

LEASE AND AGREEMENT
BY AND BETWEEN
NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY
AND
RICHARD STOCKTON UNIVERSITY
DATED AS OF

[_____] 1, 2015

Relating to the Series 2015 __ Project

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LEASE AND AGREEMENT

NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY

TO

RICHARD STOCKTON UNIVERSITY

THIS LEASE AND AGREEMENT (THIS “AGREEMENT”), MADE AS OF [_____] 1, 2015, BY AND BETWEEN THE NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY (THE “AUTHORITY”) AND RICHARD STOCKTON UNIVERSITY (the “INSTITUTION”)

WITNESSETH

WHEREAS, the Institution has determined it is necessary and advisable to undertake a project (the “Series 2015 Project” or the “Project”) consisting of: (i) the refunding of [all or a part of] the New Jersey Educational Facilities Authority Revenue Bonds, Richard Stockton College Issue, Series 2005 F (the “Refunded Bonds”); and (ii) the payment of costs of issuance of the Series 2015 Bonds (as hereinafter defined) as presented, submitted and approved by the Institution’s Board of Trustees; and

WHEREAS, pursuant to the Bond Resolution duly adopted on _____ 1, 2015 (the “Resolution”) the Authority has determined that it is necessary and in keeping with its authorized purposes to issue a series of bonds to be designated “New Jersey Educational Facilities Authority Revenue Bonds, Richard Stockton University Issue, Series 2015__” in an amount not to exceed \$_____ (the “Series 2015 Bonds”) for the purpose of providing funds to finance the Series 2015 Project pursuant to the terms of a Bond Agreement dated as of [_____] 1, 2015 (the “Bond Agreement”), by and between the Authority and [_____] (the “Purchaser”); and

WHEREAS, the repayment of the Series 2015 Bonds will be secured by this Agreement pursuant to which the Authority will lease the Leased Facilities (as hereinafter defined) to Institution; and

WHEREAS, in order to provide for the financing of the Series 2015 Project, it is necessary and desirable to enter into this Agreement relating to certain property which Institution has conveyed or caused to be conveyed title in fee simple absolute (as more fully described in Exhibit A attached hereto) to the Authority; and

WHEREAS, the Leased Facilities constitute a portion of the Project Facilities (as hereinafter defined); and

WHEREAS, the Authority desires to let the Leased Facilities to Institution and provide for the financing of the Series 2015 Project in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the rents, covenants and agreements herein reserved, mentioned and contained on the part of Institution, its successors and assigns, to be paid, kept and performed, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Authority by these presents does lease, demise and let the Leased Facilities to Institution, and Institution does hereby consent to said leasing and hereby takes the Leased Facilities upon and subject to the conditions hereinafter expressed.

ARTICLE I

DEFINITIONS

SECTION 1.01. Definitions. The words and terms used in this Agreement shall be defined as in the recitals hereto or have the same meanings as set forth in Section 1.01 of the Bond Agreement and Section 1.01 of the Resolution, and unless the context shall otherwise require, the following words and terms, as used in this Agreement shall mean:

“Additional Lease Payments” means the payments so designated and required to be made by Institution pursuant to Section 4.05 hereof;

“Agreement” means this Lease and Agreement dated as of [_____] 1, 2015 executed by and between the Authority and Institution, in connection with the issuance of the Series 2015 Bonds and relating to the Leased Facilities and Project Facilities, as applicable;

“Annual Administrative Fee” means an annual fee for the general administrative services of the Authority. Initially, there shall be no Annual Administrative Fee; however, the Authority reserves the right to charge an Annual Administrative Fee in an amount equal to 1/10 of 1% of the outstanding principal amount of the Bonds with a maximum annual fee of \$50,000.

“Applicable Environmental Laws” means (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. 9601 *et seq.* (“CERCLA”); (ii) the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6901 *et seq.* (“RCRA”); (iii) the New Jersey Industrial Site Recovery Act, as amended, N.J.S.A. 13:1K-6 *et seq.* (“ISRA”); (iv) the New Jersey Spill Compensation and Control Act, as amended, N.J.S.A. 58:10-23.11b *et seq.* (“Spill Act”); (v) the New Jersey Underground Storage of Hazardous Substances Act, as amended, N.J.S.A. 58:10A-21 *et seq.* (“UST”); (vi) the New Jersey Solid Waste Management Act, as amended, N.J.S.A. 13:1E-1 *et seq.*; (vii) the New Jersey Toxic Catastrophe Prevention Act, as amended, N.J.S.A. 13:1K-19 *et seq.*; (viii) the New Jersey Water Pollution Control Act, as amended, N.J.S.A. 58:10A-1 *et seq.*; (ix) the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*; (x) the New Jersey Air Pollution Control Act, as amended, N.J.S.A. 26:2C-1 *et seq.*; and (xi) any and all federal, regional, state, county and local laws, regulations, executive orders, rules, ordinances, codes, guidance, consent decrees, orders, judgments and directives pertaining to pollution or protection of the Environment (including laws, regulations and other requirements relating to Environmental Conditions and Releases or threatened Releases of Hazardous Substances into the Environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, Release, transport or handling of Hazardous Substances), as the same may be amended or supplemented from time to time. Any capitalized terms referred to in Section 5.10 hereof not otherwise defined herein which are defined in any Applicable Environmental Law shall have the meanings ascribed to such terms in said laws; provided, however, that if any of such laws are amended so as to broaden any term defined therein, such broader meaning shall apply subsequent to the effective date of such amendment;

“Basic Lease Payments” means an amount of money payable in accordance with this Agreement, as more fully provided for in Section 4.04 hereof;

“Basic Lease Payment Date” means with respect to a (i) Basic Lease Payment, the 20th day of each month or, if such date is not a Business Day, the Business Day next preceding such date, and (ii) prepayment or acceleration, the date of payment of the Purchase Option Price or Mandatory Purchase Price, as the case may be;

“Bond Payment Obligations” means, for any period or payable at any time, the principal of (whether on a Payment Date, at stated maturity, by acceleration or otherwise) and premium, if any, purchase price of, and interest on the Series 2015 Bonds for that period or due and payable at that time as the case may be;

“Bond Year” means a period of twelve (12) consecutive months beginning on July 1 in any calendar year and ending on June 30 of the succeeding calendar year;

“Business Day” means any day other than (i) a Saturday or Sunday or (ii) a day on which banking institutions in the city or cities in which the principal office of the Purchaser is located and authorized by law or executive order to close;

“Environment” means ambient air, surface water, groundwater, surface or subsurface soil or other geologic media, sediment and all plants and wildlife present therein or thereon;

“Environmental Conditions” means any environmental contamination or pollution or threatened contamination or pollution of, or the Release or threatened Release of Hazardous Substances into, the Environment;

“Financing Documents” means collectively, the Bond Agreement and the Resolution;

“Governmental Authority” means any nation or government, any state, city, locality, municipality or political subdivision thereof, any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government and any government authority, agency, department, board, commission or instrumentality, including, without limitation, the United States Environmental Protection Agency (“USEPA”), the New Jersey Department of Environmental Protection (“NJDEP”) and all other federal, state, regional, county or local government authorities authorized or having jurisdiction to enforce Applicable Environmental Laws;

“Hazardous Substances” means and includes: (a) any “hazardous substance,” “pollutant” or “contaminant” as defined in Applicable Environmental Laws, including without limitation CERCLA and the Spill Act; (b) any “hazardous waste” as such term is defined in Applicable Environmental Law; (c) any substance containing “petroleum,” as such term is defined in Section 9001(8) of RCRA, Section 6991 (8) of RCRA or in 40 C.F. R. Section 280.1; and (d) any substance, material or waste which is defined, listed or regulated under any Applicable Environmental Law or with respect to which any Governmental Authority with jurisdiction over Institution requires special handling in its generation, handling, use, collection, storage, treatment, disposal or Release;

“Initial Fee” means the fee paid or payable to the Authority for its services in connection with the issuance of the Series 2015 Bonds, calculated at the rate of 1/5 of 1% of the principal amount of the Series 2015 Bonds;

“Leased Facilities” means that portion of the Project Facilities, located on the Project Site, including any additions, improvements, modifications, substitutions and renewals thereof, and further includes other facilities and uses as are permitted by the Act and this Agreement;

“Losses” means all actions, suits, claims, liabilities, losses, damages, penalties, fines, fees, costs and expenses, including, without limitation, sampling, monitoring and remediation costs, natural resource damages, damages on account of personal injuries, death or property damages, attorneys', consultants' and engineering fees and disbursements, costs of defense and interest;

“Mandatory Purchase Price” shall have the meaning ascribed thereto in Section 4.07(c) hereof;

“Payment Date” means the dates on which the principal of and interest on the Series 2015 Bonds are required to be paid to the Holders thereof as set forth in the form of the Series 2015 Bonds or the date of any redemption or acceleration of the Series 2015 Bonds;

“Project Facilities” means the educational facilities described in Exhibit B of this Agreement, which includes the Project Site, including any additions, improvements, modifications, substitutions and renewals thereof, and further includes other facilities and uses as are permitted by the Act and this Agreement;

“Project Site” means the real property upon which the Leased Facilities are located;

“Purchase Option Price” shall have the meaning ascribed thereto in Section 4.07(a) hereof;

“Rebatable Arbitrage” shall have the meaning ascribed thereto in the Bond Agreement;

“Release” means the intentional or unintentional spilling, leaking, disposing, discharging, emitting, depositing, injecting, leaching, escaping, release or threatened release, burial, pumping, pouring, emptying or dumping into the Environment;

“Remediate” or “Remediation” means (i) all investigations of Environmental Conditions of any kind or nature whatsoever, including site assessments, site investigations, remedial investigations, soil, groundwater, surface water, sediment sampling or monitoring, or (ii) actions of any kind or nature whatsoever taken to remove, abate or remediate Environmental Conditions, including the use, implementation, application, installation, operation or maintenance of removal actions, in-situ or ex-situ remediation technologies applied to surface or subsurface soils, encapsulation or stabilization of soils, excavation and off-site treatment or disposal of soils, systems for recovery and/or treatment of groundwater or free product, Engineering Controls or Institutional Controls (as such terms are defined under N.J.S.A. 58:10B-1 *et seq.*);

“Institution” means the public institution for higher education authorized and created pursuant to State law, the name of which is Richard Stockton University;

“Tax Certificate” means the Arbitrage and Tax Certificate executed by Richard Stockton University in connection with the issuance of the Series 2015 Bonds;

Words importing persons include firms, associations and corporations, and words importing the singular number include the plural number and vice versa.

ARTICLE II

THE PROJECT

SECTION 2.01. Payment of Costs. It is hereby understood and agreed that the cost of the Project shall be paid solely from the proceeds of the Series 2015 Bonds issued by the Authority in connection with the Project in accordance with the Bond Agreement and the Resolution, and other funds made available to the Authority for such purpose under the provisions of this Agreement or said resolution.

SECTION 2.02. Use of the Project Facilities and the Leased Facilities. The Authority agrees that the Project Facilities as more fully described in Exhibit B attached hereto may be, and Institution agrees that said Project Facilities, shall be used by Institution as educational facilities permitted under the Act and which, in the opinion of Institution, are necessary, desirable and to the benefit and best interest of Institution. Institution further covenants and agrees, however, that at no time shall the Project Facilities, or any part thereof, be used or be allowed to be used for sectarian instruction or as a place for religious worship.

Institution also covenants and agrees, to the extent it is able, to enforce and require to be enforced, for the term of this Agreement, reasonable rules and regulations governing the use of the Leased Facilities or the Project Facilities and the operation thereof; that all compensation, salaries, fees and wages paid by them in connection with the maintenance, repair and operation thereof will be reasonable; that no more persons will be employed by it than are necessary; that it will maintain and operate the Project Facilities in an efficient and economical manner; that it will at all times maintain the same in good repair and in sound operating condition and will make all necessary repairs, renewals and replacements; and that it will comply with all valid acts, rules and regulations, orders and directions of any legislative, executive, administrative or judicial body, applicable to Institution and the Project Facilities.

Institution covenants and agrees that it shall use and/or operate or cause the Project Facilities to be used for or operated as educational facilities constituting an authorized "Project" under the Act. Institution's failure to comply with this covenant shall constitute an event of default under Article VII of this Agreement. The Authority reserves the right to request that Institution, at its expense, deliver to the Authority the written opinion of nationally recognized bond counsel, acceptable to the Authority, to that effect that all or any portion of the Project Facilities are being used and/or operated as educational facilities constituting an authorized "Project" under the Act

SECTION 2.03. Cost of the Series 2015 Project. The Authority and Institution agree that the proceeds of the sale of the Series 2015 Bonds to be issued by the Authority for the purpose of financing the Cost of the Series 2015 Project will be sufficient, together with investment earnings thereon and certain moneys to be made available for the Series 2015 Project by Institution, to pay such Cost of the Series 2015 Project.

Institution hereby agrees that it will provide the difference, if any, between the proceeds from the sale of the Series 2015 Bonds and the actual amount required for the Cost of the Series 2015 Project pursuant to the above paragraph.

“Cost” of the Series 2015 Project shall include, together with any other proper item of cost not specifically mentioned herein, including interest on the Series 2015 Bonds issued by the Authority to finance the Series 2015 Project, the Initial Fee, the cost of any administrative expenses of the Authority, legal fees, fees and expenses of the Purchaser, the Escrow Agent and other fiduciaries, depositories, and paying agents, the cost of issuance of the Series 2015 Bonds by the Authority and fees and expenses of financial advisors, legal counsels and consultants in connection therewith properly chargeable to the Series 2015 Project, the cost of insurance, if any, or other financing facility securing the payment of the Series 2015 Bonds, the cost of audits, the reimbursement of all moneys advanced or applied by the State of New Jersey, or any agency, instrumentality, commission or officer thereof, or otherwise, if required, for the payment of any item or items of cost of the Series 2015 Project, and all other expenses necessary or incidental to determining the feasibility or practicability of the Series 2015 Project, and such other expenses not specified herein as may be necessary or incident to the financing of the Series 2015 Project.

ARTICLE III

THE SERIES 2015 BONDS

SECTION 3.01. Sale of the Series 2015 Bonds. The Authority agrees to issue, sell and deliver the Series 2015 Bonds in accordance with the terms of the Bond Agreement. The proceeds of the Series 2015 Bonds shall be used to finance the costs of the Series 2015 Project, all as more fully provided for in the Bond Agreement and the Resolution.

ARTICLE IV

OBLIGATIONS OF INSTITUTION, TERM AND LEASE PAYMENTS

SECTION 4.01. Nature of the Obligation. The obligations of Institution under this Agreement shall be general obligations, payable from any legally available funds of Institution.

SECTION 4.02. The Leased Facilities. In addition to the terms, covenants and agreements contained herein, Institution agrees that it will take, accept and rent the Leased Facilities from the Authority subject to the following:

(a) all covenants, easements, encumbrances, subleases, licenses, defects of title, reservations, restrictions and conditions, if any, acceptable to the Authority affecting the whole or any part of the property to be acquired by the Authority for the Leased Facilities which exist at the time of closing of the Series 2015 Bonds; and

(b) all present and future Federal, State, county or municipal laws, ordinances, regulations, orders, assessments and levies, if any, affecting all or any part of the Leased Facilities or the use thereof.

SECTION 4.03. Term of Agreement. The term of this Agreement shall continue until at least [_____], unless the Authority and Institution shall sooner terminate this Agreement by mutual consent; provided, however, that the end of said term shall not be advanced nor shall this Agreement be terminated so long as the Authority shall have Outstanding and unpaid, without provision for such payment duly provided for, any of the Series 2015 Bonds issued for the purpose of providing moneys to pay the Cost of the Project or any obligations under any Financing Document.

SECTION 4.04. Basic Lease Payments. Institution agrees to pay the Basic Lease Payments for the use and occupancy of the Leased Facilities from any legally available funds of Institution.

Institution agrees to pay to the Purchaser from any legally available funds of Institution “**Basic Lease Payments**” at the times and in the amounts sufficient to satisfy the payment obligations under the Series 2015 Bonds. Each payment shall be made in immediately available funds. Institution covenants and agrees that it will pay the Basic Lease Payments to the Purchaser at such times and in such amounts as to assure that the Authority will not be in default in the payment of the principal of, redemption price (if any) and interest on the Series 2015 Bonds.

SECTION 4.05. Additional Lease Payments.

In addition to Basic Lease Payments, Institution shall also pay to the Authority and the Purchaser, as the case may be, "Additional Lease Payments," as follows:

(a) All taxes and assessments of any type or character charged to the Authority, Institution or to the Purchaser affecting the amount available to the Authority or the Purchaser from payments to be received hereunder or in any way arising due to the transactions contemplated hereby (including taxes and assessments assessed or levied by any public agency or Governmental Authority of whatsoever character having power to levy taxes or assessments) but excluding franchise taxes based upon the capital and/or income of the Purchaser and taxes based upon or measured by the net income of the Purchaser; provided, however, that Institution shall have the right to protest any such taxes or assessments and to require the Authority or the Purchaser, at Institution's expense, to protest and contest any such taxes or assessments levied upon them and that Institution shall have the right to withhold payment of any such taxes or assessments pending disposition of any such protest or contest unless such withholding, protest or contest would adversely affect the rights or interests of the Authority or the Purchaser;

(b) All reasonable fees, charges, expenses and indemnities of the Authority and the Purchaser hereunder and under the Bond Agreement, as and when the same become due and payable;

(c) The reasonable fees and expenses of such accountants, consultants, attorneys and other experts as may be engaged by the Authority or the Purchaser to prepare audits, financial statements, reports, opinions or provide such other services required under this Agreement or the Bond Agreement;

(d) The Initial Fee, the Annual Administrative Fee, if any, and any other expenditures for insurance, fees and expenses of auditing and fees and expenses as required by the Bond Agreement or in connection with the Authority's performance thereunder and not otherwise paid or provided for by Institution and all other expenditures reasonably and necessarily incurred by the Authority by reason of the ownership, financing and leasing of the Series 2015 Project, including expenses incurred by the Authority to compel full and punctual performance of all of the provisions of this Agreement in accordance with the terms hereof;

(e) All other reasonable and necessary fees and expenses attributable to the Series 2015 Bonds, this Agreement, including without limitation all payments required pursuant to the Tax Certificate and the Bond Agreement (including payments of all amounts required to be deposited in the Rebate Fund and any fees of the Authority in connection with any rebate calculations performed or caused to be performed by the Authority).

Such Additional Payments shall be billed to Institution by the Authority and the Purchaser from time to time, together with a statement certifying that the amount billed has been incurred or paid for one or more of the above items. After such a demand, amounts so billed shall be paid by Institution within thirty (30) days after receipt of the bill by Institution.

Payments required to be made under this Section shall be made in legally available funds to the Purchaser unless otherwise directed in an agreement pursuant to which such payments are required.

SECTION 4.06. Credits for Payments.

Institution shall receive credit against its payments required to be made under Section 4.04, in addition to any credits resulting from payment or repayment from other sources, as follows:

(a) On the portion of Basic Lease Payments allocable to interest in an amount equal to moneys on deposit in the Interest Account of the Debt Service Fund, which amounts are available to pay interest on the Series 2015 Bonds, to the extent such amounts have not previously been credited against such payments;

(b) On the portion of Basic Lease Payments allocable to installments of principal in an amount equal to moneys deposited in the Principal Account of the Debt Service Fund, which amounts are available to pay principal of the Series 2015 Bonds, to the extent such amounts have not previously been credited against such payments; and

(c) On the portion of Basic Lease Payments allocable to installments of principal and interest in an amount equal to the principal amount of Bonds acquired by Institution and surrendered to the Purchaser for cancellation or purchased by the Purchaser on behalf of Institution and canceled, and the interest on such Bonds from and after the date interest thereon has been paid prior to cancellation. Such credits shall be made against the installments of principal and interest which would have been used, but for such cancellation, to pay principal of and interest on such Bonds when due.

SECTION 4.07. Prepayment.

(a) Institution shall have the right, so long as all amounts which have become due hereunder have been paid, at any time or from time to time to prepay all or any part of the Basic Lease Payments and the Authority agrees that the Purchaser shall accept such prepayments when the same are tendered. Any partial prepayment shall not affect the Authority's right, title and interest in and to the Leased Facilities, but shall be credited to the Basic Lease Payments due from Institution as determined by the Authority. Institution is further hereby granted the option to prepay and purchase all of the Authority's right, title and interest in and to the Leased Facilities in whole, at the time set forth in Section 4.07(b) hereof, by paying to the Purchaser the "Purchase Option Price", which for any date of calculation shall be the sum of (i) the aggregate amount of unpaid principal of the Series 2015 Bonds to their redemption date under the terms of the Bond Agreement and as set forth in Institution's notice to the Purchaser of such prepayment, (ii) any interest accrued on the Series 2015 Bonds from the last Payment Date thereof on which interest thereon was paid to the final maturity date set forth in clause (i) above, (iii) the redemption premium, if any, applicable to the payment of the Series 2015 Bonds on the maturity date set forth in clause (i) above, and (iv) any costs of redemption or defeasance or other expenses incurred by any party to the Financing Documents in implementing such prepayment. The Purchase Option Price shall be deposited upon receipt by the Purchaser in the Optional

Redemption Account (or in such other Purchaser escrow account as may be specified by Institution) and, at the request of and as determined by Institution, credited against payments due hereunder or used for the redemption or purchase of Outstanding Bonds in the manner and subject to the terms and conditions set forth in the Bond Agreement. Notwithstanding any such prepayment, as long as any Series 2015 Bonds remain Outstanding or any Additional Lease Payments required to be made hereunder remain unpaid, Institution will not be relieved of its obligations hereunder.

(b) Said option may be exercised by Institution at any time by giving written notice to the Purchaser and the Authority of the exercise of such option at least [sixty (60)] days prior to the final maturity date set forth in such notice.

(c) Institution shall also have the right at any time or from time to time to prepay all or any part of the Basic Lease Payments from moneys derived from condemnation awards or the proceeds of hazard insurance relating to the Leased Facilities, and the Authority agrees that the Purchaser shall accept such prepayments when the same are tendered. Upon the acceleration of the Series 2015 Bonds, Institution shall forthwith prepay and purchase all of the Leased Facilities by paying to the Purchaser, immediately upon receipt of notice of such acceleration, the "Mandatory Purchase Price", which for any date of calculation shall be the sum of (i) the aggregate amount of the unpaid principal of the Series 2015 Bonds, (ii) any interest accrued on the Series 2015 Bonds from the last Payment Date thereof on which interest thereon was paid to the date that the amount in clause (i) above has been paid in full, and (iii) any costs of acceleration. The Mandatory Purchase Price shall be deposited upon receipt by the Purchaser in the Special Redemption Account (or in such other Purchaser escrow account as may be specified by Institution) and used for the redemption or purchase of Outstanding Bonds in the manner and subject to the terms and conditions set forth in the Bond Agreement. Notwithstanding any such prepayment or surrender of Bonds, as long as any Bonds remain Outstanding or any payments of Additional Lease Payments required to be made hereunder remain unpaid, Institution shall not be relieved of its obligations hereunder.

SECTION 4.08. Obligations Unconditional.

The obligations of Institution hereunder are absolute and unconditional, notwithstanding any other provision of this Agreement or the Bond Agreement. Until this Agreement is terminated and all payments hereunder are made, Institution:

(a) will pay all amounts required hereunder without abatement, deduction or setoff except as otherwise expressly provided in this Agreement;

(b) will not suspend or discontinue any payments due hereunder for any reason whatsoever, including, without limitation, any right of setoff or counterclaim;

(c) will perform and observe all its other agreements contained in this Agreement;
and

(d) except as provided herein, will not terminate this Agreement for any cause, including, without limiting the generality of the foregoing, damage, destruction or condemnation of the facilities financed with the proceeds of the Series 2015 Bonds or any part thereof,

commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State of New Jersey, or any political subdivision of either thereof or any failure of the Authority to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Agreement. Nothing contained in this Section 4.08 shall be construed to release the Authority from the performance of any of the agreements on its part contained herein, and in the event the Authority should fail to perform any such agreement on its part, Institution may institute such action against the Authority as Institution may deem necessary to compel performance.

The rights of the Purchaser or any party or parties on behalf of whom the Purchaser is acting shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever, whether arising out of any breach of any duty or obligation of the Authority or the Purchaser owing to Institution, or by reason of any other indebtedness or liability at any time owing by the Authority or the Purchaser to Institution.

ARTICLE V

COVENANTS CONCERNING PROJECT FACILITIES

SECTION 5.01. Liens and Encumbrances. Institution covenants and agrees that the Leased Facilities shall be free and clear of all liens and encumbrances that would materially affect the value or usefulness of the site of the Leased Facilities for the intended use thereof.

SECTION 5.02. Additions. All buildings and improvements erected or constructed upon the demised premises and all buildings, improvements, fixtures, machinery and equipment installed or placed thereon by the Authority or Institution shall be and become a part of the realty of the Leased Facilities. Any moveable equipment for the Leased Facilities paid for by the Authority, to the extent it does not become realty, shall nevertheless, be deemed to be a part of the Leased Facilities.

SECTION 5.03. Repairs. Institution covenants that it shall at all times maintain, preserve and keep the Leased Facilities, with the appurtenances and every part and parcel thereof, in good repair, working order and condition.

SECTION 5.04. Utilities. Institution agrees to pay, or cause to be paid, all charges for gas, electricity, light, water, sewer, heat or power, telephone or other communication service, or any other service used, rendered or supplied upon or in connection with the Leased Facilities during the term of this Agreement and to protect the Authority and save it harmless against any liability or damages on such account. At all times during the use and occupancy of the Leased Facilities, Institution shall also at its sole cost and expense procure any and all necessary permits, licenses or other authorizations thereafter required for the lawful and proper installation, operation and maintenance of the Leased Facilities of wires, pipes, conduits, tubes and other equipment and appliances for use in supplying any such services to and upon the Leased Facilities.

SECTION 5.05. Insurance. Institution agrees, at the times specified, to procure and maintain, or cause to be procured and maintained by the Authority, to the extent reasonably attainable, at the expense of Institution, the following insurance with respect to the Leased Facilities:

(a) At all times, fire, extended coverage, vandalism, and malicious mischief insurance with a deductible clause in an amount not to exceed one hundred thousand dollars (\$100,000) or such other deductible provisions as are approved in writing by the Authority (the "Deductible Amount"), on the plant, structure, machinery, equipment and apparatus comprising the Leased Facilities, plus Boiler and Machinery coverage, and Flood Insurance if the Leased Facilities are located within a Special flood Hazard Area, each with deductible clauses and coverage sub-limits acceptable to the Authority. Coverage for Contingent Liability From Operation of Building Laws shall be included, and an Agreed Amount Endorsement shall be attached to the policy. The foregoing insurance shall be maintained so long as any of the Series 2015 Bonds are Outstanding and shall be in an amount not less than one hundred per centum (100%) of the

replacement value thereof, exclusive of excavations and foundations, or such other amount as may be approved in writing by the Authority. The inclusion of the Leased Facilities under a blanket insurance policy or policies of Institution insuring against the above hazards shall be a complete compliance with the provisions of this paragraph. Any such policy shall provide that the insurance company shall give at least sixty (60) days' notice in writing to the Authority of the cancellation or non-renewal of the policy, except in the event of nonpayment of premiums, in which case ten (10) days notice, or current industry standard notice, shall be provided. In any event each such policy shall be in an amount sufficient to prevent Institution and the Authority from becoming co-insurers under the applicable terms of such policy. In the event that Institution is unable to procure insurance with a loss deductible clause of not exceeding the Deductible Amount, the deposit with the Purchaser on behalf of the Authority or the setting aside in a special fund of obligations of or guaranteed by the United States of America or moneys at least equal to the difference between the Deductible Amount and the amount deductible on such policy or policies shall be deemed to be a complete compliance with the provisions of this subparagraph establishing a maximum deductible amount of the Deductible Amount. In the event that any amount deposited pursuant to the preceding sentence is reduced as a result of a claim or claims, the Authority shall as promptly as practicable notify Institution of the amount of the reduction and Institution shall restore the deposit to the required amount within thirty (30) days of receiving such notice.

(b) At all times, worker's compensation insurance, disability benefits insurance, and each other form of insurance which the Authority or Institution is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees;

(c) At all times, insurance protecting the Authority and Institution against loss or losses from liabilities imposed by law or assumed in any written contract and arising from bodily injury of persons or damage to the property of others caused by accident or occurrence, with limits of not less than one million dollars (\$1,000,000) combined single limit for bodily injury and property damage. Institution's coverage status under the New Jersey Tort Claims Act may in the sole judgment of the Authority, be deemed to be in compliance with the requirements of this subparagraph; and

(d) Fidelity insurance, in such amounts and under such terms as shall be determined by the Authority with due regard to Institution's funds and accounts.

If any of such insurance provided for in paragraphs (a), (b) and (c) of this Section is under a blanket insurance policy or policies of Institution, then Institution shall deliver to the Authority in lieu of the original policy or policies a certificate thereof, and such delivery shall be a complete compliance with the provisions of this paragraph.

All insurance prescribed by this Section shall be procured from financially sound and reputable insurers qualified to do business in the State of New Jersey or insurers approved in writing by the Authority. To the extent that any such insurance required by this Section is not obtainable on reasonable terms as determined by the Authority, the Authority may make exceptions to the required coverage or provide for reasonable substitutions of coverage. The policies shall be open to inspection by the Authority and the Purchaser at all reasonable times, and a list prepared as of June 30 of each year describing such policies shall be furnished by

Institution to the Authority within sixty (60) days thereafter, together with a certificate of an Authorized Officer of the Authority certifying that such insurance meets all the requirements of this Agreement. The Purchaser shall have no responsibility with respect to any such insurance.

The proceeds of all such casualty insurance policies shall either be: (i) applied or caused to be applied by the Authority to the repair and replacement of the damaged property of the Leased Facilities, or (ii) deposited by the Authority with the Purchaser for payment into the Escrow Fund under the Bond Agreement accompanied by a certificate of an Authorized Officer of the Authority stating that such deposit is being made for deposit therein.

The proceeds of any casualty insurance payable to Institution or the Authority not applied as provided in the preceding sentence (i) may be used by Institution with written notification to the Authority to repair and replace the damaged portions of the Leased Facilities, (ii) may be deposited by the Authority with the Purchaser for payment into the Escrow Fund, as provided in the Bond Agreement, or (iii) if there is substantial damage to the Leased Facilities rendering such project, in the opinion of the Authority, unsuitable for use for its intended purposes, deposited by the Authority, with the consent of Institution, in the Redemption Fund to be applied to the redemption of the Series 2015 Bonds, in whole or in part, to the extent of such insurance proceeds. Such redemption shall be made on the earliest practicable date at a redemption price of 100% of the principal amount to be redeemed, plus accrued interest to the redemption date.

Nothing in this Section shall be deemed to limit Institution from obtaining insurance in excess of the requirements set forth herein.

SECTION 5.06. Compliance with Laws and Regulations. Institution agrees that throughout the term of this Agreement, at Institution's sole cost and expense, it will promptly comply with (or cause to be complied with) all laws and ordinances and the orders, rules, regulations and requirements of all federal, state and local governments and agencies and departments thereof which are applicable to Institution and the Leased Facilities, or, and whether or not the same requires structural repairs and alterations, which may be applicable to the Leased Facilities, the fixtures or equipment thereof, or the sidewalks and curbs adjoining the Leased Facilities, or the use or manner of use of the Leased Facilities. Institution will also observe and comply (or cause to be observed and complied with) with the requirements of all policies and arrangements of insurance at any time in force with respect to the Leased Facilities and the fixtures and equipment thereof.

SECTION 5.07. Alterations and Additions to the Leased Facilities. Institution shall have the right at any time and from time to time during the term of this Agreement, with the approval of the Authority, to make such changes, alterations and additions, structural or otherwise, to the Leased Facilities, and the fixtures and equipment thereof, now or hereafter on the Leased Facilities, as they shall deem necessary or desirable in connection with the use of the Leased Facilities. All such changes, alterations and additions when completed shall be of such a character as not to reduce or otherwise adversely affect the value of the Leased Facilities or the rental value thereof. The cost of any such change, alteration or addition shall be promptly paid and discharged by Institution, so that the Leased Facilities shall at all times be free of liens for labor and materials supplied to the Leased Facilities. All alterations, additions and

improvements to the Leased Facilities shall be and become a part of the realty of the Leased Facilities.

SECTION 5.08. Future Liens. Institution covenants to keep the Leased Facilities, and the fixtures and equipment thereof, at all times during the term of this Agreement, free and clear of mechanics' liens and other liens of like nature, and Institution shall at all times duly protect the Authority against any and all attorney's fees, costs and expenses which may accrue, grow out of or be incurred by reason of or on account of any such liens or claims.

SECTION 5.09. Covenants Against Waste. Institution covenants not to do or suffer or permit any waste or damage, disfigurement or injury to the Leased Facilities or any building or improvement now or hereafter constituting the Leased Facilities or any fixture or equipment constituting part thereof.

SECTION 5.10. Affirmative and Negative Environmental Covenants.

(a) Institution shall obtain all permits, licenses and other authorizations required under Applicable Environmental Laws with respect to the construction, use, occupancy and operation of the Leased Facilities.

(b) As of the date hereof, neither Institution nor any of the Leased Facilities is in violation of any Applicable Environmental Law or subject to any existing, pending or, to the knowledge of Institution (after due inquiry), threatened investigation or inquiry by any Governmental Authority pursuant to any Applicable Environmental Law.

(c) Institution shall cause the Project Facilities to be constructed in accordance with all Applicable Environmental Laws. To the knowledge of Institution after due inquiry, the activities, properties and assets of Institution, including the Project Facilities, are in substantial and material compliance with all terms and conditions of all required permits, licenses and authorizations, and are in substantial and material compliance with all limitations, restrictions, conditions, standards, prohibitions, requirements, obligations, schedules and timetables contained in Applicable Environmental Laws. Except as otherwise disclosed in Schedule 5.10 hereof, there are no past or present events, conditions, including without limitation Environmental Conditions, circumstances, activities, practices, incidents, actions or plans which may (i) interfere with or prevent continued substantial and material compliance on the part of Institution with Applicable Environmental Laws; (ii) give rise to any liability on the part of Institution under Applicable Environmental Laws; or (ii) otherwise form the basis of any claim, action, suit, proceeding, request or demand for information or investigation against Institution based on or related to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of, or the Release or threatened Release into the Environment of, any Hazardous Substances. Institution shall not cause or permit any of the Leased Facilities to be in violation of, nor shall Institution by act or omission cause or permit any of the Leased Facilities to be subject to any Remediation obligations, under Applicable Environmental Law. Institution shall promptly notify the Authority in writing of any existing, pending or, to the knowledge of Institution (after due inquiry), threatened investigation or inquiry by any Governmental Authority pursuant to or under any Applicable Environmental Law relating to any of the Leased Facilities.

(d) Institution covenants that it will not install or cause to be installed in on or at any of the Leased Facilities any materials containing any Hazardous Substances, including without limitation any asbestos containing materials. In the event any such materials are found to be present in, on or at any of the Leased Facilities (to the extent installed therein or permitted to be installed therein by Institution), Institution shall, promptly upon discovery and at its sole cost and expense, Remediate such materials in accordance with the requirements of law, including without limitation Applicable Environmental Laws, and shall have such Remediation performed by licensed and qualified environmental engineering firms, contractors and consultants.

(e) Institution has taken all steps necessary (including without limitation all actions necessary to meet the “all appropriate inquiry” standard set forth in N.J.S.A. 58:10-23.11g, as amended) to determine, and has determined, that there are no Environmental Conditions on, at, under or emanating from any of the Leased Facilities except as disclosed in Schedule 5.10 hereof. The use which Institution makes and intends to make of the Leased Facilities shall not result in the Release of any Hazardous Substance on, at, under or from any of the Leased Facilities.

(f) Institution has not received any communication, written or oral, from any Governmental Authority, including without limitation the NJDEP or the USEPA, concerning any intentional or unintentional action or omission on Institution’s part resulting in the Release of any Hazardous Substances on, at, under or from any of the Leased Facilities, except as disclosed in Schedule 5.10 hereof.

(g) None of the Leased Facilities has been used in the past, or is now being used, as a Major Facility (as such term is defined in N.J.S.A 58:10-23.11b) and Institution shall not use any of the Leased Facilities as a Major Facility in the future without the prior express written consent of the Authority, which consent may be given or withheld at the Authority’s sole discretion. If any of the Leased Facilities is determined to be a Major Facility in the State, then Institution shall furnish the NJDEP with all the information required by N.J.S.A. 58:10-23.11d1 to -23.11d15, and shall duly file with the Director of the Division of Taxation in the New Jersey Department of the Treasury a tax report or return, and shall pay all taxes due therewith, in accordance with N.J.S.A. 58:10-23.11h.

(h) Institution shall not conduct or cause or permit to be conducted on or at any of the Leased Facilities any activity, use or operation which constitutes an “Industrial Establishment” (as such term is defined under ISRA), without the prior express written consent of the Authority, which consent may be given or withheld at the Authority’s sole discretion. In the event the provisions of ISRA become applicable to any of the Leased Facilities subsequent to the date hereof, Institution shall give prompt written notice thereof to the Authority and Institution shall take all requisite action, including the performance of Remediation, to ensure full compliance with ISRA. Institution shall promptly deliver to the Authority copies of all correspondence, notices, reports, workplans, laboratory and field data and all other submissions that Institution generates, or sends to or receives from the NJDEP, in connection with such ISRA compliance.

(i) No lien has been attached to any revenue or any personal property owned by Institution and located in the State, including, without limitation, any of the Leased Facilities, as a result of (i) the Administrator of the New Jersey Spill Compensation Fund expending moneys from said fund to pay for Damages and/or Cleanup and Removal Costs; or (ii) the Administrator of the United States Environmental Protection Agency expending moneys from the Hazardous Substance Superfund for Damages and/or Response Action Costs. In the event any such lien has been filed, then Institution shall, within thirty (30) days from the date Institution is given such notice of such lien (or within such shorter period of time in the event the State or the United States has commenced steps to have any of the Leased Facilities sold), either: (i) pay the claim and remove the lien from the Leased Facilities; or (ii) furnish (a) a bond satisfactory to the Authority in the amount of the claim out of which the lien arises, (b) a cash deposit in the amount of the claim out of which the lien arises, or (c) other security satisfactory to the Authority in an amount sufficient to discharge the claim out of which the lien arises.

(j) During the term of this Agreement, Institution shall take all steps necessary to determine whether any Hazardous Substances have been Released on, at, under or from any of the Leased Facilities and Institution shall promptly upon discovery Remediate such Release in accordance with the requirements of Applicable Environmental Law. Without in any way limiting the generality of the foregoing, in the event Institution performs any Remediation at any of the Leased Facilities pursuant to this Section 5.10, Institution agrees to:

(i) Perform and cause all consultants and contractors retained by Institution to perform, all such Remediation in a workmanlike manner and consistent with all Applicable Environmental Laws;

(ii) Comply with all Applicable Environmental Laws in connection with the implementation of such Remediation at the Leased Facilities and obtain all permits, authorizations and consents required under Applicable Environmental Laws or by any Governmental Authority in order to implement such Remediation at the Leased Facilities;

(iii) Select and propose to the Governmental Authority Remediation that shall not interfere with the current use of any of the Leased Facilities or the operations currently conducted by Institution nor interfere with, preclude or prevent the future use of any of the Leased Facilities for the same use or any use similar to the current use of the Leased Facilities. Without in any way limiting the generality of the foregoing, Institution shall not select, propose or use at any of the Leased Facilities any Engineering Controls or Institutional Controls (as such terms are defined under N.J.S.A. 58:10B-1 *et seq.*), or any remediation standards applicable to non-residential properties, without the prior written consent of the Authority, which consent shall not be unreasonably withheld;

(iv) Promptly upon the completion of the Remediation, restore the Leased Facilities to substantially the same condition they were in prior to the performance of the Remediation;

(v) Provide the Authority with copies of all documents that Institution (i) submits to any Governmental Authority in connection with the Leased Facilities at the same time Institution submits such documents to the Governmental Authority, and (ii) receives from

any Governmental Authority in connection with the Leased Facilities within three (3) business days of Institution's receipt of same; and

(vi) Obtain and provide to the Authority a No Further Action Letter/Covenant Not to Sue issued by the NJDEP pursuant to N.J.S.A. 58:10B-13.1 or, if the Remediation is under the supervision of a Governmental Authority other than the NJDEP, obtain a comparable determination from such other Governmental Authority.

SECTION 5.11. Municipal Property Taxes. Institution agrees to pay, or cause to be paid, any and all local municipal assessments for property taxes, including farmland rollback assessments, directly related to the Leased Facilities. Institution, if applicable, shall provide the Authority with copies of all applications for exemption from municipal property taxes filed with the local municipality.

SECTION 5.12. Compliance with Prevailing Wage Act. Institution hereby covenants and agrees that it shall comply with the provisions of N.J.S.A. 18A:72A-5.1 to -5.4 (relating to the payment of prevailing wage rates) to the extent applicable with respect to the Project Facilities.

SECTION 5.13. P.L. 2005, c.92. In accordance with P.L. 2005, c.92, Institution covenants and agrees that all services performed under this Agreement or any amendment thereto shall be performed within the United States of America.

SECTION 5.14. Consent to Authority's Use of Photographs and Videos. Institution agrees that the Authority may use photographs or videos taken on Institution's campus (whether taken by the Authority or other person) in the Authority's newsletters, website, reports or other publications or materials (including PowerPoint presentations) in connection with the Authority's operations.

ARTICLE VI

CHARACTER OF AGREEMENT

SECTION 6.01. Net Lease. It is mutually agreed by the parties hereto that this is a net lease and notwithstanding any language herein to the contrary, it is intended, and Institution expressly covenants and agrees, that all rentals and other payments herein required to be made by Institution to the Authority shall be net payments to the Authority, meaning that the Authority is not and shall not be required to expend any money or do any acts or take any steps affecting or with respect to the maintenance, preservation, repair, restoration, reconstruction, or protection of the demised premises or the Leased Facilities or any part thereof.

ARTICLE VII

RIGHTS ON DEFAULT

SECTION 7.01. Entry. The Authority and Institution agree that, if an Event of Default occurs and is continuing, the Authority shall have the right to and may enter the Leased Facilities without being liable for any prosecution or damages therefor, and may relet the Leased Facilities for such term of years, which may exceed the term of this Agreement, and receive the rent therefor, upon such terms as shall be satisfactory to the Authority. Such entry by the Authority shall not relieve Institution of its obligations under this Agreement nor operate to release Institution from any Basic Lease Payments to be paid or covenants to be performed under this Agreement during the full term of the Agreement. For the purpose of reletting, the Authority shall be authorized to make such repairs or alterations in or to the Leased Facilities as it may deem necessary to place the same in good order and condition. Institution shall be liable to the Authority for the cost of such repairs or alterations and all expenses of such reletting. If the sum realized or to be realized from the reletting is insufficient to satisfy the Basic Lease Payments provided in this Agreement, the Authority, at its option, may require Institution to pay such deficiency month by month, or may hold Institution liable in advance for the entire deficiency to be realized during the term of the reletting of the Leased Facilities in excess of the Basic Lease Payments reserved in this Agreement. Notwithstanding such entry by the Authority, Institution agrees that: (i) all rights-of-way, easements or other rights in land conveyed or otherwise provided in accordance with the Agreement shall be continued in full force and effect; and (ii) any utility services shall be furnished by Institution to the Leased Facilities at the expense of Institution. Furthermore, upon such entry by the Authority, any Sublease of the Leased Facilities shall immediately terminate and be of no further force and effect.

Upon entering the Leased Facilities, the Authority shall as soon as practicable, inspect the Leased Facilities and make inventories of all fixtures, furniture, equipment and effects in the Leased Facilities. Institution shall pay to the Authority upon receipt of the properly executed vouchers therefor all sums owing to the Authority by Institution in connection therewith.

If entry upon the Leased Facilities (or any portion thereof) is permitted under this Section 7.01, the Authority may enter upon the Leased Facilities or any portion thereof.

For purposes of this Agreement, an Event of Default shall exist if a "Lease Default Event" shall exist hereunder. The following are Lease Default Events:

(a) Upon failure by Institution to pay in full any payment required hereunder, whether at maturity, upon a date fixed for prepayment, by declaration, or otherwise pursuant to the terms hereof or thereof;

(b) If any material representation or warranty made by Institution herein or made by Institution in any document, instrument or certificate furnished to the Purchaser or the Authority in connection with the issuance of the Series 2015 Bonds shall at any time prove to have been incorrect in any respect as of the time made; or

(c) If Institution shall fail to observe or perform any other covenant, condition, agreement or provision in this Agreement on its part to be observed or performed, or shall breach any warranty herein contained, for a period of 60 days after written notice, specifying such failure or breach and requesting that it be remedied, has been given to Institution by the Authority or the Purchaser; except that, if such failure or breach can be remedied but not within such sixty-day period and if Institution has taken all action reasonably possible to remedy such failure or breach within such sixty-day period, such failure or breach shall not become a Lease Default Event for so long as Institution shall diligently proceed to remedy such failure or breach in accordance with and subject to any directions or limitations of time established by the Purchaser.

ARTICLE VIII

INSPECTIONS

SECTION 8.01. Authority's Right to Inspect. Institution covenants and agrees to permit the Authority and the authorized agents and representatives of the Authority to enter the Leased Facilities at all times during business hours for the purpose of inspecting the same.

SECTION 8.02. Annual Inspection. Institution covenants and agrees that at its own expense it will upon the request from time to time of the Authority, and at least annually, cause an inspection of the Leased Facilities to be made by a professional engineer or architectural firm employed by Institution or by the officer or employee of Institution in charge of the grounds and plant of Institution and that it will file with the Authority such inspection report upon completion. Said report shall set forth in its findings whether the Leased Facilities has been maintained in good repair, working order and condition as well as any recommendations as to the proper maintenance and repair of the Leased Facilities and the estimate of money necessary for such purpose.

ARTICLE IX

INTEREST IN THE PROJECT

SECTION 9.01. No Merger. It is mutually agreed by the parties hereto that so long as any of the Series 2015 Bonds issued by the Authority for the purpose of providing moneys to pay the cost of the Series 2015 Project are Outstanding and unpaid, without provision for such payment duly provided for, the leasehold interest and estate created by this Agreement shall not be merged or deemed to be merged with any reversionary interest and estate of Institution, if any, in the Leased Facilities.

SECTION 9.02. Conveyance Requirement. When the term of this Agreement has expired and the Authority has certified that all of the Outstanding Series 2015 Bonds have been paid or provision for payment duly made, and the Purchaser has certified to the Authority that all of the Outstanding Series 2015 Bonds, including the principal, redemption premium, if any, and interest and all other obligations incurred by the Authority in connection with the Project have been paid, or that sufficient funds for such payment in full are held in trust by the Purchaser, the Authority shall transfer all its rights, title and interest in and to the Leased Facilities to Institution by deed or deeds in form satisfactory to the Authority.

ARTICLE X

ASSIGNMENTS AND SUBLEASE

SECTION 10.01. Assignments. Institution shall not assign this Agreement or any interest therein or sublet the demised premises or any part thereof; provided, however, that nothing in this Article X shall prohibit the licensing, to students of Institution or other use of the Leased Facilities, or any part thereof, so long as Institution does not grant an interest in or over the demised premises without the consent of the Authority.

ARTICLE XI

REPRESENTATIONS

SECTION 11.01. Condition of Premises. Institution shall fully familiarize itself with the physical condition of the Leased Facilities and the improvements, fixtures and equipment thereof. The Authority makes no representations whatever in connection with the condition of the Leased Facilities or the improvements, fixtures or equipment thereof, and the Authority shall not be liable for any latent or patent defects therein.

SECTION 11.02. Limitation of Liability. Institution covenants that all actions heretofore taken by Institution in connection with the Project Facilities, including the making of contracts, and all actions hereafter taken by the Authority in connection with the Leased Facilities and the Project Facilities upon the recommendation or request of any authorized officer of Institution have been and will be in full compliance with the Bond Agreement, the Resolution, this Agreement and with all pertinent laws applicable to Institution or the Authority. Institution acknowledges that any review of any such actions heretofore or hereafter taken by the Authority's staff or counsel has been or will be solely for the protection of the Authority to carry out the Series 2015 Project and shall not estop the Authority from enforcing the foregoing covenant.

The ownership of the Leased Facilities shall not impose any other liability on the Authority, whether contractual or otherwise. Neither the carrying out of the Series 2015 Project or the operation of the Project Facilities nor the ownership of the Leased Facilities by the Authority shall impose any liability on the members, officers, employees, counsel, consultants or agents of the Authority. Institution agrees to indemnify the Authority and all members, officers, employees, counsel, consultants or agents of the Authority and save them harmless against any liability intended to be precluded herein.

In the exercise of the powers of the Authority by its members, officers, employees, consultants and agents (other than Institution) under the Bond Agreement, the Resolution, the Financing Documents and this Agreement, including (without limiting the foregoing) the carrying out of the Series 2015 Project, the application of moneys, the investment of funds and reletting the Leased Facilities in the event of default by Institution, the Authority and its members, officers, employees, consultants and agents shall not be accountable to Institution for any action taken or omitted by it or them in good faith and believed by it or them to be authorized or within the discretion or rights or powers conferred. The Authority and all such other parties shall be protected in its or their acting upon any paper or document believed by it or them to be genuine, and it or they may conclusively rely upon the advice of counsel and may (but need not) require further evidence of any fact or matter before taking any action.

Pursuant to *N.J.S.A. 18A: 72A-6*, all payment obligations of the Authority whatsoever arising under the Financing Documents shall constitute special and limited obligations of the Authority payable solely from amounts, if any, paid by Institution pursuant to this Agreement or otherwise available for such purpose under the Bond Agreement and Resolution.

SECTION 11.03. Covenant as to Arbitrage. The Authority and Institution hereby covenant that they will make no use of the proceeds of the Series 2015 Bonds which would cause the Series 2015 Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, (the “Code”), Treasury Regulations Sections 1.148-0 through 1.148-11 and 1.149(d)-1, and all other applicable regulations of the Internal Revenue Service.

SECTION 11.04. Tax Covenants.

(a) The Authority and Institution covenant that they will take no action which would cause the Series 2015 Bonds to be “private activity bonds” within the meaning of Section 141 of the Code. Accordingly, not more than ten percent (10%) of the proceeds of the Series 2015 Bonds have been or will be used directly or indirectly in any trade or business carried on by any person other than a state or local governmental unit or instrumentality thereof (within the meaning of Section 141 of the Code). Not more than five percent (5%) of the proceeds of the Series 2015 Bonds have been or will be used directly or indirectly in any trade or business carried on by any person other than a state or local governmental unit or instrumentality thereof (within the meaning of Section 141 of the Code) for any use unrelated to any governmental use of such proceeds or used or to be used in any “disproportionate related business use” (as defined in Section 141 of the Code). Not more than the lesser of five percent (5%) of the proceeds of the Series 2015 Bonds or \$5,000,000 have been or will be used directly or indirectly to make or finance loans to any person other than a state or local governmental unit or instrumentality thereof (within the meaning of Section 141 of the Code). Not more than 10 percent of the proceeds of the Series 2015 Bonds have been or will be (i) secured directly or indirectly by any interest in property used or to be used for a private business use (within the meaning of Section 141(b) of the Code) or by payments in respect of such property, or (ii) derived directly or indirectly from payments (whether or not to the Authority) in respect of property, or borrowed money, used or to be used for a private business use.

(b) Institution covenants to create and maintain records which, in the judgment of the Authority, are sufficient to determine the compliance of the Bonds with the requirements of Section 141 of the Code, including but not limited to (i) the allocation and use of the proceeds of the Bonds and (ii) the ownership and use of all the property financed with proceeds of the Bonds, as such records are further described in the Institution’s Tax and Non-Arbitrage Certificate with respect to the Bonds. The Authority covenants to create and retain records with respect to: (x) all investments made with Gross Proceeds of the Bonds (including without limitation records required under Treasury Regulations Section 1.148-5(d)(6)); (y) all information necessary to compute the Yield on the Bonds, including the information necessary to establish the existence of any qualified guarantee or qualified hedge (within the meaning of Treasury Regulations Section 1.148-4(f) and (h)) with respect to the Bonds, the amount and date of payments for a qualified guarantee or qualified hedge with respect to the Bonds, and the issue price of the Bonds; and (z) all information necessary to establish any exception to arbitrage rebate (within the meaning of Treasury Regulations Section 1.148-7) has been met with respect to proceeds of the Bonds, as such records are further described in the Authority’s Arbitrage Certificate with respect to the Bonds. The Authority covenants to retain all such records until three years after the last

scheduled maturity date of the Bonds, or in the event the Bonds are retired early, three years after the final retirement of the Bonds.

(c) The Authority and Institution covenant that they will take no action which would cause the Series 2015 Bonds to be federally guaranteed (within the meaning of Section 149(b) of the Code).

(d) The Authority and Institution covenant to comply with the provisions of the Code applicable to the Series 2015 Bonds and covenant that they will not take any action or fail to take any action which would cause the interest on the Series 2015 Bonds to lose the exclusion from gross income for purposes of Federal income taxation under Section 103 of the Code.

(e) Institution acknowledges and agrees that the Authority has adopted written Post-Issuance Compliance Procedures intended to meet the guidelines set forth in Internal Revenue Manual Section 7.2.3.4.4 (the “Authority Written Procedures”) and represents that it has adopted written Post-Issuance Compliance Procedures intended to meet the guidelines set forth in Internal Revenue Manual Section 7.2.3.4.4 (the “University Written Procedures” and, together with the Authority Written Procedures, the “Written Procedures”). Institution agrees to comply with the Written Procedures and at least once a year review the use of the 2015 Bonds and any other outstanding bonds of the Authority that have financed facilities for Institution (together with the 2015 Bonds, the “Authority’s Bonds”) in order to determine whether such bonds meet all federal tax law conditions applicable to such bonds and certify its findings in writing to the Authority. In addition, Institution shall, with respect to any of the Authority’s Bonds, provide prompt written notice to the Authority of any of the acts or events listed on Exhibit D that may jeopardize the tax exempt status of the Authority’s Bonds, attached hereto and made a part hereof (a “Special Notice Event”). Institution will use its best efforts to provide advance notice, but will in any event provide notice no later than thirty (30) days after the occurrence of such Special Notice Event, whether Institution is on notice of such Special Notice Event by its diligence or internal procedures or its own filing of any statement, tax schedule, return or document with the Internal Revenue Service which discloses that a Special Notice Event shall have occurred, by its receipt of any oral or written advice from the Internal Revenue Service that a Special Notice Event has occurred, or otherwise. Institution agrees that, in consultation with the Authority, at the expense of Institution, it shall take such actions, if any, as may be necessary or appropriate to remediate such Special Notice Event, including without limitation such actions required under Section 1.141-12 of the Treasury Regulations or a closing agreement with the Internal Revenue Service and provide to the Authority an opinion of Bond Counsel outlining the plan of remediation and whether or not the tax exempt status of the Bonds will be preserved. In the event the Authority becomes aware of a Special Notice Event, the Authority shall have the right, upon prior written notice to the Institution, to conduct its own investigation and at the sole cost of expense of Institution, retain Bond Counsel to determine any and all actions required to remediate such Special Notice Event.

SECTION 11.05. Rebate Requirement.

(a) The Authority and Institution covenant and agree that the Authority shall calculate or cause to be calculated the Rebatable Arbitrage at the times and in the manner set forth in the Tax Certificate and shall pay or direct the Escrow Agent to pay the Rebatable Arbitrage from the Rebate Account to the United States, in the percentage, at the times and in the manner set forth in the Tax Certificate.

(b) Notwithstanding any other provision of this Agreement, to the extent that funds and accounts held by the Escrow Agent are less than the amount required to be deposited by the Authority in the Rebate Fund for the Series 2015 Bonds, Institution will pay to the Authority the amount equal to the Rebatable Arbitrage.

SECTION 11.06. Agreement Not to Purchase Bonds. Institution agrees that neither it nor any person related to it, within the meaning of Treasury Regulations Sections 1.150-1(b), pursuant to an arrangement, formal or informal, shall purchase bonds of the Authority in an amount related to the amount of the payments to be made pursuant to this Agreement.

SECTION 11.07. Right to Obtain Bond Counsel Opinion. The Authority and Institution shall not be required to comply with any one or more requirements of Sections 11.04, 11.05 and 11.06 hereof to the extent that an opinion of nationally recognized bond counsel is obtained to the effect that failure to comply with such requirements or compliance with other requirements in lieu of Sections 11.04, 11.05 and 11.06 hereof will not impair the exclusion from gross income of interest on the Series 2015 Bonds for purposes of Federal income taxation under Section 103 of the Code.

SECTION 11.08. Intentionally Omitted.

SECTION 11.09. Review and Execution of Financing Documents. Institution hereby represents and warrants to the Authority that Institution has reviewed and has a full understanding of all the terms, conditions and risks (economic and otherwise) of each of the Financing Documents, that it is capable of assuming and willing to assume (financially and otherwise) all such risks, that it has consulted with its own legal and financial advisors (to the extent it has deemed necessary) and is not relying upon any advice, counsel or representations (whether written or oral) of the Authority or the Authority's legal and financial advisors, and that it has made its own investment, hedging and trading decisions (including decisions relating to the suitability of each of the Financing Documents) based upon its own judgment and upon any advice from its own legal and financial advisors as it has deemed necessary. Institution hereby acknowledges that the Authority is entering into the Financing Documents at the request of, and as an accommodation to, Institution, and that the terms of the Financing Documents have been negotiated by, and are acceptable to, Institution.

SECTION 11.10. Additional Representations and Warranties. Institution hereby makes the following representations and warranties to the Authority as of the Closing Date:

(a) Article 9. Institution covenants and agrees to cooperate with the Authority in complying with the provisions of Article 9 of the Uniform Commercial Code enacted by the New Jersey Legislature or by any other jurisdiction whose laws govern the perfection and enforceability of any security for the Series 2015 Bonds to the extent that the Authority determines that compliance therewith is required.

(b) Financial Statements. The audited financial statements of Institution for the most recent fiscal year, including its balance sheets as of such date, correctly and fairly present, in all material respects, the financial condition of Institution as of said dates and the results of the operations of Institution for such period, and have been prepared in accordance with generally accepted accounting principles consistently applied except as stated in the notes thereto; and there has been no material adverse change in the condition, financial or otherwise, of Institution since the date of such financial statements, from that set forth in said financial statements as of, and for the period ended on that date.

(c) Existence and Standing. Institution is a public institution for higher learning under the laws of the State of New Jersey, and has the necessary power and authority to execute and deliver this Agreement and any other Financing Documents to which Institution is a party, and to perform its obligations hereunder and thereunder.

(d) Authorization and Validity. The execution and delivery by Institution of this Agreement and any other Financing Documents to which Institution is a party have been duly authorized by proper proceedings of Institution, and no further approval, authorization or consents are required by law or otherwise. This Agreement and such other Financing Documents constitute the legal, valid and binding obligations of Institution enforceable in accordance with their respective terms, except as future enforceability may be limited by bankruptcy, insolvency, or similar laws affecting the rights of creditors, and by general equitable principles.

(e) Compliance with Laws and Contracts. Neither the execution and delivery by Institution of this Agreement and any other Financing Documents to which Institution is a party, nor the consummation of the transactions herein and therein contemplated, nor compliance with the provisions hereof or thereof will violate any law, rule, regulation, order, writ, judgment, injunction, decree or award binding on Institution, Institution's organizational documents or the provisions of any Bond Agreement, instrument or agreement to which Institution is a party or is subject, or by which it or its property is bound, or conflict with or constitute a default under or result in the creation or imposition of any lien pursuant to the terms of any such Bond Agreement, instrument or agreement.

(f) Litigation. There is no action, suit, proceeding, inquiry or investigation at law or in equity or before or by any court, public board or body pending or, to the knowledge of Institution, threatened against or affecting Institution (x) wherein an unfavorable decision, ruling or finding would materially adversely affect (i) the transactions contemplated by or the validity of this Agreement or any other Financing Documents to which Institution is a party, (ii) the tax-exempt status of Institution or of the interest on the Series 2015 Bonds, or (iii) Institution's property, assets, operations or conditions, financial or otherwise, or its ability to perform its obligations hereunder or under such other Financing Documents; or (y) which in any way

contests the existence, organization or powers of Institution or the titles of the officers of Institution to their respective offices.

SECTION 11.11. Additional Covenants. During the term of this Agreement, and until Institution has paid in full all of its obligations hereunder, Institution hereby covenants and agrees as follows:

(a) Existence. Institution shall maintain its existence as a public institution of higher education formed under the laws of New Jersey, and shall not merge, consolidate, liquidate or sell substantially all of its assets.

(b) Compliance With Laws. Institution shall comply with all laws, rules and regulations, and with all final orders, writs, judgments, injunctions, decrees or awards to which it may be subject and which are material to the Series 2015 Bonds, this Agreement or any other Financing Documents to which Institution is a party, or the operations, affairs, properties, condition (financial or otherwise) or prospects of Institution; provided, however, that Institution may contest the validity or application thereof and appeal or otherwise seek relief therefrom, and exercise any and all of the rights and remedies which it may have with regard thereto, so long as such acts do not affect Institution's power and authority to execute and deliver this Agreement and such other Financing Documents, and to perform its obligations and pay all amounts payable by it hereunder and thereunder.

(c) Maintain Existence of Authority "Project". Institution shall operate and use or cause the Project Facilities and the Leased Facilities and each portion thereof to be operated and used as educational facilities constituting an authorized "Project" under the Act.

(d) Indemnification. Institution shall indemnify the Authority, the Escrow Agent and the Purchaser as follows:

(1) Institution shall protect, exonerate, defend, indemnify and save the Authority and its members, directors, officers, employees, agents and attorneys (collectively, the "Indemnified Parties") harmless from and against any and all Losses arising from the use or occupancy of the Project Facilities or the Leased Facilities by Institution, by the sublessees thereof, if any, their agents, contractors, servants, employees, licensees or invitees, or personal injury, death or loss or damage to property suffered or incurred by any person, entity, firm or corporation arising out of or attributable to use, operation or maintenance of the Project Facilities or the Leased Facilities by Institution, by the sublessees, if any, or their agents, contractors, servants, employees, licensees or invitees; and from and against all Losses incurred in or about the defense of any such claims, actions or proceedings brought thereon. Institution's obligations hereunder shall survive the payment of the sums due hereunder and the expiration of the term of this Agreement. In addition, Institution shall release the Indemnified Parties from, agrees that the Indemnified Parties shall not be liable for, and agrees to hold the Indemnified Parties harmless against any Losses because of any action taken by an Indemnified Party in good faith with respect to this Agreement, or any of the Project Facilities or the Leased Facilities.

(2) The Indemnified Parties, respectively, will give prompt written notice to Institution of any claim asserted against it or them, as the case may be, which claim, if sustained, may result in liability on the part of an Indemnified Party which is indemnified hereunder; provided, however, that the failure on the part of the Indemnified Party to give such notice shall not relieve Institution from its obligation under this Section. Upon receipt of such notification, Institution shall assume the defense thereof, with full power to litigate, compromise or settle the same in its sole discretion, all without cost to the Indemnified Parties. Any Indemnified Party shall have the right to employ separate counsel in any such claim and to participate in the defense thereof.

(3) The Authority shall be protected in its or their acting upon any paper or documents believed by it or them to be genuine, and it or they may conclusively rely upon the advice of counsel and may (but need not) require further evidence of any fact or matter before taking any action.

(e) Financial Statements. Institution shall furnish to the Purchaser and to the Authority, or cause to be furnished to the Purchaser and to the Authority, in form and substance satisfactory to the Purchaser and the Authority, within one hundred fifty (15) days of the end of each fiscal year end of Institution, a financial statement of Institution's profit and loss and surplus for each fiscal year and a balance sheet as of the end of such fiscal year with a cash flow statement, all in reasonable detail in accordance with generally accepted accounting principles, consistently applied, certified to by an officer of Institution duly authorized to make such certifications, and audited by an independent certified public accountant acceptable to the Purchaser and the Authority.

(f) Operating Budget. Institution shall furnish to the Purchaser (and to the Authority, upon request), or cause to be furnished to the Purchaser (and to the Authority, upon request), in form and substance satisfactory to the Purchaser:

(1) Within sixty (60) days of the end of each fiscal year of Institution, the annual operating budget of Institution for the then current or upcoming fiscal year, as applicable; and

(2) Such other financial information as the Purchaser may reasonably require.

(g) Requisition Forms. Institution shall forward copies of all Requisition Forms (as defined in the Bond Agreement) and accompany documentation to the Authority upon submission of same to the Escrow Agent pursuant to Section 2.5 of the Bond Agreement.

ARTICLE XII

MISCELLANEOUS

SECTION 12.01. Severability. In case any one or more of the provisions of this Agreement shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement, but this Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained therein.

SECTION 12.02. Paragraph Headings. The paragraph headings contained herein are for convenience and reference and are not intended to define or limit the scope of any provision of this Agreement.

SECTION 12.03. Notices. All notices required to be given or authorized to be given by either party pursuant to this Agreement shall be in writing and shall be sent by registered or certified mail to the main office of the other party. All notices required to be given or authorized to be given to the Purchaser by either party pursuant to this Agreement shall be in writing and shall be sent by registered or certified mail to the designated office of the Purchaser at the address of such office.

SECTION 12.04. Rights Cumulative. All rights and remedies herein given or granted to the Authority are cumulative, nonexclusive and in addition to any and all rights and remedies that the Authority may have or be given by reason of any law, statute, ordinance or otherwise.

SECTION 12.05. Amendments or Modification. This Agreement shall not be amended or modified in any manner without the written consent of the Authority, the Purchaser and Institution.

SECTION 12.06. Resolution and Bond Agreement Controlling. In the event any provisions of this Agreement shall be incompatible with the Resolution or the Bond Agreement, the provisions of said Resolution and the Bond Agreement shall be controlling.

SECTION 12.07. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 12.08. Third Party Beneficiary. The Authority and Institution agree that the Purchaser is a third party beneficiary of this Agreement.

IN WITNESS WHEREOF, the Authority has caused these presents to be executed by its
[_____] and Institution has caused these presents to be executed by the
[_____] of Institution, all as of the day and year first hereinabove set forth.

NEW JERSEY EDUCATIONAL FACILITIES
AUTHORITY

Attest:

[_____]
[_____]

By: _____
[_____]
[_____]

Attest:

INSTITUTION STATE COLLEGE

[Name]
[Title]

By: _____
[Name]
[Title]

STATE OF NEW JERSEY)
)
COUNTY OF _____) SS.

BE IT REMEMBERED that on [_____], 2015, before me the subscriber, an officer duly authorized pursuant to N.J.S.A. 46:14-6.1 to take acknowledgments for use in the State of New Jersey, personally appeared [_____], who, I am satisfied is the person who executed the within Instrument as the [_____] of Institution State College, and I having first made known to such person the contents thereof, such person did thereupon acknowledge that the said Instrument made by Institution State College and delivered by such person as an authorized officer of Institution State College, is the voluntary act and deed of Institution State College, made by virtue of authority from its governing body, for the uses and purposes therein expressed.

Notary Public

STATE OF NEW JERSEY)
)
COUNTY OF) SS.

BE IT REMEMBERED that on [_____], 2015, before me the subscriber, an Attorney at Law of the State of New Jersey, personally appeared [_____], who being by me duly sworn according to law on her oath, says that such person is the [_____] of the NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY, the Authority named in the within instrument; that deponent signed and delivered the within instrument, as and for such person's voluntary act and deed and as and for the voluntary act and deed of said Authority.

An Attorney at Law of New Jersey

EXHIBIT A

PROJECT SITE PROPERTY DESCRIPTION

[TO BE INSERTED]

EXHIBIT B
PROJECT FACILITIES

EXHIBIT C

SCHEDULE OF BASIC LEASE PAYMENTS

(Included for Informational Purposes Only)

EXHIBIT D

SPECIAL NOTICE EVENTS

1. **Private business use of the Bond Financed Property** -- if any portion of the financed projects will be used by anyone other than a State or local governmental unit or members of the general public who are not using the property in the conduct of a trade or business (e.g., use by a person as an owner, lessee, purchaser of the output of facilities under a “take and pay” or “take or pay” contract, purchaser or licensee of research, a manager or independent contractor under certain management or professional service contracts or any other arrangement that conveys special legal entitlements, including an arrangement that conveys priority rights to the use or capacity of the financed property, for beneficial use of the property financed with proceeds of tax-exempt debt or an arrangement that conveys a special economic benefit). Use of bond financed facilities by the Federal government or a 501(c)(3) corporation, or with respect to solar facilities, or a cell tower by a private entity are considered private business use;

2. **Private Loans Bond Proceeds** -- if any portion of the proceeds of the Bonds (including any investment earnings) thereon are to be loaned by the Institution;

3. **Naming rights agreements for the Bond Financed Property** -- if any portion of the financed projects will become subject to a naming rights agreement, other than a “brass plaque” dedication;

4. **Research using the Bond Financed Property** -- if any portion of the financed projects has been or will be used for the conduct of research under the sponsorship, or for the benefit of, any entity other than a State or local governmental unit, other than a qualified research contract described in Rev. Proc. 2007-47;

5. **Management agreement or service agreement** -- if any portion of the financed projects is to be used under a management contract (e.g., food service, bookstore, or parking management) or service contract, other than (i) a contract for services that are solely incidental to the primary function of financed projects, such as janitorial services or office equipment repair, or (ii) a qualified management contract described in Rev. Proc. 97-13 (Note: a contract that results in the payment of a concession or similar fee to the Institution is not a qualified contract);

6. **Joint Ventures** -- if any portion of the financed projects will be or has been used in any joint venture arrangement with any person other than a State or local governmental unit;

7. **Sinking fund or pledge fund** -- if the Institution, or any organization related to the Institution, identifies funds which are expected to be used to pay debt service on the Bonds or secure the payment of debt service on the Bonds, other than those funds or accounts described in the bond documents for the Bonds; or

8. **Unexpected Payments or Proceeds** -- if the Institution receives funds related to Bond financed property or the Bonds, including without limitation, charitable gifts, insurance payments and settlements of litigation or other disputes.

