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**ASSET ACQUISITION AUTHORITY, INC.,  
AS LESSOR  
AND  
REGIONAL TRANSPORTATION DISTRICT,  
AS LESSEE**

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**LEASE PURCHASE AGREEMENT**

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DATED AS OF DECEMBER 28, 2016

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## LEASE PURCHASE AGREEMENT

THIS LEASE PURCHASE AGREEMENT (this "Lease") dated as of December 28, 2016, entered into by and between the ASSET ACQUISITION AUTHORITY, INC. (the "Corporation"), a nonprofit corporation duly organized and validly existing under the laws of the State of Colorado, as lessor, and the REGIONAL TRANSPORTATION DISTRICT, a public body corporate and politic and a political subdivision of the State of Colorado duly organized and existing under the laws of the State of Colorado (the "District"), as lessee;

WITNESSETH:

WHEREAS, the District is authorized by part 1 of article 9 of title 32, Colorado Revised Statutes (the "Act") to develop, maintain and operate a mass transportation system (the "System") and in connection therewith to purchase or otherwise acquire personal property; and

WHEREAS, the Corporation is a nonprofit corporation organized, existing and in good standing under the laws of the State of Colorado (the "State"), is duly qualified to do business in the State, and, under its articles and bylaws, is authorized to own and manage its properties, to conduct its affairs in the State and to act in the manner contemplated herein; and

WHEREAS, the District previously determined that it was in the best interest of the District to acquire by lease-purchase certain vehicles and certain real property, including a facility that has been constructed on such real property, all to be used in the System (the "2002A Project"); and

WHEREAS, the Corporation and the District previously entered into an annually renewable Master Lease Purchase Agreement dated as of July 1, 2002, as amended and restated by the Amended and Restated Master Lease Purchase Agreement dated as of January 1, 2004, and the First Amendment to Amended and Restated Master Lease Purchase Agreement dated as of June 1, 2007 (as so amended and restated, the "2002A Master Lease") pursuant to which the District has leased from the Corporation the 2002A Project, consisting of certain real property and a multi-story facility of approximately 125,000 square feet that is located on such real property and which serves as the headquarters for the District's Southeast Corridor light rail operations (the "2002A Site and Building"), certain maintenance facility equipment (the "2002A Equipment") and 34 light rail vehicles (the "2002A Light Rail Vehicles" and collectively, the "2002A Leased Property"); and

WHEREAS, the Corporation and U.S. Bank National Association, as Trustee (the "2002A Trustee"), have entered into a Mortgage and Indenture of Trust dated as of July 1, 2002, as amended and restated by the Amended and Restated Mortgage and Indenture of Trust dated as of January 1, 2004, and by the First Supplement to Amended and Restated Mortgage and Indenture of Trust dated as of April 1, 2007 (as so amended and restated, the "2002A Indenture"); and

WHEREAS, there are currently outstanding the "Regional Transportation District, Amended and Restated Adjustable Rate Certificates of Participation (2002A Transit Vehicles Project), Series 2002A" (the "2002A Certificates"), evidencing assignments of proportionate

interests in rights to receive certain revenues under the 2002A Master Lease, which were executed and delivered pursuant to the 2002A Indenture; and

WHEREAS, the interest rate on the 2002A Certificates has been converted to a fixed interest rate; and

WHEREAS, the District has determined that it is in the best interest of the District to refinance the 2002A Leased Property by refunding all of the outstanding 2002A Certificates (the "Refunding Project") and the District has determined to apply the moneys received in connection with the execution of this Lease, together with other available moneys of the District, to effectuate the Refunding Project; and

WHEREAS, in connection with the Refunding Project, the 2002A Site and Building and the 2002A Equipment will be conveyed to the District and released from the lien of the 2002A Indenture, and the 2002A Light Rail Vehicles that comprised a portion of the 2002A Leased Property will continue to be owned by the Corporation and leased to the District pursuant to this Lease, as more specifically set forth in Exhibit A attached hereto, as it may be amended from time to time in accordance herewith (collectively, the "2016A Leased Property"); and

WHEREAS, in connection with the execution and delivery of this Lease and the financing of the Refunding Project, the Corporation will enter into a Purchase and Assignment Agreement dated as of December 28, 2016 (as amended or supplemented from time to time, the "Assignment Agreement"), with JPMorgan Chase Bank, N.A. (the "Registered Owner"), pursuant to which the Registered Owner will pay the Purchase Price (as defined therein) to the Corporation, and the Corporation will assign (with certain exceptions) all of its rights, title and interest in, to and under this Lease to the Registered Owner; and

WHEREAS, the net proceeds received from payment of the Purchase Price will be deposited in an Escrow Account pursuant to the Escrow Agreement (as hereinafter defined) to effectuate the Refunding Project; and

WHEREAS, the Assignment Agreement shall evidence the rights to receive Lease Revenues (as hereinafter defined) and shall be payable solely from the sources herein provided, and the Base Rentals and Additional Rentals (both as hereinafter defined) payable by the District hereunder shall constitute currently appropriated expenditures of the District, and shall not constitute a general obligation or other indebtedness of the District or multiple fiscal year direct or indirect debt or other financial obligation whatsoever or a mandatory charge or requirement against the District in any Fiscal Year (as hereinafter defined) beyond the then current Fiscal Year; and

WHEREAS, the Refunding Project and the execution, delivery and performance by the District of this Lease have been duly authorized and approved by the District; and

WHEREAS, the execution, delivery and performance of this Lease and the Assignment Agreement by the Corporation have been duly authorized and approved by the board of directors of the Corporation;

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

## **ARTICLE I DEFINITIONS**

The following terms shall have the meanings set forth below.

“2002A Certificates” means the “Amended and Restated Adjustable Rate Certificates of Participation (2002A Transit Vehicles Project), Series 2002A, Evidencing Assignments of Proportionate Interests in Rights to Receive Certain Revenues Pursuant to an Amended and Restated Master Purchase Agreement, between RTD Asset Acquisition Authority, Inc., as Lessor, and Regional Transportation District, as Lessee.”

“2002A Equipment” means certain maintenance facility equipment that was financed with the proceeds of the 2002A Certificates, as further set forth in the 2002A Master Lease.

“2002A Indenture” has the meaning set forth in the recitals to this Lease.

“2002A Leased Property” means, collectively, the 2002A Site and Building, the 2002A Equipment and the 2002A Light Rail Vehicles.

“2002A Light Rail Vehicles” means 34 articulated six axle electrically powered light rail vehicles that were acquired pursuant to RTD Contract No. 12FR201 with Siemens Transportation Systems, Inc. that were financed with the proceeds of the 2002A Certificates, as further set forth in the 2002A Master Lease.

“2002A Master Lease” has the meaning set forth in the recitals to this Lease.

“2002A Site and Building” means certain real property and a multi-story facility of approximately 125,000 square feet that is located on such real property and which serves as the headquarters for the District’s Southeast Corridor light rail operations, that were financed with the proceeds of the 2002A Certificates, as further set forth in the 2002A Master Lease.

“2016A Leased Property” means, collectively, the 2002A Light Rail Vehicles that comprised a portion of the 2002A Leased Property, and any other property that is subject to this Lease, as set forth in Exhibit A, as it may be amended from time to time or supplemented, and any property acquired in replacement or substitution therefor pursuant to the provisions of this Lease.

“Act” means part 1 of article 9 of title 32, Colorado Revised Statutes, as the same may be amended from time to time.

“Additional Rentals” means the cost of all taxes, insurance premiums, reasonable expenses and fees of the Corporation, costs of maintenance, upkeep, repair, restoration, modification, improvement and replacement, and all other charges and costs, including reasonable attorneys’ fees, which the District assumes or agrees to pay hereunder with respect to the 2016A Leased Property. Additional Rentals do not include Base Rentals.

“Anti-Corruption Laws” means all laws, rules, and regulations of any jurisdiction applicable to the District from time to time concerning or relating to bribery or corruption.

“Assignment Agreement” means the Purchase and Assignment Agreement dated December 28, 2016, by and between the Corporation and JPMorgan Chase Bank, N.A., as the initial Registered Owner.

“Base Rentals” means the payments payable by the District pursuant to Section 6.2 hereof and Exhibit B hereto, as it may be amended hereunder, during the Initial Term and any Renewal Term, which constitute the payments payable by the District for and in consideration of the right to use the 2016A Leased Property during the Lease Term.

“Base Rental Payment Dates” means semiannual payments due on June 1 and December 1 of each Fiscal Year during the Lease Term beginning on June 1, 2017, all as more specifically set forth in Exhibit B hereto.

“Board” means the Board of Directors of the District.

“Business Day” means any day other than a Saturday, Sunday, legal holiday, or other day on which banking institutions in the City and County of Denver, Colorado are authorized or required by law to close and other than a day on which the New York Stock Exchange is closed.

“Corporation” means the Asset Acquisition Authority, Inc., a Colorado nonprofit corporation, or any successor thereto. The Corporation was previously known as the RTD Asset Acquisition Authority, Inc.

“Corporation Representative” means any duly qualified director of the Corporation and any other person or persons at the time designated to act on behalf of the Corporation under this Lease or the Assignment Agreement by a written certificate furnished to the District and the Registered Owner containing the specimen signature of such person or persons and signed on behalf of the Corporation by any duly authorized officer of the Corporation. The designation of the Corporation Representative may be changed by the Corporation from time to time by furnishing a new certificate to the District and the Registered Owner.

“District Representative” means the General Manager or Chief Financial Officer of the District and any other person or persons at the time designated to act on behalf of the District for the purposes of performing any act under this Lease or the Assignment Agreement by a written certificate furnished to the Registered Owner and the Corporation containing the specimen signature of such person or persons and signed by the Chair of the Board of Directors of the District. The designation of the District Representative may be changed by the District from time to time by furnishing a new certificate to the Registered Owner and the Corporation.

“Escrow Account” means the escrow account created in the Escrow Agreement to effectuate the refunding of the Refunded Certificates.

“Escrow Agreement” means the Escrow Agreement dated as of the date of execution and delivery of this Lease, between the Corporation and U.S. Bank National Association, as escrow agent.

“Event of Default” means one or more events as defined in Section 14.1 hereof.

“Event of Nonappropriation” means the non-renewal of this Lease by the District, determined by the Board’s failure, for any reason, to specifically budget and appropriate with respect to this Lease by the last day of each Fiscal Year, or a failure to adopt a supplemental specific budget and appropriation with respect to this Lease prior to the date in any Fiscal Year when Additional Rentals exceed the amount appropriated for Additional Rentals (i) sufficient amounts to be used to pay all Base Rentals when due in the next Fiscal Year, and (ii) sufficient amounts to pay such Additional Rentals as are estimated to become due in the next Fiscal Year or, with respect to any supplemental budget and appropriation due in the current Fiscal Year (as provided in Section 6.2 hereof), all as more specifically set forth in Section 6.6 hereof. The term also includes the event described in the second paragraph of Section 6.6 hereof. An Event of Nonappropriation may also occur under certain circumstances described in Section 10.3(c) hereof.

“Extraordinary Revenues” means (i) the Purchase Option Price, if paid; (ii) all Net Proceeds, if any, of casualty insurance, performance bonds, condemnation awards and any Net Proceeds received as a consequence of defaults or breaches of warranty under any contract relating to the 2016A Leased Property or otherwise in connection with the 2016A Leased Property, not applied to the repair, restoration, modification, improvement or replacement of the 2016A Leased Property; and (iii) all Net Proceeds, if any, derived from the sale, repossession, liquidation, leasing or other disposition of all or a portion the 2016A Leased Property by the Registered Owner pursuant to the Assignment Agreement.

“Federal Securities” means non-callable bills, certificates of indebtedness, notes or bonds which are direct obligations of, or the principal of and interest on which are unconditionally guaranteed by, the United States of America.

“Fiscal Year” means the District’s fiscal year, which begins on January 1 of any year and ends on December 31 of such year or any other twelve-month period adopted as the District’s fiscal year.

“Force Majeure” means, without limitation, the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America or of the State or any of their departments, agencies or officials or any civil or military authority; insurrection; riots; landslides; earthquakes; fires; storms; droughts; floods; explosions; breakage or accidents to machinery, transmission pipes or canals; or any other causes not within the control of the District.

“Initial Term” means the period which commences on the date of delivery of this Lease and terminates on December 31, 2016.

“Interest Component Rate” means the per annum rate of interest used to calculate the interest component of Base Rentals. The Interest Component Rate is 1.903%.

“Lease” means this Lease Purchase Agreement and any amendments or supplements hereto, including all exhibits hereto and thereto.



"Lease Remedy" "Lease Remedies" means any or all remedial steps provided in Section 14.2 of this Lease whenever an Event of Default hereunder has happened and is continuing.

"Lease Revenues" means (i) Extraordinary Revenues, if any; (ii) the Base Rentals, including any prepayment of Base Rentals; (iii) all other revenues derived from this Lease, excluding Additional Rentals; and (vi) any other moneys to which the Registered Owner may be entitled under the Assignment Agreement.

"Lease Term" means the Initial Term and any Renewal Terms as to which the District may exercise its option to renew this Lease by effecting an appropriation of funds for the payment of Base Rentals and Additional Rentals hereunder, as provided in and subject to the provisions of this Lease. "Lease Term" refers to the time during which the District is the lessee of the 2016A Leased Property under this Lease.

"Net Proceeds" when used with respect to any performance or payment bond proceeds, or proceeds of insurance or bonds required hereby or any condemnation award, or any proceeds resulting from default or breaches of warranty under any contract relating to the 2016A Leased Property or otherwise in connection with the 2016A Leased Property, or proceeds from any Lease Remedy, or proceeds from the sale or trade-in of 2016A Leased Property by the District pursuant to Section 9.3 hereof (in which event the proceeds of a trade-in shall be deemed to be the amount of any credit received upon such trade-in), means the amount remaining after deducting from such proceeds thereof (i) all expenses (including, without limitation, attorneys' fees and costs) incurred in the collection of such proceeds or award; and (ii) all other fees, expenses and payments due to the Registered Owner or the Corporation.

"Permitted Encumbrances" means, as of any particular time, (i) liens which may remain unpaid pursuant to the provisions of Articles VIII of this Lease; (ii) this Lease and the Assignment Agreement; (iii) restrictions and exceptions which the District Representative certifies will not interfere with or impair the effective use or operation of the 2016A Leased Property; (iv) any financing statements or certificates of title filed to perfect security interests pursuant to this Lease or the Assignment Agreement; (v) any encumbrance represented by *financing statements filed to perfect purchase money security interests in any or all of the 2016A Leased Property*; (vi) any verified statements of amounts due and unpaid pursuant to Section 38-26-107 of the Colorado Revised Statutes, as amended; (vii) such minor defects, irregularities, encumbrances or clouds on title as normally exist with respect to property of the general character of the 2016A Leased Property and as do not, in the opinion of the District Representative, materially impair title to the Leased Property.

"Purchase Option Price" means the amount payable on any date, at the option of the District, to prepay all Base Rentals due hereunder, terminate this Lease and purchase the 2016A Leased Property pursuant to Article XII hereof. For the period from the date hereof through December 28, 2017, the Purchase Option Price shall be an amount equal to the amount necessary to pay all Base Rentals as they come due prior to such date plus the Remaining Lease Balance as of December 28, 2017, and all interest accrued but otherwise unpaid through such date, without premium. After December 28, 2017, the Purchase Option Price shall consist of the Remaining Lease Balance shown in Exhibit B hereto as of the last Base Rental Payment Date preceding the

termination of this Lease, plus the interest component of Base Rentals accrued through the date of such termination, without premium.

“Refunded Certificates” means all of the outstanding 2002A Certificates.

“Refunding Project” means, collectively, refinancing the 2002A Leased Property by effectuating the payment, refunding and defeasance of the Refunded Certificates and paying the costs of execution and delivery of this Lease and related documents.

“Registered Owner” means the registered owner of the Assignment Agreement, according to the records maintained by the Registrar. The initial Registered Owner is JPMorgan Chase Bank, N.A.

“Registrar” means the Chief Financial Officer of the District.

“Remaining Lease Balance” means, as of any particular date, the Remaining Lease Balance stated for the last preceding Base Rental Payment Date in Exhibit B together with any installments of the principal component of Base Rentals which have previously come due and remain unpaid.

“Renewal Term” means any portion of the Lease Term commencing on January 1 of any calendar year and terminating on or before December 31 of such calendar year as provided in Article IV of this Lease.

“Sanctions” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State.

“Sanctioned Country” means, at any time, a country or territory which is itself the subject or target of any Sanctions (at the time of this Lease, Cuba, Iran, North Korea, Sudan and Syria).

“Sanctioned Person” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, (b) any Person operating, organized or resident in a Sanctioned Country or (c) any Person owned or controlled by any such Person or Persons described in the foregoing clauses (a) or (b).

“System” means the mass transportation system developed, maintained and operated by the District.

“Tax Certificate” means the Tax Compliance Certificate entered into by the District with respect to this Lease.

“Tax Code” means the Internal Revenue Code of 1986, as amended, and all regulations and rulings promulgated thereunder.

## ARTICLE II REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 2.1 Representations, Covenants and Warranties of the District. The District represents, covenants and warrants, for the benefit of the Corporation and the Registered Owner, as follows:

(a) The District is a political subdivision duly organized and existing under the Constitution and laws of the State. The District is authorized by the Act and otherwise to enter into the transactions contemplated by this Lease and to carry out the obligations of the District hereunder. The delivery and performance of this Lease has been duly authorized and approved. This Lease has been duly executed by an authorized officer of the District and constitutes a legal, valid and binding obligation of the District enforceable against the District in accordance with its terms, subject to any applicable bankruptcy, insolvency, moratorium or other similar laws or equitable principals affecting the enforcement of creditor's rights generally or against governmental entities such as the District and liens securing such rights.

(b) The District agrees that the proceeds of the Assignment Agreement will be used to effectuate the Refunding Project.

(c) Nothing in this Lease shall be construed as diminishing, unlawfully delegating or otherwise restricting any of the sovereign powers of the District. Nothing in this Lease shall be construed to require the District to operate the 2016A Leased Property other than as lessee, or to require the District to exercise its option to purchase the 2016A Leased Property as provided in Article XII hereof.

(d) The Refunding Project, under the terms and conditions provided for in this Lease, is necessary, essential and in furtherance of the District's governmental purposes, is in furtherance of the purposes of the Act, serves a public purpose and is in the best interests of the District and its inhabitants.

(e) During the Lease Term, the 2016A Leased Property will at all times be used by the District for the purpose of performing one or more lawful governmental functions. The District expects that the 2016A Leased Property will adequately serve the needs for which it is being leased throughout the Lease Term.

(f) Neither the execution and delivery hereof, nor the fulfillment of or compliance with the terms and conditions hereof, nor the consummation of the transactions contemplated hereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the District is now a party or by which the District is bound, or constitutes a default under any of the foregoing or results in the creation or imposition of a lien or encumbrance whatsoever upon any of the property or assets of the District, except for Permitted Encumbrances.

(g) There is no litigation or proceeding pending against the District affecting the right of the District to execute this Lease or the ability of the District to make the

payments required hereunder or to otherwise comply with the obligations contained herein, or which, if adversely determined, would, in the aggregate or in any case, materially adversely affect the property, assets, financial condition or business of the District or materially impair the right or ability of the District to carry on its operations substantially as now conducted or anticipated to be conducted in the future.

(h) The District covenants and agrees to comply with any applicable covenants and requirements of the District set forth in the Tax Certificate.

(i) The District and its officers and, to the knowledge of the District, its directors, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects. To the knowledge of the District, none of the District's directors or officers, or any agent or employee of the District that will act in any capacity in connection with or benefit from this Lease, is a Sanctioned Person. Neither the Lease, any borrowing hereunder, the use of proceeds or other transaction contemplated by this Lease will violate any Anti-Corruption Law or applicable Sanctions.

(j) The District shall not use, and shall ensure that its directors, officers, employees and agents shall not use, the proceeds of the Lease or the 2016A Leased Property (A) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (B) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, or (C) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

(k) The District represents that, under Section 24-10-106, C.R.S., its governmental immunity is limited to claims for injury which lie in tort or could lie in tort and does not apply to contractual obligations such as this Lease.

(l) If and to the extent the District, its officers, employees or agents posts any information regarding the Lease, the Assignment Agreement or the Registered Owner on EMMA or any other public information repository, the District agrees that information regarding pricing; financial ratio covenants; names of authorized signatories of the Registered Owner; bank account numbers; bank wire transfer information; and payment instructions regarding the Lease, and any additional information as directed by the Registered Owner, shall be redacted from any such postings or other disclosure by the District.

(m) Subject to annual appropriation, the District agrees to pay or reimburse the Registered Owner for all its reasonable and documented out-of-pocket costs and expenses incurred in connection with the preparation, execution, delivery, administration, modification and amendment of the Lease, the Assignment Agreement and related documents, certificates and opinions. Subject to annual appropriation, the District further agrees to pay all reasonable costs and expenses of Registered Owner, if any, in connection with the enforcement (whether through negotiations, legal proceedings or otherwise) of the Lease, the Assignment Agreement and related documents.

(n) The District agrees that the initial Registered Owner may provide any information or knowledge the Registered Owner may have about the District or about any matter relating to the 2016A Leased Property, this Lease and related matters to JPMorgan Chase & Co, or any of its subsidiaries or affiliates or their successors, or to any purchaser or potential purchaser of the Assignment Agreement.

Section 2.2 Representations, Covenants and Warranties of the Corporation. The Corporation represents, covenants and warrants, for the benefit of the District and the Registered Owner, as follows:

(a) The Corporation is a nonprofit corporation duly organized, existing and in good standing under the laws of the State, is duly qualified to do business in the State, has all necessary power to enter into this Lease, is possessed of full power to own, hold and lease (as lessor or lessee) personal property and has duly authorized the execution and delivery of this Lease. This Lease has been duly executed by an authorized officer of the Corporation and constitutes a legal, valid and binding obligation of the Corporation enforceable against the Corporation in accordance with its terms, subject to any applicable bankruptcy, insolvency, moratorium or other similar laws or equitable principals affecting the enforcement of creditor's rights generally and liens securing such rights.

(b) The Corporation will not pledge or assign the Lease Revenues or any of its other rights under this Lease except pursuant to the Assignment Agreement, and will not encumber the 2016A Leased Property except for Permitted Encumbrances.

(c) Neither the execution and delivery hereof, nor the fulfillment of or compliance with the terms and conditions hereof, nor the consummation of the transactions contemplated hereby, conflicts with or results in a breach of the terms, conditions and provisions of any restriction or any agreement or instrument to which the Corporation is now a party or by which the Corporation is bound or constitutes a default under any of the foregoing.

(d) Except as specifically provided in this Lease and the Assignment Agreement, the Corporation will not assign this Lease, its rights to payments from the District, nor its duties and obligations hereunder to any other person, firm or corporation so as to impair or violate the representations, covenants and warranties contained in this Section 2.2.

(e) The Corporation acknowledges and recognizes that this Lease will be terminated upon the occurrence of an Event of Nonappropriation and that such event is a legislative act and, as such, is solely within the discretion of the Board.

(f) To the Corporation's knowledge, there is no litigation or proceeding pending against the Corporation affecting the right of the Corporation to execute and deliver this Lease or the Assignment Agreement or to perform its obligations thereunder.

(g) The Corporation and its officers and, to the knowledge of the Corporation, its directors, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects. To the knowledge of the District, none of the District's directors or officers, or any agent of the Corporation that will act in any capacity in connection with or benefit from this Lease, is a Sanctioned Person. Neither the Lease, the Assignment Agreement, any borrowing hereunder, the use of proceeds or other transaction contemplated by this Lease or the Assignment Agreement will violate any Anti-Corruption Law or applicable Sanctions.

### **ARTICLE III DEMISING CLAUSE**

The Corporation demises and leases the 2016A Leased Property to the District, and the District leases the 2016A Leased Property from the Corporation, in accordance with the provisions of this Lease, subject only to Permitted Encumbrances, to have and to hold for the Lease Term.

### **ARTICLE IV LEASE TERM**

Section 4.1 Duration of the Lease Term. The Lease Term shall commence as of the date hereof. The Initial Term shall terminate on December 31, 2016. This Lease may be renewed, solely at the option of the District, for six (6) Renewal Terms, with the Lease Term terminating no later than June 1, 2022. The District hereby finds that the maximum Lease Term hereunder does not exceed the weighted average useful life of the 2016A Leased Property. The District further determines and declares that the period during which the District has an option to purchase the 2016A Leased Property (i.e. the entire maximum Lease Term) does not exceed the useful life of the 2016A Leased Property.

The District has duly adopted a supplemental budget and appropriation for the Fiscal Year beginning January 1, 2017, and the Lease Term has been renewed for the Fiscal Year beginning January 1, 2017 through December 31, 2017.

The General Manager of the District or other officer of the District at any time charged with the responsibility of formulating budget proposals for the District is hereby directed to include in the annual budget proposals submitted to the Board, in any year in which this Lease shall be in effect, items for all payments required for the ensuing Renewal Term under this Lease until such time, if any, as the District may determine to not renew and terminate this Lease. Notwithstanding this directive regarding the formulation of budget proposals, it is the intention of the District that any decision to effect an appropriation for the Base Rentals and Additional Rentals shall be made solely by the Board and not by any other official of the District. During the Lease Term, the District shall in any event, whether or not the Lease is to be renewed, furnish the Registered Owner with copies of its annual budget promptly after the budget is adopted.

In the event that the District shall determine, for any reason, to exercise its annual right to not renew and terminate this Lease, the District shall give written notice to such effect to the Registered Owner and the Corporation not later than seven days prior to the end of the Initial

Term or the then current Renewal Term; provided, however, that a failure to give such notice shall not constitute an Event of Default, nor prevent the District from declining to renew this Lease, nor result in any liability on the part of the District. The exercise of the District's annual option to renew or not renew this Lease shall be conclusively determined by the District's failure, for any reason, to specifically budget and appropriate with respect to this Lease by the last day of each Fiscal Year or a failure to adopt a supplemental specific budget and appropriation prior to the date in any Fiscal Year when Additional Rentals exceed the amount appropriated for Additional Rentals (i) sufficient amounts to be used to pay all Base Rentals when due in the next Fiscal Year and (ii) sufficient amounts to pay such Additional Rentals as are estimated to become due in the next Fiscal Year or, with respect to any supplemental budget and appropriation, due in the current Fiscal Year (as provided in Section 6.2 hereof), all as more specifically set forth in Section 6.6 hereof or upon the occurrence of an event described in the second paragraph of Section 6.6 hereof, all as further provided in Section 6.6 hereof.

The terms and conditions during any Renewal Term shall be the same as the terms and conditions during the Initial Term, except that the Base Rentals shall be as provided in Exhibit B to this Lease.

Section 4.2 Termination of the Lease Term. The Lease Term shall terminate upon the earliest of any of the following events:

- (a) the expiration of the Initial Term or any Renewal Term during which there occurs an Event of Nonappropriation pursuant to Section 4.1 and Article VI of this Lease (provided that the Lease Term shall not be deemed to have been terminated in the event that the Event of Nonappropriation is cured as provided in Section 6.6(c) or (d) hereof);
- (b) the occurrence of an Event of Nonappropriation under this Lease (provided that the Lease Term will not be deemed to have been terminated if the Event of Nonappropriation is cured as provided in Section 6.6(c) or (d) hereof);
- (c) the conveyance of the 2016A Leased Property to the District upon payment of the Purchase Option Price or the payment by the District of all Base Rentals for the entire Lease Term, and all Additional Rentals then due, up to the amount specifically appropriated for the payment of Additional Rentals, as provided in Article XII hereof; or
- (d) An uncured Event of Default and termination of this Lease as provided in Article XIV hereof.

Termination of the Lease Term shall terminate all unaccrued obligations of the District under this Lease. If the termination occurs because of the occurrence of an Event of Nonappropriation or an Event of Default, the District's right to possession of the 2016A Leased Property hereunder shall terminate and (i) the District shall, within 30 days of receiving written notice from the Registered Owner or the Corporation, surrender the 2016A Leased Property to the Corporation; and (ii) if and to the extent the Board has appropriated funds for the payment of Base Rentals and Additional Rentals during the period between the termination of the Lease Term and the date the 2016A Leased Property is surrendered pursuant to clause (i), the District

shall pay such appropriated Base Rentals and Additional Rentals for such time as the District continues to use the 2016A Leased Property. All other provisions of this Lease, including all obligations of the District accrued prior to such termination, shall be continuing until the Remaining Lease Balance has been paid in full.

## **ARTICLE V ENJOYMENT OF 2016A LEASED PROPERTY**

The Corporation hereby covenants that during the Lease Term the District shall peaceably and quietly have and hold and enjoy the 2016A Leased Property without suit, trouble or hindrance from the Corporation, except as expressly required or permitted by this Lease or the Assignment Agreement. The Corporation shall not interfere with the quiet use and enjoyment of the 2016A Leased Property by the District during the Lease Term so long as no Event of Nonappropriation or Event of Default shall have occurred. The Corporation shall, at the request of the District and at the cost of the District, but only to the extent amounts for Additional Rentals which have been specifically appropriated by the District are available for the payment of such costs, join and cooperate fully in any legal action in which the District asserts its right to such possession and enjoyment, or which involves the imposition of any taxes or other governmental charges on or in connection with the 2016A Leased Property. In addition, the District may at its own expense join in any legal action affecting its possession and enjoyment of the 2016A Leased Property and shall be joined in any action affecting its liabilities hereunder.

The District also hereby consents to the inspection by the Corporation and the Registered Owner of the 2016A Leased Property and all books, accounts and records maintained by the District with respect to the 2016A Leased Property and this Lease.

## **ARTICLE VI PAYMENTS BY THE DISTRICT**

Section 6.1 Payments to Constitute Currently Appropriated Expenditures of the District. The District and the Corporation acknowledge and agree that the Base Rentals and Additional Rentals hereunder shall constitute currently appropriated expenditures of the District and may be paid from any legally available funds. The District's obligations under this Lease shall be subject to the District's annual right to terminate this Lease (as further provided in Sections 4.1, 4.2, 6.2 and 6.6 hereof), and shall not constitute a mandatory charge or requirement in any Fiscal Year beyond the then current Fiscal Year. No provision of this Lease shall be construed or interpreted as creating a general obligation or other indebtedness of the District or a multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the District within the meaning of any constitutional or statutory debt limitation. No provision of this Lease shall be construed or interpreted as creating a delegation of governmental powers nor as a donation by or a lending of the credit of the District, within the meaning of Sections 1 or 2 of Article XI of the Constitution of the State. Neither this Lease nor the execution and delivery of the Assignment Agreement shall directly or indirectly obligate the District to make any payments beyond those specifically appropriated for its then current Fiscal Year. The District shall be under no obligation whatsoever to exercise its option to purchase the 2016A Leased Property. No provision of this Lease shall be construed to pledge or to create a lien on any class or source



of moneys of the District, nor shall any provision of this Lease restrict the future issuance of any obligations of the District, payable from any class or source of moneys of the District.

Section 6.2 Base Rentals and Additional Rentals. The District shall pay Base Rentals directly to the Registered Owner, as the Corporation's assignee under the Assignment Agreement, during the Lease Term, on the due dates set forth in Exhibit B attached hereto and made a part hereof, as it may be amended or supplemented from time to time with the prior written consent of the Registered Owner. The Base Rentals during the Lease Term shall be in an amount equal to the amounts in the "Total Base Rentals" column, as set forth in Exhibit B.

The District shall pay Additional Rentals during the Lease Term as herein provided. All Additional Rentals shall be paid by the District on a timely basis directly to the person or entity to which such Additional Rentals are owed. The Additional Rentals during the Lease Term shall be estimated annually by the General Manager of the District (or any other officer at any time charged with the responsibility of formulating budget proposals for the District) and shall be in an amount sufficient to pay the following costs during the next ensuing Fiscal Year: (i) the cost of insurance premiums on the 2016A Leased Property, (iii) the cost of maintenance, upkeep and repair costs of the 2016A Leased Property; (iii) any rebate payments required to be made pursuant to the Tax Compliance Certificate; and (iv) all other costs expressly required to be paid by the District as Additional Rentals hereunder. In the event the Lease Term is renewed for the next ensuing Renewal Term, the District's obligation under this Lease to pay Additional Rentals during such Renewal Term shall be limited to the amount so appropriated for Additional Rentals in accordance with the procedures described above and any amounts subsequently appropriated by supplemental appropriation for payment of Additional Rentals during such Renewal Term. Additional Rental obligations in excess of the amounts so appropriated shall in no event be due or owing from the District.

Section 6.3 Interest Component. A portion of each payment of Base Rentals is paid as, and represents payment of, interest, and Exhibit B hereto, as it may be amended and supplemented from time to time, sets forth the interest component of each payment of Base Rentals.

Section 6.4 Manner of Payment. The Base Rentals and, if paid, the Purchase Option Price, shall be paid by lawful money of the United States of America to the Registered Owner, as the Corporation's assignee under the Assignment Agreement, at the address set forth in the registration records of the Registrar, or as otherwise directed in writing by the Registered Owner. The obligation of the District to pay the Base Rentals and Additional Rentals required under this Article VI and other sections hereof, during the Lease Term, shall, subject to the provisions of Section 6.6 hereof, be absolute and unconditional, and payment of the Base Rentals and Additional Rentals shall not be abated through accident or unforeseen circumstances, or for any other reason, including, without limitation, any acts or circumstances that may constitute failure of consideration, destruction of or damage to the 2016A Leased Property, commercial frustration of purpose, or failure of the Corporation to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Lease. Notwithstanding any dispute between the District and the Corporation or any other dispute arising hereunder or in connection herewith, the District shall, during the Lease Term, make all payments of Base Rentals and Additional Rentals when due and shall not withhold any Base

Rentals or Additional Rentals pending final resolution of any dispute (except to the extent permitted by Sections 8.2 with respect to certain Additional Rentals), nor shall the District assert any right of set-off or counter-claim against its obligation to make such payments required hereunder; provided, however, that the making of such payments shall not constitute a waiver by the District of any rights, claims or defenses which the District may assert. No action or inaction on the part of the Corporation or the Registered Owner shall affect the District's obligation to pay Base Rentals and Additional Rentals (except to the extent provided by Sections 8.2 hereof with respect to certain Additional Rentals) during the Lease Term.

Section 6.5 Necessity of 2016A Leased Property; Determinations as to Fair Market Value and Fair Purchase Price. The District has determined and hereby determines that it has a current need for the 2016A Leased Property. It is the present intention and expectation of the District that this Lease will be renewed annually until title to the 2016A Leased Property is acquired by the District pursuant to this Lease; but this declaration shall not be construed as contractually obligating or otherwise binding the District. The District has determined and hereby determines that the Base Rentals under this Lease during the Lease Term for the 2016A Leased Property represent the fair value of the use of the 2016A Leased Property and that the Purchase Option Price for the 2016A Leased Property will represent the fair purchase price of the 2016A Leased Property at the time of the exercise of the option. The District has determined and hereby determines that the Base Rentals do not exceed a reasonable amount so as to place the District under an economic compulsion to renew this Lease or to exercise its option to purchase the 2016A Leased Property hereunder. In making such determinations, the District has given consideration to the estimated current value of the 2016A Leased Property, the uses and purposes for which the 2016A Leased Property will be employed by the District, the benefit to the citizens and inhabitants of the District by reason of the use of the 2016A Leased Property pursuant to the terms and provisions of this Lease, the District's option to purchase the 2016A Leased Property and the expected eventual vesting of unencumbered title to the 2016A Leased Property in the District. The District hereby determines and declares that the period during which the District has an option to purchase the 2016A Leased Property (i.e., the entire maximum Lease Term for the 2016A Leased Property) does not exceed the weighted average useful life of the 2016A Leased Property.

Section 6.6 Nonappropriation by the District. In the event that the District fails, for any reason, to specifically budget and appropriate with respect to this Lease by the last day of each Fiscal Year or fails to adopt a supplemental specific budget and appropriation with respect to this Lease prior to the date in any Fiscal Year when Additional Rentals exceed the amount appropriated for Additional Rentals (i) sufficient amounts to be used to pay all Base Rentals when due in the next Fiscal Year and (ii) sufficient amounts to pay such Additional Rentals as are estimated to become due in the next Fiscal Year or, with respect to any supplemental budget and appropriation, due in the current Fiscal Year (as provided in Section 6.2 hereof), or upon the occurrence of an event described in the second paragraph of this Section 6.6, an Event of Nonappropriation shall be deemed to have occurred; subject, however, to each of the following provisions:

- (a) The Corporation shall declare an Event of Nonappropriation on any earlier date on which the Corporation receives official, specific written notice from the District that this Lease will not be renewed. The Corporation shall provide written notice to the

Registered Owner that it has declared an Event of Nonappropriation pursuant to this provision.

(b) Absent such notice from the District, the Corporation shall give written notice to the District of any Event of Nonappropriation, on or before ten days after the end of such Fiscal Year in the event of the initial appropriation for a Fiscal Year, but any failure of the Corporation to give such written notice shall not prevent the Corporation from declaring an Event of Nonappropriation or from taking any remedial action which would otherwise be available to the Corporation. Any such notice provided to the District shall also be provided to the Registered Owner.

(c) With the prior written consent of the Registered Owner, the Corporation may waive any Event of Nonappropriation which is cured by the District within a reasonable time.

(d) The Corporation shall waive any Event of Nonappropriation, other than an Event of Nonappropriation as described in the second paragraph of this Section 6.6, which is cured by the District by the fifteenth day of the ensuing Fiscal Year, by appropriating (i) sufficient amounts to be used to pay all Base Rentals and (ii) sufficient amounts to pay such Additional Rentals as are estimated to become due (as provided in Section 6.2 hereof), during such Fiscal Year.

In the event that during the Initial Term or any Renewal Term, any Additional Rentals shall accrue in excess of amounts included in a duly enacted appropriation resolution for the payment of Additional Rentals, then, in the event that moneys are not specifically authorized and directed by the District to be used to pay such Additional Rentals by the earlier of the last day of the current Fiscal Year or 90 days subsequent to the date upon which such Additional Rentals accrue, an Event of Nonappropriation shall be deemed to have occurred, upon written notice by the Corporation to the District to such effect (subject to waiver by the Corporation as hereinbefore provided).

In the event that the District shall not specifically budget and appropriate, on or before the last day of any Fiscal Year, moneys to pay all Base Rentals and the reasonably estimated Additional Rentals coming due for the next ensuing Fiscal Year, the District shall, not more than fifteen (15) days after the beginning of such Fiscal Year in respect of which the Event of Nonappropriation has occurred, provide the Registered Owner with written notice that the District did not renew the Lease.

If an Event of Nonappropriation occurs, the District shall not be obligated to make payment of the Base Rentals or Additional Rentals or any other payments provided for herein beyond the amounts specifically appropriated by the District for the Initial Term or any Renewal Term during which such Event of Nonappropriation occurs; provided, however, that, subject to the limitations of Sections 6.2 and 14.3 hereof, the District shall continue to be liable for Base Rentals and Additional Rentals allocable to any period during which the District shall continue to retain possession of any of the 2016A Leased Property.

The District shall in all events surrender the 2016A Leased Property to the Corporation by the thirtieth day following an Event of Nonappropriation. Such surrender of the 2016A Leased Property shall consist of delivering the 2016A Leased Property to the Corporation at a site or sites selected by the Corporation within the District.

By the thirtieth day following an Event of Nonappropriation, the Corporation, at the written direction of the Registered Owner, may proceed to exercise all Lease Remedies, subject to the limitations set forth in Section 14.3 hereof. All property, funds and rights acquired by the Corporation upon the termination of this Lease by reason of an Event of Nonappropriation as provided herein, less any moneys due and owing to the Corporation, shall be held by the Corporation for the benefit of the Registered Owner as set forth in the Assignment Agreement.

Notwithstanding the foregoing, or any provision to the contrary contained herein, the Registered Owner, as the Corporation's assignee under the Assignment Agreement, shall have the right to exercise or direct the exercise of all Lease Remedies hereunder in accordance with the terms and provisions of this Lease.

Section 6.7 Disposition of Base Rentals. Upon receipt by the Registered Owner of each payment of Base Rentals, the Registered Owner shall apply the amount of each Base Rentals first to the payment of interest and then to the payment of principal.

## **ARTICLE VII [RESERVED]**

## **ARTICLE VIII TITLE TO THE 2016A LEASED PROPERTY; LIMITATIONS ON ENCUMBRANCES**

Section 8.1 Title to the 2016A Leased Property. Except personal property purchased by the District at its own expense pursuant to Section 9.2 hereof, title to the 2016A Leased Property and any and all additions and modifications thereto and replacements thereof shall be held in the name of the Corporation, subject to this Lease and the Assignment Agreement, until sold, liquidated, conveyed or otherwise disposed of as provided in Article XII hereof or in accordance with the Assignment Agreement, notwithstanding (i) a termination hereof by the District by reason of an Event of Nonappropriation as provided in Section 6.6 hereof; (ii) the occurrence of one or more Events of Default as defined in Section 14.1 hereof; (iii) the occurrence of any event of damage, destruction, condemnation, or construction defect, breach of warranty or title defect, as provided in Article X hereof; or (iv) the violation by the Corporation (or by the Registered Owner as assignee of the Corporation) of any provision hereof.

The District shall have no right, title or interest in the 2016A Leased Property or any additions and modifications thereto or replacements thereof, except as expressly set forth in this Lease.

Section 8.2 No Encumbrance, Mortgage or Pledge of 2016A Leased Property. The District shall not permit any mechanic's or other lien to remain against the 2016A Leased Property; provided that, if the District shall first notify the Corporation and the Registered Owner of the intention of the District so to do, the District may in good faith contest any mechanic's or other lien filed or established against the 2016A Leased Property, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom unless the Corporation or the Registered Owner shall notify the District that, in the opinion of independent counsel, by nonpayment of any such items the Corporation's title to the 2016A Leased Property or the lien on the 2016A Leased Property pursuant to the Assignment Agreement will be materially endangered, or the 2016A Leased Property or any part thereof will be subject to loss or forfeiture, in which event the District shall promptly pay and cause to be satisfied and discharged all such unpaid items; provided, however, that such payment shall not be required to be made and no obligation to pay any fees or charges of independent counsel shall be incurred if such lien is filed or submitted pursuant to the provisions of Section 38-26-107 of the Colorado Revised Statutes, as amended, and further provided that such payment shall not constitute a waiver by the District of the right to continue to contest such items. The Corporation will cooperate fully with the District in any such contest, upon the request and at the expense of the District, subject to appropriation by the District. Neither the Corporation nor, except as provided above, the District, shall directly or indirectly create, incur or assume any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the 2016A Leased Property, except Permitted Encumbrances. The District shall promptly, at its own expense, subject to appropriation by the District, take such action as may, in its discretion be deemed necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrance or claim not excepted above which it shall have created, incurred, or suffered to exist. The Corporation shall promptly, at its own expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrance or claim not excepted above which it shall have created or incurred.

## **ARTICLE IX MAINTENANCE; MODIFICATION; DISPOSAL; AND INSURANCE**

Section 9.1 Maintenance of the 2016A Leased Property by the District. The District agrees that at all times during the Lease Term the District will maintain, preserve and keep the 2016A Leased Property or cause the 2016A Leased Property to be maintained, preserved and kept, with the appurtenances and every part and parcel thereof, in good repair, working order and condition, subject to normal wear and tear, and that the District will from time to time make or cause to be made all necessary and proper repairs, except as otherwise provided in Sections 9.3 and 10.3 hereof. Neither the Corporation nor the Registered Owner shall have any responsibility in any of these matters or for the making of any additions, modifications or replacements to the 2016A Leased Property.

Section 9.2 Modification of the 2016A Leased Property; Installation of Furnishings, Machinery and Equipment of the District. The District shall have the privilege of remodeling or making additions, modifications or improvements to the 2016A Leased Property, at its own cost and expense; and the same shall be the property of the Corporation, subject to this Lease and the

Assignment Agreement, and shall be included under the terms of this Lease and the Assignment Agreement; provided, however, that such remodeling, additions, modifications and improvements shall not in any way damage the 2016A Leased Property or cause it to be used for purposes other than lawful governmental functions of the District, and provided that the 2016A Leased Property, as remodeled, improved or altered, upon completion of such remodeling, or such making of additions, modifications and improvements, shall be of a value not less than the value of the 2016A Leased Property immediately prior to such remodeling or such making of additions, modifications and improvements.

The District may also, from time to time in its sole discretion and at its own expense, install machinery, equipment and other tangible property in or on the 2016A Leased Property. All such machinery, equipment and other tangible property shall remain the sole property of the District in which neither the Corporation nor the Registered Owner shall have any interest; provided, however, that title to any such machinery, equipment and other tangible property which becomes permanently affixed to the 2016A Leased Property shall be in the Corporation; subject to this Lease and the Assignment Agreement, and shall be included under the terms of this Lease and the Assignment Agreement, in the event the Corporation shall reasonably determine that the 2016A Leased Property would be damaged by the removal of such machinery, equipment or other tangible property.

Section 9.3    Disposal of Certain 2016A Leased Property. The District shall not be under any obligation to repair or replace any inadequate, obsolete or worn-out 2016A Leased Property. In any instance where the District Representative determines any 2016A Leased Property set forth in Exhibit A hereto has become inadequate, obsolete or worn-out, the District may (acting for the Corporation) sell, trade in, exchange or otherwise dispose of such 2016A Leased Property (as a whole or in part) without any responsibility or accountability to the Corporation or the Registered Owner therefor, provided that the District shall either:

(a)    Substitute (by direct payment of the costs thereof or by designating vehicles, equipment, machinery or other personal property not theretofore included pursuant to Section 9.2 hereof as 2016A Leased Property ) and acquire or install other vehicles, equipment, machinery or related property having equal or greater value and utility (but not necessarily having the same function) to the District, provided, however, that such substituted vehicles, equipment, machinery or related property shall have a useful life of not less than the remaining useful life of the 2016A Leased Property for which it is substituted; or

(b)    Not make any such substitution and installation, provided (i) that in the case of the sale or other disposition of any such 2016A Leased Property to anyone other than itself or in the case of the scrapping thereof, the District shall pay to the Registered Owner as a payment of Base Rentals hereunder the Net Proceeds from such sale or other disposition or the scrap value thereof, as the case may be, (ii) that in the case of the trade-in of such 2016A Leased Property for other vehicles, machinery, equipment or related property not to be included in the 2016A Leased Property subject to this Lease, the District shall pay to the Registered Owner as a payment of Base Rentals hereunder the Net Proceeds of the credit received by it in such trade-in, and (iii) that in the case of the sale or other disposition of any such 2016A Leased Property to the District, the District

shall pay to the Registered Owner as a payment of Base Rentals hereunder an amount equal to the original cost thereof less depreciation at rates calculated in accordance with generally accepted accounting practices.

The District will promptly report in writing to the Corporation and to the Registered Owner each removal, substitution, sale or other disposition under this Section 9.3 and will pay to the Registered Owner all amounts required by subsection (b) of this Section 9.3 promptly after any subsequent sale, trade-in or other disposition requiring such payment. All substituted vehicles, machinery, equipment or related personal property made subject to the Lease pursuant to this Section 9.3 shall be free of all liens and encumbrances (other than Permitted Encumbrances) and shall become a part of the 2016A Leased Property for all purposes of this Lease and the Assignment Agreement. In the absence of a clearly expressed intention by the District that vehicles, machinery, equipment or related property are to be substituted for 2016A Leased Property pursuant to subsection (a) of this Section 9.3, it shall be presumed that any disposition of 2016A Leased Property pursuant to this Section 9.3 has been accomplished in accordance with subsection (b) of this Section 9.3. The Corporation and the Registered Owner will cooperate with the District in implementing the District's rights to dispose of 2016A Leased Property pursuant to this Section 9.3 and will execute any and all conveyances, releases or other documents necessary or appropriate in connection therewith.

The removal of any portion of the 2016A Leased Property pursuant to the provisions of this Section 9.3 shall not entitle the District to any postponement, abatement or diminution of the Base Rentals or other payments required to be made under Section 6.2 hereof.

**Section 9.4    Provisions Regarding Casualty, Public Liability and Property Damage Insurance.** The District shall, at its own expense, cause casualty and property damage insurance to be carried and maintained with respect to each portion of the 2016A Leased Property in an amount equal to the full replacement value of such portion of the 2016A Leased Property. Such insurance policy may have a deductible clause in an amount deemed reasonable by the District. The District may, in its discretion, insure the 2016A Leased Property under blanket insurance policies which insure not only the 2016A Leased Property, but other equipment and property as well, as long as such blanket insurance policies comply with the requirements hereof. In addition, the District, at its election, may provide for property damage and casualty insurance with respect to the 2016A Leased Property, partially or wholly by means of a self-insurance fund as provided by applicable law, in compliance with the requirements hereof. Any such self-insurance shall be deemed to be insurance coverage hereunder. Any such self-insurance shall be reviewed on a periodic basis (not required to be more frequently than once every year) by an officer of the District to determine the adequacy thereof.

Upon the execution and delivery of this Lease and until termination of the Lease Term pursuant to Section 4.2 hereof, the District shall, at its own expense, cause public liability insurance to be carried and maintained with respect to the activities to be undertaken by the District and on behalf of the District by the Corporation in connection with this Lease, in an amount not less than the limitations provided in the Colorado Governmental Immunity Act (article 10 of title 24, Colorado Revised Statutes, as amended). The public liability insurance required by this Section 9.4 may be by blanket insurance policy or policies. The District, at its election, may provide for such public liability insurance, partially or wholly by means of a self-

insurance fund as provided by applicable law, in compliance with the requirements hereof. Any such self-insurance shall be deemed to be insurance coverage hereunder.

Any casualty and property damage insurance policy required by this Section 9.4 shall be so written or endorsed as to make losses, if any, payable to the District, the Corporation and the Registered Owner, as their respective interests may appear, and the Registered Owner shall be named additional insured. Each insurance policy provided for in this Section 9.4 shall contain a provision to the effect that the insurance company shall not cancel the policy or modify it materially and adversely to the interest of the District, the Corporation or the Registered Owner without first giving written notice thereof to the District, the Corporation and the Registered Owner at least 10 days in advance of such cancellation or modification. All insurance policies issued pursuant to this Section 9.4, or certificates evidencing such policies, shall, upon written request by the Registered Owner, be deposited with the Registered Owner. No agent or employee of the District shall have the power to adjust or settle any loss with respect to the 2016A Leased Property, whether or not covered by insurance, without the prior written consent of the Registered Owner; except that losses not exceeding \$100,000 may be adjusted or settled by the District without the Registered Owner's consent. The consent of the Corporation shall not be required for any such adjustments or settlement, regardless of the amount of the loss.

## **ARTICLE X**

### **DAMAGE, DESTRUCTION OR CONDEMNATION; USE OF NET PROCEEDS**

Section 10.1 Damage, Destruction or Condemnation. If during the Lease Term,

- (i) the 2016A Leased Property, or any portion thereof, shall be destroyed (in whole or in part), or damaged by fire or other casualty; or
- (ii) title to, or the temporary or permanent use of, the 2016A Leased Property, or any portion thereof or the estate of the District, the Corporation or the Registered Owner in the 2016A Leased Property or any portion 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; or
- (iii) a breach of warranty or any material defect with respect to the 2016A Leased Property, or any portion thereof, shall become apparent, or
- (iv) title to or the use of the 2016A Leased Property, or any portion thereof, shall be lost by reason of defect in the title thereto;

then the District shall be obligated to continue to pay Base Rentals and Additional Rentals (subject to Article VI hereof).

Section 10.2 Obligation of the District to Repair and Replace the 2016A Leased Property. Subject to the provisions of Section 10.3 hereof, the District (and, to the extent such Net Proceeds are within their control, the Corporation and the Registered Owner) shall cause the Net Proceeds of any insurance, performance bonds, condemnation awards, or Net Proceeds received as a consequence of default or breach of warranty under any contracts relating to the 2016A Leased Property, made available by reason of any occurrence described in Section 10.1 hereof, to be deposited in a separate trust fund held by the Corporation. Except as set forth in



Section 10.3 hereof, all Net Proceeds so deposited shall be applied to the prompt repair, restoration, modification, improvement or replacement of such 2016A Leased Property by the District upon receipt of requisitions signed by the District Representative and setting forth: (i) the requisition number; (ii) the name and address of the person, firm or corporation to whom payment is due or has been made; (iii) the amount to be paid or reimbursed; and (iv) that each obligation mentioned therein has been properly incurred, is a proper charge against the separate trust fund and has not been the basis of any previous withdrawal and specifying in reasonable detail the nature of the obligation, accompanied by a bill or a statement of account for such obligation. In carrying out any of the provisions of this Section 10.2, the Corporation shall cooperate with the District in the administration of such fund and shall not unreasonably withhold its approval of requisitions under this Section 10.2.

The balance of any such Net Proceeds remaining after such repair, restoration, modification, improvement or replacement has been completed shall, at the option of the District, may be used by the District to make Base Rental Payments or to add to, modify or alter the 2016A Leased Property or add new components thereto. Any repair, restoration, modification, improvement or replacement paid for in whole or in part out of such Net Proceeds shall be the property of the Corporation, subject to this Lease and the Assignment Agreement, and shall be included as part of the 2016A Leased Property under this Lease and the Assignment Agreement.

Section 10.3 Insufficiency of Net Proceeds. If there occurs an event described in Section 10.1 hereof, and if any Net Proceeds received as a consequence of such event shall be insufficient to pay in full the cost of any repair, restoration, modification, improvement or replacement of the 2016A Leased Property required under Section 10.2 hereof, the District may elect one of the following options:

(a) The District may, in accordance with Section 10.2 hereof, repair, restore, modify or improve such 2016A Leased Property or replace such 2016A Leased Property (or portion thereof) with property of a value equal to or in excess of such 2016A Leased Property, and pay any cost in excess of the amount of the Net Proceeds, and the District agrees that, if by reason of any such insufficiency of the Net Proceeds, the District shall make any such additional payments pursuant to the provisions of this Section 10.3(a), the District shall not be entitled to any reimbursement therefor from the Corporation or the Registered Owner, nor shall the District be entitled to any diminution of the Base Rentals and Additional Rentals payable under Section 6.2 hereof. If the District elects to replace any portion of the 2016A Leased Property pursuant to this Section 10.3(a), the District shall first obtain the written consent of the Registered Owner to such substitution, which consent shall not be unreasonably withheld.

(b) The District may discharge its obligation to repair or replace the applicable 2016A Leased Property under Section 10.2 hereof by applying the Net Proceeds (i) of any insurance, performance bonds or condemnation awards, or (ii) received as a consequence of a default or a breach of warranty under any contracts relating to such 2016A Leased Property, made available by reason of one or more of the occurrences described in Section 10.1 hereof, to the payment of the Purchase Option Price, in accordance with Article XII hereof. In the event of an insufficiency of the Net Proceeds for such purpose, the District shall pay such amounts as may be necessary to

equal the Purchase Option Price; and in the event the Net Proceeds shall exceed the Purchase Option Price, such excess shall be retained by the District.

(c) If, by the last day of the Fiscal Year in which an event specified in Section 10.1 hereof occurs (or the last day of any subsequent Fiscal Year in which the insufficiency of Net Proceeds to repair, restore, modify, improve or replace the 2016A Leased Property become apparent), the District has not appropriated amounts sufficient to proceed under either paragraph (a) or paragraph (b) of this Section 10.3, an Event of Nonappropriation shall be deemed to have occurred. Unless such Event of Nonappropriation is cured as provided in Section 6.6 hereof, the Corporation, at the written direction of the Registered Owner, may then pursue Lease Remedies.

It is hereby declared to be the District's present intention that, if an event described in Section 10.1 hereof should occur and if the Net Proceeds shall be insufficient to pay in full the cost of repair, restoration, modification, improvement or replacement of the 2016A Leased Property, the District would use its best efforts to proceed under either paragraph (a) or paragraph (b) above; but it is also acknowledged that the District must operate within budgetary and other economic constraints applicable to it at the time, which cannot be predicted with certainty; and accordingly the foregoing declaration shall not be construed to contractually obligate or otherwise bind the District.

Section 10.4 Cooperation of the Corporation. The Corporation shall cooperate fully with the District and the Registered Owner in filing any proof of loss with respect to any insurance policy or performance bond covering the events described in Section 10.1 hereof, in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the 2016A Leased Property or any portion thereof, and in the prosecution of any action relating to defaults or breaches of warranty under any contracts relating to such 2016A Leased Property, and the Corporation hereby assigns to the Registered Owner its interests in such policies solely for such purposes. In no event shall the Corporation voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim, performance or payment bond claim, prospective or pending condemnation proceeding, or any action relating to defaults or breaches of warranty under any contracts relating to such 2016A Leased Property or any portion thereof without the written consent of the Registered Owner and the District. The District shall pay to the Corporation as Additional Rentals all reasonable fees and expenses incurred by the Corporation under this Section 10.4. This Section 10.4 shall not be construed to obligate the Corporation to advance its own funds in order to take any action hereunder.

## **ARTICLE XI**

### **DISCLAIMER OF WARRANTIES; OTHER COVENANTS**

Section 11.1 Disclaimer of Warranties. NEITHER THE CORPORATION NOR THE REGISTERED OWNER MAKE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, USE, CAPACITY, DURABILITY, CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR FITNESS FOR USE OF THE 2016A LEASED PROPERTY OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE 2016A LEASED PROPERTY OR ANY PORTION THEREOF. The District hereby acknowledges and declares

that the District has been and is solely responsible for the design, acquisition, selection, maintenance and operation of the 2016A Leased Property, and that neither the Corporation nor the Registered Owner has any responsibility therefor. In no event shall the Corporation or the Registered Owner be liable for any direct or indirect, incidental, special or consequential damage in connection with or arising out of this Lease or the existence, furnishing, functioning or use by the District of any item, product or service provided for herein.

Section 11.2 Further Assurances and Corrective Instruments. The Corporation and the District agree that so long as this Lease is in full force and effect and no Event of Nonappropriation or Event of Default shall have occurred, the Corporation and the District shall have full power to carry out the acts and agreements provided herein and they will, so far as it may be authorized by law, from time to time, execute, acknowledge and deliver or cause to be executed, acknowledged and delivered such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the 2016A Leased Property hereby leased or intended so to be, or for otherwise carrying out the intention of or facilitating the performance of this Lease. This Section 11.2 shall not be construed to obligate the Corporation to advance its own funds in order to take any action hereunder.

Section 11.3 Corporation or District Representatives. Whenever under the provisions hereof the approval of the Corporation or the District is required, or the District or the Corporation is required to take some action at the request of the other, unless otherwise provided, such approval or such request shall be given for the Corporation by the Corporation Representative and for the District by the District Representative, and the Corporation and the District shall be authorized to act on any such approval or request.

Section 11.4 Partial Release and Substitution of 2016A Leased Property. So long as no Event of Default or Event of Nonappropriation shall have occurred and be continuing, the District shall be entitled to substitute any equipment, machinery, vehicle or other personal property (collectively, the "Replacement Property"), for any 2016A Leased Property then subject to this Lease and the Assignment Agreement, upon receipt by the Corporation of a written request of the District Representative requesting such release and substitution, provided that:

(a) such Replacement Property shall have an equal or greater value and utility (but not necessarily the same function) to the District as the 2016A Leased Property proposed to be released, as determined by a certificate from the District to that effect;

(b) any Replacement Property comprised of equipment, machinery, vehicles or related property shall have a useful life of not less than the remaining useful life of the 2016A Leased Property for which it is substituted, as determined by a certificate from the District to that effect;

(c) the fair market value of Replacement Property shall be not less than the fair market value of the 2016A Leased Property proposed to be released from this Lease and the Assignment Agreement, or, in the alternative, the fair market value of the 2016A Leased Property remaining after the proposed release shall be at least equal to the Remaining Lease Balance. The fair market value of any personal property shall be

determined by a report of an independent valuation consultant submitted by the District to the Corporation and the Registered Owner; and

(d) the execution and delivery of such supplements and amendments to this Lease and the Assignment Agreement and any other documents necessary to subject any Replacement Property to be substituted for the portion of the 2016A Leased Property to be released to the lien of the Assignment Agreement.

The Corporation and the Registered Owner shall cooperate with the District in implementing the District's rights to release and substitute property pursuant to this Section 11.4 and shall execute any and all conveyances, releases or other documents necessary or appropriate in connection therewith.

Notwithstanding the foregoing provisions, upon the prior written consent of the Registered Owner, the District may substitute Replacement Property without complying with the foregoing provisions of this Section 11.4.

Section 11.5 Compliance with Requirements. During the Lease Term, the District and the Corporation Owner shall observe and comply promptly with all current and future orders of all courts having jurisdiction over the 2016A Leased Property or any portion thereof, provided that the District or the Corporation may contest or appeal such orders so long as they are in compliance with such orders during the contest or appeal period, and all current and future requirements of all insurance companies writing policies covering the 2016A Leased Property or any portion thereof.

Section 11.6 District Acknowledgment of the Assignment Agreement. The District acknowledges and consents to the assignment by the Corporation to the Registered Owner, pursuant to the Assignment Agreement, of all rights, title and interest of the Corporation in, to and under this Lease (other than the rights of the Corporation with respect to payments for or reimbursement of certain fees and expenses under Section 6.2 hereof).

Section 11.7 Tax Covenant. The District covenants for the benefit of Registered Owner that it will not take any action or omit to take any action with respect to this Lease, the proceeds this Lease or the Assignment Agreement, any other funds of the District or any facilities financed or refinanced with the proceeds of this Lease or the Assignment Agreement (except for the possible exercise of the District's right to terminate this Lease as provided in Section 6.6 hereof) if such action or omission (i) would cause the interest component of the Base Rentals to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Tax Code, or (ii) would cause the interest component of Base Rentals to lose its exclusion from alternative minimum taxable income as defined in Section 55(b)(2) of the Tax Code except to the extent such interest is required to be included in the adjusted current earnings adjustment applicable to corporations under Section 56 of the Tax Code in calculating corporate alternative minimum taxable income, or (iii) would cause the interest component of Base Rentals to lose its exclusion from Colorado taxable income or to lose its exclusion from Colorado alternative minimum taxable income under present Colorado law. The District further covenants for the benefit of Registered Owner that (a) the District shall comply with all of the requirements of Section 149(a) and Section 149(e) of the Tax Code, as the same may be amended from time to time, and such

compliance shall include, but not be limited to, executing and filing Internal Revenue Form 8038G; (b) the District shall not do (or cause to be done) any act which will cause, or by omission of any act allow, this Lease to be an "arbitrage bond" within the meaning of Section 148(a) of the Tax Code or this Lease to be a "private activity bond" within the meaning of Section 141(a) of the Tax Code. Subject to the District's right to terminate this Lease as provided in Section 6.6 hereof, the foregoing covenants shall remain in full force and effect, notwithstanding the termination of this Lease or the payment in full of this Lease, until the date on which all obligations of the District in fulfilling the above covenant under the Tax Code and Colorado law have been met.

In furtherance of this covenant, the District agrees to comply with the procedures and requirements set forth in the Tax Compliance Certificate.

Section 11.8 Access To Leased Property. The District agrees that the Corporation, the Registered Owner and their respective authorized representatives shall have the right at all reasonable times to examine and inspect the 2016A Leased Property and all of the District's books and records with respect thereto.

Section 11.9 Financial Information. Upon written request by the Registered Owner, the District shall provide its audited financial statements to the Registered Owner within 240 days after the close of the District's Fiscal Year, but in no event prior to their acceptance by the Board, in an electronic format. During the Lease Term, the District further covenants and agrees to provide to the Registered Owner any additional information concerning this Lease, the 2016A Leased Property and the District's financial information as the Registered Owner may reasonably request in writing from time to time.

## **ARTICLE XII CONVEYANCE OF 2016A LEASED PROPERTY**

Section 12.1 Conveyance of 2016A Leased Property. The Corporation shall transfer and convey all of the 2016A Leased Property to the District in the manner provided for in Section 12.2 hereof, provided, however, that prior to such assignment, transfer and conveyance of all of the 2016A Leased Property (other than with respect to the 2016A Leased Property conveyed pursuant to Section 11.4 hereof), either:

- (a) the District shall have paid the then applicable Purchase Option Price; or
- (b) the District shall have paid all Base Rentals set forth in Exhibit B hereto for the entire maximum Lease Term through the last date specified in Exhibit B hereto, and all then current Additional Rentals required hereunder.

The District is hereby granted the option to terminate this Lease and to purchase the 2016A Leased Property in whole, on any date, upon payment by the District of the then applicable Purchase Option Price. In order to exercise the option granted by this Article XII, the District shall give written notice to the Corporation and the Registered Owner of its intention to purchase the 2016A Leased Property, specifying a closing date for such purchase which shall be no less than thirty (30) days after the giving of such written notice (provided, however, that no

such notice shall be required for conveyance pursuant to (b) above). The Corporation and the Registered Owner may waive such notice or may agree to a shorter notice period.

It is the intent of this Section to provide for and allow the conveyance and release of the 2016A Leased Property if the District has fulfilled all payment obligations with respect hereto and is not then in default hereunder. Provision for the payment of all Base Rental payments shall be deemed to have been made when there is on deposit in a separate escrow account or trust account held by a bank or escrow agent (1) cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with Federal Securities) in an amount sufficient to make all payments specified above, or (2) Federal Securities maturing on or before the date or dates when the payments specified above shall become due, the principal amount of which and the interest thereon, when due, is or will be, in the aggregate, sufficient without reinvestment to make all such payments, or (3) any combination of such cash and such Federal Securities the amounts of which and interest thereon, when due, are or will be, in the aggregate, sufficient without reinvestment to make all such payments. Prior to the exercise of the Purchase Option becoming effective pursuant to this Section, there shall have been delivered to the Corporation and the Registered Owner a report of an independent firm of nationally recognized certified public accountants verifying the sufficiency of the escrow established to pay the Purchase Option Price; provided, however, in the event the District gross funds the escrow account, a certificate of the District that the cash on deposit in the escrow account is at all times sufficient without investment to pay the Purchase Option Price shall be sufficient in lieu of a verification report.

To the extent that the District exercises its option to purchase the 2016A Leased Property prior to December 28, 2017, the Purchase Option Price shall be deposited in an escrow account or a trust account pursuant to the provisions of this Section 12.1 and the required prepayment amount shall be paid to the Registered Owner on December 28, 2017, or such later date as determined by the District. Notwithstanding any provisions to the contrary contained herein, no prepayments of Base Rentals shall be made to the Registered Owner prior to December 28, 2017.

The Corporation shall also transfer and convey all or a portion of the 2016A Leased Property in accordance with the terms and in the manner provided for in Section 11.4 hereof.

Section 12.2 Manner of Conveyance. At the closing of any purchase or other conveyance of the 2016A Leased Property pursuant to Sections 11.4 and 12.1 hereof, the Corporation and the Registered Owner shall execute and deliver to the District all necessary documents assigning, transferring and conveying good and marketable title to the applicable 2016A Leased Property, as it then exists, to the District, subject to the following: (i) Permitted Encumbrances, other than this Lease and the Assignment Agreement; (ii) all liens, encumbrances and restrictions created or suffered to exist by the Corporation or the Registered Owner as required or permitted by this Lease or the Assignment Agreement or arising as a result of any action taken or omitted to be taken by the Corporation or the Registered Owner as required or permitted by this Lease or the Assignment Agreement; (iii) any lien or encumbrance created or suffered to exist by action of the District; and (iv) those liens and encumbrances (if any) to which title to the applicable 2016A Leased Property was subject when acquired by the Corporation.

Section 12.3 Partial Release Upon Amortization of 2016A Leased Property. When the principal component of Base Rentals paid, or deemed paid, by the District equals the amount set forth in Exhibit C hereto, the cost of the corresponding portion of the 2016A Leased Property set forth in Exhibit C (or of any property substituted for such portion of the 2016A Leased Property pursuant to any provision of this Lease) shall be deemed to have been fully amortized and, upon written request by the District, the Corporation and the Registered Owner shall release such portion of the 2016A Leased Property from this Lease and the lien thereon granted to the Registered Owner pursuant to the Assignment. Upon such release of a portion of the 2016A Leased Property, the Corporation and the Registered Owner shall execute and deliver to the District all necessary documents assigning, transferring and conveying title to such portions of the 2016A Leased Property, as it then exists, to the District, subject to the following: (i) Permitted Encumbrances, other than this Lease and the Assignment; (ii) all liens, encumbrances and restrictions created or suffered to exist by the Corporation or the Registered Owner as required or permitted by this Lease or the Assignment or arising as a result of any action taken or omitted to be taken by the Corporation or the Registered Owner as required or permitted under this Lease or the Assignment; (iii) any lien or encumbrance created or suffered to exist by action of the District; and (iv) those liens and encumbrances (if any) to which title to the applicable 2016A Leased Property was subject when acquired by the Corporation. Notwithstanding the foregoing, however, the District shall request the release of the 2016A Leased Property only once each year.

### **ARTICLE XIII ASSIGNMENT, SUBLEASING AND SELLING**

Section 13.1 Assignment by the Corporation. This Lease, and the Corporation's right to receive payments hereunder, may be assigned and reassigned in whole but not in part to one or more assignees or subassignees by the Corporation at any time at or subsequent to the execution hereof, and the District expressly consents to such assignment; provided, however, that no such assignment or reassignment, except to a successor by merger or an affiliate (which term shall include, with respect to the initial Registered Owner of the Assignment Agreement, JPMorgan Chase Bank & Co. or any direct or indirect subsidiaries), shall be effective against the District and the District shall not be required to recognize any purported assignment or transfer or make payment to anyone other than the Corporation unless and until (a) the District shall have received notice of the assignment or reassignment, disclosing the name and address of the assignee or subassignee; (b) such assignment shall be effective only upon the entry of the name of the assignee or subassignee as Registered Owner upon the registration books of the District maintained by the Registrar and only by means of the transfer, on the records of the Registrar, of a written assignment in substantially the form of the Assignment Agreement; (c) such assignment and any subsequent transfer of such assignment shall be made or transferred only to an "Accredited Investor" as defined in Regulation D under the Securities Act of 1933, as amended; and (d) in the event that such assignment or any subsequent transfer is made to a bank or trust company as trustee for holders of certificates or other instruments representing interests in this Lease, or rights to receive amounts hereunder, such bank or trust company agrees to maintain, or cause to be maintained on behalf of and as agent for the District, a book-entry system by which a record of the names and addresses of such holders as of any particular time is kept and agrees, upon request of the District, to furnish such information to the District. Upon receipt of notice of assignment and evidence satisfactory to the Registrar of compliance with

such conditions to transfer, the Registrar shall reflect in a book entry the assignee designated in such notice of assignment, and the District shall thereafter make all payments to the Registered Owner designated in the notice of assignment, notwithstanding any claim, defense, setoff or counterclaim whatsoever (whether arising from a breach of this Lease or otherwise) that the District may from time-to-time have against the Corporation, or any assignee. The Corporation agrees to execute all documents, including notices of assignment and chattel mortgages or financing statements, as may be reasonably requested by such permitted assignees or subassignees to protect their interests in this Lease.

Notwithstanding the foregoing, the District hereby expressly consents to the assignment of this Lease and the Corporation's rights to receive payments hereunder pursuant to the Purchase and Assignment Agreement dated as of the date hereof, between the Corporation and JPMorgan Chase Bank, N.A., and further consents to the assignment by JPMorgan Chase Bank, N.A. of the Lease and the rights to receive payments to JPMorgan Chase & Co. or to one of its direct or indirect affiliates.

Section 13.2 Assignment and Subleasing by the District. This Lease may not be assigned by the District for any reason. The 2016A Leased Property may be subleased, as a whole or in part, by the District, after obtaining the written consent of the Corporation and the Registered Owner to such sublease, which consent shall not be unreasonably withheld, conditioned or delayed, and subject to the receipt by the Registered Owner of such subordination agreements and other documents and information as the Registered Owner may reasonably request. Any such sublease shall be subject to the following conditions:

(a) The 2016A Leased Property may be subleased, in whole or in part, to any entity or entities if, in the opinion of nationally recognized bond counsel, such sublease will not cause the District to violate its tax covenants in Section 11.7 hereof;

(b) This Lease, and the obligations of the District hereunder, shall, at all times during the Lease Term, remain obligations of the District, and the District shall maintain its direct relationships with the Corporation, notwithstanding any sublease;

(c) The District shall furnish or cause to be furnished to the Corporation and the Registered Owner a copy of any sublease agreement;

(d) No sublease by the District shall cause the 2016A Leased Property to be used for any purpose which would cause the District to violate its tax covenant in Section 11.7 hereof; and

(e) The District shall take such action as shall be necessary to maintain the perfection and priority of any security interest granted for the benefit of the Registered Owner in any equipment, vehicles or personal property proposed to be subleased.

Section 13.3 Restrictions on the Grant of a Security Interest In or Sale of 2016A Leased Property. The District and the Corporation agree that, except for (i) the Corporation's assignment of this Lease and the grant of a security interest in the 2016A Leased Property to the Registered Owner pursuant to the Assignment Agreement, (ii) any exercise of the Lease Remedies afforded by Section 14.2 hereof, (iii) the District's right to sublease pursuant to



Section 13.2 hereof, (iv) any conveyance to the District pursuant to Article XII hereof, (v) any release and substitution of portions of the 2016A Leased Property pursuant to Section 11.4 hereof, (vi) any modifications to the 2016A Leased Property pursuant to Section 9.2 hereof, (vii) any disposition of the 2016A Leased Property pursuant to Section 9.3 hereof, and (viii) any replacement of the 2016A Leased Property pursuant to Section 10.2 hereof, neither the Corporation nor the District will grant a security interest in, sell, assign, transfer or convey the 2016A Leased Property or any portion thereof during the Lease Term.

#### **ARTICLE XIV EVENTS OF DEFAULT AND REMEDIES**

Section 14.1 Events of Default Defined. Any one of the following shall constitute an "Event of Default" under this Lease:

(a) failure by the District to pay any Base Rentals or Additional Rentals, which have been specifically appropriated by the District for such purpose, during the Initial Term or any Renewal Term, within five (5) Business Days of the date on which they are due; or

(b) failure by the District to surrender the 2016A Leased Property by the thirtieth day following an Event of Nonappropriation, as provided in Section 6.6 hereof; or

(c) failure by the District to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in (a) or (b) above, for a period of 30 days after written notice, specifying such failure and requesting that it be remedied shall be given to the District by the Corporation or the Registered Owner, unless the Corporation or the Registered Owner, as the case may be, shall agree in writing to an extension of such time prior to its expiration; provided, however, that if the failure stated in the notice cannot be corrected within the applicable period, the Corporation or the Registered Owner shall not withhold its consent to an extension of such time if corrective action shall be instituted by the District within the applicable period and diligently pursued until the default is corrected; or

(d) the District shall institute a voluntary case, or shall file a petition or answer or consent seeking reorganization or arrangement under the Bankruptcy Code or any other similar applicable Federal or State law, or shall consent to the filing of any such petition, or shall consent to the appointment of a receiver, trustee, liquidator or custodian of it or of its property, or shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due, or corporate action shall be taken by the District in furtherance of any of the aforesaid purposes; or

(e) any material statement, representation or warranty made by the District in this Lease or in any writing delivered by the District pursuant thereto or in connection therewith proves at any time to have been false, misleading or erroneous in any material respect as of the time when made and the District had knowledge as of the time when made that such statement, representation or warranty was false, misleading or erroneous.

The foregoing provisions of this Section 14.1 are subject to the following limitations:

(i) the District shall be obligated to pay the Base Rentals and Additional Rentals, which have been specifically appropriated by the District for such purpose, only during the then current Lease Term, except as otherwise expressly provided in this Lease; and

(ii) if, by reason of Force Majeure, the District shall be unable in whole or in part to carry out any agreement on its part herein contained, other than the obligations on the part of the District contained in Article VI hereof and until termination of the Lease Term pursuant to Section 4.2 hereof, the District shall not be deemed in default during the continuance of such inability. The District agrees, however, to remedy, as promptly as legally and reasonably possible, the cause or causes preventing the District from carrying out its agreement; provided that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the District.

Section 14.2 Remedies on Default. Whenever any Event of Default referred to in Section 14.1 hereof shall have happened and be continuing, the Corporation, or the Registered Owner, as the assignee of the Corporation under the Assignment Agreement may, without any further demand or notice, take one or any combination of the following remedial steps:

(a) Terminate the Lease Term and give written notice to the District to surrender the 2016A Leased Property, in the manner provided in Section 4.2 hereof, within 30 days from the date of such notice.

(b) Proceed to foreclose through the courts on or otherwise sell, liquidate, repossess or otherwise dispose of the 2016A Leased Property, including sale of the 2016A Leased Property or any portion thereof, or lease or sublease of the 2016A Leased Property or any portion thereof, and exercise all the rights and remedies of a secured party under the Colorado Uniform Commercial Code; provided, however, that the Corporation and the Registered Owner may not recover from the District any deficiency which may exist following the sale, liquidation or other disposition of the 2016A Leased Property.

(c) Recover from the District:

(i) the portion of Base Rentals and Additional Rentals, to the extent amounts for such Additional Rentals have been specifically appropriated in accordance with the provisions of Section 6.2 hereof, which would otherwise have been payable hereunder, during any period in which the District continues to retain possession of the 2016A Leased Property; and

(ii) Base Rentals and Additional Rentals, to the extent amounts for such Additional Rentals have been specifically appropriated in accordance with the provisions of Section 6.2 hereof, which would otherwise have been payable by the District hereunder during the remainder of the Fiscal Year in which such Event of Default occurs; and

(iii) interest on such amounts at the rate of twelve percent (12%) per annum (but not to exceed the highest rate permitted by applicable law) from the date of the Registered Owner's demand for such payment, subject to appropriation by the District.

(d) Take whatever action at law or in equity may appear necessary or desirable to enforce the rights of the Corporation or its assignee in and to the 2016A Leased Property under this Lease and the Assignment Agreement, subject, however, to the limitations contained in this Lease with respect to the District's obligations upon the occurrence of an Event of Nonappropriation.

(e) Subject to appropriation, require the District to pay all reasonable out-of-pocket costs and expenses incurred by the Registered Owner as a result (directly or indirectly) of the Event of Default and/or of the Registered Owner's actions under this section, including, without limitation, any reasonable attorneys' fees and expenses and any costs related to the repossession or disposition of any 2016A Leased Property.

Notwithstanding the foregoing or any other provisions to the contrary in this Lease or the Assignment Agreement, the Corporation shall not take any remedial action under this Lease or the Assignment Agreement, without the prior written consent and direction of the Registered Owner. In addition, the Registered Owner shall have the right to consent to all actions that require the consent of the Corporation.

Section 14.3 Limitations on Remedies. A judgment requiring a payment of money may be entered against the District by reason of an Event of Default only as to the District's liabilities described in paragraph (c) of Section 14.2 hereof. A judgment requiring a payment of money may be entered against the District by reason of an Event of Nonappropriation only to the extent that the District fails to surrender the 2016A Leased Property as required by Section 6.6 hereof, and only as to the liabilities described in paragraph (c)(i) of Section 14.2 hereof. The remedy described in paragraph (c)(ii) of Section 14.2 hereof shall not be available for an Event of Default consisting of failure by the District to surrender the 2016A Leased Property by the thirtieth day following an Event of Nonappropriation.

Section 14.4 No Remedy Exclusive. Subject to Section 14.3 hereof, no remedy herein conferred upon or reserved to the Registered Owner, on behalf of the Corporation, is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. No delay or omission to exercise an right or power accruing upon any default shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Corporation or the Registered Owner to exercise any remedy reserved in this Article XIV, it shall not be necessary to give any notice, other than such notice as may be required in this Article XIV.

Section 14.5 Waivers. With the prior written consent of the Registered Owner, the Corporation may waive any Event of Default under this Lease and its consequences. In the event that any agreement contained herein is breached by either party and thereafter waived by the

other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

In view of the assignment of the Corporation's rights under this Lease to the Registered Owner pursuant to the Assignment Agreement, the Corporation shall have no right to waive any Event of Default hereunder without the consent of the Registered Owner; and the waiver of any Event of Default hereunder by the Registered Owner shall constitute a waiver of such Event of Default by the Corporation, without the necessity of any action of or consent by the Corporation.

## **ARTICLE XV MISCELLANEOUS**

Section 15.1 Notices. All notices, certificates or other communications required to be given pursuant to this Lease shall be sufficiently given and shall be deemed given when delivered or mailed by certified or registered mail, postage prepaid, addressed as follows:

(a) If the notice is to the Corporation, then it shall be addressed to the Asset Acquisition Authority, Inc., 1600 Blake Street, Denver, Colorado 80202-1399, Attention: President.

(b) If the notice is to the District, then it shall be addressed to Regional Transportation District, 1600 Blake Street, Denver, Colorado 80202-1399; Attention: Chief Financial Officer.

(c) If the notice is to the initial Registered Owner, then it shall be addressed to JPMorgan Chase Bank, N.A., 1111 Polaris Parkway, Suite 3A, Columbus, OH 43240, Attention: Britney Posey.

The District, the Corporation, and the Registered Owner may, by written notice, designate any further or different means of communication and further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 15.2 Binding Effect; Third Party Beneficiary. This Lease shall inure to the benefit of and shall be binding upon the Corporation and the District and their respective successors and assigns, subject, however, to the limitations contained in Article XIII hereof. The Registered Owner shall be deemed to be a third party beneficiary hereunder.

Section 15.3 No Individual Liability. All covenants, stipulations, promises, agreements and obligations of the District or the Corporation, as the case may be, contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the District or the Corporation, as the case may be, and not of any member, director, officer, employee, servant or other agent of the District or the Corporation in his or her individual capacity, and no recourse shall be had on account of any such covenant, stipulation, promise, agreement or obligation (including, without limitation, any obligations relating to payment of Base Rentals or Additional Rentals), or for any claim based thereon or hereunder, against any member, director, officer, employee, servant or other agent of the District or the Corporation or any natural person executing this Lease, the Assignment Agreement, or any related document or instrument.

Section 15.4 Amendments, Changes and Modifications. Except as otherwise provided in this Lease, this Lease may not be effectively amended, changed, modified or altered without the written consent of the parties hereto. No material modification shall be made to this Lease without the prior written consent of the Registered Owner, which consent shall not be unreasonably withheld.

Notwithstanding any provision to the contrary contained in this Lease, JPMorgan Chase Bank, N.A. shall have the right to consent, direct remedies and take all actions under this Lease on behalf of itself as the initial Registered Owner and on the behalf of DNT Asset Trust, an affiliate of the Registered Owner that will be the final assignee.

Section 15.5 Waiver of Jury Trial. ALL PARTIES TO THIS LEASE AND THE REGISTERED OWNER HEREBY WAIVE ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY ANY PARTY AGAINST ANY OTHER PARTY, OR BROUGHT BY THE REGISTERED OWNER, ON ANY MATTER WHATSOEVER ARISING OUT OF, IN CONNECTION WITH OR IN ANY WAY RELATED TO THIS LEASE OR THE ASSIGNMENT AGREEMENT.

Section 15.6 Triple Net Lease. This Lease shall be deemed and construed to be a "triple net lease" and, subject to the prior appropriation requirements hereof, the District shall pay absolutely net during the Lease Term, the Base Rentals, the Additional Rentals and all expenses of, or other payments in respect of, the 2016A Leased Property as required to be paid by the District under this Lease, for which a specific appropriation has been effected by the District for such purpose, free of any deductions, and without abatement, deduction or setoff (other than credits against Base Rentals expressly provided for in this Lease).

Section 15.7 Payments Due on Holidays. If the date for making any payment or the last day for performance of any act or the exercising of any right, as provided in this Lease, shall be a day other than a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day, with the same force and effect as if done on the nominal date provided in this Lease.

Section 15.8 Severability. Except for the requirement of the District to pay Base Rentals for which a specific appropriation has been effected by the District for such purpose and the requirement of the Corporation to provide quiet enjoyment of the 2016A Leased Property and to convey the 2016A Leased Property to the District under the conditions set forth in Article XII of this Lease (which, if held invalid or unenforceable by any court of competent jurisdiction, may have the effect of invalidating or rendering unenforceable the other provisions of this Lease), in the event that any other provision of this Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 15.9 Execution in Counterparts. This Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 15.10 Applicable Law. This Lease shall be governed by and construed in accordance with the law of the State of Colorado.

Section 15.11 Governmental Immunity. Notwithstanding any other provisions of this Lease to the contrary, no term or condition of this Lease shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections or other provisions of the Colorado Governmental Immunity Act, Section 24-10-101, et. seq., C.R.S., as now or hereafter amended.

Section 15.12 Recitals. The Recitals set forth in this Lease are hereby incorporated by this reference and made a part of this Lease.

Section 15.13 Captions. The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Lease.

IN WITNESS WHEREOF, the Corporation has executed this Lease in its corporate name with its corporate seal hereunto affixed and attested by its duly authorized officers; and the Chair and Secretary of the Board have executed this Lease for and on behalf of the District, all as of the date first above written.



(SEAL)

ASSET ACQUISITION AUTHORITY, INC.,  
as Lessor

By: Stephen J. Deane  
President

ATTEST:

By: Deane Corp  
Secretary-Treasurer

REGIONAL TRANSPORTATION DISTRICT,  
as Lessee

By: Ronnie Chan  
Chair

(SEAL)

ATTEST:

By: Paul D. Chan  
Secretary

EXHIBIT A  
DESCRIPTION OF THE 2016A Leased Property

Thirty-four (34) articulated six axle electrically powered light rail vehicles that were acquired pursuant to RTD Contract No. 12FR201 with Siemens Transportation Systems, Inc., that previously comprised a portion of the 2002A Transit Vehicles Project, Numbers 201 - 234.



EXHIBIT B  
BASE RENTALS SCHEDULE

<u>Date</u>	<u>Base Rentals Principal Component</u>	<u>Base Rentals Interest Component</u> <sup>(1)</sup>	<u>Total Base Rentals</u>	<u>Remaining Lease Balance</u>
6/1/2017	\$11,917,487.55	\$602,294.74	\$12,519,782.29	\$62,552,512.45
12/1/2017		595,187.16	595,187.16	
6/1/2018	12,039,854.36	595,187.16	12,635,041.52	50,512,658.09
12/1/2018		480,627.94	480,627.94	
6/1/2019	12,270,416.58	480,627.94	12,751,044.52	38,242,241.51
12/1/2019		363,874.93	363,874.93	
6/1/2020	12,507,932.58	363,874.93	12,871,807.51	25,734,308.93
12/1/2020		244,861.95	244,861.95	
6/1/2021	12,745,973.49	244,861.95	12,990,835.44	12,988,335.44
12/1/2021		123,584.01	123,584.01	
6/1/2022	<u>12,988,335.44</u>	<u>123,584.01</u>	<u>13,111,919.45</u>	-

<sup>(1)</sup> Interest Component Rate = 1.903%.

EXHIBIT C  
RELEASE AND AMORTIZATION SCHEDULE

TOTAL AMOUNT OF BASE RENTAL PRINCIPAL PAYMENTS THAT MUST BE PAID OR DEEMED PAID, TO RELEASE (1)	PORTION OF THE 2016A LEASED PROPERTY TO BE RELEASED
\$10,000,000	Four (4) Light Rail Vehicles
\$22,500,000	Nine (9) Light Rail Vehicles (including any prior releases)
\$35,000,000	Fourteen (14) Light Rail Vehicles (including any prior releases)
\$47,500,000	Nineteen (19) Light Rail Vehicles (including any prior releases)
\$60,000,000	Twenty Four (24) Light Rail Vehicles (including any prior releases)
\$74,470,000	Thirty-Four (34) Light Rail Vehicles (including any prior releases)

(1) Pursuant to Section 12.3 of this Lease, when the principal component of Base Rentals paid, or deemed paid, by the District totals the amount set forth in this column, the corresponding portion of the 2016A Leased Property will be deemed amortized and shall be released.