

LEASE

This lease ("Lease") is made on the 28th day of December, 2005, between **CITY OF DELRAY BEACH**, a Florida municipal corporation, with a principal place of business at 100 N.W. First Avenue, Delray Beach, Florida ("Lessor" or "City"), and **DELRAY BEACH PUBLIC LIBRARY ASSOCIATION, INC.**, a Florida not for profit corporation ("Lessee"), with a principal place of business at 100 West Atlantic Avenue, Delray Beach, Florida, 33444.

ARTICLE 1. LEASED PREMISES

Description of Premises

1.01. Lessor owns the land and property legally described in Exhibit "A" and leases to Lessee, and Lessee rents and accepts from Lessor, the parcel of land in Delray Beach, County of Palm Beach, State of Florida ("Leased Land"), legally described in Exhibit A, attached to this Lease and made a part of it which includes the library building and parking spaces. If abandoned, the east/west alleyway shall revert in accordance with law to the appropriate party. If it reverts to the City, the Library's lease hold interest shall include the alleyway.

Land Subject to Liens, Encumbrances, and Other Conditions

1.02. This Lease and the Leased Land are subject to all present liens, encumbrances, conditions, rights, easements, restrictions, rights of way, covenants, other matters of record, and zoning and building laws, ordinances, regulations, and codes affecting or governing the Leased Land or that may affect and govern the Leased Land after the execution of this Lease, and all matters that may be disclosed by inspection or survey.

ARTICLE 2. TERM AND RENT

Term of Lease and Option

2.01. Lessee's obligation to pay rent and occupy the Leased Land in accordance with this Lease shall be for a term of ninety-nine (99) years ("Term"), commencing on the date the Lessee obtains a certificate of occupancy and ending at the end of the 99 years, unless terminated at an earlier date for any reason set forth in this Lease or the Tripartite and Interlocal Agreements and exhibits thereto. If the library obtains a certificate of occupancy and the Lease commences, and further provided that Lessee shall not be in default of the terms of this Lease or the Tripartite and Interlocal Agreement and exhibits thereto, the Lessee has the option, within twenty (20) years after the effective date of the Lease Term, to purchase the property under the terms set forth in Exhibit "B" hereto; provided however, that Lessee enters into a restrictive covenant with the City to provide that the property shall be used for Library purposes.

Holdover

2.02. If Lessee holds over after the expiration of the Lease Term and continues to pay rent without objection from Lessor, then Lessee's tenancy shall be from month to month on all the terms and conditions of this Lease.

Rent

2.03. Lessee shall pay rent to Lessor, without notice or demand and without abatement, reduction, or setoff for any reason, at the office of Lessor or any other place that Lessor may designate in writing. The rent shall be payable at the annual rate of One Dollar (\$1.00) per year payable on the commencement of this Lease and on each anniversary thereof. The payments may be prepaid.

ARTICLE 3. USE AND CONSTRUCTION OF IMPROVEMENTS

Primary Use

3.01. Lessee shall have the right to use the Leased Land for the operation of a public library. In this connection, and without detracting from the foregoing, it is understood and agreed that the primary purpose for which the Leased Land has been leased is for the development and construction of a public library. Any other primary use shall be subject to the consent of Lessor in writing. Lessor's consent shall not be unreasonably withheld.

Lessee's Right to Construct Buildings and Other Improvements

3.02. Lessee shall have the right to construct structures, buildings, and other improvements ("Improvements") on the Leased Land, at Lessee's sole cost and expense, with the prior approval of Lessor. In connection with any construction, Lessee shall be permitted to grade, level, and fill the land, remove trees and shrubs, install roadways and walkways, and install utilities, provided all of the foregoing serve the improvements erected on the Leased Land. Lessor shall have no liability for any costs or expenses in connection with the construction of improvements on the Leased Land. The Lessor shall execute all consents necessary for Lessee to obtain permits, licenses, utilities, etc.

ARTICLE 4. OPERATING COSTS AND IMPOSITIONS

Rent to Be Absolutely Net

4.01. The rent paid to Lessor in accordance with Article 2 of this Lease shall be absolutely net to Lessor. This means that, in addition to the rent, Lessee shall be responsible for performing and paying all "Operating Costs" and "Impositions" defined in Paragraphs 4.02 and 4.03, below, in connection with the Leased Land, except for the costs, the City shall pay in accordance with Article 7 for part of the Insurance, and the City's agreement to Repair, as set forth in Paragraph 13.13.

Definition of Operating Costs

4.02. "Operating Costs" shall include, but shall not be limited to, all expenses paid or incurred in connection with the following activities except as modified by Article 7 or Paragraph 13.13:

- (1) Repairs, maintenance, replacements, painting, and redecorating.
- (2) Landscaping.
- (3) Insurance.
- (4) Heating, ventilating, and air conditioning repair and maintenance.
- (5) Water, sewer, gas, electricity, fuel oil, and other utilities.
- (6) Rubbish removal.
- (7) Supplies and sundries.
- (8) Sales or use taxes on supplies or services.
- (9) Notwithstanding any other provision of this Lease to the contrary, the Lessee shall be responsible for the payment of all ad valorem taxes and assessments, if assessed.
- (10) Costs of wages and salaries for all persons engaged in the operation, maintenance, and repair of the Leased Land, including fringe benefits and social security taxes.
- (11) All other expenses, whether or not mentioned in this Lease, that are incurred with regard to operation of the Leased Land, including any replacements if necessary for repairs and maintenance or otherwise.

Definition of Impositions

4.03. "Impositions" shall include all fines and levies that result from construction activities or the normal operation of the premises on the Leased Land, all real estate property taxes, assessments, and other governmental charges that are laid, assessed, levied, or imposed on the Leased Land and become due and payable during the Term of this Lease, or any lien that arises during the time of this Lease on the Leased Land and Improvements, any portion of these, or the sidewalks or streets in front of or adjoining the Leased Land and Improvements.

ARTICLE 5. LAWS AND GOVERNMENTAL REGULATIONS

Compliance With Legal Requirements

5.01. Lessee shall promptly comply with all laws and ordinances, and all orders, rules, regulations, and requirements of federal, state, and municipal governments and appropriate departments, commissions, boards, and officers of these governments (Legal Requirements") throughout the Term of this Lease in a non-discriminatory manner, and without cost to Lessor. Lessee shall promptly comply with these Legal Requirements whether they are foreseen or unforeseen, or ordinary or extraordinary.

Contest of Legal Requirements

5.02. Lessee shall have the right, after prior written notice to Lessor, to contest the validity of any Legal Requirements by appropriate legal proceedings, provided Lessor shall not be

subject to any criminal or civil liability as a result of any legal contest. Lessee shall indemnify and hold Lessor harmless from all loss, claims, and expenses, including reasonable attorneys' fees, as a result of Lessee's failure to comply with Legal Requirements or any contest relating to Legal Requirements.

ARTICLE 6. LIENS AND ENCUMBRANCES

Creation Not Allowed

6.01. Lessee shall not create, permit, or suffer any mechanics' or other liens or encumbrances on or affecting the Leased Land or the fee estate or reversion of Lessor except as specifically permitted in this Lease.

Discharge After Filing or Imposition

6.02. If any lien or encumbrance shall at any time be filed or imposed against the Leased Land or the fee estate or reversion of Lessor, Lessee shall cause the lien or encumbrance to be discharged of record within forty-five (45) days after notice of the filing or imposition by payment, deposit, bond, order of a court of competent jurisdiction, or as otherwise permitted by law. If Lessee shall fail to cause the lien or encumbrance to be discharged within the forty-five (45) day period, then in addition to any other right or remedy of Lessor, Lessor shall be entitled but not obligated to discharge the lien or encumbrance either by paying the amount claimed to be due or by procuring the discharge by deposit or by bonding proceedings. In any event, Lessor shall be entitled to compel the prosecution of an action for the foreclosure of any lien or encumbrance by the lienor and to pay the amount of the judgment for and in favor of the lienor with interest, costs, and allowances if Lessor elects to take this action. All amounts paid by Lessor and all of its costs and expenses in connection with the actions taken by Lessor, including court costs, reasonable attorneys' fees, and interest at the highest legal rate in effect at the time these moneys are due, shall be deemed to be additional rent under this Lease and shall be paid by Lessee to Lessor promptly on demand by Lessor.

Lessor Not Liable for Labor, Services, or Materials Furnished to Lessee

6.03. Lessor shall not be liable for any labor, services, or materials furnished or to be furnished to Lessee or to any sublessee in connection with any work performed on or at the Leased Land, and no mechanics' lien or other lien or encumbrance for any labor, services, or materials shall attach to or affect Lessor's fee estate or reversion in the Leased Land.

ARTICLE 7. INSURANCE AND INDEMNITY

7.01. At all times during the Term of this Lease, Property Insurance shall be maintained as follows:

The City shall maintain property insurance, or otherwise assume the risk, for the perils of all risks in an amount equal to the replacement value of the building(s), as per updated code requirements. The Lessee shall maintain property insurance for the perils of all risk in an

amount equal to the replacement value of the contents of the building(s) and for the value of improvements installed or acquired at the expense of the Lessee.

7.02. At all times during the Term of this Lease, General Liability Insurance shall be maintained as follows:

City shall maintain general liability insurance, or otherwise assume the risk, for claims for bodily injury and property damage arising from events occurring outside the buildings. Lessee shall maintain general liability insurance in coverage limits of no less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the aggregate for claims for bodily injury and property damage for events occurring inside the buildings. All subleasees shall be required to provide insurance as set forth herein.

7.03 Other Insurance Requirements

A. Automotive Liability Insurance shall be as follows:

Lessee shall maintain owned, non-owned, or hired automobile liability insurance in the amount of One Million Dollars (\$1,000,000.00) per occurrence for bodily injury and property damage, combined limits.

B. Worker's Compensation Insurance shall be as follows:

The Lessee shall maintain Worker's Compensation coverage in an amount equal to the statutory limits as required by the State of Florida and including employers' liability insurance.

C. Professional Liability Insurance shall be as follows:

Lessee shall require all design professionals engaged in restoration and/or renovation of the property to have professional liability insurance in an amount acceptable to the Lessor but at least \$1 million per occurrence/annual aggregate.

D. Product Liability Insurance:

Lessee and/or its subleasees shall maintain Products Liability Insurance in an amount of at least one million dollars per occurrence

E. Liquor Liability :

If liquor is sold or consumed on the premises, liquor liability insurance shall be required in amounts equal to the general liability limits.

Certificates of Insurance

7.04. Lessee shall furnish Lessor with certificates of all insurance required by this Article 7. Lessee agrees that if it does not keep this insurance in full force and effect, Lessor may notify

Lessee of this failure, and if Lessee does not deliver to Lessor certificates showing all of the required insurance to be in full force and effect within ten (10) days after this notice, Lessor may, at its option, take out and pay the premiums on the insurance needed to fulfill Lessee's obligations under the provisions of this Article 7. On demand from Lessor, Lessee shall reimburse Lessor the full amount of any insurance premiums paid by Lessor, with interest at the rate of twelve percent (12%) until reimbursement by Lessee. The Lessor shall be named as an additional insured on all insurances required to be furnished by Lessee under this Lease. The Lessor shall review and modify the terms and requirements of insurance, if necessary, on a yearly basis. All policies or risks shall be covered by Lessor or Lessee and subleasees in the amounts provided herein.

Indemnification of Lessor

7.05. Lessor shall not be liable for any loss, damage, or injury of any kind or character to any person or property arising from any use of the Leased Land or Improvements, or caused by any defect in any building, structure, equipment, facility, or other improvement on the Leased Land, or caused by or arising from any act or omission of Lessee, or any of its agents, employees, licensees, or invitees, or by or from any accident, fire, or other casualty on the land, or occasioned by the failure of Lessee to maintain the premises in safe condition. Lessee waives all claims and demands on its behalf against Lessor for any loss, damage, or injury, and agrees to indemnify and hold Lessor entirely free and harmless from all liability for any loss, damage, costs, or injury of other persons, and from all costs and expenses arising from any claims or demands of other persons concerning any loss, damage, or injury, caused other than by the negligent or intentional act or omission of Lessor.

ARTICLE 8. DAMAGE OR DESTRUCTION OF IMPROVEMENTS

Destruction or Forty Percent (40%) Damage

8.01. In the event that the Improvements are completely destroyed, or are damaged in excess of forty percent (40%), due to any cause whatsoever, the Lessee may at its own expense repair, restore, or replace the destroyed property if Lessee deems it practical or advisable to do so, and this Lease shall continue in full force and effect. If Lessee deems it impractical or inadvisable to repair, restore, or replace the destroyed property, this Lease shall terminate on sixty (60) days' written notice to Lessor and any lender under Article 10 of this Lease.

Damage Less Than Forty Percent (40%)

8.02. In the event that damage to the Improvements due to any cause whatsoever is not in excess of forty percent (40%), Lessee shall at its own expense repair, restore, or replace the damaged Improvements with due diligence, and this Lease shall continue in full force and effect.

Definitions

8.03. The phrase "completely destroyed" shall be construed to mean the destruction of the safe, tenantable use of occupancy of all Improvements under this Lease. The phrase "damaged in excess of forty percent (40%)" shall be construed to mean any damage to the

Improvements (excluding damage caused solely by water used in extinguishing fire) that will require an expenditure in excess of forty percent (40%) percent of the market value (immediately prior to the damage) of the Improvements to accomplish required repairs, restoration, or replacement.

ARTICLE 9. CONDEMNATION

Interests of Parties

9.01. If the Leased Land and Improvements or any part of these premises is taken for public or quasi-public purposes by condemnation in any action or proceeding in eminent domain, or is transferred in lieu of condemnation to any authority entitled to exercise the power of eminent domain, the interests of **Lessor** and **Lessee** in the award or consideration for the taking or transfer and the effect of the taking or transfer on this Lease shall be governed by Florida Law and subject to the provision of Section 9.02 below.

Termination on Taking

9.02. If all or substantially all of the Leased Land and Improvements are taken or transferred as described in Paragraph 9.01, this Lease and all of the rights, title, and interest under this Lease shall cease on the date that title to the Leased Land and Improvements vests in the condemning authority.

ARTICLE 10. LEASEHOLD MORTGAGES

Leasehold Mortgages Prohibited

10.01. Except as specifically provided otherwise in this Lease, **Lessee** shall not be permitted to mortgage **Lessee's** leasehold interest in the Leased Land or Buildings without **Lessor's** consent or approval.

ARTICLE 11. DEFAULT

Events of Default

11.01. (a) Any one or more of the events listed in Subparagraphs (b) through (f) of this Paragraph 11.01 shall constitute a default under this Lease.

(b) **Lessee's** failure to pay rent within sixty days (60) after the rent becomes due and payable in accordance with the terms, covenants, and agreements of this Lease shall constitute a default under this Lease, provided however, the Lessor shall give written notice of default and permit the Lessee to cure the default within ten (10) days of written notice.

(c) **Lessee's** failure to observe or perform or cause to be observed or performed any other term, covenant, or agreement under this Lease, and the Tripartite and Interlocal Agreement and exhibits thereto, the Security Agreement and the Promissory Note, and continuation of this failure for a period of ninety days (90) after **Lessor's** written notice to

Lessee specifying the nature of Lessee's failure shall constitute a default under this Lease. However, a failure as described in this Subparagraph (b) shall not constitute a default if it is curable but cannot with reasonable diligence be cured by Lessee within a period of ninety (90) days, and if Lessee proceeds to cure the failure with reasonable diligence and in good faith.

(d) Lessee's abandonment of the Leased Land and Improvements shall constitute a default under this Lease. For the purposes of this Lease, "abandonment" shall be defined as Lessee's failure to begin construction of Improvements within eighteen (18) months following the date of this Lease.

(e) The occurrence of both of the following events at the date of the commencement of this Lease or during its effective Term shall constitute a default under this Lease:

(1) Filing of a petition in bankruptcy or insolvency, for reorganization or the appointment of a receiver or trustee of all or a portion of Lessee's property, by or against Lessee in any court pursuant to any statute either of the United States or of any state.

(2) Lessee's failure to secure a dismissal of the petition within sixty (60) days after its filing.

(f) Lessee's assignment of the leasehold interest under this Lease for the benefit of creditors shall constitute a default under this Lease.

Notice of Election to Terminate Lessee's Possession

11.02. Subject to the provisions of Article 11, if any event creating default occurs, Lessor may elect to terminate Lessee's right of possession under this Lease after three hundred sixty (360) days from the date of service of notice of the election. If this notice is given, all of Lessee's rights, title, and interest in the Leased Land and Buildings shall expire completely at the expiration of the three hundred sixty (360) days, and Lessee shall quit and surrender the Leased Land and any Improvements erected on the Leased Land to Lessor.

Lessor's Entry After Termination of Lessee's Possession

11.03. At any time after the termination of Lessee's right of possession under this Lease pursuant to Paragraph 11.02 of this Lease, Lessor may enter and possess the Leased Land and Improvements by summary proceedings, ejectment, or otherwise, and Lessor may remove Lessee and all other persons and property from the Leased Land and Improvements. If Lessor takes the actions described in this Paragraph 11.03, Lessor may then possess the Leased Land and Improvements and assume the right to receive all rents, income, and profits from the Leased Land and Improvements, and Lessor may also sell any of the Improvements.

Lessee's Liability for Accrued Rent

11.04. The expiration of this Lease or termination of Lessee's right of possession pursuant to Paragraphs 2.01 or 11.02 of this Lease shall not relieve Lessee of its liability and obligation to

pay the rent and any other charges accrued prior to these events, or relieve Lessee of liability for damages for breach. These liabilities and obligations of Lessee shall survive any expiration or termination of the Lease or any entry and possession by Lessor.

Reletting Land and Improvements

11.05. After the expiration of this Lease or termination of Lessee's right of possession under this Lease pursuant to Paragraphs 2.01 or 11.03, Lessor shall use reasonable efforts to mitigate damages by reletting the Leased Land and Improvements, in whole or in part, either in its own name or as agent of Lessee, for a term or terms that, at Lessor's option, may be for the remainder of the then-current Term of this Lease or for any longer or shorter period.

Rent From Reletting

11.06. Lessee shall be entitled to a credit if the rent received on reletting exceeds the rent required pursuant to this Lease. Lessee shall remain liable for the difference between the rent reserved under this Lease, and the rent collected and received, if any, by Lessor during the remainder of the unexpired term. Lessor shall have the option of collecting the deficiency between the rent reserved and the rent collected in monthly payments as these payments become due and payable, or of receiving in advance the deficiency for the remainder of the Term reduced to present value at the rate of twelve percent (12%) per year.

ARTICLE 12. EXPIRATION OF TERM

Lessee's Delivery of Possession After Termination or Expiration

12.01. On the expiration date of this Lease as set forth in Paragraph 2.01 of this Lease, or the termination of Lessee's possession under this Lease pursuant to Paragraph 11.03, or any entry or possession of the Leased Land and Improvements by Lessor pursuant to Paragraph 11.03 (collectively referred to as the "Expiration Date"), Lessee shall promptly quit and surrender the Leased Land and Improvements, and deliver to Lessor actual possession and ownership of the Leased Land and Improvements in good order, condition, and repair.

Lessee's Removal of Movable Objects

12.02. Lessee shall have the right to remove from the Leased Land and Improvements all movable trade fixtures, movable equipment, and articles of personal property used or procured for use in connection with the operation of its business on or before the Expiration Date, provided that Lessee shall promptly repair, or cause to be repaired, any damage resulting to the Leased Land or Improvements by reason of this removal. Any trade fixtures, equipment, or articles of personal property of Lessee that remain at or on the Leased Land after the Expiration Date shall be deemed to have been abandoned by Lessee, and may either be retained by Lessor as its property or disposed of by Lessor without accountability to Lessee for the value of these trade fixtures, equipment, or articles of personal property, or any proceeds derived from the sale of these items.

ARTICLE 13. GENERAL PROVISIONS

No Waiver of Breach by Lessor's Actions

13.01. The failure of Lessor to seek redress for violation of, or to insist on the strict performance of any covenant, agreement, term, provision, or condition of this Lease shall not constitute a waiver of the covenant, agreement, term, provision, or condition. The receipt by Lessor of rent with knowledge of the breach of any covenant, agreement, term, provision, or condition of this Lease shall not be deemed a waiver of that breach.

Waiver of Any Provision Must Be Written

13.02. No provision of this Lease shall be deemed to have been waived, unless the waiver is in writing and signed by the party against whom enforcement is sought. No payment by Lessee or receipt by Lessor of a lesser amount than the rent stipulated in this Lease shall be deemed to be other than for the payment of rent or other charge owing by Lessee, as Lessor shall elect. No endorsement or statement on any check or any letter accompanying any check or payment as rent shall be deemed binding on Lessor or deemed an accord and satisfaction, and Lessor may accept a check or payment from Lessee without prejudice to Lessor's right to recover the balance of the rent or other charges owing by Lessee, and without limitation on Lessor's right to pursue each and every remedy in this Lease. Each right and remedy of Lessor provided for in this Lease shall be cumulative and in addition to every other right or remedy provided for in this Lease, or now or later existing at law, in equity, by statute, or otherwise.

Entire Agreement

13.03. This Lease and the Exhibits annexed to this Lease contain the entire agreement between Lessor and Lessee, and any agreement made after the execution of this Lease between Lessor and Lessee shall be ineffective to change, modify, waive, release, discharge, terminate, or effect a surrender or abandonment of this Lease, in whole or in part, unless that agreement is in writing and signed by the party against whom enforcement is sought.

Notices

13.04. All notices and demands of any kind that either party may be required or may desire to give to the other in connection with this Lease must be given by registered or certified mail, return receipt requested, with postage fully prepaid, and addressed to the party to be served at the party's address as set forth above. Any notice shall be deemed received on first attempted delivery. Any party may change the address to which notices to that party are to be directed by notice given in the manner provided in this Paragraph 13.04.

Lessor's Entry and Inspection of Premises

13.05. Lessor, or its agents or designees, shall have the right to enter the Leased Land and Improvements during reasonable business hours for inspection, or to complete any work that may be necessary because of Lessee's default under any of the terms, covenants, and

conditions of this Lease continuing beyond the applicable periods of grace, or to exhibit the Leased Land and Improvements to potential buyers and agents.

Partial Invalidity or Unenforceability

13.06. If any term, covenant, or condition of this Lease shall be invalid or unenforceable to any extent, the remainder of the terms, covenants, and conditions of this Lease shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

Meaning of Term "Lessor"

13.07. The term "Lessor," as used in this Lease in relation to Lessor's covenants and agreements under this Lease, shall be limited to mean and include only the owner or owners of the fee title to the Leased Land at the time in question. In the event of any conveyance of this fee title, Lessor named in this Lease and each subsequent grantor shall be automatically relieved, at the date of the conveyance, of all liability in respect to the performance of any of Lessor's covenants and agreements remaining to be performed after the date of conveyance, and each grantee shall be bound by all of the covenants and agreements remaining to be performed under the Lease during the time of grantee's ownership.

Satisfaction of Judgment Against Lessor

13.08. Anything contained in this Lease to the contrary notwithstanding, Lessee agrees to look solely to the Leased Land and Lessor's interest in the Leased Land for the collection and satisfaction of any judgment that Lessee may obtain against Lessor because of Lessor's failure to observe or perform any of its covenants or obligations under this Lease, including, but not limited to, the breach of the covenant of quiet enjoyment, whether express or implied. If Lessee receives any judgment resulting from Lessor's failure to observe or perform any of its covenants or obligations under this Lease, Lessee further agrees not to collect or execute, or attempt to collect or execute, that judgment out of or against any other assets or properties of Lessor.

Individuals Benefited by Lease

13.09. This Lease shall inure to the benefit of and be binding on Lessor and Lessee and their respective distributees, personal representatives, executors, successors, and assigns except as otherwise provided in this Lease.

Assignment and Subletting

13.10. This Lease and the Term and estate granted by this Lease, or any part of this Lease or that Term and estate, may not be subleased or assigned, without Lessor's written consent which such consent may not be arbitrarily withheld.

Attornment of Sublessee

13.11. All subleases shall provide that in the event of cancellation, termination, expiration, or surrender of this Lease, the sublessee will attorn to and recognize **Lessor**, or any assignee of **Lessor**, as **Lessor** under this Lease for the balance then remaining of the Term of this Lease, and subject to all terms of this Lease. The provisions of this Paragraph 13.11 shall be automatic and no further instrument or document shall be necessary unless required by **Lessor** or any assignee of **Lessor**.

Quiet Enjoyment

13.12. **Lessor** covenants and agrees that **Lessee**, on payment of the rent and other charges provided for in this Lease and fulfillment of the obligations under the covenants, agreements, and conditions of this Lease, shall lawfully and quietly hold, occupy, and enjoy the Leased Land during the Term of this Lease without any interference from anyone claiming through or under **Lessor**.

TO KEEP IN REPAIR AND GOOD CONDITION

13.13 The **City** and **Lessee** shall keep the Leased Premises, including the improvements as therein, in good condition and repair to the extent herein provided. Good repair shall mean the condition of the improvements as existed at the time of the entry into the Lease or at the time the improvement is completely constructed, normal wear and tear excepted.

The **City** shall maintain the exterior walls, parking lot, exterior landscaping and irrigation, walkways, roof, heating and air conditioning and other structural components. The **City** shall maintain the exterior lighting and all other equipment shall be maintained by **Lessee**. **Lessee** shall furnish all necessary janitorial, cleaning, and pest control services; shall provide all care and maintenance to the structures located on the property not otherwise expressly stated herein as a duty of the **City**, and provide all interior renovation or redecoration not involving major structural changes.

ARTICLE 14. DOCUMENTATION AND RECORDING OF LEASE

Memorandum of Lease and Recording

14.01 As soon as practicable after execution of this Lease, **Lessor** and **Lessee** shall execute, in recordable form, a Memorandum of Lease and **Lessee** shall record the Memorandum of Lease in the Public Records of Palm Beach County, Florida.

ARTICLE 15. OPTION TO PURCHASE

15.01 The **Lessee** shall have an option to purchase the subject property for One Dollar (\$1.00) at any time after twenty (20) years from the effective date of this Lease by providing an executed Contract for Sale and Purchase in form as attached to this Lease as Exhibit B

provided the Lessee shall not be in material default of the Lease that remains uncured or the Tripartite and Interlocal Agreement and exhibits thereto.

IN WITNESS WHEREOF, Lessor and Lessee have executed and signed this Lease or have caused this Lease to be executed and signed on _____

WITNESSES:

VERONICA F. DI SILVESTRO

WITMAN SHAPIRO

ATTEST:

By: Secretary
Secretary

LESSEE:

DELRAY BEACH PUBLIC LIBRARY
ASSOCIATION, INC.

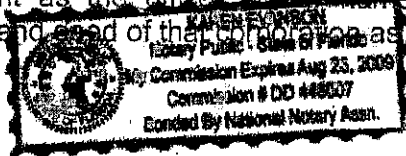
By: John J. Callahan
Print Name: John J. Callahan
Title: Library Director

(Corporate Seal)

STATE OF FLORIDA

COUNTY OF PALM BEACH

I certify that on this 28th day of December, 2005, of the Delray Beach Public Library Association, Inc., ✓ who is personally known to me or ✓ who produced ✓ as identification and that he or she signed and delivered this instrument as the officer of the Delray Beach Public Library Association corporation, and that this instrument is the voluntary act and deed of the Delray Beach Public Library Association as authorized by its Board of Directors.



Karen E. Hanson
Notary Public-State of Florida

LESSOR:

CITY OF DELRAY BEACH, FLORIDA

By: Jeff Perlman
Jeff Perlman, Mayor

Approved as to Form:

By: Super A. Ruby
City Attorney

ATTEST:

Chandra D. Nubari
City Clerk

STATE OF FLORIDA

COUNTY OF PALM BEACH

I certify that on this 11th day of December, 2005, Jeff Perlman, as Mayor of the City of Delray Beach, X who is personally known to me or ✓ who

produced _____ as identification and that he signed and delivered this instrument as the officer of the named corporation, and that this instrument is the voluntary act and deed of that corporation as authorized by its Board of Directors.

Carlaanne M. Kucmerowski
Notary Public-State of Florida



Carlaanne M. Kucmerowski
My Commission DD311603
Expires April 20, 2006

EXHIBIT A

TO LEASE

Lots 1 through 4, Block 53, TOWN OF LINTON, (now Delray Beach), according to the Plat thereof as recorded in Plat Book 1, Page 3, Public Records of Palm Beach County, Florida, less the right-of-way for West Atlantic Avenue.

**EXHIBIT B
TO LEASE**

CONTRACT FOR SALE AND PURCHASE

PARTIES: CITY OF DELRAY BEACH, ("Seller"), of 100 N.W. 1st Avenue, Delray Beach, Florida 33444 (Phone: 561-243-7000), and DELRAY BEACH PUBLIC LIBRARY ASSOCIATION, INC., ("Buyer"), of _____ (Phone: _____) hereby agree that the Seller shall sell and the Buyer shall buy the following described Real Property and Personal Property (collectively "Property") upon the following terms and conditions, which INCLUDE the Standards for Real Estate ("Standard(s)") on the reverse side hereof or attached hereto and riders and any addenda to this Contract for Sale and Purchase ("Contract").

I. DESCRIPTION:

(a) Legal description of the Real Property located in Palm Beach County, Florida:

Lots 1 through 4, Block 53, TOWN OF LINTON, (now Delray Beach), according to the Plat thereof s recorded in Plat Book 1, Page 3, Public Records of Palm Beach County, Florida, less the right-of-way for West Atlantic Avenue.

(b) Street address, city, zip, of the Property is: _____

(c) Personalty: _____

II. PURCHASE PRICE: **\$ 1.00**
PAYMENT:

III. TIME FOR ACCEPTANCE; EFFECTIVE DATE: If this offer is not executed by and delivered to all parties OR FACT OF EXECUTION communicated in writing between the parties on or before _____, this offer will be withdrawn. The date of Contract ("Effective Date") will be the date when the Buyer gives notice of its exercise of the option to purchase under that certain Ground Lease between the Seller and the Buyer. A facsimile copy of this Contract and any signatures thereon shall be considered for all purposes as originals.

IV. TITLE EVIDENCE: Within twenty-one (21) days after the effective date of this Contract, (CHECK ONLY ONE): ☐ Seller shall, at Seller's expense, deliver to Buyer or Buyer's attorney; OR ☐ Buyer shall, at Buyer's expense obtain (CHECK ONLY ONE): ☐ abstract of title or (2) ☐ title insurance commitment (with legible copies of instruments listed as exceptions attached thereto) and, after closing, an owner's policy of title insurance.

V. CLOSING DATE: This transaction shall be closed and the deed and other closing papers delivered on not sooner than thirty (30) days after Buyer's exercise of the option to purchase and not later than one hundred fifty (150) days after Buyer's exercise of the option to purchase unless modified by other provisions of Contract. In any event the Seller would be given at least fifteen (15) days advance written notice.

VI. RESTRICTIONS; EASEMENTS; LIMITATIONS: Buyer shall take title subject to: comprehensive land use plans, zoning, restrictions, prohibitions and other requirements imposed by governmental authority; restrictions and matters appearing on the plat or otherwise common to the subdivision; public utility easements of record (easements are to be located contiguous to Real Property lines and not more than 10 feet in width as to the rear or front lines and 7 ½ feet in width as to the side lines, unless otherwise specified herein); taxes for year of closing and subsequent years; assumed mortgages and purchase money mortgages, if any (if additional items, see addendum); provided that there exists at closing no violation of the foregoing and none prevent use of Property for public library purposes and shall agree to a restrictive covenant allowing the use for library purposes.

VII. OCCUPANCY: Seller warrants that there are no parties in occupancy other than Seller, but if Property is intended to be rented or occupied beyond closing, the fact and terms thereof and the tenant(s) or occupants shall be disclosed pursuant to Standard F. Seller shall deliver occupancy of Property to Buyer at the time of closing unless otherwise stated herein. If occupancy is to be delivered before closing, Buyer assumes all risk of loss to Property from date of occupancy, shall be responsible and liable for maintenance from that date, and shall be deemed to have accepted Property in its existing condition as of time of taking occupancy unless otherwise stated herein.

VIII. TYPEWRITTEN OR HANDWRITTEN PROVISIONS: Typewritten or handwritten provisions, riders and addenda shall control all printed provisions of this Contract in conflict with them.

IX. RIDERS: (CHECK those Riders which are applicable AND are attached to this Contract):

a) ☐ "As Is"

X. ASSIGNABILITY: (CHECK ONLY ONE): Buyer (1) ☐ may assign and thereby be released from any further liability under this Contract provided that the assignment must occur at least ten (10) days prior to closing.

XI. DISCLOSURES:

- (a) Radon is a naturally occurring radioactive gas that, when accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding Radon or Radon testing may be obtained from your County Health unit.
- (b) Buyer may have determined the energy efficiency rating of the residential building, if any, is located on the Real Property.
- (c) If the Real Property includes pre-1978 residential housing, then Paragraph X(h) is mandatory.

XII. MAXIMUM REPAIR COSTS: Seller shall not be responsible for payments in excess of:

- (a) \$-0-for treatment and repair under Standard D (if blank, then 2% of the Purchase Price).
- (b) \$-0-for repair and replacement under Standard N (if blank, then 3% of the Purchase Price).

XIII. SPECIAL CLAUSES; ADDENDA: If additional terms are to be provided, attached addendum and CHECK HERE ☐

DELRAY BEACH PUBLIC LIBRARY
ASSOCIATION, INC.

CITY OF DELRAY BEACH, FLORIDA

Buyer	Date	Seller	Date
Social Security or Tax ID No. _____		Social Security or Tax ID No. _____	

ADDENDUM TO CONTRACT FOR SALE AND PURCHASE

SELLER: CITY OF DELRAY BEACH

BUYER: DELRAY BEACH PUBLIC LIBRARY ASSOCIATION, INC.

PROPERTY ADDRESS: _____

XIV. SPECIAL CLAUSES (Continued):

- A. The property is being sold in its "as is" condition.
- B. The parties warrant and agree that there is no broker involved in this transaction.

STANDARDS FOR REAL ESTATE TRANSACTIONS

A. **EVIDENCE OF TITLE:** (1) An abstract of title prepared or brought current by a reputable and existing abstract firm (if not existing then certified as correct by an existing firm) purporting to be as accurate synopsis of the instruments affecting title to Real Property recorded in the public records of the county wherein Real Property is located, through Effective Date. It shall commence with the earliest public records, or such later date as may be customary in the county. Upon closing of this Contract, the abstract shall become the property of Buyer, subject to the right of retention thereof by first mortgagee until fully Paid; (2) the title insurance commitment issued by a Florida licensed title insurer agreeing to issue to Buyer, upon recording of the deed to Buyer, an owner's policy of title insurance in the amount of the purchase price, insuring Buyers title to Real Property, subject only to liens, encumbrances, exceptions or qualification provided in this Contract and those which shall be discharged by Seller at or before closing. Seller shall convey a marketable title subject only to liens, encumbrances, exceptions or qualifications set forth in Contract. Marketable title shall be determined according to applicable Title Standards adopted by authority of The Florida Bar and in accordance with law. Buyer shall have 30 days, if abstract, or 5 days, if title commitment, from date of receiving evidence of title to examine it. If title is found defective, Buyer shall, within 3 days thereafter, notify Seller in writing specifying defect(s). If the defect(s) render title unmarketable, Seller will have 30 days from receipt of notice to remove the defect(s), failing which Buyer shall, within five (5) days after expiration of the thirty (30) day period, deliver written notice to Seller either: (1) extending the time for a reasonable period not to exceed 120 days within which Seller shall we diligent effort to remove the defects; or (2) requesting a refund of deposit(s) paid which shall immediately be returned to Buyer. If Buyer fails to so notify Seller, Buyer shall be deemed to have accepted the title as it then is. Seller shall, if title is found unmarketable, use diligent effort to correct defect(s) in title within the time provided therefor. If Seller is unable to timely correct the defects, Buyer shall either waive the defects, or receive a refund of deposit(s), thereby releasing Buyer and Seller from all further obligation under this Contract.

B. **PURCHASE MONEY MORTGAGE; SECURITY AGREEMENT TO SELLER:** A purchase money mortgage and mortgage note to Seller shall provide for a 30 day grace period in the event of default if a first mortgage and a 15 day grace period if second or lesser mortgage; shall provide for right of prepayment in whole or in part without penalty; shall permit acceleration in event of transfer of the Real Property; shall require all prior lien and encumbrances to be kept in good standing and forbid modifications of or future advances under prior mortgage(s); shall require Buyer to maintain policies of insurance containing a standard mortgagee clause covering all improvements located on the Real Property against fire and all perils included within the term "extended coverage endorsements" and such other risks and perils as Seller may reasonably require, in an amount equal to their highest insurable value; and the mortgage, note and security agreement shall be otherwise in form and content required by Seller; but Seller may only require clauses customarily found in mortgages, mortgage notes, and security agreements generally utilized by saving and loan institutions or state or national banks located in the county wherein Real Property is located. All Personal Property and leases being conveyed or assigned will, at Seller's option, be subject to the lien of a security agreement evidenced by recorded financing statements. If a balloon mortgage, the final payment will exceed the periodic payments thereon.

C. **SURVEY:** Buyer, at Buyer's expense, within time allowed to deliver evidence of title, may have Real Property surveyed and certified by a registered Florida surveyor. If the survey discloses encroachments on the Real Property or that improvements located thereon encroach on setback lines, easements, lands of others, or violate any restrictions, Contract covenants or applicable governmental regulation, the same shall constitute a title defect.

~~D. **TERMITES:** Buyer, at Buyer's expense, within time allowed to deliver evidence of title and to examine same, may have Real Property inspected by a Florida Certified Pest Control Operator ("Operator") to determine if there is any visible active termite infestation or visible existing damage from termite infestation in the Property. If either or both are found, Buyer will have 4 days from date of written notice thereof within which to have cost of treatment, if required, estimated by the Operator and all damage inspected and estimated by a licensed builder or general contractor. Seller shall pay valid costs of treatment and repair of all damage up to the amount provided in Paragraph XIII(a). If estimated costs exceed that amount, Buyer shall have the option of canceling this Contract within 5 days after receipt of contractor's repair estimate by giving written notice to Seller or Buyer may elect to proceed with the transaction, and receive a credit at closing of an amount provided in Paragraph XIII(a). "Termites" shall be deemed to include all wood destroying organisms required to be reported under the Florida Pest Control Act, as amended.~~

E. **INGRESS AND EGRESS:** Seller warrants and represents that there is ingress and egress to the Real Property sufficient for the intended use as described in Paragraph VII hereof, title to which is in accordance with Standard A.

F. ~~LEASES:~~ Seller shall, not less than 15 days before closing, furnish to Buyer copies of all written leases and estoppel letters from each tenant specifying the nature and duration of the tenant's occupancy, rental rates, advanced rent and security deposits paid by tenant. If Seller is unable to obtain such letter from each tenant, the same information shall be furnished by Seller to Buyer within that time period in the form of a Seller's affidavit, and Buyer may thereafter contact tenants to confirm such information. Seller shall, at closing, deliver and assign all original leases to Buyer.

G. **LIENS:** Seller shall furnish to Buyer at time of closing as affidavit attesting to the absence, unless otherwise provided for herein, of any financing statements, claims of lien or potential lienors known to Seller and further attesting that there have been no improvements or repairs to Property for 90 days immediately preceding date of closing. If Property has been improved, or repaired within that time, Seller shall deliver releases or waivers of mechanics' liens executed by all general contractors, subcontractors, suppliers, and materialmen in addition to Seller's lien affidavit setting forth the names of all such general contractors, subcontractors, suppliers and materialmen and further affirming that all charges for improvements or repairs which could serve as a basis for a mechanic's lien or a claim for damages have been paid or will be paid at closing of this Contract.

H. **PLACE OF CLOSING:** Closing shall be held in the county where Real property is located, at the office of the attorney or other closing agent designated by Seller.

I. **TIME:** In computing time periods of less than six (6) days, Saturdays, Sundays and state or national legal holidays shall be excluded. Any time periods provided for herein which shall end on Saturday, Sunday or legal holiday shall extend to 5:00 p.m. of the next business day. Time is of the essence in this Contract.

J. **DOCUMENTS FOR CLOSING:** Seller shall furnish deed, bill of sale, construction lien affidavit, owner's possession affidavit, assignments of leases, tenant and mortgagee estoppel letters, and corrective instruments. Buyer shall furnish closing statement, mortgage, mortgage note, security agreement, and financing statements.

K. **EXPENSES:** Documentary stamps on the deed and recording corrective instruments shall be paid by Seller. Documentary stamps and intangible tax on the purchase money mortgage and any mortgage assumed, and recording purchase money mortgage to Seller, deed and financing statements shall be paid by Buyer. Unless otherwise provided by law or rider to this Contract, charges for the following related title services, namely title or abstract charge, title examination, and settlement and closing fee, shall be paid by the party responsible for furnishing the title evidence in accordance with Paragraph V.

L. **PRORATIONS; CREDITS:** Taxes, assessments, rent, interest, insurance and other expenses and revenue of Property shall be prorated through day before closing. Buyer shall have the option to taking over any existing policies of insurance, if assumable, in which event premiums shall be prorated. Cash at closing shall be increased or decreased as may be required by prorations to be made through day prior to closing or occupancy if occupancy occurs before closing. Advance rent and security deposits will be credited to Buyer. Escrow deposits held by mortgagee will be credited to Seller. Taxes shall be prorated based on the current year's tax with due allowance made for maximum allowable discount, homestead and other exemptions. If closing occurs at a date when the current year's millage is not fixed, and current year's assessments is available, taxes will be prorated based upon such assessment and the prior year's millage. If current year's assessment is not available, then taxes will be prorated on the prior year's tax. If there are completed improvements on Real Property by January 1st of year of closing, which improvements were not in existence on January 1st of the prior year, then taxes shall be prorated based upon the prior year's millage and at an equitable assessment to be agreed upon between the parties, failing which, request will be made to the County Property Appraiser for an informal assessment taking into consideration available exemptions. Any tax proration based on an estimate shall, at request of either party, be readjusted upon receipt of tax bill on condition that a statement to that effect is signed at closing.

M. **SPECIAL ASSESSMENT LIENS:** Certified, confirmed and ratified special assessment liens as of date of closing (not as of Effective Date) are to be paid by Seller. Pending liens as of date of closing shall be assumed by Buyer. If the improvement has been substantially completed as of Effective Date, any pending lien shall be considered as certified, confirmed or ratified and Seller shall, at closing, be charged an amount equal to the last estimate of assessment for the improvement by the public body.

N. ~~INSPECTION, REPAIR AND MAINTENANCE:~~ Seller warrants that, as of 10 days prior to closing, the ceiling, roof (including the fascia and soffits) and exterior and interior walls, foundation, seawalls (or equivalent) and dockage do not have any ~~VISIBLE EVIDENCE~~ of leaks, water damage or structural damage and that the septic tank,

~~pool, all appliances, mechanical items, heating, cooling, electrical, plumbing systems and machinery are in WORKING CONDITION. The foregoing warranty shall be limited to the items specified unless otherwise provided in an addendum. Buyer may, at Buyer's expense, have inspections made of these items by a firm or individual specializing in home inspections and hold an occupational license for such purpose (if required) or by an appropriately licensed Florida contractor. Buyer shall, prior to Buyer's occupancy, or not less than 10 days prior to closing, whichever occurs first, report in writing to Seller such items that do not meet the above standards as to defects. Unless Buyer timely reports such defects, Buyer shall be deemed to have waived Seller's warranties as to defects not reported. If repairs or replacement are required to comply with this Standard, Seller shall cause them to be made and shall pay up to the amount provided in Paragraph XIII(b). Seller is not required to make repairs or replacements of a cosmetic nature unless caused by a defect Seller is responsible to repair or replace. If the cost of such repair or replacement exceeds the amount provided in Paragraph XIII(b), Buyer or Seller may elect to pay such excess, failing which either party may cancel this Contract. If Seller is unable to correct the defects prior to closing, the cost thereof shall be paid into escrow at closing. Seller shall, upon reasonable notice, provide utilities service and access to the Property for inspections, including a walk through prior to closing, to confirm that all items of Personal Property are on the Real Property and, subject to the foregoing, that all required repairs and replacements have been made and that the Property, including but not limited to, lawn, shrubbery and pool, if any, has been maintained in the condition existing as of Effective Date, ordinary wear and tear excepted.~~

O. **RISK OF LOSS:** If the Property is damaged by fire or other casualty before closing and cost of restoration does not exceed 3% of the assessed valuation of the Property so damaged, cost of restoration shall be an obligation of the Seller and closing shall proceed pursuant to the terms of Contract with restoration costs escrowed at closing. If the cost of the restoration exceeds 3% of the assessed valuation of the improvements so damaged, Buyer shall have the option of either taking Property as is, together with either the 3% or any insurance proceeds payable by virtue of such loss or damage, or of canceling Contract and receiving return of deposit(s).

P. **PROCEEDS OF SALE; CLOSING PROCEDURE:** The deed shall be recorded upon clearance of funds. If an abstract of title has been furnished, evidence of title shall be continued at Buyer's expense to show title in Buyer, without any encumbrances or change which would render Seller's title unmarketable from the date of the last evidence. All closing proceeds shall be held in escrow by Seller's attorney or other mutually acceptable escrow agent for a period of not more than 5 days after closing date. If Seller's title is rendered unmarketable, through no fault of Buyer, Buyer shall, within the 5 day period, notify Seller in writing of the defect and Seller shall have 30 days from date of receipt of such notification to cure the defect. If Seller fails to timely cure the defect, all deposit(s) shall, upon written demand by Buyer and within 5 days after demand, be returned to Buyer and simultaneously with such repayment, Buyer shall return Personalty and vacate Real Property and reconvey the Property to Seller by special warranty deed and bill of sale. If Buyer fails to make timely demand for refund, Buyer shall take title as is, waiving all rights against Seller as to any intervening defect except as may be available to Buyer by virtue of warranties contained in the deed or bill of sale. If a portion or the purchase price is to be derived from institutional financing or refinancing, requirements of the lending institution as to place, time of day and procedures for closing, and for disbursement of mortgage proceeds shall control over contrary provision in this Contract. Seller shall have the right to require from the lending institution a written commitment that it will not withhold disbursement of mortgage proceeds as a result of any title defect attributable to Buyer-mortgagor. The escrow and closing procedure required by this Standard may be waived if title agent insures adverse matters pursuant to Section 627.7841, F.S., as amended.

Q. **ESCROW:** Any escrow agent ("Agent") receiving funds or equivalent is authorized and agrees by acceptance of them to deposit them promptly, hold same in escrow and, subject to clearance, disburse them in accordance with terms and conditions of Contract. Failure of clearance of funds shall not excuse Buyer's performance. If in doubt as to Agent's duties or liabilities under the provisions of Contract, Agent may, at Agent's option, continue to hold the subject matter of the escrow until the parties hereto agree to its disbursement, or until a judgment of a court of competent jurisdiction shall determine the rights of the parties or Agent may deposit with the clerk of the circuit court having jurisdiction of the dispute. Upon notifying all parties concerned of such action, all liability on the part of Agent shall fully terminate, except to the extent of accounting for any items previously delivered out of escrow. If a licensed real estate broker, Agent will comply with provisions of Chapter 475, F.S., as amended. Any suit between Buyer and Seller where Agent is made a party because of acting as Agent hereunder, or in any suit wherein Agent interpleads the subject matter of the escrow, Agent shall recover reasonable attorney's fees and costs incurred with these amounts to be paid from and out of the escrowed funds or equivalent and charged and awarded a court costs in favor of the prevailing party. The Agent shall not be liable to any party or person for

misdelivery to Buyer or Seller of items subject to this escrow, unless such misdelivery is due to willful breach of Contract or gross negligence of Agent.

R. **ATTORNEY FEES; COSTS:** In any litigation, including breach, enforcement or interpretation, arising out of this Contract, the prevailing party in such litigation which, for the purposes of this Standard, shall include Seller, Buyer, and any brokers acting in agency or nonagency relationships authorized by Chapter 475, F.S., as amended, shall be entitled to recover from the non-prevailing party reasonable attorney's fees, costs, and expenses.

S. **FAILURE OF PERFORMANCE:** If Buyer fails to perform this Contract within the time specified (including payment of all deposit(s)), the deposit(s) paid by Buyer and deposit(s) agreed to be paid, may be recovered and retained by or for the account of Seller as agreed upon liquidated damages, consideration for the execution of this Contract and in full settlement of any claims; whereupon, Buyer and Seller shall be relieved of all obligations under Contract; or Seller, at Seller's option, may proceed in equity to enforce Seller's rights under this Contract. If, for any reason other than failure of Seller to make Seller's title marketable after diligent effort, Seller fails, neglects or refuses to perform this Contract, the Buyer may seek specific performance or elect to receive the return of Buyer's deposit(s) without thereby waiving any action for damages resulting from Seller's breach.

T. **CONTRACT NOT RECORDABLE; PERSONS BOUND; NOTICE:** Neither this Contract nor any notice of it shall be recorded in any public records. This Contract shall bind and inure to the benefit of the parties and their successors in interest. Whenever the context permits, singular shall include plural and one gender shall include all. Notice given by or to the attorney for any party shall be as effective as if given by or to that party.

U. **CONVEYANCE:** Seller shall convey title to Real Property by special warranty deed, trustee's personal representative's or guardian's deed, as appropriate to the status of Seller, subject only to matters contained in Paragraph VII and those otherwise accepted by Buyer. Personal Property shall, at request of Buyer, be transferred by an absolute bill of sale with warranty of title, subject only to such matters as may be otherwise provided for herein.

V. **OTHER AGREEMENTS:** No prior or present agreements or representations shall be binding upon Buyer or Seller unless included in this Contract. No modification or change in this Contract shall be valid or binding upon the parties unless in writing and executed by the party or parties intended to be bound by it.

W. **WARRANTIES:** Seller warrants that there are no facts known to Seller materially affecting the value of the Property which are not readily observable by Buyer or which have not been disclosed to Buyer.