

## GROUND LEASE AGREEMENT

THIS GROUND LEASE AGREEMENT (hereinafter referred to as this "Ground Lease Agreement") is made and entered into as of \_\_\_\_\_, 2000, by and between FLORIDA STATE UNIVERSITY SCHOOLS, INC., **a Florida not for profit corporation operating a developmental research school under a charter granted by the Florida State University** (hereinafter referred to as "GROUND LESSOR") and THE CITY OF TALLAHASSEE, FLORIDA (hereinafter referred to as "GROUND LESSEE").

A. Pursuant to that certain Lease Agreement No. 4293 dated \_\_\_\_\_, 2000 by and between The State of Florida Board of Trustees of the Internal Improvement Trust Fund (the "Board" or the "Owner") and The State of Florida Board of Regents (the "Board of Regents") recorded at Official Records Book \_\_\_\_, Page \_\_\_\_\_, of the Public Records of Leon County, Florida, (the "Main Lease"), the Board of Regents leased to GROUND LESSOR. The Owner granted a fifty year leasehold interest in that certain real property situated in Leon County, Florida and legally described in Exhibit A hereto (the "Premises"), and contemporaneously therewith, the Premises for a period of approximately fifty (50) years commencing \_\_\_\_\_, 2000, subject to the terms, conditions and provisions contained therein.

B. GROUND LESSOR intends to construct certain improvements on the Premises consisting of a developmental research school facility and related offices with attendant facilities and parking, all as more specifically described on Exhibit B attached hereto and made a part hereof (the "Improvements").

C. Subject to the terms and conditions hereinafter set forth, GROUND LESSOR desires to ground lease to GROUND LESSEE the Premises in order to facilitate the financing of the costs of the Improvements, and as a part of such financing, lease the premises from GROUND LESSEE pursuant to a Lease Purchase Agreement (the "Lease Purchase Agreement").

IN CONSIDERATION of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, GROUND LESSOR and GROUND LESSEE hereby agrees as follows:

### Section 1. ~~A~~ PREMISES.

(a) Pursuant to the terms hereof, GROUND LESSOR hereby subleases, grants, demises and transfers over to GROUND LESSEE the Premises.

(b) GROUND LESSOR hereby warrants that:

(i) subject only to the Permitted Encumbrances (as hereinafter defined), GROUND LESSOR is the lawful holder of the leasehold estate in the Premises and has good marketable and insurable title to the leasehold estate in the Premises, pursuant to that certain Sublease Agreement, (the "Sublease"), dated \_\_\_\_\_, 2000, between the Board of Regents, as lessor, and the GROUND LESSOR hereunder, as lessee, and owns unencumbered all such right, title and interest;

(ii) all the terms and conditions of the Main Lease and the Sublease are in full force and effect;

(iii) all consents to or approvals of this Ground Lease Agreement necessary under the Main Lease, if any, have been provided;

(iv) the permitted uses and activities under this Ground Lease Agreement constitute "public purposes" as described in the Main Lease;

(v) GROUND LESSOR has the right to sublease the Premises to GROUND LESSEE pursuant to the terms hereof,

(vi) there are no agreements between GROUND LESSOR and the Board of Regents regarding the Premises other than the Main Lease and the Sublease, a true, correct and complete copy of each of which has been provided to GROUND LESSEE;

(vii) all rents and other amounts required under the Main Lease have been paid;

(viii) GROUND LESSOR is not in default under the Sublease and there is no existing default by the Board of Regents under the Main Lease; no event has occurred, including executing this Ground Lease, which, with the giving of notice or the passage of time, or both, may constitute a default by GROUND LESSOR or the Board of Regents under the Main Lease;

(ix) GROUND LESSOR is a public body corporate and politic, organized and validly existing under the laws of the State of Florida. This Ground Lease and all agreements, instruments and documents herein provided to be executed by GROUND LESSOR are duly authorized, executed and delivered by and binding upon GROUND LESSOR in accordance with their terms and no consent, authorization, approval or any third party is required in connection therewith. The individual executing this Ground Lease on behalf of GROUND LESSOR and the consummation of the transaction contemplated hereby has been duly authorized by all necessary or appropriate corporate, partnership, trust or other action, as the case may be;

(x) no litigation or proceedings are pending or threatened, and there are no outstanding

judgments or arbitration awards, against the Premises or any part thereof or against GROUND LESSOR by or before any court, municipal department, commissioner, board, bureau or agency, nor is there pending or presently contemplated public improvements in, about or outside the Premises which will in any manner affect access to the Premises;

(xi) the Premises and the present use, occupancy and operation thereof, are in compliance with all applicable zoning, building, fire and environmental laws, codes, statutes, ordinances, rules and regulations and with all covenants, conditions and restrictions pertaining to or affecting the Premises;

(xii) the execution, delivery and performance of this Sublease does not and will not violate any law, ordinance, code, statute, rule, regulation, court order or covenant, condition or restriction that may affect the Premises or any part thereof, any interest therein, and any use thereof;

(xiii) there has not been commenced nor is there contemplated by any governmental authority, condemnation of all or any portion of the Premises or condemnation or relocation of any roadways abutting the Premises;

(xiv) the Premises are, or will be, served by water, sewer, gas, telephone and electricity and such utilities are, or will be, installed and all utility bills for services to the Premises have been paid;

(xv) GROUND LESSOR presently delivers notices to the Board under the Main Lease as follows:

Bureau of **Public Land** ~~{^}~~ **Adminstration**  
Division of State Lands  
Florida Department of Environmental Protection  
3900 Commonwealth Blvd., **Mail Station 130**  
Tallahassee, Florida 32399  
Attention:

(xvi) there are no liens or claims for lien filed against the Premises or any labor, services or materials provided on behalf of GROUND LESSOR or its agents or employees, or any unpaid amounts in connection therewith which could give rise to mechanics' liens against the Premises;

(xvii) GROUND LESSOR has received no notice that an event has occurred which authorizes the Board to terminate the Main Lease;

(xviii) GROUND LESSOR has paid all taxes and assessments which may be due and owing on the Premises or any part thereof;

(xix) the Premises or any portion thereof has not been subject to any flooding and is not located within the flood plain;

(xx) all information contained herein concerning the Premises or as set forth in the Exhibits attached hereto and all documents and information submitted hereunder for GROUND LESSEE's review and approval are true, correct and complete; and

(xxi) GROUND LESSOR intends on financing the Improvements through the issuance of Lease Revenue Bonds (the "Bonds") to be issued by GROUND LESSEE.

For the purposes hereof, the term "Permitted Encumbrances" shall mean the following: (i) liens for taxes and assessments not then delinquent; (ii) the Main Lease; (iii) existing utility, access and other easements and rights of way, restrictions and such exceptions which do not underlie the Improvements or adversely affect the present use or occupancy of the Premises; and (iv) the "Development Order" dated April 28, 1999, as approved by Resolution No. 99-R-0010 adopted by the City Commission of the City of Tallahassee, Florida, as amended prior to the date hereof, and applicable to the Premises (the "Development Plan").

Section 2. TERM. The term of this Sublease (the "Term") shall be for approximately \_\_\_\_ years commencing on \_\_\_\_\_, 2000 ("Commencement Date"), and ending on August 1, 20\_\_\_\_, or such earlier date of termination as shall be agreed to in writing by the GROUND LESSOR and the GROUND LESSEE, provided that the Term shall automatically terminate when no Bond remains outstanding. As used herein, the expression "term hereof" or any similar expression refers to the Term.

Section 3. MAIN LEASE. This Sublease is subject and subordinate in all respects to the Main Lease, which Main Lease is incorporated herein by reference as if fully set forth herein. From and after the Commencement Date, GROUND LESSEE agrees, to the extent applicable to the Premises, to assume and be bound by all of the covenants and agreements made by GROUND LESSOR as lessee under the Sublease and the Main Lease and to perform all of the duties, obligations and responsibilities of GROUND LESSOR as Sublessee under the Main Lease. In the event of any conflict or inconsistency between the terms, conditions or provisions of the Main Lease and this Ground Lease Agreement, the terms, conditions and provisions of the Main Lease shall prevail.

(a) GROUND LESSOR'S PERFORMANCE UNDER THE SUBLEASE. GROUND LESSOR covenants and agrees that from and after the date hereof it shall comply in all respects with the requirements of the Sublease and shall not take any action or enter into any agreement which shall be in

conflict with its obligations under this Ground Lease Agreement. From and after the date hereof and during the term of the Sublease, GROUND LESSOR shall not modify, extend or in any way alter the Sublease, nor shall GROUND LESSOR cancel or surrender the Sublease, or waive, excuse, condone or in any way release or discharge the Board of Regents from the obligations, covenants, conditions and agreements to be performed by the Board of Regents under the Sublease without GROUND LESSEE's consent, which consent may be withheld in the sole discretion of GROUND LESSEE.

Section 4. USE OF PREMISES.

(a) Compliance with Rules and Regulations. Neither GROUND LESSOR nor GROUND LESSEE shall use or permit the Premises to be used in violation of (i) the Main Lease, (ii) any valid present or future laws, ordinances, rules or regulations of any public or governmental authority at any time applicable thereto relating to sanitation or the public health, safety or welfare, or (iii) the Development Plan.

(b) Severed Title. It is the express intention of GROUND LESSOR and GROUND LESSEE that title to the Improvements is and shall remain severed from title to the Premises so long as this Ground Lease is in effect.

Section 5. RENTAL. GROUND LESSEE shall pay to GROUND LESSOR the sum of \$1.00 per annum during the term hereof as rent ("Rent"), which sum shall be due annually in advance on each July 1 and each calendar year anniversary thereof during the term hereof with the initial rent payment due \_\_\_\_\_, 2000, and shall be payable or prepayable at any time not later than the due date thereof, provided, however, the GROUND LESSEE shall have the right to prepay its rental obligation hereunder in full at the time of execution hereof by the payment of \$\_\_\_\_\_ to the GROUND LESSOR, and upon the occurrence of an event of default or event of non-appropriation under the Lease Purchase Agreement and upon taking possession of the Premises, Ground Lessee shall also pay all of the following:

- (a) general real estate taxes levied upon or assessed against the Premises;
- (b) all other taxes, assessments, charges and impositions of any municipal or governmental authority which may be imposed or assessed against the Premises or the Improvements or any part thereof or any interest therein; and
- (c) any sums becoming due under the Main Lease applicable to the Premises from and after the date of occurrence of an event of default or on event of non-appropriation under the Lease Purchase Agreement.

Section 6. OWNERSHIP OF IMPROVEMENTS AND SURRENDER OF PREMISES.

(a) Ownership. GROUND LESSEE shall at all times during the term of this Ground Lease have a valid groundleasehold interest in and to the Premises, subject to the terms and conditions contained in this Ground Lease Agreement. Upon the expiration of the Term hereof in accordance with Section 2 hereof, or upon a valid termination for cause pursuant to the provisions of Section 13 hereof, all right, title and interest of GROUND LESSEE in and to all the Premises shall thereupon revert to GROUND LESSOR or its successor in interest in the Premises. GROUND LESSEE shall, nonetheless, thereafter execute and deliver to GROUND LESSOR such evidence of title as GROUND LESSOR may reasonably request.

(b) Surrender of Premises. The Premises **and Improvements** shall, upon the last day of the term hereof, automatically revert to GROUND LESSOR free and clear of liens and encumbrances without necessity of any act by GROUND LESSEE. Upon such termination of this Ground Lease, GROUND LESSEE shall peaceably and quietly surrender to GROUND LESSOR the Premises **and Improvements**, and all furniture, furnishings, fixtures and equipment (except for any furniture, fixtures or other equipment not owned by GROUND LESSEE or GROUND LESSEE's successor in interest) located in or upon the Premises.

(c) GROUND LESSEE's OBLIGATION. Contemporaneously with the expiration of the term hereof or earlier rightful termination of this Ground Lease (for causes set forth herein), GROUND LESSEE shall immediately execute and deliver to the GROUND LESSOR the following (but nothing contained herein shall in any way limit or impair the rights of GROUND LESSOR in the event of a default by the GROUND LESSEE):

(1) Such documents of title and other instruments as GROUND LESSOR may reasonably request to enable GROUND LESSOR's leasehold and possessory rights in an to the Premises to be reflected of record; and

(2) All books, records, construction plans, surveys, permits and other documents relating to, and necessary or convenient for the operation of the Improvements in the possession of GROUND LESSEE.

(d) Abandonment. Any personal property owned by GROUND LESSEE which shall remain on the Premises after expiration of the term of this Sublease and for thirty (30) days after request by GROUND LESSOR for removal, shall, at the option of GROUND LESSOR, be deemed to have been abandoned and may be retained by GROUND LESSOR and the same may be disposed of without accountability, in such manner as GROUND LESSOR may see fit.

(e) Holding Over. If GROUND LESSEE holds over or refuses to surrender possession of the Premises after termination of this Sublease, GROUND LESSEE shall be a tenant at sufferance and shall

pay a rental rate equal to the fair market value rental of the Premises as reasonably determined by GROUND LESSOR, in advance.

(f) Exception for Certain Property. The provisions of Sections 6(a), (b) and (c) hereof shall not apply to vending machines or other commercial equipment or personal property located in, or about the Premises to the extent that such equipment or personal property is readily removable from the Improvements without causing material harm or damage thereto and that such equipment or personal property is not owned by the GROUND LESSEE.

Section 7. GROUND LESSOR'S INTEREST NOT SUBJECT TO CERTAIN LIENS.

(a) Discharging Liens. In the event a lien, claim of lien or order for the payment of money shall be imposed against **GROUND LESSEE'S groundleasehold interest in and to** the Premises or the Improvements resulting from or arising out of any act or omission of GROUND LESSEE or any person claiming under, by or through GROUND LESSEE, GROUND LESSEE shall, within thirty (30) days after receipt of notice of the imposition of such lien, claim or order cause the same to be discharged, satisfied, canceled or released, and the Premises and the Improvements to be released therefrom, by the payment of the obligation secured thereby or by the furnishing of a bond or by any other method which may be prescribed or permitted by law. GROUND LESSEE shall thereupon furnish GROUND LESSOR with evidence of having done so in form satisfactory and requisite for recording in the Office of the Clerk of the Circuit Court, Leon County, Florida.

(b) Bonding and Litigation. Notwithstanding the foregoing, should GROUND LESSEE desire to contest the validity of any lien or claim of lien, nothing herein shall preclude GROUND LESSEE from doing so, provided that GROUND LESSEE shall have first either (i) posted an appropriate and sufficient bond in favor of claimant and thereby obtained the release of the Premises and the Improvements from such lien. In such event the GROUND LESSEE shall indemnify and hold the Board and the State of Florida harmless from and against any and all claims, actions, lawsuits, costs and expenses of any kind or nature arising out of such lien or claim of lien. If judgment is obtained by the claimant of any lien, GROUND LESSEE agrees to pay the same immediately after such judgment shall have become final and the time for appeal therefrom has expired. GROUND LESSEE shall, at its own expense, defend the interests of GROUND LESSEE and GROUND LESSOR in any and all such suits. GROUND LESSOR may, at its own expense, engage its own counsel and assert its own defenses, in which event GROUND LESSEE agrees to cooperate with GROUND LESSOR and make available to GROUND LESSOR all information and data deemed by GROUND LESSOR to be necessary or desirable for such defense.

Section 8. INSURANCE.

(a) Types of Insurance. GROUND LESSEE covenants and agrees with GROUND LESSOR

that GROUND LESSEE will, following an event of default or an event of non-appropriation under the Lease Purchase Agreement, obtain, and maintain in full force and effect to the extent not otherwise obtained and maintained by the GROUND LESSOR or any lessee at all times throughout the term of this Ground Lease Agreement (except as otherwise provided herein), the following:

(1) A policy or policies of comprehensive general liability insurance with combined single limits of not less than One Million Dollars (\$1,000,000.00) for any and all loss or liability resulting from personal injury, death or property damage arising out of, upon or in connection with the Premises, the Improvements, or any improvements or equipment thereon, or arising by reason of GROUND LESSEE's occupancy of the Premises, or the operations of GROUND LESSEE, its agents, employees, and contractors and subcontractors.

(2) Workers' compensation insurance and any other insurance coverage required by law.

(3) Property and Casualty Insurance insuring the Premises against loss by fire or other casualty in an amount equal to the replacement cost thereof, together with rental interruption insurance in an amount equal to the greater of twelve (12) months of lease payments under the Existing Leases or the maximum annual debt service on the Bonds.

(b) Insurer. Each and every policy of insurance required under this Section shall be written by an insurance company or companies licensed to do business in Florida, which company shall be reasonably acceptable to GROUND LESSOR and shall name GROUND LESSOR, the Board, and the State of Florida as additional insureds, as their interest may lie. A certificate evidencing these coverages shall be filed with GROUND LESSOR **and the Board**, which certificate shall provide that written notice of cancellation or of any material change in such policy shall be delivered to GROUND LESSOR at least forty-five (45) days in advance of the effective date thereof. At least ten (10) days prior to the expiration of any such policy, a certificate showing that such insurance coverage has been renewed or extended shall be furnished to GROUND LESSOR. In the event such insurance is canceled or reduced, GROUND LESSEE shall, within thirty (30) days after receipt of written notice of the intention to cancel or reduce such coverage, file with GROUND LESSOR a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies.

(c) Lack of Insurance. In the event that GROUND LESSEE shall at any time fail, refuse or neglect to obtain and pay for any insurance required under this Section, GROUND LESSOR may, at its sole option, obtain and/or pay for such insurance, and GROUND LESSEE shall reimburse GROUND LESSOR upon demand for the cost thereof, plus ten percent (10%) thereof (not to exceed \$500) for administrative overhead.



(d) Waiver of Subrogation. GROUND LESSEE shall procure from each of the insurers under any and all policies of insurance set forth above, a waiver, in writing, at the time each such insurance policy is procured or renewed, of all rights of subrogation which each such insurer might otherwise have, if at all, against GROUND LESSOR, the Board and the State of Florida.

(e) State of Florida. To the extent that any agency or instrumentality of the State of Florida using or occupying the Improvements provides either insurance or self insurance for such risks or liabilities, same shall fulfill the obligation of GROUND LESSEE to provide insurance.

Section 9. CONDITION OF PREMISES, UTILITIES, CONCEALED CONDITIONS.

(a) Present Condition. Subject to paragraph (b) of Section 1 and paragraph (f) of this Section 9, GROUND LESSEE agrees to accept the Premises in their presently existing condition, "as is".

(b) Support. It is understood and agreed that GROUND LESSOR has determined that the Premises will safely or adequately support the type of improvements desired to be erected upon the Premises, including but not limited to the Improvements, and hereby certifies same to GROUND LESSEE.

(c) Utilities. GROUND LESSOR, at its sole expense, shall bring or cause to be brought to the Premises adequate connections for gas, water, electrical power, storm sewerage and sewerage, and shall arrange with the appropriate utility companies for furnishing such services and shall provide to the Improvements water service and capacity sufficient for operation, heating, ventilation and air conditioning equipment in the Improvements.

(d) Sewerage. GROUND LESSOR and GROUND LESSEE shall at all times use reasonable efforts to prevent entrance of objectionable quantities of deleterious wastes into GROUND ~~{A}~~ LESSOR'S sewerage system, storm water drainage system and conduit system as required by the applicable governmental authorities.

(e) Drains. Drains or other facilities provided by GROUND LESSOR for the purpose of disposing of storm or other waters shall conform to the requirements of applicable governmental authorities.

(f) Concealed Conditions. GROUND LESSEE does not accept responsibility for nor assume the risk of (i) concealed conditions below the surface of the ground encountered in the performance of the construction activity, (ii) unknown physical conditions above or below the surface of the ground, and (iii) latent defects in the Improvements.

Section 10. LIMITATION ON LEASEHOLD MORTGAGES, ASSIGNMENT AND SUBLETTING.

10.1 No Encumbrance of Fee. Subject to the terms and conditions herein provided, GROUND LESSEE may not enter into a mortgage or mortgages of its interest in the **ground** leasehold estate created hereby or in the Improvements as security under any financing or refinancing pertaining to the Improvements **and the Board's fee interest in the Premises shall not be encumbered** .

10.2 Assignment and Subletting. Except as expressly provided in the Main Lease or in this Section 10.2, GROUND LESSEE shall not assign this Ground Lease Agreement, or any portion hereof, or sublease all or any portion of the Premises without the prior written consent of GROUND LESSOR, except for an assignment of this Ground Lease Agreement to SunTrust Bank, as trustee for the Bonds (the "Trustee"). Except as expressly permitted herein, any purported assignment, partial assignment or sublease without GROUND LESSOR'S prior written consent in violation of this Section 10.2 shall be null and void.

10.3 Notice. If GROUND LESSEE proposes to assign, sublet or transfer any portion of its interest in this Sublease, GROUND LESSEE shall provide written notice in advance to the GROUND LESSOR containing (i) the names and addresses of the proposed assignee(s), GROUND LESSEE(s) or transferee(s); (ii) the terms and conditions of the proposed assignment, sublease or transfer; (iii) the nature and character of the business of the proposed assignee(s), GROUND LESSEE(s) or transferee(s); and (iv) general financial information relating to the proposed assignee(s), GROUND LESSEE(s) or transferee(s).

#### Section 11. TAXES AND FEES.

(a) GROUND LESSOR Exempt. GROUND LESSOR represents and warrants that so long as and to the extent the GROUND LESSOR is operating a developmental research school under a charter from Florida State University and the GROUND LESSOR is not in default under the Lease Purchase Agreement this Ground Lease Agreement and the leasehold interest created herein are exempt from ad valorem and intangible taxation. Should the Premises or any interest therein or improvement thereon ever become subject to any such taxes, GROUND LESSOR agrees to pay any and all such lawful taxes, assessments or charges which at any time may be levied by any federal, state, county, city, or any tax or assessment levying body upon the Premises, or any interest in this Ground Lease Agreement, or any possessory right which GROUND LESSOR may have in or to the Premises or the Improvements by reason of its use or occupancy thereof or otherwise.

(b) Right to Contest. Notwithstanding the foregoing provision, GROUND LESSOR shall, after notifying GROUND LESSEE of its intention to do so, have the right in its own name or behalf, or in the name and behalf of GROUND LESSEE hereto, to contest in good faith by all appropriate proceedings the amount, applicability or validity of any such tax or assessment, and in connection with such contest GROUND LESSOR may refrain from paying such tax or assessment. GROUND LESSEE shall, upon request by GROUND LESSOR, assist and cooperate with the other party hereto in any such proceedings at no cost to GROUND LESSEE. If GROUND LESSOR desires to contest such tax or assessment it

must first post bond satisfactory to GROUND LESSEE in an amount sufficient to prevent forfeiture or loss of any portion of the Premises.

(c) Reimbursement. In the event that GROUND LESSOR shall fail to pay any of the items required by it of this Section 11, the GROUND LESSEE may, at its sole option, pay the same and any amounts so advanced therefor by it shall become an additional obligation of the GROUND LESSOR, which amounts the GROUND LESSOR agrees to pay to the GROUND LESSEE promptly upon demand plus ten percent (10%) thereof (not to exceed \$500.00) for administrative overhead.

## Section 12. DEFAULT BY GROUND LESSEE.

(a) Events of Default. Each of the following events shall be deemed a default by GROUND LESSEE hereunder and a breach of this Ground Lease Agreement:

(1) If GROUND LESSEE shall fail to pay, when due, any rent or portion thereof within thirty (30) days after receipt of written notice to GROUND LESSEE by GROUND LESSOR or if GROUND LESSEE shall fail to pay any taxes or assessments or portion thereof, or any other sum which GROUND LESSEE is obligated to pay under the terms of this Ground Lease Agreement, and such taxes, assessments or other sums remain unpaid for a period of thirty (30) days after receipt of written notice to GROUND LESSEE from GROUND LESSOR;

(2) If GROUND LESSEE shall attempt to assign this Ground Lease Agreement, or any portion thereof, or to sublease any portion of the Premises in violation of Section 10.2 hereof;

(3) From and after the occurrence of an event of default or an event of non-appropriation under the Lease Purchase Agreement, GROUND LESSEE shall use the Premises for any purposes not permitted by this Ground Lease Agreement, and such use shall continue for a period of thirty (30) days after receipt of written notice to GROUND LESSEE by GROUND LESSOR to desist from such use; and

(4) From and after the occurrence of an event of default or an event of non-appropriation under the Lease Purchase Agreement, GROUND LESSEE shall otherwise fail to comply with any material covenant or condition of this Ground Lease Agreement, and such failure to comply shall continue for a period of thirty (30) days after receipt of written notice thereof by GROUND LESSEE from GROUND LESSOR; provided, however, in the event such failure cannot, by its nature, be cured within such 30 day period, GROUND LESSEE shall not be deemed in default hereunder so long as GROUND LESSEE shall have commenced to cure such failure within said 30 day period and thereafter shall prosecute such cure to completion with reasonable diligence.

(b) Additional Time. In the event that any of the items of default set forth in subparagraphs (a)(3) and (a)(4) above is of such a nature that it cannot be remedied within the time limits therein set forth, then GROUND LESSEE shall have such additional time as is reasonably necessary to cure such default, provided GROUND LESSEE diligently commences the curing of such default within said time limits and proceeds to completely cure the same in a timely and diligent manner.

Section 13. REMEDIES OF GROUND LESSOR. Upon the occurrence of any event of default as set forth in Section 12 hereof which has not been cured and is not in the process of being cured under Section 12(b) hereof, GROUND LESSOR may then terminate this Ground Lease Agreement subject to the provisions set forth herein by written notice to GROUND LESSEE and each Permitted Transferee and enter upon and take possession of the Premises and any improvements constructed thereon. In the event GROUND LESSOR elects to avail itself of the rights and remedies contained in this Section 13, then such election by GROUND LESSOR shall entitle GROUND LESSOR to assume all of GROUND LESSEE's rights, title and interest in and to the Improvements, as well as all structures, fixtures and improvements on the Premises.

Section 14. NO WAIVERS. No waiver by either party hereto at any time of any of the terms, conditions, covenants or agreements of this Ground Lease Agreement, or noncompliance therewith, shall be deemed or taken as a waiver at any time thereafter of the same, nor of any other term, condition, covenant or agreement herein contained, nor of the strict and prompt performance thereof by the other party hereto. No delay, failure or omission of GROUND LESSOR to reenter the Premises, nor by either party hereto to exercise any right, power, privilege or option arising from any default shall impair any right, power, privilege or option, or be construed to be a waiver of any such default, relinquishment thereof or acquiescence therein, and no notice by either party hereto shall be required to restore or revive time as being of the essence hereof after waiver by either party of default in one or more instances. No option, right, power, remedy or privilege of either party shall be construed as being exhausted or discharged by the exercise thereof in one or more instances. It is agreed that each and all of the rights, powers, options or remedies given to each party by this Ground Lease Agreement are cumulative, and no one of them shall be exclusive of the other or exclusive of any remedies provided by law.

Section 15. QUIET ENJOYMENT. GROUND LESSOR agrees that GROUND LESSEE, upon the payment of the rent and all other payments and charges to be paid by GROUND LESSEE under the terms of this Ground Lease Agreement, and observing and keeping the agreements and covenants of this Ground Lease Agreement on its part to be observed and kept, shall lawfully and quietly hold, occupy and enjoy the Premises during the term of this Ground Lease Agreement subject only to the possessory rights of the GROUND LESSOR under the Lease Purchase Agreement, without hindrance or molestation from GROUND LESSOR or anyone claiming by, through or under GROUND LESSOR.

Section 16. TERMS BINDING UPON SUCCESSORS. All the terms, conditions and

covenants of this Ground Lease Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

Section 17. CONDEMNATION.

(a) Substantial. In the event that any person or corporation, public or private, shall by virtue of eminent domain or condemnation proceedings, or by purchase in lieu thereof, at any time during the term of this Ground Lease Agreement acquire title to the Premises (which for the purpose of this Section only shall include not only the land hereby demised but also the Improvements and other improvements erected thereon by GROUND LESSEE) or acquire title to such substantial portion thereof that GROUND LESSEE cannot make use of the residue for the purposes intended by this Ground Lease Agreement, such acquisition of title shall terminate this Ground Lease Agreement, effective as of the date on which the condemning party takes possession thereof. GROUND LESSOR and GROUND LESSEE shall be entitled to separate awards, with GROUND LESSOR entitled to the value of its leasehold interest under the Main Lease, GROUND LESSEE shall be entitled to the fair market value of its leasehold interest including Improvements, and the Board shall be entitled to the value of the remainder interest in its fee simple interest in the lands condemned. To the extent that such award is insufficient to cover both GROUND LESSOR and GROUND LESSEE, GROUND LESSEE shall have priority over GROUND LESSOR to the extent necessary to enable the GROUND LESSEE to pay in full, the Bonds, provided, however, that such priority shall not affect the rights of the Board or the State of Florida.

(b) Partial. Prior to completion of construction, if the condemning party acquires title to a portion of the Premises only, and GROUND LESSEE can make beneficial use of the residue thereof for the purposes intended by this Ground Lease Agreement, then this Ground Lease Agreement shall continue in full force and effect and the total proceeds of condemnation shall be applied first to compensate the Board for the value of the fee simple title, if any, taken by the condemning authority, with the remainder of such proceeds being applied, secondly, toward payment of reasonable attorneys' fees and other necessary expenses incurred by the Board, the GROUND LESSOR and the GROUND LESSEE in connection therewith, and thirdly toward the repair or restoration of the improvements by GROUND LESSEE in accordance with plans and specifications approved by GROUND LESSOR which approval shall not be unreasonably withheld or delayed.

(c) Taking of Improvements. Any taking of any portion of the Improvements shall be deemed substantial hereunder.

(d) Appeals. It is understood that the foregoing provisions of this Section 17 shall not in any way restrict the right of GROUND LESSOR or GROUND LESSEE to appeal the award made by any court or other public agency in any condemnation proceeding.

Section 18. WASTE. GROUND LESSEE shall not do, cause, allow or suffer to exist any waste or disfigurement to the Premises or the Improvements thereon or any part thereof or to any Improvements hereafter erected on the Premises.

Section 19. NON-MERGER OF LEASEHOLD. There shall be no merger of this Ground Lease Agreement or of the leasehold estate hereby created with the fee estate in the property described in Exhibit A attached hereto or any part thereof by reason of the fact that the same person may acquire or hold, directly or indirectly, this Ground Lease Agreement or leasehold estate hereby created or any interest in this Ground Lease Agreement or in such leasehold estate and the fee estate in the property described in Exhibit A attached hereto or any interest in such fee estate.

Section 20. MEMORANDUM OF LEASE. Unless mutually agreed to the contrary, simultaneously with the execution of this Ground Lease Agreement, the GROUND LESSOR and GROUND LESSEE shall each execute, acknowledge and deliver a Memorandum of Lease with respect to this Ground Lease Agreement. Said Memorandum of Lease shall not in any circumstances be deemed to change or otherwise to affect any of the obligations or provisions of this Ground Lease Agreement.

Section 21. EXCESS RECEIPTS UPON SUCCESSION TO POSSESSORY INTEREST. Upon the GROUND LESSEE succeeding to the possessory interest to all or any portion of the Premises and the Improvements, to the extent the GROUND LESSEE realizes, whether by assigning such portion or all of the Premises or Improvements to a Permitted Transferee, or upon the Assignment of this Ground Lease Agreement, an amount in excess of the amount required to be paid in satisfaction of the obligations of the GROUND LESSOR under the Lease Purchase Agreement, all such sums or amounts shall be deemed "Additional Rent" and shall be immediately due and payable to the GROUND LESSOR.

Section 22. ESTOPPEL CERTIFICATES. GROUND LESSOR, at any time and from time to time, upon not less than thirty (30) days' prior written notice from GROUND LESSEE, will execute, acknowledge and deliver to GROUND LESSEE, or to whomsoever they or any of them may direct, a certificate of GROUND LESSOR certifying that this Ground Lease Agreement is unmodified (or, if there have been any modifications, identifying the same); that this Ground Lease Agreement is in full force and effect, if it is; that there is no default hereunder (or, if so, specifying the default); and such other statements regarding this Ground Lease Agreement as GROUND LESSEE may reasonably request. It is intended that any such certificate may be relied upon by the GROUND LESSEE or any purchaser from, or assignee, or transferee of the GROUND LESSEE.

Section 23. MISCELLANEOUS.

(a) Laws of Florida Govern. This Ground Lease Agreement shall be governed by, and be construed in accordance with, the laws of the State of Florida.

(b) Force Majeure. Except as otherwise expressly provided herein, neither party shall be responsible for any delay in their respective performances called for under this Ground Lease Agreement which is caused by acts of God, war, national emergency, labor strike, shortages of material, or governmental regulations or control not in effect at the time of execution hereof.

(c) Notice and Delivery. Any notice required or desired to be given hereunder, or any items required or desired to be delivered hereunder, may be served or delivered personally or by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to GROUND LESSOR: Florida State University Schools, Inc.

Tallahassee, Florida 32304  
ATTENTION:

If to GROUND LESSEE: City of Tallahassee

Tallahassee, Florida  
ATTENTION:

or such other address or party as the party to be served may direct by written notice to the other party. If such notice is sent or delivery is made by registered or certified mail, such notice or delivery shall be deemed served, made and effective 3 business days after posting.

(d) Entire Agreement. It is mutually acknowledged and agreed by the parties hereto that this Ground Lease Agreement contains the entire agreement between GROUND LESSOR and GROUND LESSEE with respect to the subject matter of this GROUND LEASE AGREEMENT; that there are no verbal agreements, representations, warranties or other understandings affecting the same; that GROUND LESSEE, as a material part of the consideration hereof, hereby waives all claims against GROUND LESSOR for rescission, damages or any other form of relief by reason of any alleged covenants, warranty, representation, agreement or understanding not contained in this Ground Lease Agreement; and that any change, modification, release, discharge or waiver of any provision contained herein shall be of no force, effect, or value, unless set forth in writing and signed by the party to be bound.

(e) Relationship of the Parties. Nothing herein contained shall be deemed to create a partnership or joint venture, nor shall the relationship between the parties be construed as principal and agent, or other than GROUND LESSOR and GROUND LESSEE.

(f) Captions. The captions of this Ground Lease Agreement are inserted solely for convenience of reference, and under no circumstances shall they be treated or construed as part of, or as

affecting, this Ground Lease Agreement.

(g) Holidays Excluded. For purposes of computing any period of a number of days hereunder for notices or performance (but not for accrual of interest) Saturdays, Sundays and holidays shall be excluded.

(h) Severability. Any provision of this instrument in violation of the laws of the State of Florida shall be ineffective to the extent of such violation, without invalidating the remaining provisions of this instrument. In no event shall the GROUND LESSEE or its assigns have any cause of action against the officers or employees of GROUND LESSOR, or against any elected official of GROUND LESSOR based upon or materially related to any finding by any court that any or all provisions of this instrument violate Florida law.

Section 24. [RESERVED]

Section 25. CASUALTY. If prior to full payment of the obligations secured by the Lease Purchase Agreement (or prior to provision for payment thereof having been made in accordance with the provisions of the Lease Purchase Agreement) (i) the Premises or any portion thereof is destroyed (in whole or in part) or is damaged by fire or other casualty or (ii) title to or any interest in, or the temporary use of, the Premises or any part thereof shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, the GROUND LESSOR and the GROUND LESSEE shall be obligated to continue to pay the amounts specified in the Lease Purchase Agreement and to apply the net proceeds of any insurance proceeds or condemnation award resulting from such events to rebuild or restore the Premises to substantially its condition prior to such events as provided in subsection (a) below unless the GROUND LESSOR provides the Trustee with written notice of its determination that rebuilding or restoring the Premises to such condition with such proceeds within a reasonable period of time is impracticable or would not be in the best interests of the Holders of the Bonds secured by the Lease Purchase Agreement and the Trustee's determination that the terms of such notice are reasonable under the circumstances, in which event, such proceeds shall be applied as provided in subsection (b) below. In either such event, the net proceeds of any insurance proceeds or condemnation award resulting from any events described hereinabove shall be promptly deposited with the Trustee.

(a) To the prompt repair, restoration, modification or improvement of the Premises, and the Trustee is authorized and directed to make disbursements for such purposes. Such disbursements shall be made by the Trustee only upon receipt of written requisitions therefor executed by the GROUND LESSOR. Any balance of the net proceeds remaining after such work has been completed shall be obligations secured by the Lease Purchase Agreement applied in accordance with subsection (b) below, or if the Bonds secured by the Lease Purchase Agreement have been fully paid (or provision for payment



thereof has been made in accordance with the provisions of the Lease Purchase Agreement), any balance thereof remaining shall be paid to the GROUND LESSOR or the GROUND LESSEE, as their respective interest may lie in accordance with this Ground Lease.

(b) To the redemption of the obligations secured by the Lease Purchase Agreement on the earliest practicable redemption date, provided that no part of such net proceeds may be applied for such redemption unless (1) all of the obligations secured by the Lease Purchase Agreement are to be redeemed in accordance with the Lease Purchase Agreement or (2) in the event that less than all of the obligations secured by the Lease Purchase Agreement are to be redeemed, the GROUND LESSOR shall furnish to the Trustee a certificate stating that (i) the property forming the part of the Premises that was damaged or destroyed by such casualty or was taken by such condemnation proceedings is not essential to the use or possession of the Premises by the GROUND LESSEE or (ii) the Premises has been repaired, restored, modified or improved to operate as designed.

(c) Anything to the contrary hereinabove notwithstanding, any and all insurance proceeds or condemnation awards which are payable to the Board or to the State of Florida shall be disbursed directly to such party, and shall not be disbursed or paid to the Trustee.

Section 26. CONTINUATION OF GROUND LESSOR'S RIGHTS AND OBLIGATIONS. Notwithstanding anything contained herein to the contrary, so long as GROUND LESSOR shall not be in default under the Lease Purchase Agreement, GROUND LESSOR may continue to exercise all of its right, title and interest in and to the Premises and retain all duties and obligations with respect thereto and GROUND LESSEE hereby so grants to GROUND LESSOR such right.

Section 27. SURVIVAL. The representations, warranties, terms and covenants of this Ground Lease Agreement shall survive the termination of this Ground Lease Agreement.

Section 28. MAIN LEASE NOTICES. From and after the date hereof, GROUND LESSOR shall immediately deliver to GROUND LESSEE true, correct and complete copies of any notices, demands, communications or other instruments or documents received from or given by or to the Board by GROUND LESSOR pertaining to any default under the Main Lease or in any way relating to or affecting the Main Lease or the Premises. During the term of this Ground Lease Agreement, GROUND LESSEE is irrevocably appointed as GROUND LESSOR's agent to perform those obligations under the Main Lease which have been specifically assumed by GROUND LESSEE under this Ground Lease Agreement and GROUND LESSOR and GROUND LESSEE acknowledge and agree that such agency shall be communicated to the Board, in form, scope and substance acceptable to GROUND LESSEE. Nothing herein shall impose any responsibility or obligation upon the Board to communicate or otherwise deal with the GROUND LESSEE, and the Board, at its sole option and discretion, may continue to communicate and deal with GROUND LESSOR, in its capacity as lessee under the Main Lease, in all

matters pertaining to the Main Lease, the Premises or the Property.

Section 29. [Reserved]

Section 30. INDEMNIFICATION. To the extent permitted by law, GROUND LESSOR covenants and agrees that it shall defend, indemnify and hold GROUND LESSEE and GROUND LESSEE's invitees, employees, tenants, successors and assigns harmless from all loss, damage, expense, claims and actions that GROUND LESSEE or GROUND LESSEE's invitees, employees, tenants, successors and assigns may suffer or sustain or be held liable for, arising out of or connected with (i) the construction, repair and maintenance of the Premises by GROUND LESSOR or its contractors and subcontractors; (ii) failure of GROUND LESSOR to comply with its obligations hereunder; and (iii) any breach of or default under this Ground Lease Agreement by GROUND LESSOR occurring prior to the later of the Commencement Date or the date GROUND LESSEE accepts possession of the Premises.

Section 31. DAMAGE TO THE PREMISES;HAZARDOUS SUBSTANCES. (a) GROUND LESSEE shall not do, or suffer to be done, in, on or upon the ~~{^}~~ **Premises** or as affecting said ~~{^}~~ **Premises** or adjacent properties, any act which may result in damage or depreciation of value to the ~~{^}~~ **Premises** or adjacent properties, or any part thereof. (b) GROUND LESSEE shall not generate, store, produce, place, treat, release or discharge any contaminants, pollutants or pollution, including, but not limited to, hazardous or toxic substances, chemicals or other agents on, into, or from the ~~{^}~~ **Premises** or any adjacent lands or waters in any manner not permitted by law. For the purposes of this ~~{^}~~ **Ground Lease Agreement**, "hazardous substances" shall mean and include those elements or compounds defined in 42 USC Section 9601 or which are contained in the list of hazardous substances adopted by the United States Environmental Protection Agency (EPA) and the list of toxic pollutants designated by the United States Congress or the EPA or defined by any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance, material, pollutant or contaminant. "Pollutants" and "pollution" shall mean those products or substances defined in ~~{^}~~ Chapters 376 and 403, Florida Statutes, and the rules promulgated thereunder, all as amended or updated from time to time. In the event of GROUND LESSEE'S failure to comply with this paragraph, GROUND LESSEE shall, at its sole cost and expense, promptly commence and diligently pursue any legally required closure, investigation, assessment, cleanup, decontamination, remediation, restoration and monitoring of (1) the ~~{^}~~ **Premises**, and (2) all off-site ground and surface waters and lands affected by GROUND LESSEE'S such failure to comply, as may be necessary to bring the ~~{^}~~ **Premises** and affected off-site waters and lands into full compliance with all applicable federal, state or local statutes, laws, ordinances, codes, rules, regulations, orders and decrees, and to restore the damaged property to the condition existing immediately prior to the occurrence which caused the damage. GROUND LESSEE'S obligations set forth in this paragraph shall survive the termination or expiration of this ~~{^}~~ **Ground Lease Agreement**. Nothing herein shall relieve GROUND LESSEE of any responsibility or liability prescribed by law for fines, penalties and damages

levied by governmental agencies, and the cost of cleaning up any contamination caused directly or indirectly by GROUND LESSEE'S activities or facilities. Upon discovery of a release of a hazardous substance or pollutant, or any other violation of local, state or federal law, ordinance, code, rule, regulation, order or decree relating to the generation, storage, production, placement, treatment, release or discharge of any contaminant, GROUND LESSEE shall report such violation to all applicable governmental agencies having jurisdiction, and to GROUND LESSOR, all within the reporting periods of the applicable governmental agencies.

IN WITNESS WHEREOF, GROUND LESSOR and GROUND LESSEE have caused this Ground Lease Agreement to be executed in duplicate, either of which may be considered an original, the day and year first above written.

GROUND LESSOR

FLORIDA STATE UNIVERSITY  
SCHOOLS, INC. , a **Florida not for  
profit corporation**

BY: \_\_\_\_\_(SEAL)

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print/Type Witness Name

\_\_\_\_\_  
Print/Type Name

Title: \_\_\_\_\_

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print/Type Witness Name

STATE OF FLORIDA  
COUNTY OF LEON

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2000, by \_\_\_\_\_, as \_\_\_\_\_, Florida State University Schools, Inc., a **Florida not for profit corporation, on behalf of the corporation.** He/she is personally known to me or produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public, State of Florida (SEAL)

\_\_\_\_\_  
Print/Type Notary Name

Commission Number:

Commission Expires:

GROUND LESSEE

CITY OF TALLAHASSEE, FLORIDA

BY: \_\_\_\_\_(SEAL)

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print/Type Witness Name

\_\_\_\_\_  
Print/Type Name

Title: \_\_\_\_\_

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print/Type Witness Name

STATE OF FLORIDA  
COUNTY OF LEON

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2000, by \_\_\_\_\_, as \_\_\_\_\_, City of Tallahassee, Florida. He/she is personally known to me or produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public, State of Florida (SEAL)

\_\_\_\_\_  
Print/Type Notary Name

Commission Number:

Commission Expires:

EXHIBIT A

Legal Description of Real Property Leased Under Ground Lease

## EXHIBIT B

### Description of Improvements

This redlined draft, generated by CompareRite (TM) - The Instant Redliner, shows the differences between

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original document : J:\BONDS\99\3287\GROUNDSSUBLEASE.WPD.DOC

and revised document: J:\BONDS\99\3287\GSUBLEASE2.WPD.DOC

CompareRite found 23 change(s) in the text

Deletions appear as a Strikethrough ^ surrounded by { }

Additions appear as Bold text