holders of the Bonds afforded by the Security Documents, and (D) has a net worth (as determined in accordance with Generally Accepted Accounting Principles

and set forth in an Accountant's Certificate) after the merger, consolidation, sale or transfer at least equal to that of the Lessee immediately prior to such merger, consolidation, sale or transfer, and (2) the Lessee delivers to the Agency and the Trustee an opinion of Nationally Recognized Bond Counsel to the effect that such action will not adversely affect the validity of the Bonds or the exclusion of interest on the Bonds from gross income for Federal income taxes. The Lessee further represents, covenants and agrees that it is and throughout the term of this Agreement will (y) continue to be duly qualified to do business in the State and that any not-for-profit educational corporation as shall be a Tax-Exempt Organization succeeding to the rights of the Lessee under this Agreement shall be and continue to be duly qualified to do business in the State and (z) not constitute a Prohibited Person.

SECTION 6.2. Indemnity.

(a) The Lessee shall at all times protect and hold the Agency, the Credit Provider, if any, the Trustee, the Bond Registrar, the Auction Agent and the Paying Agents (collectively, the "Indemnified Parties" and each an "Indemnified Party") harmless of, from and against any and all claims (whether in tort, contract or otherwise), demands, expenses and liabilities for losses, damage, injury and liability of every kind and nature and however caused, and taxes (of any kind and by whomsoever imposed), other than, with respect to any Indemnified Party, claims, demands, expenses and liabilities for losses, damage, injury and liability, arising from the gross negligence or willful misconduct of such Indemnified Party, arising upon or about the Facility or resulting from, arising out of, or in any way connected with (i) the financing of the costs of the Facility and the marketing, issuance and sale of the Bonds for such purpose, (ii) the auctioning of the Bonds, (iii) the planning, design, acquisition, site preparation, construction, renovation, equipping, installation or completion of the Project or any part thereof or the effecting of any work done in or about the Facility, (iv) any defects (whether latent or patent) in the Facility, (v) the maintenance, repair, replacement, restoration, rebuilding, upkeep, use, occupancy, ownership, leasing, subletting or operation of the Facility or any portion thereof, or (vi) this Agreement, the Indenture, any other Security Document, the Auction Agency Agreement or other document or instrument delivered in connection herewith or therewith or the enforcement of any of the terms or provisions hereof or thereof or the transactions contemplated hereby or thereby. Such indemnification set forth above shall be binding upon the Lessee for any and all claims, demands, expenses, liabilities and taxes set forth herein and shall survive the termination of this Agreement. No Indemnified Party shall be liable for any damage or injury to the person or property of the Lessee or its directors, officers, employees, agents or servants or persons under the control or supervision of the Lessee or any other Person who may be about the Facility, due to any act or negligence of any Person other than for the gross negligence or willful misconduct of such Indemnified Party.

(b) The Lessee releases each Indemnified Party from, and agrees that no Indemnified Party shall be liable for and agrees to indemnify and hold each Indemnified Party harmless against any expense, loss, damage, injury or liability incurred because of any lawsuit commenced as a result of action taken by such Indemnified Party with respect to any of the matters set forth in subdivision (i) through (vi) of Section 6.2(a) hereof or at the direction of the Lessee and in good faith with respect to any of such matters above referred to. An Indemnified Party shall promptly notify the Lessee in writing of any claim or action brought against such Indemnified Party in which indemnity may be sought against the Lessee pursuant to this Section 6.2; such

notice shall be given in sufficient time to allow the Lessee to defend or participate in such claim or action, but the failure to give such notice in sufficient time shall not constitute a defense hereunder nor in any way impair the obligations of the Lessee under this Section 6.2. In case any such claim or action shall be brought against an Indemnified Party, the Lessee shall be entitled to participate in the defense thereof with said Indemnified Party. An Indemnified Party shall obtain the Lessee's written consent prior to settling or compromising any claim or action (which consent shall not be unreasonably withheld or delayed) which shall not otherwise be the subject of an insurance settlement.

(c) In addition to and without limitation of all other representations, warranties and covenants made by the Lessee under this Agreement, the Lessee further represents, warrants and covenants that the Lessee has not used Hazardous Materials (as defined hereinafter) on, from, or affecting the Facility in any manner which violates Federal, state or local laws, ordinances, rules, regulations, or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials, and that, except as set forth in a certain Phase I Environmental Assessment Report dated October 29, 1999, prepared by IVI Environmental, Inc., true and correct copies of which the Lessee has delivered to the Trustee and the Agency (the "Audit"), to the best of the Lessee's knowledge, no prior owner of the Facility or any tenant, subtenant, prior tenant or prior subtenant has used Hazardous Materials on, from or affecting the Facility in any manner which violates Federal, state or local laws, ordinances, rules, regulations or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials. The Lessee shall, to the extent required by applicable law, keep or cause the Facility to be kept free of Hazardous Materials. Without limiting the foregoing, the Lessee shall not cause or permit the Facility or any part thereof to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials, except in compliance with all applicable Federal, state and local laws or regulations, nor shall the Lessee cause or permit, as a result of any intentional or unintentional act or omission on the part of the Lessee or any tenant or subtenant, a release of Hazardous Materials onto the Facility or onto any other property. The Lessee shall comply with and use its best efforts to ensure compliance by all tenants and subtenants with all applicable Federal, state and local laws, ordinances, rules and regulations, whenever and by whomever triggered, and shall obtain and comply with, and use its best efforts to ensure that all tenants and subtenants obtain and comply with, any and all approvals, registrations or permits required thereunder; provided, however, that if any such tenant or subtenant shall be an Affiliate of the Lessee, the obligation of the Lessee with respect to such Persons shall be absolute and not limited to best efforts. The Lessee shall (i) conduct and complete all investigations, studies, sampling, and testing, and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Materials, on, from, or affecting the Facility (x) in accordance with all applicable Federal, state and local laws, ordinances, rules, regulations, and policies, (y) to the reasonable satisfaction of the Agency, the Credit Provider, if any, and the Trustee, and (z) in accordance with the orders and directives of all Federal, state and local governmental authorities, and (ii) defend, indemnify, and hold harmless each Indemnified Party from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to, (w) the presence, disposal, release, or threatened release of any Hazardous Materials which are on, from, or affecting the soil, water, vegetation, buildings, personal property, persons, animals, or otherwise; (x) any personal injury (including

wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials; (y) any lawsuit brought or threatened, settlement reached, or government order relating to such Hazardous Materials; and/or (z) any violation of laws, orders, regulations, requirements or demands of government authorities, or any policies or requirements of the Agency or the Trustee, which are based upon or in any way related to such Hazardous Materials including, without limitation, reasonable attorney and consultant fees, investigation and laboratory fees, court costs, and litigation expenses. In the event any of Agency Mortgages are foreclosed, or a deed in lieu of foreclosure is tendered, or this Agreement is terminated, the Lessee shall deliver the Facility free of any and all Hazardous Materials (other than in such levels and/or amounts as disclosed in the Audit) so that the conditions of the Facility shall conform with all applicable Federal, state and local laws, ordinances, rules or regulations affecting the Facility. For purposes of this paragraph, "Hazardous Materials" includes, without limit, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sections 9601 et. seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801 et. seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901 et. seq.), and in the regulations adopted and publications promulgated pursuant thereto, or any other Federal, state or local environmental law, ordinance, rule, or regulation in such case in such amounts or conditions the presence of which shall violate legal requirements. The provisions of this paragraph shall be in addition to any and all other obligations and liabilities the Lessee may have to any Indemnified Party at common law, and shall survive the termination of this Agreement.

The parties hereto agree that the reference in this Section 6.2(c) to the environmental audits is not intended, and should not be deemed to intend, to modify, qualify, reduce or diminish the Lessee's obligations to carry out and perform all of the covenants stated in Section 4.7 hereof and throughout this Section 6.2, including, but not limited to, those covenants wherein the Lessee is obligated to indemnify each Indemnified Party and comply with all laws, ordinances, rules and regulations pertaining to Hazardous Materials.

(d) The indemnifications and protections set forth in this Section 6.2 shall be extended, with respect to each Indemnified Party, to its members, directors, officers, employees, agents and servants and persons under its control or supervision.

(e) To effectuate the purposes of this Section 6.2, the Lessee will provide for and insure, to the extent available in the general insurance market, in the public liability policies required in Section 4.5 hereof, not only its own liability in respect of the matters therein mentioned but also the liability pursuant to this Section 6.2 (other than under Section 6.2(a)(i) and (ii) and 6.2(c) hereof; provided, however, that any liability insurance coverage with respect to Hazardous Materials shall be required to be obtained by the Lessee only to the extent such insurance is reasonably obtainable). Anything to the contrary in this Agreement notwithstanding, the covenants of the Lessee contained in this Section 6.2 shall remain in full force and effect after the termination of this Agreement until the later of (i) the expiration of the period stated in the applicable statute of limitations during which a claim or cause of action (which is within the scope of this Section 6.2) may be brought or (ii) payment in full or the

satisfaction of such claim or cause of action and of all expenses and charges incurred by the Indemnified Party relating to the enforcement of the provisions herein specified.

(f) For the purposes of this Section 6.2, the Lessee shall not be deemed an employee, agent or servant of the Agency or a person under the Agency's control or supervision.

(g) In addition to and without limitation of all other representations, warranties and covenants made by the Lessee under this Agreement, the Lessee further represents, warrants and covenants that to the fullest extent permitted by the laws and Constitution of the State, the Lessee shall protect, hold harmless and indemnify the Bond Insurer for, from and against any and all liability, obligations, losses, claims and damages paid or incurred in connection with the Facility, the Security Documents and any related instrument (including all environmental liabilities regarding the Facility) (except that the Lessee shall not protect, hold harmless or indemnify the Bond Insurer for the willful or wanton acts, omissions, mistakes or gross negligence of the Bond Insurer, to the extent that such acts, omissions, mistakes or gross negligence of such party are successfully alleged to have caused the liability, obligation, loss, claim or damage) and expenses in connection herewith including reasonable attorneys' fees and expenses. The obligations of the Lessee to protect, hold harmless, reimburse and indemnify the Bond Insurer as set forth under this subsection shall survive any termination, release, satisfaction and discharge of this Agreement.

SECTION 6.3. Compensation and Expenses of Trustee, Bond Registrar, Paying Agents, Auction Agent, Credit Provider and Agency.

Only as provided in the fee letters between the Lessee and each of the Trustee (as Trustee, Paying Agent, Auction Agent and Bond Registrar), the Lessee shall, to the extent not paid out of the proceeds of the Bonds as financing expenses, pay the following annual fees, charges and expenses and other amounts: (i) the initial and annual fees of the Trustee for the ordinary services of the Trustee rendered and its ordinary expenses incurred under the Indenture, including fees and expenses as Bond Registrar and in connection with preparation of new Bonds upon exchanges or transfers or making any investments in accordance with the Indenture, (ii) the reasonable fees and charges of the Trustee and any Paying Agents on the Bonds for acting as paying agents as provided in the Indenture, including the reasonable fees of its counsel, (iii) the reasonable fees and charges of the Trustee for extraordinary services rendered by it and extraordinary expenses incurred by it under the Indenture, including reasonable counsel fees, (iv) the fees, costs and expenses of the Bond Registrar, the Auction Agent and the Credit Provider, if any, (v) the fees, costs and expenses (including legal, accounting and other administrative expenses) of the Agency and (vi) the fees and expenses of the Rating Agencies. The Lessee shall further pay the reasonable fees, costs and expenses of the Agency together with any reasonable fees and disbursements incurred by the Agency's Bond Counsel and General Counsel in performing services for the Agency in connection with this Agreement or the Indenture or any other Security Document.

On the date of the sale and delivery by the Agency of the Series 1999 Bonds, the Lessee shall pay to the Agency, and the Agency acknowledges receipt of, an initial financing fee in the amount of \$135,000, of which \$2,500 of such fee has been received by the Agency prior to the date hereof as an application fee to the Agency.

The Lessee further agrees to pay, as an annual administrative servicing fee to the Agency, the amount of \$500 payable initially on the sale and delivery by the Agency of the Bonds and on every January 1 thereafter until the termination of this Agreement.

SECTION 6.4. Retention of Title to Facility; Grant of Easements; Release of Certain Land.

(a) The Agency shall not sell, assign, encumber (other than for Permitted Encumbrances), convey or otherwise dispose of the Facility or any part thereof or interest therein during the term of this Agreement, except as set forth in Sections 4.2 and 7.2 hereof without the prior written consent of the Lessee and the Trustee at the written direction of Holders of all of the Outstanding Bonds and any purported disposition without such consent shall be void.

The Agency will, however, at the written request of the Lessee, and with the prior written consent of the Trustee, so long as there exists no Event of Default hereunder, grant such rights of way or easements over, across, or under, the Facility Realty, or grant such permits or licenses in respect to the use thereof, free from the leasehold estate of this Agreement and the lien of the Agency Mortgage, as shall be necessary or convenient for the operation or use of the Facility, provided that such leases, rights of way, easements, permits or licenses shall not adversely affect the use or operation of the Facility, and provided, further, that any consideration received by the Agency or the Lessee from the granting of said leases, rights of way, easements, permits or licenses shall be paid to the Trustee and deposited in the Redemption Account of the Bond Fund for application in connection with the purchase, redemption or defeasance of Bonds. The Agency agrees, at the sole cost and expense of the Lessee, to execute and deliver and to cause and direct the Trustee to execute and deliver any and all instruments necessary or appropriate to confirm and grant any such right of way or easement or any such permit or license and to release the same from the leasehold estate of this Agreement and the lien of the Agency Mortgage.

(b) No conveyance or release effected under the provisions of this Section 6.4 shall entitle the Lessee to any abatement or diminution of the rents payable under Section 3.3 hereof or the other payments required to be made by the Lessee under this Agreement.

SECTION 6.5. Tax Covenants.

(a) The Lessee covenants to comply with each requirement of the Code necessary to maintain the exclusion of interest on the Bonds from gross income for Federal income tax purposes pursuant to Section 103 of the Code. In furtherance of the covenant contained in the preceding sentence, the Lessee agrees to comply with the provisions of the Tax Certificate as a source of guidance for complying with the Code.

(b) The Lessee covenants that it will not take any action or fail to take any action with respect to the Bonds which would cause such Bonds to be "arbitrage bonds", within the meaning of such term as used in Section 148 of the Code and the regulations promulgated thereunder, as amended from time to time.

(c) The Lessee agrees that it shall promptly pay to the Trustee, as additional sums under this Lease Agreement, the amount of any Rebate Requirement, as defined in the Tax Certificate, the Agency is obligated to pay to the United States Department of the Treasury.

(d) The obligation of the Lessee to make the payments provided for in this Section shall be absolute and unconditional, and the failure of the Agency, the Trustee or any other Person to execute or deliver or cause to be executed or delivered any documents or to take any action required under this Agreement or otherwise shall not relieve the Lessee of its obligation under this Section.

(e) Notwithstanding any other provision of the Indenture or this Lease Agreement to the contrary, so long as necessary in order to maintain the exclusion of interest on the Bonds from gross income for Federal income tax purposes, the covenants contained in this Section shall survive the discharge and satisfaction of the Bonds (in accordance with Section 10.01 of the Indenture) and the term of this Agreement.

(f) The Lessee will not use any of the funds provided by the Agency hereunder, or any other funds, nor will it permit any of the funds provided by Agency hereunder, or any other funds, to be used in a manner which would impair the exclusion of the interest on the Bonds from gross income for Federal income tax purposes. In furtherance of this covenant the Lessee agrees to comply with the terms of the Tax Certificate executed by the Lessee in connection with the issuance of the Bonds.

(g) The representations, warranties, covenants and statements of expectation of the Lessee set forth in the Tax Certificate (including the exhibits and other attachments thereto) are hereby incorporated in this Agreement as though fully set forth herein.

SECTION 6.6. Financial Statements: No-Default Certificates, Compliance
with
Rule 15(c)2-12.

(a) The Lessee agrees to furnish to the Agency (upon request by the Agency) and the Trustee, as soon as available and in any event within one hundred twenty (120) days after the close of each Fiscal Year of the Lessee, a copy of the annual audited financial statements of the Lessee and its subsidiaries, if any (including balance sheets as at the end of such fiscal year and the related statements of revenues, expenses and changes in fund balances and, if applicable, income, earnings, retained earnings and changes in financial position) for such fiscal year, prepared in accordance with generally accepted accounting principles consistently applied, certified by Manger & Company, 60 East 42nd Street, New York, New York 10165, or other independent certified public accountants reasonably acceptable to the Agency.

(b) The Lessee shall deliver to the Agency (at the request of the Agency), and the Trustee with each delivery of annual financial statements required by Section 6.6(a) hereof (i) a certificate of an Authorized Representative of the Lessee as to whether or not, as of the close of such preceding Fiscal Year of the Lessee, and at all times during such Fiscal Year, the Lessee was in compliance with all the provisions which relate to the Lessee in this Agreement and in any other Security Document to which it shall be a party, and as to whether or not a Determination of Taxability has occurred, and if such Authorized Representative shall have obtained knowledge of any default in such compliance, such Authorized Representative shall disclose in such certificate such default or defaults or notice thereof and the nature thereof, whether or not the same shall constitute an Event of Default hereunder, and any action proposed

to be taken by the Lessee with respect thereto, and (ii) a certificate of an Authorized Representative of the Lessee that the insurance it maintains complies with the provisions of Section 4.5 of this Agreement, that such insurance has been in full force and effect at all times during the preceding Fiscal Year of the Lessee, and that duplicate copies of all policies or certificates thereof have been filed with the Agency and the Trustee and are in full force and effect. In addition, upon twenty (20) days' prior request by the Agency or the Trustee, the Lessee will execute, acknowledge and deliver to the Agency and the Trustee a certificate of an Authorized Representative of the Lessee either stating that to the knowledge of such Authorized Representative no default or breach exists hereunder or specifying each such default or breach of which such Authorized Representative has knowledge.

(c) The Lessee shall immediately notify the Agency and the Trustee of the occurrence of any Event of Default or any event which with notice and/or lapse of time would constitute an Event of Default under any Security Document of which it has knowledge. Any notice required to be given pursuant to this subsection shall be signed by an Authorized Representative of the Lessee and set forth a description of the default and the steps, if any, being taken to cure said default. If no steps have been taken, the Lessee shall state this fact on the notice.

(d) The Lessee hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement. Notwithstanding any other provision of this Lease Agreement, failure of the Lessee to comply with the Continuing Disclosure Agreement shall not be considered an Event of Default; however, the Trustee may (and, at the request of the Underwriter (as defined in the Continuing Disclosure Agreement) or the holders of at least 25% aggregate principal amount in Outstanding Bonds, shall) or any Bondholder or Beneficial Owner may take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the Lessee to comply with its obligations under this Section 6.6. For purposes of this Section, "Beneficial Owner" means any person which has or shares the power, directly or indirectly, to make investment decisions concerning ownership of any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries).

SECTION 6.7. Discharge of Liens.

(a) If any lien, encumbrance or charge is filed or asserted, or any judgment, decree, order, levy or process of any court or governmental body is entered, made or issued or any claim (such liens, encumbrances, charges, judgments, decrees, orders, levies, processes and claims being herein collectively called "Liens"), whether or not valid, is made against the Facility or any part of any thereof or the interest therein of the Agency the Lessee or the Trustee or against any of the rentals or other amounts payable under this Agreement or the interest of the Lessee under this Agreement, the Facility other than Liens for Impositions (as defined in Section 4.4) not yet payable, or payable without the addition of any fine, penalty, interest or cost for non-payment, Permitted Encumbrances, or Liens being contested as permitted by Section 6.7(b), the Lessee forthwith upon receipt of notice of the filing, assertion, entry or issuance of such Lien (regardless of the source of such notice) shall give written notice thereof to the Agency and the Trustee and take all reasonable action (including the payment of money and/or the securing of a bond) at its own cost and expense (subject to the provisions of Section 2.1(g) hereof) as may be necessary or appropriate to obtain the discharge in full thereof and to remove or nullify the basis

therefor. Nothing contained in this Agreement shall be construed as constituting the express or implied consent to or permission of the Agency for the performance of any labor or services or the furnishing of any materials that would give rise to any Lien against the Agency's or the Lessee's interest in the Facility.

(b) The Lessee may, at its sole expense contest (after prior written notice to the Agency and the Trustee), by appropriate action conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, of any Lien, if (1) such proceeding shall suspend the execution or enforcement of such Lien against the Facility, or any part of any thereof or interest therein, or in the Lease Agreement, of the Agency, the Lessee or the Trustee or against any of the rentals or other amounts payable under this Agreement, (2) neither the Facility nor any part of any thereof or interest therein would be in any danger of being sold, forfeited or lost, (3) neither the Lessee, the Agency nor the Trustee would be in any danger of any civil or any criminal liability, other than normal accrual of interest, for failure to comply therewith, and (4) the Lessee shall have furnished such security, if any, as may be required in such proceedings or as may be reasonably requested by the Trustee to protect the security intended to be offered by the Indenture and the Agency Mortgage.

SECTION 6.8. Agency's Authority; Covenant of Quiet Environment.

The Agency covenants and agrees that it has full right and lawful authority to enter into this Agreement for the full term hereof, including the right to grant the options to purchase herein contained, and that, subject to the terms and provisions of the Agency Mortgage, the Indenture and Permitted Encumbrances, so long as the Lessee shall pay the rent and all other sums payable by it under this Agreement and shall duly observe all the covenants, stipulations and agreements herein contained obligatory upon it and an Event of Default shall not exist hereunder, the Lessee shall have, hold and enjoy, during the term hereof, peaceful, quiet and undisputed possession of the Facility, and the Agency (at the sole cost and expense of the Lessee) shall from time to time take all necessary action to that end, subject to Permitted Encumbrances.

SECTION 6.9. No Warranty of Condition or Suitability.

THE AGENCY HAS MADE AND MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION, FITNESS, DESIGN, OPERATION OR WORKMANSHIP OF ANY PART OF THE FACILITY, ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OR CAPACITY OF THE MATERIALS IN THE FACILITY, OR THE SUITABILITY OF THE FACILITY FOR THE PURPOSES OR NEEDS OF THE LESSEE OR TO THE EXTENT TO WHICH PROCEEDS DERIVED FROM THE SALE OF THE BONDS WILL BE SUFFICIENT TO PAY THE COST OF COMPLETION OF THE PROJECT. THE LESSEE ACKNOWLEDGES THAT THE AGENCY IS NOT THE MANUFACTURER OF THE FACILITY EQUIPMENT NOR THE MANUFACTURER'S AGENT NOR A DEALER THEREIN. THE LESSEE IS SATISFIED THAT THE FACILITY IS SUITABLE AND FIT FOR ITS PURPOSES. THE AGENCY SHALL NOT BE LIABLE IN ANY MANNER WHATSOEVER TO THE LESSEE OR ANY OTHER PERSON FOR ANY LOSS, DAMAGE OR EXPENSE OF ANY KIND OR NATURE CAUSED, DIRECTLY OR

INDIRECTLY, BY THE PROPERTY OF THE FACILITY OR THE USE OR MAINTENANCE THEREOF OR THE FAILURE OF OPERATION THEREOF, OR THE REPAIR, SERVICE OR ADJUSTMENT THEREOF, OR BY ANY DELAY OR FAILURE TO PROVIDE ANY SUCH MAINTENANCE, REPAIRS, SERVICE OR ADJUSTMENT, OR BY ANY INTERRUPTION OF SERVICE OR LOSS OF USE THEREOF OR FOR ANY LOSS OF BUSINESS HOWSOEVER CAUSED.

SECTION 6.10. Amounts Remaining in Funds

It is agreed by the parties hereto that any amounts remaining in the Rebate Fund, the Lease Payment Fund, the Bond Fund, the Project Fund, the Revenue Fund, or the Renewal Fund upon the expiration or sooner or later termination of the term of this Agreement as provided in this Agreement, after payment in full of the Bonds (in accordance with Section 10.01 of the Indenture), the fees, charges and expenses of the Trustee, the Bond Registrar, the Paying Agents, the Auction Agent, the Credit Provider, if any, and the Agency in accordance with the Indenture and after all rents and all other amounts payable hereunder and after all amounts required to be paid to the United States government pursuant to the Tax Certificate or the Indenture shall have been so paid, shall belong to and be paid to the Lessee by the Trustee as overpayment of rents.

SECTION 6.11. Issuance of Additional Bonds.

The Agency and the Lessee recognize that under the provisions of and subject to the conditions set forth in the Indenture, the Agency is authorized, to enter into a Supplemental Indenture and issue one or more series of Additional Bonds on a parity with the Series 1999 Bonds for the purpose of (i) completing the Project, (ii) providing funds in excess of the Net Proceeds for insurance or eminent domain to repair, relocate, replace, rebuild or restore the Facility in the event of damage, destruction or taking by eminent domain, (iii) providing extensions, additions or improvements to the Facility or (iv) refunding Outstanding Bonds. If the Lessee is not in default hereunder, the Agency will consider the issuance of Additional Bonds in a principal amount as is specified in a written request in accordance with the applicable provisions set forth in the Indenture. If Additional Bonds are to be issued pursuant to the Indenture, the Agency and the Lessee shall enter into an amendment to this Agreement providing, among other things, for the payment by the Lessee of such additional rentals as are necessary in order to amortize in full the principal of and interest on such Additional Bonds and any other costs in connection therewith.

Any such completion, repair, relocation, replacement, rebuilding, restoration, additions, extensions or improvements shall become a part of the Facility and shall be included under this Agreement to the same extent as if originally included hereunder.

SECTION 6.12. Non-Discrimination; Employment Information, Opportunities and Guidelines. (a)(i) The Lessee shall ensure that all employees and applicants for employment at the Facility are afforded equal employment opportunity without discrimination.

(ii) At all times during the construction, maintenance and operation of the Facility, the Lessee shall not discriminate against any employee or applicant for employment because of

race, color, creed, age, sex or national origin. The Lessee shall use reasonable efforts to ensure that employees and applicants for employment with the Lessee or any subtenant of the Facility are treated without regard to their race, color, creed, age, sex or national origin. As used herein, the term “treated” shall mean and include, without limitation, the following: recruited, whether by advertising or other means; compensated, whether in the form of rates or other forms of compensation; selected for training, including apprenticeship; promoted; upgraded; downgraded; demoted; transferred; laid off; and terminated.

(iii) The Lessee shall, in all solicitations or advertisements for employees placed by or on behalf of the Lessee, state that all qualified applicants will be considered for employment without regard to race, color, creed or national origin, age or sex.

(iv) The Lessee shall furnish to the Agency all information reasonably required by the Agency pursuant to this Section and will cooperate with the Agency for the purposes of investigation to ascertain compliance with this Section.

(v) The Agency and the Lessee shall, from time to time, mutually agree upon goals for the employment, training, or employment and training of members of minority groups in connection with performing work with respect to the Project;

(b) Except as is otherwise provided by collective bargaining contracts or agreements to which the Lessee is a party, the Lessee shall cause new employment opportunities created as a result of the Project to be listed with the New York State Department of Labor, Community Services Division, and with the administrative entity of the service delivery area created by the Federal Job Training Partnership Act (P.L. 97-300) in which the Project is located. Except as is otherwise provided by collective bargaining contracts or agreements to which the Lessee is a party, the Lessee covenants and agrees, where practicable, to first consider persons eligible to participate in programs under the Federal Job Training Partnership Act (P.L. No. 97-300) who shall be referred to administrative entities or service delivery areas created pursuant to such Federal Job Training Partnership Act or by the Community Services Division of the New York State Department of Labor for such new employment opportunities.

(c) The Lessee hereby authorizes any private or governmental entity, including but not limited to the New York State Department of Labor (“DOL”), to release to the Agency and/or to the New York City Economic Development Corporation (“EDC”), and/or to the successors and assigns of either (collectively, the “Information Recipients”), any and all employment information under its control and pertinent to Lessee and Lessee’s employees to determine compliance of the Project with this Section and to enable the provisions of this Section to be achieved. In addition, upon the Agency’s request, the Lessee shall provide to the Agency any employment information in the Lessee’s possession which is pertinent to the Lessee and the Lessee’s employees to enable the Agency and/or EDC to comply with its reporting requirements pursuant to New York City Local Laws 69, 1993, and any other applicable laws, rules or regulations. Information released or provided to Information Recipients by DOL, or by any other governmental entity, or by any private entity, or by the Lessee itself, or any information previously released as provided by all or any of the foregoing parties (collectively, “Employment Information”) may be disclosed by the Information Recipients in connection with the administration of the programs of the Agency, and/or EDC, and/or the successors and assigns of

either, and/or the City of New York, and/or as may be necessary to comply with law; and, without limiting the foregoing, the Employment Information may be included in (x) reports prepared by the Information Recipients pursuant to New York City Local Law 69 of 1993, (y) other reports required of the Agency, and (z) any other reports required by law. This authorization shall remain in effect throughout the term of this Agreement.

(d) Annually, by August 1 of each year until the termination of this Agreement, the Lessee shall submit to the Agency an employment report relating to the period commencing July 1 of the previous year and ending June 30 of the year of the obligation of the filing of such report, substantially in the form of Schedule A-1 hereto, certified as to accuracy by a member of the Lessee. In addition, upon a redemption of the Series 1999 Bonds, the Lessee shall submit to the Agency an employment report, substantially in the form of Schedule A-2 hereto, certified as to accuracy by a member of the Lessee.

SECTION 6.13. Redemption Under Certain Circumstances; Application of Gifts and Grants Relating to the Project. (a) Either (i) upon the determination by resolution of the members of the Agency that the Lessee is operating the Facility or any portion thereof in violation of applicable material law or not as a qualified "project" in accordance with the Act and the failure of the Lessee, within sixty (60) days (or such longer period as may be established pursuant to the proviso to this sentence) of the receipt by the Lessee of written notice of such noncompliance from the Agency, to cure such noncompliance together with a copy of such resolution (a copy of which notice shall be sent to the Trustee), or (ii) in the event the Lessee shall fail to obtain or maintain the public liability insurance with respect to the Facility required under Section 4.5(a)(iii) hereof and the failure of the Lessee, within ten (10) days (or such longer period as may be established pursuant to the proviso to this sentence) of the receipt by the Lessee of written notice of such noncompliance from the Agency, to cure such noncompliance, the Lessee covenants and agrees that it shall, on the immediately succeeding Interest Payment Date following the expiration of such cure period, pay to the Trustee advance rentals in immediately available funds in an amount sufficient to redeem the Bonds Outstanding in whole at the Redemption Price of 100% of the aggregate principal amount of the Outstanding Bonds together with interest accrued thereon to such Interest Payment Date, provided, however, that if such noncompliance cannot be cured within such 60-day or 10-day cure period, as the case may be, with diligence (and is capable of being cured) and the Lessee promptly commences the curing of such noncompliance and thereafter prosecutes the curing thereof with diligence and to the Agency's reasonable satisfaction, such period of time within which the Lessee may cure such failure shall be extended for such additional period of time as may be necessary to cure the same with diligence and the Agency shall notify the Trustee of any such extension. With respect to any proposed resolution regarding the matters described in clause (i) of the immediately preceding sentence, the Agency shall give prior written notice of the meeting at which the members of the Agency are to consider such resolution to the Lessee and the Trustee, which notice shall be no less than sixty (60) days prior to such meeting.

(b) Upon the circumstances set forth in Section 2.04(c), (e) and (f) of the Indenture, the Lessee shall pay or cause the prepayment of its lease rental obligation upon the circumstances and in the manner set forth in the Indenture.

(c) (i) If, prior to completion of the construction of a component of the Project, the Lessee receives any gift or grant required by the terms thereof to be used to pay any item which is a cost of such component of the Project, the Lessee shall apply such gift or grant to completion of the construction of such component of the Project. In the event that the amount of such gift or grant is in excess of the amount necessary to complete such component of the Project, and to the extent proceeds of the Bonds have been expended on such component of the Project, the Lessee shall deliver to the Trustee for deposit in the Redemption Account of the Bond Fund an amount equal to such excess but only to the extent to which proceeds of the Bonds were expended for such component.

(ii) If, after completion of the construction of a component of the Project, the Lessee receives any gift or grant which prior to such completion it reasonably expected to receive and which is required by the terms thereof to be used to pay any item which is a cost of such component of the Project, the Lessee shall, to the extent not inconsistent with the terms of such gift or grant, deliver to the Trustee for deposit in the Redemption Account of the Bond Fund an amount of money equal to such gift or grant but only to the extent to which proceeds of the Bonds were expended for such component.

SECTION 6.14. Further Assurances.

The Lessee will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered such further acts, instruments, conveyances, transfers and assurances, including the preparation and filing of financing statements and extensions thereof under the Uniform Commercial Code, at the sole cost and expense of the Lessee, as the Agency or the Trustee deems reasonably necessary or advisable for the implementation, effectuation, correction, confirmation or perfection of this Agreement and any rights of the Agency or the Trustee hereunder, under the Indenture or under any other Security Document.

SECTION 6.15. Recording and Filing.

This Agreement as originally executed or a memorandum thereof shall be recorded by the Lessee subsequent to the recordation of the Agency Mortgage and the Indenture, in the appropriate office of the Register of the City of New York, or in such other office as may at the time be provided by law as the proper place for the recordation thereof. The security interest of the Agency created herein and the assignment of such security interest to the Trustee shall be perfected by the filing of financing statements by the Lessee which fully comply with the New York State Uniform Commercial Code - Secured Transactions in the office of the Secretary of State of the State, in the City of Albany, New York and in the appropriate office of the Register of The City of New York. The Lessee shall file or cause to be filed all necessary continuation statements (and additional financing statements) within the time prescribed by the New York State Uniform Commercial Code - Secured Transactions in order to continue (or attach and perfect) the security interest created by this Agreement, to the end that the rights of the Agency, the Holders of the Bonds and the Trustee in the Facility shall be fully preserved as against creditors or purchasers for value from the Agency or the Lessee. The Agency and the Trustee are authorized, if permitted by applicable law, to file one or more Uniform Commercial Code financing statements disclosing any security interest in the Facility, this Agreement and the sums due under this Agreement, without the signature of the Lessee or signed by the Agency or the

Trustee as attorney-in-fact for the Lessee. The Lessee agrees to furnish the Agency and the Trustee with the Opinion of Counsel addressed to the Agency and the Trustee to the extent that such Opinion of Counsel may be requested pursuant to Section 7.08 of the Indenture and shall perform all other acts (including the payment of all costs) necessary in order to enable the Agency to comply with Section 7.08 of the Indenture.

SECTION 6.16. Right to Cure Agency Defaults.

The Agency hereby grants the Lessee full authority for account of the Agency to perform any covenant or obligation the non-performance of which is alleged to constitute a default in any notice received by the Lessee, in the name and stead of the Agency, with full power of substitution.

SECTION 6.17. Preservation of Exempt Status.

(a) The Lessee represents and warrants that as of the date of execution of this Agreement: (i) it is an organization described in Section 501(c)(3) of the Code; (ii) it has received a letter of determination from the Internal Revenue Service to that effect; (iii) such letter or determination has not been modified, limited or revoked; (iv) it is in compliance with all terms, conditions and limitations, if any, contained in or forming the basis of such letter of determination; (v) the facts and circumstances which form the basis of such letter of determination continue substantially to exist as represented to the Internal Revenue Service; (vi) it is not a "private foundation", as defined in Section 509 of the Code; and (vii) it is exempt from Federal income taxes under Section 501(a) of the Code and it is in compliance with the provisions of said Code and any applicable regulations thereunder necessary to maintain such status.

(b) The Lessee agrees that (i) it shall not perform any acts, enter into any agreements, carry on or permit to be carried on at the Facility, or permit the Facility to be used in or for any trade or business, which shall adversely affect the basis for its exemption under Section 501 of such Code; (ii) it shall not use more than three percent (3%) of the proceeds of the Bonds or permit the same to be used, directly or indirectly, in any trade or business that constitutes an unrelated trade or business as defined in Section 513(a) of the Code or in any trade or business carried on by any person or persons who are not governmental units or Section 501(c)(3) organizations; (iii) the Project conforms to the description contained in the Appendices hereto and it shall not directly or indirectly use the proceeds of the Bonds to make or finance loans to persons other than governmental units or Section 501(c)(3) organizations; (iv) it shall not take any action or permit any circumstances within its control to arise or continue, if such action or circumstances, or its expectation on the date of issue of the Bonds, would cause the Bonds to be "arbitrage bonds" under the Code or cause the interest paid by the Agency on the Bonds to be includable in gross income for Federal income tax purposes in the hands of the Owners thereof; and (v) it shall comply with each requirement of the Code to necessary to maintain the exclusion of the interest on the Bonds from gross income for Federal income tax purposes.

(c) The Lessee (or any related person, as defined in Section 147(a)(2) of the Code) shall not, pursuant to an arrangement, formal or informal, purchase the Bonds in an amount

related to the amount of the payments due from the Lessee under this Agreement, unless such Bonds are delivered to the Trustee for cancellation as provided in Section 8.3 hereof.

SECTION 6.18. Securities Law Status.

The Lessee affirmatively represents, warrants and covenants that, as of the date of this Agreement, it is an organization organized and operated: (i) exclusively for civic or charitable purposes; (ii) not for pecuniary profit; and (iii) no part of the net earnings of which inures to the benefit of any person, private stockholder or individual, all within the meaning, respectively, of the Securities Act of 1933, as amended, and of the Securities Exchange Act of 1934, as amended. The Lessee agrees that it shall not perform any act nor enter into any agreement which shall change such status as set forth in this Section.

SECTION 6.19. Subtenant Survey. The Lessee shall file with the Agency by January 1 of each year commencing January 1, 2000, a certificate of an Authorized Representative of the Lessee with respect to all tenancies in effect at the Facility Realty, in the form of the Subtenant Survey attached hereof as Schedule C.

SECTION 6.20. Funding of the Debt Service Reserve Fund. The Agency agrees to cause the Trustee, pursuant to the Indenture, to deposit, from the proceeds of the Series 1999 Bonds (including a surety bond in the amount of 50% of the Debt Service Reserve Fund Requirement provided by the Bond Insurer), into the Debt Service Reserve Fund an amount equal to the Debt Service Reserve Fund Requirement. The Lessee shall have the right to cause to be delivered to the Trustee for deposit into the Debt Service Reserve Fund a Reserve Fund Facility, in accordance with Section 5.10 of the Indenture. In the event that the Lessee causes to be delivered to the Trustee for deposit into the Debt Service Reserve Fund a Reserve Fund Facility, the Lessee shall comply with all obligations of the Lessee, and shall have all rights of the Lessee, contemplated by the Indenture in connection therewith.

ARTICLE VII.

Events of Default; Remedies

SECTION 7.1. Events of Default.

Any one or more of the following events shall constitute an "Event of Default" hereunder:

(a) Failure of the Lessee (i) to pay any rent that has become due and payable by the terms of Section 3.3 hereof; or (ii) to provide sufficient moneys for the purchase of any Bonds pursuant to Section 3.7 hereof;

(b) Failure of the Lessee to pay any amount (except the obligation to pay rent under Sections 3.3 and 3.7 hereof) that has become due and payable or to observe and perform any covenant, condition or agreement on its part to be performed under Section 4.4 or 4.5 hereof and continuance of such failure for a period of thirty (30) days after receipt by the Lessee of written

notice specifying the nature of such default from the Agency, the Trustee or the Holders of more than twenty-five per centum (25%) in aggregate principal amount of the Bonds Outstanding;

(c) Failure of the Lessee to observe and perform any covenant, condition or agreement hereunder on its part to be performed (except as set forth in Section 7.1(a) or (b) above) and, if such failure can be remedied, (1) continuance of such failure for a period of thirty (30) days after receipt by the Lessee of written notice specifying the nature of such default from the Agency, the Trustee or the Holders of more than twenty-five per centum (25%) in aggregate principal amount of the Bonds Outstanding, or (2) if by reason of the nature of such default the same can be remedied, but not within the said thirty (30) days, the Lessee fails to proceed with reasonable diligence after receipt of said notice to cure the same or fails to continue with reasonable diligence its efforts to cure the same; provided, however, in any event such failure shall be remedied within sixty (60) days after receipt by the Lessee of the notice referred to above;

(d) The Lessee shall (i) apply for or consent to the appointment of or the taking of possession by a receiver, liquidator, custodian or trustee of itself or of all or a substantial part of its property, (ii) admit in writing its inability, or be generally unable, to pay its debts as such debts generally become due, (iii) make a general assignment for the benefit of its creditors, (iv) commence a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (v) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (vi) fail to controvert in a timely or appropriate manner, or acquiesce in writing to, any petition filed against itself in an involuntary case under such Bankruptcy Code, (vii) take any action for the purpose of effecting any of the foregoing, or (viii) be adjudicated a bankrupt or insolvent by any court;

(e) A proceeding or case shall be commenced, without the application or consent of the Lessee, in any court of competent jurisdiction, seeking (i) liquidation, reorganization, dissolution, winding-up or composition or adjustment of debts, (ii) the appointment of a trustee, receiver, liquidator, custodian or the like of the Lessee or of all or any substantial part of its assets, or (iii) similar relief under any law relating to bankruptcy, insolvency, reorganization, winding-up or composition or adjustment of debts, and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect, for a period of sixty (60) days; or any order for relief against the Lessee shall be entered in an involuntary case under such Bankruptcy Code; the terms "dissolution" or "liquidation" of the Lessee as used above shall not be construed to prohibit any action otherwise permitted by Section 6.1;

(f) Any representation or warranty made by the Lessee (i) in the application, commitment letter and related materials submitted to the Agency or the initial Purchaser(s) of the Bonds for approval of the Project or its financing, or (ii) in this Agreement or in any of the other Security Documents or (iii) in any document relating to, incorporated in or attached to the Tax Certificate, or (iv) in any report, certificate, financial statement or other instrument furnished pursuant hereto or any of the foregoing shall prove to be false, misleading or incorrect in any material respect as of the date made;

(g) An "Event of Default" under the Indenture or under any other Security Document shall occur and be continuing; or

(h) Notice to the Trustee and the Agency from any Bond Insurer that the Lessee is not in compliance under the applicable Insurance Agreement.

SECTION 7.2. Remedies on Default.

Whenever any Event of Default referred to in Section 7.1 hereof shall have occurred and be continuing, the Agency, or the Trustee where so provided, may, subject to Section 7.8 hereof and ARTICLE VIII of the Indenture, take any one or more of the following remedial steps:

(a) The Trustee (with the prior written consent of the Bond Insurer or at its direction), as and to the extent provided in ARTICLE VIII of the Indenture, may cause all principal installments of rent payable under Section 3.3 hereof for the remainder of the term of this Agreement to be immediately due and payable, whereupon the same, together with the accrued interest thereon, shall become immediately due and payable; provided, however, that upon the occurrence of an Event of Default under Section 7.1(d) or (e) hereof, all principal installments of rent payable under Section 3.3 hereof for the remainder of the term of this Agreement, together with the accrued interest thereon, shall immediately become due and payable without any declaration, notice or other action of the Agency, the Trustee, the Holders of the Bonds or any other Person being a condition to such acceleration;

(b) The Agency (with the prior written consent of the Trustee) or the Trustee may reenter and take possession of the Facility without terminating this Agreement, and sublease the Facility for the account of the Lessee, holding the Lessee liable for the difference in the rent and other amounts payable by the sublessee in such subletting, and the rents and other amounts payable by the Lessee hereunder;

(c) The Agency, with the prior written consent of the Trustee, or the Trustee, may terminate this Agreement, and exclude the Lessee from possession of the Facility, in which case this Agreement and all of the estate, right, title and interest herein granted or vested in the Lessee shall cease and terminate. No such termination of this Agreement shall relieve the Lessee of its liability and obligations hereunder and such liability and obligations shall survive any such termination;

(d) The Agency or the Trustee may take whatever action at law or in equity as may appear necessary or desirable to collect the rent then due and thereafter to become due, or to enforce performance or observance of any obligations, agreements or covenants of the Lessee under this Agreement;

(e) The Trustee may take any action permitted under the Indenture with respect to an Event of Default thereunder; and

(f) The Agency, without the consent of the Trustee or any Bondholder, may proceed to enforce the Agency's Reserved Rights by (i) an action for damages, injunction or specific performance, and/or (ii) conveying all of the Agency's right, title and interest in the Facility to the Lessee, subject to the lien of the Agency Mortgage and any other Security Documents.

In the event that the Lessee fails to make any rental payment required in Section 3.3 hereof, the installment so in default shall continue as an obligation of the Lessee until the amount in default shall have been fully paid.

No action taken pursuant to this Section 7.2 (including repossession of the Facility or termination of this Agreement pursuant to this Section 7.2 or by operation of law or otherwise) shall, except as expressly provided herein, relieve the Lessee from the Lessee's obligations hereunder, all of which shall survive any such action.

Notwithstanding any provision of this Agreement to the contrary, the Trustee shall not take any action to accelerate the Bonds or dispose of any collateral pledged under the Security Documents except as provided in ARTICLE VIII of the Indenture.

SECTION 7.3. Reletting of Facility.

If the right of the Lessee to the occupancy, use and possession of the Facility shall be terminated in any way, the Agency may relet the same or any part thereof for the account and benefit of the Lessee for such rental terms to such Persons and for such period or periods as may be fixed and determined by the Agency after notice to and approval by the Trustee, but the Agency shall not unreasonably refuse to accept or receive any suitable occupant or tenant offered by the Lessee. Notwithstanding the foregoing, any reletting of the Facility or any part thereof shall be permitted under this Section 7.3 only if such reletting does not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes. The Agency and the Trustee shall not otherwise be required to do any act whatsoever or exercise any diligence whatsoever to mitigate the damages to the Lessee, and if a sufficient sum shall not be received from any reletting to satisfy the rental payments hereby agreed to be made by the Lessee, after paying the expenses of reletting and collection, then the Lessee hereby agrees to pay and satisfy any such deficiency if, as and when the same exists; provided, however, any excess rentals from any such reletting shall be credited to any rental due or to become due by the Lessee.

SECTION 7.4. Remedies Cumulative.

The rights and remedies of the Agency or the Trustee under this Agreement shall be cumulative and shall not exclude any other rights and remedies of the Agency or the Trustee allowed by law with respect to any default under this Agreement. Failure by the Agency or the Trustee to insist upon the strict performance of any of the covenants and agreements herein set forth or to exercise any rights or remedies upon default by the Lessee hereunder shall not be considered or taken as a waiver or relinquishment for the future of the right to insist upon and to enforce by mandatory injunction, specific performance or other appropriate legal remedy a strict compliance by the Lessee with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies, if such default by the Lessee be continued or repeated, or of the right to recover possession of the Facility by reason thereof.

SECTION 7.5. No Additional Waiver Implied by One Waiver.

In the event any covenant or agreement contained in this Agreement 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. No waiver shall be binding unless it is in writing and signed by the party making such waiver. No course of dealing between the Agency and/or the Trustee and the Lessee or any delay or omission on the part of the Agency and/or the Trustee in exercising any rights hereunder or under the Indenture or under any other Security Document shall operate as a waiver. To the extent permitted by applicable law, the Lessee hereby waives the benefit and advantage of, and covenants not to assert against the Agency or the Trustee, any valuation, inquisition, stay, appraisal, extension or redemption laws now existing or which may hereafter exist which, but for this provision, might be applicable to any sale or reletting made under the judgment, order or decree of any court or under the powers of sale and reletting conferred by this Agreement or otherwise.

SECTION 7.6. Effect of Discontinuance of Proceedings.

In case any proceeding taken by the Trustee under the Indenture or this Agreement or under any other Security Document on account of any Event of Default hereunder or under the Indenture shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee, then, and in every such case, the Agency the Trustee and the Holders of the Bonds shall be restored, respectively, to their former positions and rights hereunder and thereunder, and all rights, remedies, powers and duties of the Trustee shall continue as in effect prior to the commencement of such proceedings.

SECTION 7.7. Agreement to Pay Attorneys' Fees and Expenses.

In the event the Lessee should default under any of the provisions of this Agreement and the Agency or the Trustee should employ attorneys or incur other expenses for the collection of rentals or other amounts payable hereunder or the enforcement of performance or observance of any obligation or agreement on the part of the Lessee herein contained or contained in any other Security Document, the Lessee agrees that it will on demand therefor pay to the Agency or the Trustee the reasonable fees and disbursements of such attorneys and such other reasonable expenses so incurred.

SECTION 7.8. Additional Indebtedness.

(a) The Lessee may incur additional parity long-term debt provided that the Lessee's Expendable Resources (as defined herein) shall equal at least 45% of the total amount of pro forma debt outstanding after the issuance of the Bonds.

(b) Unless otherwise provided for in variable rate indebtedness consented to by the Bond Insurer, Additional Bonds and additional parity debt shall have the same principal and interest payment dates as the Bonds.

(c) Refunding Bonds which do not defease all of the insured Bonds may be issued without the consent of the Bond Insurer, provided there is no increase in Minimum Annual Debt Service.

(d) Variable rate indebtedness (indebtedness which does not bear a fixed rate of interest to maturity), balloon indebtedness (debt of which 25% or more of the principal amount comes or

may come due in any one fiscal year by maturity, mandatory sinking fund redemption or optional or mandatory tender by the holder thereof), nonrecourse indebtedness (indebtedness which is not a general obligation of the Institution and which is secured solely by the property acquired or financed with such indebtedness) and guarantees of third party indebtedness by the Lessee shall be subject to the prior approval of the Bond Insurer.

No Additional Bonds, notes, certificates, contracts or any other obligations (the "Additional Debt") shall be incurred by the Lessee unless no Event of Default shall have occurred and be continuing with respect to the Bonds.

ARTICLE VIII.

Options

SECTION 8.1. Options.

(a) The Lessee has the option to make advance rental payments for deposit in the Redemption Account of the Bond Fund for application in connection with the redemption in whole or in part of the Bonds, all in accordance with the terms of the Indenture; provided, however, that no partial redemption of the Bonds may be effected through advance rental payments hereunder if there shall exist and be continuing an Event of Default hereunder other than Events of Default under Sections 7.1 (c) or (f) hereof. The Lessee shall exercise its option to make such advance rental payments by delivering a written notice of an Authorized Representative of the Lessee to the Trustee, and the Agency not less than forty-five days prior to the date on which the Bonds are to be redeemed, setting forth (i) the amount of the advance rental payment, (ii) the principal amount of Bonds Outstanding requested to be redeemed with such advance rental payment (which principal amount shall be in such minimum amount or integral multiple of such amount as shall be permitted in the Indenture), and (iii) the date on which such principal amount of Bonds are to be redeemed. Such advance rental payment shall be delivered to the Trustee not less than the forty-fifth day preceding the date set for redemption of the Bonds and shall be paid to the Trustee in legal tender on or before the redemption date and shall be an amount which, when added to the amount on deposit in the Redemption Account of the Bond Fund and available therefor, will be sufficient to pay the Redemption Price of the Bonds to be redeemed, together with interest to accrue to the date of redemption and all expenses of the Agency, the Bond Registrar, the Trustee and the Paying Agents in connection with such redemption. In the event the Bonds are to be redeemed in whole or otherwise retired, the Lessee shall further pay on or before such redemption date, in legal tender, to the Agency, the Trustee, the Bond Registrar, the Auction Agent and the Paying Agents, as the case may be, all fees and expenses owed such party or any other party entitled thereto under this Agreement or the Indenture together with (i) all other amounts due and payable under this Agreement, the other Security Documents, the Auction Agency Agreement and (ii) any amounts required to be rebated to the Federal government pursuant to the Indenture or the Tax Certificate.

(b) The Lessee shall have the option to purchase the leasehold interest in the Facility commencing on that date upon which the Bonds may first optionally be redeemed in whole and on any date thereafter permitted therefor as provided in the Indenture.

(c) The Lessee shall also have the option to purchase the leasehold interest in the Facility on any date during the term of this Agreement within ninety (90) days of the occurrence of any of the following events:

(1) The Facility shall have been damaged or destroyed to such extent that as evidenced by a certificate of an Independent Engineer filed with the Agency and the Trustee (A) the Facility cannot be reasonably restored within a period of one year from the date of such damage or destruction to the condition thereof immediately preceding such damage or destruction, (B) the Lessee is thereby prevented or likely to be prevented from carrying on its normal operation of the Facility for a period of one year from the date of such damage or destruction, or (C) the restoration cost of the Facility would exceed the total amount of all insurance proceeds, including any deductible amount, in respect of such damage or destruction; or

(2) Title to, or the temporary use of, all or substantially all of the Facility shall have been taken or condemned by a competent authority which taking or condemnation results, or is likely to result, in the Lessee being thereby prevented or likely to be prevented from carrying on its normal operation of the Facility for a period of one year from the date of such taking or condemnation, as evidenced by a certificate of an Independent Engineer filed with the Agency and the Trustee; or

(3) As a result of changes in the Constitution of the United States of America or of the State or of legislative or executive action of the State or any political subdivision thereof or of the United States of America or by final decree or judgment of any court after the contest thereof by the Lessee, this Agreement becomes void or unenforceable or impossible of performance in accordance with the intent and purpose of the parties as expressed herein or unreasonable burdens or excessive liabilities are imposed upon the Lessee by reason of the operation of the Facility.

(d) The Lessee, in purchasing the leasehold interest in the Facility pursuant to Section 8.1(c) hereof, shall file with the Agency and the Trustee the certificate prescribed by Section 8.1(c)(1) or (2) hereof together with a resolution of the board of directors or executive committee of the Lessee (certified as true and correct by an Authorized Representative of the Lessee) to the effect that, as a result of the occurrence of the event giving rise to the exercise of such option to purchase, the Lessee has discontinued, or at the earliest practicable date will discontinue, the operation of the Facility for its intended purposes, and in the case of Section 8.1(b) or 8.1(c) hereof, the Lessee shall pay to the Trustee as the purchase price, in legal tender, advance rental payments, for deposit in the Redemption Account of the Bond Fund (if payment in full of the principal of or the Redemption Price, if any, as the case may be, of, and interest on, all the Outstanding Bonds at maturity or upon earlier redemption has not yet been it made) equal to the sum of the following:

(1) an amount which, when added to the amount on deposit in the Redemption Account of the Bond Fund and available therefor, will be sufficient to pay, retire and redeem the Outstanding Bonds in accordance with the provisions of the Indenture, including, without limitation, the principal of or the Redemption Price (as the case may be) of, together with interest to maturity or redemption date (as the case may be) on, the Outstanding Bonds;

(2) expenses of redemption, the fees and expenses of the Agency, the Trustee, the Bond Registrar, the Auction Agent and the Paying Agents and all other amounts due and payable under this Agreement, the Auction Agency Agreement and the Indenture;

(3) any amounts required to be paid to the Federal government pursuant to the Indenture or the Tax Certificate; and

(4) one dollar (U.S. \$1).

Notwithstanding any provision of this Lease Agreement to the contrary, any sale by the Agency, and purchase by the Lessee, of the leasehold interest in the Facility pursuant to Sections 8.1(b) or (c) shall be subject to the lien of the Agency Mortgage until all amounts owed under this Lease Agreement have been paid in full.

(e) Upon the payment in full of the principal of and interest on the Outstanding Bonds (whether at maturity or earlier redemption), the Lessee shall have the option to purchase the Facility and shall exercise such option by (1) delivering to the Agency prior written notice of an Authorized Representative of the Lessee no more than thirty (30) days after the payment in full of the Bonds of the exercise of such option to purchase, which notice shall set forth a requested closing date for the purchase of the Facility which shall be not later than sixty (60) days after the payment in full of the Bonds, and (2) paying on such closing date a purchase price equal to the sum of one dollar (U.S. \$1), the fees and expenses of the Agency, the Trustee, the Bond Registrar, the Auction Agent and the Paying Agents and all other amounts due and payable under this Agreement, the Auction Agency Agreement or the Indenture, together with any amounts required to be paid to the United States government pursuant to the Indenture or the Tax Certificate. Upon the written request of the Lessee, the Agency may approve the extension or waiver of any of the time periods set forth in this paragraph.

(f) The Lessee shall not, at any time, assign or transfer its option to purchase the leasehold interest in the Facility as contained in this Section 8.1 separate and apart from a permitted assignment of this Agreement pursuant to Section 9.3 hereof without the prior written consent of the Agency and the Trustee.

SECTION 8.2. Conveyance on Exercise of Option to Purchase.

At the closing of any purchase of the leasehold interest in the Facility pursuant to Section 8.1 hereof, the Agency will, upon receipt of payment of the purchase price, request the Trustee to deliver to the Lessee a release, satisfaction or termination of the mortgage lien and security interest of the Agency Mortgage on the Facility and shall deliver or cause to be delivered (i) other documents conveying to the Lessee all of the Agency's right, title and interest in and to the Facility Equipment and, by lease, assignment or termination, good and marketable leasehold title to the real property of the Facility Realty being purchased, as all such property then exists, and

all rights, alleys, ways, waters, privileges, appurtenances and advantages to the same belonging or otherwise appertaining, subject to the following: (1) the nature, quality and extent to which title to said property shall have been vested in the Agency; (2) any Permitted Encumbrances to which title to said property was subject when conveyed to the Agency; (3) any liens, easements, security interests, claims, charges and encumbrances created at the request of the Lessee or to the creation or suffering of which the Lessee consented; (4) any liens, security interests, claims, charges and encumbrances resulting from the failure of the Lessee to perform or observe any of the agreements on its part contained in this Agreement; (5) any liens for taxes or assessments not then delinquent; and (6) the rights, if any, of any condemning authority; and (ii) documents releasing and conveying to the Lessee all of the Agency's rights and interests in and to any rights of action, or any insurance proceeds or condemnation award, with respect to the Facility. Concurrently with the delivery of such title documents, there shall be delivered by the Agency to the Trustee any instructions or other instruments required by Section 10.01 of the Indenture to defease and pay the Bonds.

Upon conveyance of the Facility pursuant to this Section 8.2, this Agreement and all obligations of the Lessee hereunder shall be terminated except the obligations of the Lessee under Sections 4.3 (until such time as the Lessee shall again pay taxes as the record owner of the Facility Realty), 6.2, 8.5 and 9.16 shall survive such termination.

SECTION 8.3. Option to Purchase or Invite Tenders of Bonds.

The Lessee shall have the option, at any time during the term of this Agreement, to purchase Bonds for its own account, whether by direct negotiation, through a broker or dealer, or by making a tender offer to the Holders thereof. The Bonds so purchased by the Lessee or by any Affiliate thereof shall be delivered to the Trustee for cancellation within fifteen (15) days of the date of purchase. The Agency shall at all times make available or cause to be made available to the Lessee its registration books (maintained at the principal corporate trust office of the Trustee) containing the names and addresses of the Bondholders if known.

SECTION 8.4. Termination of Agreement.

After full payment of the Bonds or provision for the payment in full thereof having been made in accordance with Section 10.01 of the Indenture the Lessee may terminate this Agreement by paying the fees and expenses of the Agency, the Credit Provider, if any, the Trustee, the Bond Registrar, the Auction Agent and the Paying Agents and all other amounts due and payable under this Agreement, the other Security Documents and the Auction Agency Agreement together with any amounts required to be rebated to the United States government pursuant to the Indenture or the Tax Certificate, and by giving the Agency notice in writing of such termination and thereupon such termination shall forthwith become effective, subject, however, to the survival of the obligations of the Lessee under Sections 3.1, 4.3 (until such time as the Lessee shall again pay taxes as the record owner of the Facility Realty), 6.2 and 8.5 hereof. Upon termination of this Agreement as set forth herein, the Agency shall execute and deliver to the Lessee a termination of lease in recordable form.

SECTION 8.5. Recapture of Agency Benefits. It is understood and agreed by the parties to this Agreement that the Agency is issuing the Bonds to finance a portion of the

Project Costs and is entering into this Agreement in order to accomplish the public purposes of the Act. In consideration therefor, the Lessee hereby agrees as follows:

In the event the Lessee exercises its option to pay in advance all rental payments becoming due hereunder (other than pursuant to Section 5.1 hereof in connection with a Loss Event) and shall thereafter sell all or substantially all of the Facility, or cause all or substantially all of the Facility to be sold within ten (10) years from the date of issuance of the Bonds (other than pursuant to Section 6.1 hereof), the Lessee shall pay to the Agency as a return of public benefits conferred by the Agency, the following amounts:

1. one hundred percent (100%) of the Benefits if the Facility is sold within the first six (6) years after the issuance of the Bonds;
2. eighty percent (80%) of the Benefits if the Facility is sold during the seventh (7th) year after the issuance of the Bonds;
3. sixty percent (60%) of the Benefits if the Facility is sold during the eighth (8th) year after the issuance of the Bonds;
4. forty percent (40%) of the Benefits if the Facility is sold during the ninth (9th) year after the issuance of the Bonds; or
5. twenty percent (20%) of the Benefits if the Facility is sold during the tenth (10th) year after the issuance of the Bonds.

The term "Benefits" shall mean, collectively,

1. all miscellaneous benefits derived from the Agency's participation in the financing of the costs of the Project as a result of any exemption from filing and recording fees; and
2. one-half of the amount (but not less than 0) derived by subtracting the aggregate of the interest portions of the installments of rent paid by the Lessee during the lease term from the net earnings (i.e., any income or interest earned by, or increment to, the proceeds of the Bonds, net of any losses or expenses suffered as a result of such investments) derived from the investment of the proceeds of the Bonds prior to disbursement in accordance with the Indenture.

The Lessee covenants and agrees to furnish the Agency with written notification upon any sale of all or substantially all of the Facility or any portion thereof made within ten (10) years of the issuance of the Bonds. The provisions of this Section 8.5 shall survive the termination of this Agreement for any reason whatsoever, notwithstanding any provision of this Agreement to the contrary.

ARTICLE IX.

Miscellaneous

SECTION 9.1. Indenture; Amendment.

The Lessee shall have and may exercise all the rights, powers and authority stated to be in the Lessee in the Indenture and in the Bonds, and the Indenture and the Bonds shall not be modified, altered or amended in any manner which adversely affects such rights, powers and authority so stated to be in the Lessee or otherwise adversely affects the Lessee without the written consent of the Lessee.

SECTION 9.2. Force Majeure.

In case by reason of force majeure either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement, then except as otherwise expressly provided in this Agreement, if such party shall give notice and full particulars of such force majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied on, the obligations of the party giving such notice (other than the obligations of the Lessee to make the rental payments or other payments required under the terms hereof, or to comply with Sections 4.5 or 6.2 hereof), so far as they are affected by such force majeure, shall be suspended during the continuance of the inability then claimed which shall include a reasonable time for the removal of the effect thereof, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "force majeure", as employed herein, shall mean, without limitation, acts of God, strikes, lockouts or other industrial disturbances, terrorism, acts of a public enemy, orders of any kind of the Government of the United States of America or of the State or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrest, restraining of government and people, civil disturbances, explosions, partial or entire failure of utilities, shortages of labor, material, supplies or transportation, or any other similar or different cause not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of existing or impending strikes, lockouts or other industrial disturbances shall be entirely within the discretion of the party having the difficulty and that the above requirements that any force majeure shall be reasonably beyond the control of the party and shall be remedied with all reasonable dispatch shall be deemed to be fulfilled even though such existing or impending strikes, lockouts and other industrial disturbances may not be settled but could have been settled by acceding to the demands of the opposing person or persons.

SECTION 9.3. Assignment or Sublease.

The Lessee may not at any time assign or transfer this Agreement, or sublet the whole or any part of the Facility without the prior written consent of the Agency (which consent shall not be unreasonably withheld); provided, that (1) the Lessee shall nevertheless remain liable to the Agency for the payment of all rent and for the full performance of all of the terms, covenants and conditions of this Agreement and of any other Security Document to which it shall be a party, (2) any assignee or transferee of the Lessee or sublessee in whole of the Facility shall have assumed

in writing and have agreed to keep and perform all of the terms of this Agreement on the part of the Lessee to be kept and performed, shall be jointly and severally liable with the Lessee for the performance thereof, shall be subject to service of process in the State, and, if a corporation, shall be qualified to do business in the State, (3) in the Opinion of Counsel, such assignment, transfer or sublease shall not legally impair in any respect the obligations of the Lessee for the payment of all rents nor for the full performance of all of the terms, covenants and conditions of this Agreement or of any other Security Document to which the Lessee shall be a party, nor impair or limit in any respect the obligations of any obligor under any other Security Document, nor cause the interest on the Bonds to become includable in gross income for purposes of Federal income taxes, (4) any assignee, transferee or sublessee shall be a Tax-Exempt Organization and shall utilize the Facility as a qualified "project" within the meaning of the Act, (5) such assignment, transfer or sublease shall not violate any provision of this Agreement, the Indenture, the Agency Mortgage, any other Security Document, (6) with respect to any subletting in part, the term of each such sublease does not exceed five (5) years and at any given date, no more than an aggregate of twenty percent (20%) of such space would be sub-leased by the Lessee; provided, however, that any subletting in part does not effect the tax exempt status of the Series 1999 Bonds for purposes of Federal income taxes, (7) such assignment, transfer or sublease shall in no way diminish or impair the Lessee's obligation to carry the insurance required under Section 4.5 of this Agreement and the Lessee shall furnish written evidence satisfactory to the Agency and the Trustee that such insurance coverage shall in no manner be limited by reason of such assignment, transfer or sublease, and (8) each such assignment, transfer or sublease contains such other provisions as the Agency or the Trustee may reasonably require. The Lessee shall furnish or cause to be furnished to the Agency and the Trustee a copy of any such assignment, transfer or sublease in substantially final form of at least thirty (30) days prior to the date of execution thereof.

Any consent by the Agency or the Trustee to any act of assignment, transfer or sublease shall be held to apply only to the specific transaction thereby authorized. Such consent shall not be construed as a waiver of the duty of the Lessee, or the successors or assigns of the Lessee, to obtain from the Agency and the Trustee consent to any other or subsequent assignment, transfer or sublease, or as modifying or limiting the rights of the Agency or the Trustee under the foregoing covenant by the Lessee.

If the Facility or any part thereof shall be sublet or occupied by any Person other than the Lessee, the Agency, in the event of the Lessee's default in the payment of rent may, and is hereby empowered to, and the Lessee hereby grants to the Agency an irrevocable power of attorney (coupled with an interest) to collect rent from the undertenant or occupant during the continuance of any such default. In either of such events, the Agency may apply the net amount received by it to the rent herein provided, and no such collection shall be deemed a waiver of the covenant herein against assignment, transfer or sublease of this Agreement, or constitute the acceptance of the under-tenant or occupant as tenant, or a release of the Lessee from the further performance of the covenants herein contained on the part of the Lessee.

SECTION 9.4. Priority of Indenture and Agency Mortgage

Pursuant to the Agency Mortgage, the Agency will grant a mortgage lien on and a security interest in the Facility to the Trustee and pursuant to the Indenture, the Agency will

pledge and assign the rentals and certain other moneys receivable under this Agreement to the Trustee, for the benefit of the Bondholders, as security for payment of the principal or Redemption Price, if applicable, of and interest on the Bonds and this Agreement shall be subject and subordinate to the Agency Mortgage and the Indenture and such mortgage lien, security interest, pledge and assignment thereunder.

SECTION 9.5. Benefit of and Enforcement by Trustee

The Agency and the Lessee agree that this Agreement is executed in part to induce the purchase by others of the Bonds and for the further securing of the Bonds and accordingly all covenants and agreements on the part of the Agency and the Lessee as set forth in this Agreement are hereby declared to be for the benefit of the Holders from time to time of the Bonds and may be enforced as provided in ARTICLE VIII of the Indenture by the Trustee on behalf of the Bondholders to the extent provided herein or in ARTICLE VIII of the Indenture.

SECTION 9.6. Amendments.

This Agreement may be amended only with the concurring written consent of the Trustee and given in accordance with the provisions of the Indenture and only if the Lessee shall assume in writing the obligations of such amended Agreement.

SECTION 9.7. Notices.

All notices, certificates or other communications hereunder shall be sufficient if sent by registered or certified United States mail, postage prepaid, addressed, if to the Agency, to the Chairperson, New York City Industrial Development Agency, 110 William Street, New York, New York with a copy to the Executive Director of the Agency at the same address; if to the Lessee, to the Head, The Churchill School and Center for Learning Disabilities, Inc., 22 East 95th Street, New York, New York 10128 and if to the Trustee, to United States Trust Company of New York, Corporate Trust Department, 114 West 47th Street, New York, New York 10036. The Agency, the Lessee and the Trustee may, by like notice, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Any notice, certificate or other communication hereunder shall, except as may expressly be provided herein, be deemed to have been delivered or given as of the date it shall have been mailed.

SECTION 9.8. Prior Agreements Superseded.

This Agreement shall completely and fully supersede all other prior understandings or agreements (other than any Security Documents), both written and oral, between the Agency and the Lessee relating to the Facility.

SECTION 9.9. Severability.

If any clause, provision or section of this Agreement is ruled invalid by any court of competent jurisdiction, the invalidity of such clause, provision or section shall not affect any of the remaining provisions hereof.

SECTION 9.10. Inspection of Facility.

The Lessee will permit the Trustee or their respective duly authorized agents, at all reasonable times during regular business hours and upon reasonable notice to enter upon the Facility Realty and to examine and inspect the Facility and exercise its rights hereunder, under the Indenture and under the other Security Documents with respect to the Facility. The Lessee will further permit the Agency, or its duly authorized agent, at all reasonable times to enter upon the Facility but solely for the purpose of assuring that the Lessee is operating the Facility, or is causing the Facility to be operated, as a qualified "project" under the Act consistent with the purposes set forth in the recitals to this Agreement and with the public purposes of the Agency, and not for any purpose of assuring the proper maintenance or repair of the Facility as such latter obligation is and shall remain solely the obligation of the Lessee.

SECTION 9.11. Effective Date Counterparts.

This Agreement shall become effective upon its delivery. It 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 9.12. Binding Effect.

This Agreement shall inure to the benefit of, and shall be binding upon, the Agency, the Lessee and their respective successors and assigns.

SECTION 9.13. Net Lease.

It is the intention of the parties hereto that this Agreement be a "net lease" and that all of the rent be available for debt service on the Bonds, and this Agreement shall be construed to effect such intent.

SECTION 9.14. Law Governing.

THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE.

SECTION 9.15. Investment of Funds

Any moneys held as part of the Rebate Fund, the Debt Service Reserve Fund, the Revenue Fund, the Lease Payments Fund, the Earnings Fund, the Project Fund, the Bond Fund or the Renewal Fund or in any special fund provided for in this Agreement or in the Indenture to be invested in the same manner as in any said Fund shall, at the written request of an Authorized Representative of the Lessee, be invested and reinvested by the Trustee as provided in the Indenture (but subject to the provisions of the Tax Certificate). Neither the Trustee (except for its own gross negligence or willful misconduct) nor the Agency nor any of their members, directors, officers, agents, servants or employees shall be liable for any depreciation in the value of any such investments or for any loss arising therefrom.

Interest and profit derived from such investments shall be credited and applied as provided in the Indenture, and any loss resulting from such investments shall be similarly charged.

SECTION 9.16. Waiver of Trial by Jury.

The parties hereby expressly waive all rights to trial by jury on any cause of action directly or indirectly involving the terms, covenants or conditions of this Agreement or the Facility or any matters whatsoever arising out of or in any way connected with this Agreement.

The provision of this Agreement relating to waiver of a jury trial and the right of re-entry or re-possession shall survive the termination or expiration of this Agreement.

SECTION 9.17. Reserved.

SECTION 9.18. No Recourse under this Agreement or on Bonds.

All covenants, stipulations, promises, agreements and obligations of the Agency contained in this Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Agency, and not of any member, director, officer, employee or agent of the Agency in his individual capacity, and no recourse shall be had for the payment of the principal of, redemption premium, if any, or interest on the Bonds or for any claim based thereon or hereunder against any member, director, officer, employee or agent of the Agency or any natural person executing the Bonds.

All covenants, stipulations, promises, agreements and obligations of the Lessee contained in this Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Lessee, and not of any director, officer, employee or agent of the Lessee in his individual capacity, and no recourse shall be had for the payment of the principal of, redemption premium, if any, or interest on the Bonds or for any claim based thereon or hereunder against any director, officer, employee or agent of the Lessee.

SECTION 9.19. [Reserved].

SECTION 9.20. Date of Agreement for Reference Only.

The date of this agreement shall be for reference purposes only and shall not be construed to imply that this Agreement was executed on the date first above written. This Agreement was executed and delivered on December 16, 1999.

[THIS PAGE HAS INTENTIONALLY BEEN LEFT BLANK]

IN WITNESS WHEREOF, the Agency has caused its corporate name to be hereunto subscribed to this Lease Agreement by its duly authorized Chairman, Vice Chairman, Executive Director or Deputy Executive Director and attested under the seal of the Agency by an Assistant Secretary and the Lessee has caused its corporate name to be subscribed hereto by its President pursuant to a resolution duly adopted by its Board of Directors, all being done as of the year and day first above written.

(SEAL)
Attest:

**NEW YORK CITY INDUSTRIAL
DEVELOPMENT AGENCY**

By _____
Carolyn A. Edwards
Deputy Executive Director

By _____
Assistant Secretary

**THE CHURCHILL SCHOOL AND
CENTER FOR LEARNING
DISABILITIES, INC.**
as Lessee

By _____
Charles E. Clayman
Vice President

DESCRIPTION OF THE PROJECT

The Project

The Project consists of the acquisition, renovation, expansion and equipping of an approximately 52,000 square foot educational facility to be located at 301 East 29th Street, New York, New York for use by the Institution in providing special educational services to elementary, middle school and high school students.

DESCRIPTION OF FACILITY REALTY

DESCRIPTION OF FACILITY EQUIPMENT

All that certain plot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

BEGINNING at a point on the northerly side of East 29th Street distant 53 feet 2 inches easterly from the corner formed by the intersection of the northerly side of East 29th Street and the easterly side of Second Avenue;

RUNNING THENCE northerly along the easterly line of Tax Lot 1 in Block 934 as shown on the tax map of the City of New York for New York County 35 feet 6 inches to the southerly line of said Tax Lot 1 in Block 935;

THENCE southeasterly along the said southerly line of Tax Lot 1 in Block 934, 18 feet 3 inches to the easterly line of said Tax Lot 1 in Block 935;

THENCE northerly parallel with Second Avenue 64 feet 9 inches;

THENCE easterly parallel with East 25th Street 0 feet 9 inches;

THENCE northerly parallel with Second Avenue 1 foot 3 inches;

THENCE easterly parallel with East 29th Street, 124 feet 3 inches;

THENCE southerly 98 feet 9 inches to the northerly side of East 29th Street;

THENCE westerly along the northerly side of East 29th Street, 146 feet 10 inches to the point or place of BEGINNING.

Annual Employment Report
For the Year Ending June 30, _____

In order to comply with Local and State employment reporting requirements, the New York City Industrial Development Agency must require all of its project companies to complete and return the Report to the Agency no later than August 1, _____.

Telephone # _____

Tax ID # _____

Please provide information as of June 30th of jobs at the Project Location(s). Do not include any subcontractors and consultants. Include only employees and owners/principals on your payroll at the Project Location.

Number of existing FULL TIME JOBS

Number of existing PART TIME JOBS

Certification: I, the undersigned, hereby certify to the best of my knowledge and belief, that all information contained in this report is true and complete, and that I understand it is submitted pursuant to agreement. The Company hereby authorizes any private or governmental entity, including but not limited to The New York State Department of Labor ("DOL"), to release to the New York City Industrial Development Agency (the "Agency") and/or to the New York City Economic Development Corporation ("EDC"), and/or to the successors and assigns of either (collectively, the "Information Recipients"), any and all employment information under DOL's control which is pertinent to the Company and the Company's employees. In addition, upon the Agency's request, the Company shall provide to the Agency any employment information in the Company's possession which is pertinent to the Company and the Company's employees. Information released or provided to Information Recipients by DOL, or by any other governmental entity, or by any private entity, or by the Company itself, or any information previously released as provided by all or any of the foregoing parties (collectively, "Employment Information") may be disclosed by the Information Recipients in connection with the administration of the programs of the Agency, and/or EDC, and/or the successors and assigns of either, and/or the City of New York, and/or as may be necessary to comply with law; and, without limiting the foregoing, the Employment Information may be included in (x) reports prepared by the Information Recipients pursuant to New York City Local Law 69 of 1993, (y) other reports required of the Agency, and (z) any other reports required by law. This authorization shall remain in effect throughout the term of this transaction.

Name of Company _____

Principal/Owner/Chief Financial Officer _____ (Please Print)

Signature _____ Date _____

If you have any questions, please call the Compliance Helpline at (212) 312-3963

*Please submit the completed form to: New York City Industrial Development Agency
110 William Street, New York, NY 10038
Attention: Compliance Unit*

SCHEDULE A-2

**Annual Employment Report
FOR BOND REDEMPTIONS AND TERMINATIONS**

In order to comply with Local and State employment reporting requirements, The New York City Industrial Development Agency must require all of its project companies to complete and return the Annual Employment Report.

Project Company & Project Location(s) (use additional sheet if necessary)

Telephone # _____

Tax ID # _____

Please provide your most current employment figures at the Project Location(s) listed above. Do not include any subcontractors and consultants. Include only employees and owners/principals on your payroll at the Project Location(s).

Number of existing FULL TIME JOBS _____

Number of existing PART TIME JOBS _____

Date of job information (Month/Day/Year) _____

Certification: I, the undersigned, hereby certify to the best of my knowledge and belief, that all information contained in this report is true and complete, and that I understand it is submitted pursuant to agreement. The Company hereby authorizes any private or governmental entity, including but not limited to The New York State Department of Labor ("DOL"), to release to the New York City Industrial Development Agency (the "Agency") and/or to the New York City Economic Development Corporation ("EDC"), and/or to the successors and assigns of either (collectively, the "Information Recipients"), any and all employment information under DOL's control which is pertinent to the Company and the Company's employees. In addition, upon the Agency's request, the Company shall provide to the Agency any employment information in the Company's possession which is pertinent to the Company and the Company's employees. Information released or provided to Information Recipients by DOL, or by any other governmental entity, or by any private entity, or by the Company itself, or any information previously released as provided by all or any of the foregoing parties (collectively, "Employment Information") may be disclosed by the Information Recipients in connection with the administration of the programs of the Agency, and/or EDC, and/or the successors and assigns of either, and/or the City of New York, and/or as may be necessary to comply with law; and, without limiting the foregoing, the Employment Information may be included in (x) reports

prepared by the Information Recipients pursuant to New York City Local Law 69 of 1993, (y) other reports required of the Agency, and (z) any other reports required by law. This authorization shall remain in effect throughout the term of this Lease.

Name of Company _____

Principal/Owner/Chief Financial Officer _____ (Please Print)

Signature _____ **Date** _____

If you have any questions, please call the Compliance Helpline at (212) 312-3963

BENEFITS REPORT

For benefits utilized during the period of __/__/00 - __/__/01

SALES TAX BENEFIT

not applicable, no benefit used this period 0 not applicable, maximum benefit reached 0

not applicable, project not eligible for benefit 0

| | |
|-----------------------------------|----------|
| Total Purchase Costs: | \$ _____ |
| Total Sales Tax Benefits: | \$ _____ |
| Discount Rate Percentage: | _____ % |
| Total NPV of Sales Tax Benefits*: | \$ _____ |

BUSINESS INCENTIVE RATE - (BIR)

not applicable, no benefit used this period 0 not applicable, maximum benefit reached 0

not applicable, project not eligible for benefit 0

| | |
|--|----------|
| Cost at Market Rate: | \$ _____ |
| Cost at BIR: | \$ _____ |
| Amount of Benefit (market rate-BIR) | \$ _____ |
| Discount Rate Percentage: | _____ % |
| Total NPV of BIR Benefit* | \$ _____ |

Principal/Owner/Chief Financial Officer: _____

(Please print)

Signature: _____

If you have any questions, please call the IDA Compliance Helpline at (212) 312-3963.

Please submit the completed form to: *New York City Industrial Development Agency
110 William Street, New York, NY 10038
Attention: Compliance Unit*

* 110 William Street, New York, NY 10038 212-619-5000

SCHEDULE D

**PROJECT COMPLETION CERTIFICATE OF LESSEE AS
REQUIRED BY SECTION 2.2(d) OF THE LEASE AGREEMENT**

The undersigned, an Authorized Representative (as defined in the Lease Agreement referred to below) of The Churchill School and Center for Learning Disabilities, Inc., a New York corporation (the "Lessee"), HEREBY CERTIFIES that this Certificate is being delivered in accordance with the provisions of Section 2.2(d) of that certain Lease Agreement, dated as of December 1, 1999 (the "Lease Agreement"), between the New York City Industrial Development Agency (the "Agency") and the Lessee, and FURTHER CERTIFIES THAT (capitalized terms used but not defined herein shall have the respective meanings assigned to such terms in the Lease Agreement):

the Project has been completed substantially in accordance with the plans and specifications therefor and the date of completion of the Project was _____;

except for any Project costs not due and payable or the liability for payment of which is being contested or disputed by the Lessee in good faith, all labor, services, machinery, equipment, materials and supplies used therefor have been paid for or arrangement for payment, as described below, has been made [insert details of payment arrangement if possible];

all other facilities necessary in connection with the Project have been completed and all costs and expenses incurred in connection therewith have been paid;

the Agency has good and valid marketable fee simple title to the Facility, and all property constituting the Facility is subject to the Lease Agreement, subject only to Permitted Encumbrances;

in accordance with all applicable laws, regulations, ordinances and guidelines, the Facility is ready for occupancy, use and operation for its intended purposes;

\$ _____ represents the amount required for the payment of remaining Project costs;

this Certificate is given with prejudice to any rights of the Lessee against third parties existing on the date hereof or which may subsequently come into being and no Person other than the Agency may benefit from this Certificate; and

attached hereto are (a) releases of mechanics' liens by the general contractor and by all contractors and materialmen who supplied work, labor, services, machinery, equipment, materials or supplies in connection with the Project, (b) a permanent certificate of occupancy, (c) any and all permissions, approvals, licenses or consents required of governmental authorities for the occupancy, operation and use of the Facility for the purposes contemplated by the Lease Agreement, and (d) evidence that all real property taxes and assessments, and payments in lieu of taxes, if any, due and payable under Section 4.3 the Lease Agreement in respect of the Facility have been paid in full.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand this _____ day of _____, _____.


**THE CHURCHILL SCHOOL AND
CENTER FOR LEARNING
DISABILITIES, INC.**
as Lessee

By: _____
Charles E. Clayman
Vice President

IN WITNESS WHEREOF, the Agency has caused its corporate name to be hereunto subscribed to this Lease Agreement by its duly authorized Chairman, Vice Chairman, Executive Director or Deputy Executive Director and attested under the seal of the Agency by an Assistant Secretary and the Lessee has caused its corporate name to be subscribed hereto by its President pursuant to a resolution duly adopted by its Board of Directors, all being done as of the year and day first above written.

(SEAL)
Attest:

**NEW YORK CITY INDUSTRIAL
DEVELOPMENT AGENCY**

By 

Carolyn A. Edwards
Deputy Executive Director

By 

Assistant Secretary

**THE CHURCHILL SCHOOL AND
CENTER FOR LEARNING
DISABILITIES, INC.**
as Lessee

By _____
Charles E. Clayman
Vice President

IN WITNESS WHEREOF, the Agency has caused its corporate name to be hereunto subscribed to this Lease Agreement by its duly authorized Chairman, Vice Chairman, Executive Director or Deputy Executive Director and attested under the seal of the Agency by an Assistant Secretary and the Lessee has caused its corporate name to be subscribed hereto by its President pursuant to a resolution duly adopted by its Board of Directors, all being done as of the year and day first above written.

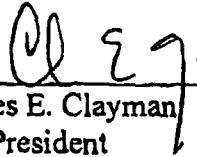
(SEAL)
Attest:

**NEW YORK CITY INDUSTRIAL
DEVELOPMENT AGENCY**

By _____
Carolyn A. Edwards
Deputy Executive Director

By _____
Assistant Secretary

**THE CHURCHILL SCHOOL AND
CENTER FOR LEARNING
DISABILITIES, INC.**
as Lessee

By  _____
Charles E. Clayman
Vice President

STATE OF NEW YORK)

: ss.:

COUNTY OF NEW YORK)

On the 16th day of December, in the year one thousand nine hundred and ninety-nine, before me, the undersigned, personally appeared Charles E. Clayman, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

[Handwritten Signature]

Notary Public


REBECCA GIBSON JIM
Notary Public, State of New York
No. 014987-0000
Qualified in Westchester County
Commission Expires 07/31/01

2001

STATE OF NEW YORK)
COUNTY OF NEW YORK)

: ss.:

On the 16th day of December, in the year one thousand nine hundred and ninety-nine, before me, the undersigned, personally appeared Carolyn A. Edwards, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

CAROL M. HYDE
Notary Public, State of New York
No. 4977270.
Qualified in Queens County
Commission Expires Jan. 28, 2001