NOTE TRUST INDENTURE AND SECURITY AGREEMENT

THIS NOTE TRUST INDENTURE AND SECURITY AGREEMENT, dated as of July __, 2004, by and between the SHEPHERD UNIVERSITY BOARD OF GOVERNORS, a public body and agency of the State of West Virginia (the “Issuer”), and __________________________, a banking corporation organized and existing under the laws of ________________ and authorized to provide corporate trust services in the State of West Virginia, as note trustee (the “Trustee”).

WHEREAS, pursuant to the authority contained in Chapter 18, Article 23 (the “Act”), the Issuer is authorized to issue revenue bonds to pay the cost of any one or more of dormitories, housing facilities, food service facilities and motor vehicle parking facilities; and

WHEREAS, pursuant to the Act, the Issuer is further authorized to accept loans or grants or temporary advances for the purpose of paying part or all the cost of construction of any one or more of dormitories, housing facilities, food service facilities and motor vehicle parking facilities, which temporary advances may be repaid out of the proceeds of the bonds authorized to be issued by the Issuer under the Act and to enter into necessary contracts and agreements to carry out the foregoing; and

WHEREAS, the Issuer has determined that it is necessary and desirable to issue a series of University Facilities Revenue Notes, Series 2004A (the “Series 2004A Notes”), in the aggregate principal amount of [$2,000,000] under the Act for the purposes of (i) temporarily financing the costs of the planning, design, acquisition, construction and equipping of certain renovations and improvements to Shaw Hall and Thacher Hall and other capital renovations and improvements to the University’s residence halls (collectively, the “Project”) pending the issuance of the revenue bonds hereinafter described, and (ii) paying the costs of issuance of the Series 2004A Notes and related costs; and

WHEREAS, the Issuer has received the approval of the Higher Education Policy Commission (the “Commission”) for the Project and the temporary financing of the Project through the issuance of the Series 2004A Notes in the form of a resolution duly adopted by the Commission on [June 18, 2004] (the “Commission Resolution’); and

WHEREAS, the execution and delivery of this Indenture and the issuance of the Series 2004A Notes have been in all respects duly and validly authorized by a resolution duly adopted by the Issuer on May 13, 2004, as supplemented and amended on June 10, 2004 (together, the “Issuer Resolution”); and

WHEREAS, the Series 2004A Notes shall be payable from (i) the proceeds of revenue bonds subsequently issued by the Issuer pursuant to the Act and payable from the Pledged Revenues as hereinafter defined (the “Bonds”), (ii) the proceeds of refunding University facilities revenue notes or bonds issued by the Issuer to refund one or more series of the Notes, as hereinafter defined (“Refunding Notes”), (iii) other funds of the University lawfully available for such purpose, and (iv) the Pledged Revenues; and
WHEREAS, the Series 2004A Notes shall be secured by a first lien on (i) the proceeds of the Bonds, (ii) the proceeds of the Refunding Notes, (iii) the Pledged Revenues, as hereinafter defined, and (iv) the other funds described herein, subject to the terms, conditions, limitations and restrictions herein contained, and the Issuer, for the benefit of the Noteholders, represents and warrants that there are no prior liens on the Pledged Revenues, or the proceeds of the Bonds or the Refunding Notes; and

WHEREAS, the Issuer anticipates issuing a series of the Bonds in calendar year 2005 for the purposes of paying the Series 2004A Notes, together with the interest thereon, and financing the costs of the Project and the costs of certain other housing facilities to be constructed at the University; and

WHEREAS, the Issuer is also issuing its Infrastructure Revenue Bonds, Series 2004B, at or about the time of issuance of the Series 2004A Notes, but said Infrastructure Revenue Bonds, Series 2004B are issued under separate statutory authority and are payable from an entirely different source of repayment than the Notes and such Infrastructure Revenue Bonds, Series 2004B shall have no claim against the revenues and other sources of repayment for the Notes nor shall the Notes have a claim against the revenues and other sources of repayment for the Infrastructure Revenue Bonds, Series 2004B; and

WHEREAS, all things necessary to make the Series 2004A Notes, when authenticated by the Trustee and issued as in this Indenture provided, the valid, binding and legal obligations of the Issuer according to the meaning and intent thereof, and to constitute this Indenture a valid assignment and pledge of the (i) Pledged Revenues, (ii) the proceeds of said Bonds, (iii) the proceeds of said Refunding Notes, and (iv) the other security pledged to the payment of the principal of and interest on the Series 2004A Notes, together with any Additional Notes, as hereinafter defined (collectively, the “Notes”), and a valid grant of a security interest in the funds and accounts described herein and in the proceeds thereof, and the creation, execution and delivery of this Indenture, which shall also be deemed to be a security agreement, and the creation, execution and issuance of the Notes, subject to the terms hereof, have in all respects been duly authorized:

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

The Issuer in consideration of the premises and the acceptance by the Trustee of the trusts hereby created and of the purchase and acceptance of the Notes by the owners thereof, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, in order to secure the payment of the principal of and interest on the Notes according to their tenor and effect and to secure the performance and observance by the Issuer of all the covenants expressed or implied herein and in the Notes, does hereby irrevocably grant, bargain, sell, convey, transfer, assign and pledge unto the Trustee, and its successors in trust and assigns forever, and does hereby grant to it and them a security interest in:
All right, title and interest of the Issuer in and to the Pledged Revenues, as defined herein, and the present and continuing right to make claim for, collect, receive and receipt for such Pledged Revenues.

All proceeds of any Bonds.

All proceeds of any Refunding Notes.

All moneys and securities held by the Trustee in any fund or account under this Indenture and earnings thereon, excepting only the Rebate Fund.

TO HAVE AND TO HOLD all and singular the foregoing (the “Trust Estate”), whether now owned or hereafter acquired, unto the Trustee and its respective successors in trust and assigns forever, in trust nevertheless, upon the terms and trusts herein set forth for the equal and proportionate benefit and security of all present and future owners of the Notes, except as otherwise provided herein, without preference of any Note over any other, and for enforcement of the payment of the Notes in accordance with their terms, and all other sums payable hereunder or on the Notes and for the performance of and compliance with the obligations, covenants and conditions of this Indenture, as if all the Notes at any time Outstanding (as hereinafter defined) had been authenticated, executed and delivered simultaneously with the execution and delivery of this Indenture, all as herein set forth;

PROVIDED, HOWEVER, that if the Issuer shall well and truly pay, or cause to be paid, the principal of and interest on, the Notes, together with any redemption premium due or to become due thereon, at the times and in the manner mentioned in the Notes according to the true intent and meaning thereof, and shall cause the payments to be made as required herein, and shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of this Indenture to be kept, performed and observed by it, and shall pay or cause to be paid to the Trustee and any Paying Agent all sums of money due or to become due in accordance with the terms and provisions hereof, then this Indenture and the rights hereby granted shall cease, determine and be void; otherwise this Indenture to be and remain in full force and effect.

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. In addition to the words and phrases defined elsewhere herein, the following words and phrases shall have the following meanings:

“Act” means Chapter 18, Article 23, Sections 13 through 24 of the Code of West Virginia, 1931, as amended.

“Additional Notes” means all Notes issued on a parity as to lien and source of payment with the Notes pursuant to the provisions of Section 2.11 hereof.
“Administrative Expenses” means the reasonable fees and expenses of the Trustee, including legal and accounting fees and annual fees and of any Rebate Analyst and any similar fees and expenses incurred in connection with the Notes.

“Authorized Representative” means the individual or individuals designated by the Issuer, from time to time, as the person or persons to act on behalf of the Issuer. The specimen signature of the Authorized Representative shall be filed with the Trustee. Unless otherwise expressly provided herein, whenever notice or direction by the Issuer to the Trustee is required or provided for herein, said notice or direction will only be effective if given by the Authorized Representative.

“Bond Counsel” means a nationally recognized firm of lawyers experienced in matters involving the issuance of tax-exempt debt by states and their political subdivisions.

“Bonds” means revenue bonds issued by the Issuer after the Closing Date pursuant to the Act and payable from the Pledged Revenues.

“Bond Year” means the period of twelve consecutive months ending on July, or the next Business Day if July 1 is not a Business Day, in any year in which Series 2004A Notes are or will be outstanding, provided that the first Bond Year shall commence on the date of delivery of the Series 2004A Notes upon original issuance to the purchasers thereof pursuant to Section 2.05 hereof and shall end on July-1, 2005.

“Business Day” means a day on which the principal office of the Trustee is not required or authorized to remain closed and on which the New York Stock Exchange is not closed.

“Certificate of Authentication and Registration” means the Certificate of Authentication and Registration on the Notes, substantially in the form set forth herein.

“Certified Public Accountant” means an Independent certified public accounting firm that is appointed by the Issuer for the purpose of examining and reporting on or passing on questions relating to the financial statements of the Issuer, has all certifications necessary for the performance of such services and has a favorable reputation for skill and experience in performing similar services in respect of businesses of a comparable size and nature.

“Certified” means, as the context requires, certified by the Secretary of the Issuer to have been duly adopted and to be in full force and effect as of the date of certification.

“Closing Date” means the date or dates upon which there is an exchange of a series of Notes for the proceeds representing the original purchase price thereof. The Closing Date for the Series 2004A Notes is July __, 2004.
“Code” means the Internal Revenue Code of 1986, as amended, and any applicable regulations, rulings or revenue procedures promulgated thereunder or under any predecessor thereto.

“Completion Date” means the date certified pursuant to Section 6.02 hereof.

“Construction Fund” means the fund of that name established pursuant to Section 5.01 hereof.

“Continuing Disclosure Agreement” means the Continuing Disclosure Agreement dated as of the date of delivery of the Series 2004A Notes between the Issuer and the Trustee.

“Costs” or “Costs of the Project” means, with respect to the Project and any other project financed by Notes authorized to be issued for such purpose under this Indenture, all such costs of design, acquisition, construction, improvement and equipping of the Project or such project as are authorized or permitted under the Act.

“Costs of Issuance” shall mean those costs of issuing Notes, including, but not limited to, legal, accounting, fiscal agent fees and expenses, any premiums for municipal bond insurance, rating agency charges and expenses, letter of credit fees and expenses and other fees and expenses, and all other costs incidental to the issuance of Notes.

“Costs of Issuance Fund” means the trust fund of that name created pursuant to Section 5.01 hereof.

“Dated Date” means, with respect to the Series 2004A Notes, July __, 2004.

“Debt Service Charges” means the Principal Installment or Redemption Price and interest on each series of Notes for any period or payable at any time, whether due on an Interest Payment Date, at maturity or upon acceleration or redemption.

“Default” and “Event of Default” means any occurrence or event specified in Section 9.01 hereof.

“Defaulted Interest” means any interest on any Note which is due and payable on any Interest Payment Date, but which is not punctually paid or provided for on such Interest Payment Date.

“Defeasance Obligations” means cash, money market funds backed by non-callable obligations of the United States of America, direct non-callable obligations of the United States of America and securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America, to which direct obligation or guarantee the full faith and credit of the United States of America has been pledged,
Refcorp interest strips, CATS, TIGRS, STRPS, or defeased municipal bonds rated AAA by S&P or Aaa by Moody’s (or any combination of the foregoing).

“Disclosure Agent” means the Trustee.

“DTC” means The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State of New York, in its capacity as securities depository for the Series 2004A Notes, or any successor thereto.

“DTC Eligible” means Notes meeting the qualifications prescribed by DTC.

“Facilities” means collectively, all dormitories, student housing facilities and food service facilities now or hereafter situate on the Shepherdstown, West Virginia, campus of the University and owned by or leased to the Issuer.

“Fiscal Year” means the period commencing July 1 and ending on June 30 of each year.

“Fitch” means Fitch IBCA, Inc., a corporation organized and existing under the laws of the State of Delaware, and its successors and assigns, if such successors and assigns shall continue to perform the functions of a securities rating agency.

“GAAP” means generally accepted accounting principles consistently

“Indenture” means this Note Trust Indenture and Security Agreement, as amended or supplemented from time to time.

“Independent” means a Person who is not a member or employee of the Issuer or the Board of Governors or an officer or employee of the University.

“Interest Account” means the account of that name established within the Notes Payment Fund, pursuant to Section 5.01 hereof

“Interest Payment Date” means January 1 and July 1 of each year, commencing January 1, 2005, and any other date on which Debt Service Charges are otherwise due on the Notes.

“Issuer” or “Board of Governors” means the Shepherd University Board of Governors and any successor thereto.

“Issuer Certificate” means a certificate or report, in form and substance satisfactory to the Trustee, executed by the Authorized Representative.

“Issuer Resolution” means the resolutions adopted by the Issuer on May 13, 2004, as supplemented and amended on June 10, 2004, authorizing the financing, planning,
design, acquisition and construction of the Project and the financing thereof through the issuance of the Series 2004A Notes.

“Letter of Credit” means an irrevocable direct-pay or standby letter of credit issued to the Trustee as the named beneficiary by (i) any Person to whom a majority of Owners by principal amount consent, or (ii) a solvent commercial bank or other financial institution that has outstanding unsecured long-term debt obligations rated “A” or better by S&P or Moody’s, which letter of credit shall be in an amount required by this Indenture, and in form and substance satisfactory to the Trustee.

“Letter of Representations” means the letter of representations relating to a series of Notes among the Issuer, the Trustee and the then acting securities depository for such series of Notes.

“Mandatory Redemption Date” means the date established for the mandatory redemption of Series 2004A Notes pursuant to Section 3.02 hereof.

“Moody’s” means Moody’s Investor Services, Inc., a corporation organized and existing under the laws of the State of Delaware, and its successors and assigns, if such successors and assigns shall continue to perform the functions of a Securities rating agency.

“Net Proceeds,” when used with respect to any insurance award, means the gross proceeds from the insurance award with respect to which that term is used remaining after payment of all expenses (including attorneys’ fees and any expenses of the Trustee) incurred in the collection of such gross proceeds.

“Net Revenues” means Pledged Revenues less Operating Expenses.

“Noteholder,” “Holder of Notes,” “Owner of Notes” or any similar term means the registered owner of any Note.

“Notes Payment Fund” means the trust fund of that name established by Section 5.01 hereof.

“Notes” means the Series 2004A Notes and any Additional Notes hereafter issued within the terms, restrictions and conditions contained in this Indenture.

“Operating Expenses,” unless qualified, means the current expenses, paid or accrued, of maintaining, repairing, operating and insuring the Facilities (excluding depreciation or other non-cash charges) and includes, without limiting the generality of the foregoing, insurance premiums, supplies, labor, wages, utilities, employee benefits, the cost of food, materials and supplies used for current operations, and such other reasonable operating costs and expenses as should normally and regularly be included under GAAP, excluding, however, administrative overhead expenses of the University chargeable or allocated to the Facilities, capital improvements charges properly allocated to a capital account in accordance
with GAAP, and labor or employee expenses or benefits identified by the University as paid from funds other than the Pledged Revenues.

“Original Purchasers” means those investment banking firms or other entities so designated as such in a resolution of the Issuer with respect to a series of Notes.

“Outstanding” means, with respect to the Notes, all Notes issued, authenticated and delivered hereunder, other than:

(a) All Notes theretofore canceled or required to be canceled pursuant to Section 2.09 hereof;

(b) Notes for the payment or redemption of which provision has been made in accordance with Article VIII; provided that, if such Notes are being redeemed, the required notice of redemption shall have been given or provision satisfactory to the Trustee shall have been made therefor; and

(c) Notes in substitution for which other Notes have been authenticated and delivered pursuant to Article II.

Notwithstanding the foregoing, in determining whether the Owners of the requisite principal amount of Outstanding Notes have given any request, demand, authorization, direction, notice, consent or waiver hereunder, Notes owned by the Issuer or any foundation on behalf of the University shall be disregarded and deemed not to be Outstanding, except that in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Notes which the Trustee knows to be so owned shall be disregarded. Notes so owned which have been pledged in good faith may be regarded as Outstanding if the pledges establishes to the satisfaction of the Trustee the pledgee’s right so to act with respect to such Notes and that the pledgee is not the Issuer. Any Notes of the type described in Section 8.01(f) hereof shall be deemed Outstanding for all purposes hereof.

“Paying Agent” means the Treasurer of the State, at his or her office at the State Capitol or, at the option of the Holder, the Trustee or such other bank or trust company organized under the laws of any state of the United States of America or any national banking association designated as paying agent for the Notes and any successor appointed in the manner provided in this Indenture.

“Permitted Investments” means the following, to the extent permitted by the laws of the State:

1. Direct obligations of the United States of America and securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America (“U.S. Government Securities”).

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Bond Indenture and Security Agreement
2. Direct obligations of the following federal agencies which are fully guaranteed by the full faith and credit of the United States of America:

(a) Export-Import Bank of the United States - direct obligations and fully guaranteed certificates of beneficial interest

(b) Federal Housing Administration - debentures

(c) General Services Administration - participation certificates

(d) Government National Mortgage Association (“GNMAs”) - guaranteed mortgage-backed securities and guaranteed participation certificates

(e) Small Business Administration - guaranteed participation certificates and guaranteed pool certificates

(f) U.S. Department of Housing & Urban Development - local authority Series 2004A Notes

(g) U.S. Maritime Administration - guaranteed Title XI financings

(h) Washington Metropolitan Area Transit Authority - guaranteed transit Series 2004A Notes

3. Direct obligations of the following federal agencies which are not fully guaranteed by the full faith and credit of the United States of America:

(a) Federal National Mortgage Association (“FNMAs”) - senior debt obligations rated Aaa by Moody’s Investors Service (“Moody’s”) and AAA by Standard & Poor’s Corporation (“S&P”)

(b) Federal Home Loan Mortgage Corporation (“FHLMCs”) - participation certificates and senior debt obligations rated Aaa by Moody’s and AAA by S&P

(c) Federal Home Loan Banks - consolidated debt obligations

(d) Student Loan Marketing Association - debt obligations

(e) Resolution Funding Corporation - debt obligations

4. Direct, general obligations of any state of the United States of America or any subdivision or agency thereof whose uninsured and unguaranteed general obligation debt is rated, at the time of purchase, A2 or better by Moody’s and A or better by S&P, or any
obligation fully and unconditionally guaranteed by any state, subdivision or agency whose uninsured and unguaranteed general obligation debt is rated, at the time of purchase, A2 or better by Moody’s and A or better by S&P.

5. Commercial paper (having original maturities of not more than 270 days) rated, at the time of purchase, P-I by Moody’s and A-I or better by S&P.

6. Certificates of deposit, savings accounts, deposit accounts or money market deposits in amounts that are continuously and fully insured by the Federal Deposit Insurance Corporation (“FDIC”), including the Bank Insurance Fund and the Savings Association Insurance Fund.

7. Certificates of deposit, deposit accounts, federal funds or bankers’ acceptances (in each case having maturities of not more than 365 days following the date of purchase) of any domestic commercial bank or United States branch office of a foreign bank, provided that such bank’s short-term certificates of deposit are rated P-1 by Moody’s and A-1 or better by S&P (not considering holding company ratings).

8. Investments in money-market funds rated AAAm or AAAm-G by S&P.

9. State-sponsored investment pools rated A or better by S&P.

10. Repurchase agreements that meet the following criteria:

(a) A master repurchase agreement or specific written repurchase agreement, substantially similar in form and substance to the Public Securities Association or Bond Market Association master repurchase agreement, governs the transaction.

(b) Acceptable providers shall consist of (i) registered broker/dealers subject to Securities Investors Protection Corporation (“SLPC”) jurisdiction or commercial banks insured by the FDIC, if such broker, dealer or bank has an uninsured, unsecured and unguaranteed rating of A3/P-1 or better by Moody’s and A-/A-1 or better by S&P, or (it) domestic structured investment companies rated Aaa by Moody’s and AAA by S&P.

(c) The repurchase agreement shall require termination thereof if the counterparty’s rating are suspended, withdrawn or fall below A3 or P-1 from Moody’s, or A- or A-1 from S&P. Within 10 days, the counterparty shall repay the principal amount plus any accrued and unpaid interest on the investments.
(d) The repurchase agreement shall limit acceptable securities to U.S. Government Securities and to the obligations of GNMA, FNMA or FHLMC described in 2(d), 3(a) and 3(b) above. The fair market value of the securities in relation to the amount of the repurchase obligation, including principal and accrued interest, is equal to a collateral level of at least 104% for U.S. Government Securities and 105% for GNMA, FNMA or FHLMC. The repurchase agreement shall require (i) the Trustee or the Agent, as hereinafter defined, to value the collateral securities no less frequently than weekly, (ii) the delivery of additional securities if the fair market value of the securities is below the required level on any valuation date, and (iii) liquidation of the repurchase securities if any deficiency in the required percentage is not restored within two (2) business days of such valuation.

(e) The repurchase securities shall be delivered free and clear of any lien to the Trustee or to an independent third party acting solely as agent (the “Agent”) for the Trustee, and such Agent is (i) a Federal Reserve Bank, or (ii) a bank which is a member of the FDIC and which has combined capital, surplus and undivided profits or, if appropriate, a net worth, of not less than $50 million, and the Trustee shall have received written confirmation from such third party that such third party holds such securities, free and clear of any lien, as agent for the Trustee.

(f) A perfected first security interest in the repurchase securities shall be created for the benefit of the Trustee, and the Issuer and the Trustee shall receive an opinion of counsel as to the perfection of the security interest in such repurchase securities and any proceeds thereof.

(g) The repurchase agreement shall have a term of one year or less, or shall be due on demand.

(h) The repurchase agreement shall establish the following as events of default, the occurrence of any of which shall require the immediate liquidation of the repurchase securities:

(i) Insolvency of the broker/dealer or commercial bank serving as the counterparty under the repurchase agreement;
(ii) Failure by the counterparty to remedy any deficiency in the required collateral level or to satisfy the margin maintenance call under item 10(d) above; or

(iii) Failure by the counterparty to repurchase the repurchase securities on the specified date for repurchase.

11. Investment agreements (also referred to as guaranteed investment contracts) that meet the following criteria:

(a) A master agreement or specific written investment agreement governs the transaction.

(b) Acceptable providers of uncollateralized investment agreements shall consist of (i) domestic FDIC-insured commercial banks, or U.S. branches of foreign banks, rated at least Aa2 by Moody’s and AA by S&P; (ii) domestic insurance companies rated Aaa by Moody’s and AAA by S&P; and (iii) domestic structured investment companies rated Aaa by Moody’s and AAA by S&P.

(c) Acceptable providers of collateralized investment agreements shall consist of (i) registered broker/dealers subject to SIPC jurisdiction, if such broker/dealer has an uninsured, unsecured and unguaranteed rating of A1 or better by Moody’s and A+ or better by S&P; (ii) domestic FDIC-insured commercial banks, or U.S. branches of foreign banks, rated at least A1 by Moody’s and A+ by S&P; (iii) domestic insurance companies rated at least A1 by Moody’s and A+ by S&P; and (iv) domestic structured investment companies rated Aaa by Moody’s and AAA by S&P. Required collateral levels shall be as set forth in 11(1) below.

(d) The investment agreement shall provide that if the provider’s ratings fall below Aa3 by Moody’s or AA- by S&P, the provider shall within ten (10) days either (i) repay the principal amount plus any accrued and unpaid interest on the investment; or (ii) deliver Permitted Collateral as provided below.

(e) The investment agreement must provide for termination thereof if the provider’s ratings are suspended, withdrawn or fall below A3 from Moody’s or A- from S&P. Within 10 days, the provider shall repay the principal amount plus any accrued interest on the agreement, without penalty.
(f) The investment agreement shall provide for the delivery of collateral described in (i) or (ii) below (“Permitted Collateral”) which shall be maintained at the following collateralization levels at each valuation date:

(i) U.S. Government Securities at 104% of principal plus accrued interest; or

(ii) Obligations of GNMA, FNMA or FHLMC (described in 2(d), 3(a) and 3(b) above) at 105% of principal and accrued interest.

(g) The investment agreement shall require the Trustee or Agent to determine the market value of the Permitted Collateral not less than weekly and notify the investment agreement provider on the valuation day of any deficiency. Permitted Collateral may be released by the Trustee to the provider only to the extent that there are excess amounts over the required levels. Market value, with respect to collateral, may be determined by any of the following methods:

(i) The last quoted “bid” price as shown in Bloomberg, Interactive Data Systems, Inc., The Wall Street Journal or Reuters;

(ii) Valuation as performed by a nationally recognized pricing service, whereby the valuation method is based on a composite average of various bid prices; or

(iii) The lower of two bid prices by nationally recognized dealers. Such dealers or their parent holding companies shall be rated investment grade and shall be market makers in the securities being valued.

(h) Securities held as Permitted Collateral shall be free and clear of all liens and claims of third parties, held in a separate custodial account and registered in the name of the Trustee or the Agent.

(i) The provider shall grant the Trustee or the Agent a perfected first security interest in any collateral delivered under an investment agreement. For investment agreements collateralized initially and in connection with the delivery of Permitted Collateral under 11(f) above, the Trustee and the Bond Insurer (if the Series 2004A Notes are insured) shall
receive an opinion of counsel as to the perfection of the security interest in the collateral.

(j) The investment agreement shall provide that moneys invested under the agreement must be payable and putable at par to the Trustee without condition, breakage fee or other penalty, upon not more than two (2) business days’ notice, or immediately on demand for any reason for which the funds invested may be withdrawn from the applicable fund or account established under the authorizing document, as well as the following:

(i) In the event of a deficiency in the debt service account;

(ii) Upon acceleration after an event of default;

(iii) Upon refunding of the Series 2004A Notes in whole or in part;

(iv) Reduction of the debt service reserve requirement for the Series 2004A Notes; or

(v) If a determination is later made by a Bond Counsel that investments must be yield-restricted.

Notwithstanding the foregoing, the agreement may provide for a breakage fee or other penalty that is payable in arrears and not as a condition of a draw by the Trustee if the issuer’s obligation to pay such fee or penalty is subordinate to its obligation to pay debt service on the Series 2004A Notes and, if required, to make deposits to the debt service reserve fund.

(k) The investment agreement shall establish the following as events of default, the occurrence of any of which shall require the immediate liquidation of the investment securities, unless:

(i) Failure of the provider or the guarantor (if any) to make a payment when due or to deliver Permitted Collateral of the character, at the times or in the amounts described above;

(ii) Insolvency of the provider or the guarantor (if any) under the investment agreement;

(iii) Failure by the provider to remedy any deficiency with respect to required Permitted Collateral;
(iv) Failure by the provider to make a payment or observe any covenant under the agreement;

(v) The guaranty (if any) is terminated, repudiated or challenged; or

(vi) Any representation of warranty furnished to the Trustee or the Issuer in connection with the agreement is false or misleading.

(l) The investment agreement must incorporate the following general criteria:

(i) “Cure periods” for payment default shall not exceed two (2) business days;

(ii) The agreement shall provide that the provider shall remain liable for any deficiency after application of the proceeds of the sale of any collateral, including costs and expenses incurred by the Trustee or the Bond Insurer (if the Notes are insured);

(iii) Neither the agreement or guaranty agreement, if applicable, may be assigned (except to a provider that would otherwise be acceptable under these guidelines) or amended without the prior consent of the Bond Insurer (if the Notes are insured);

(iv) If the investment agreement is for a debt service reserve fund, reinvestments of funds shall be required to bear interest at a rate at least equal to the original contract rate;

(v) The provider shall be required to immediately notify the Trustee of any event of default or any suspension, withdrawal or downgrade of the provider’s ratings;

(vi) The agreement shall be unconditional and shall expressly disclaim any right of set-off or counterclaim; and

(vii) The agreement shall require the provider to submit information reasonably requested by the Trustee or the Bond Insurer (if the Notes are insured), including balance invested with the provider, type and market value of collateral and other pertinent information.
12. Forward delivery agreements in which the securities delivered mature on or before each interest payment date (for debt service or debt service reserve funds) or draw down date (construction funds) that meet the following criteria:

(a) A specific written investment agreement governs the transaction.

(b) Acceptable providers shall be limited to (i) any registered broker/dealer subject to the Securities Investors’ Protection Corporation jurisdiction, if such broker/dealer or bank has an uninsured, unsecured and unguaranteed obligation rated A3/P-1 or better by Moody’s and A-/A-I or better by S&P; (ii) any commercial bank insured by the FDIC, if such bank has an uninsured, unsecured and unguaranteed obligation rated A3/P-1 or better by Moody’s and A-/A-I or better by S&P; and (iii) domestic structured investment companies rated Aaa by Moody’s and AAA by S&P.

(c) The forward delivery agreement shall provide for termination or assignment (to a qualified provider hereunder) of the agreement if the provider’s ratings are suspended, withdrawn or fall below A3 or P-1 from Moody’s or A- or A-1 from S&P. Within 10 days, the provider shall fulfill any obligations it may have with respect to shortfalls in market value. There shall be no breakage fee payable to the provider in such event.

(d) Permitted securities shall include the investments listed in 1, 2 and 3 above.

(e) The forward delivery agreement shall include the following provisions:

(i) The permitted securities must mature at least one (1) business day before a debt service payment date or scheduled draw. The maturity amount of the permitted securities must equal or exceed the amount required to be in the applicable fund on the applicable valuation date.

(ii) The agreement shall include market standard termination provisions, including the right to terminate for the provider’s failure to deliver qualifying securities or otherwise to perform under the agreement. There shall be no breakage fee or penalty payable to the provider in such event.
(iii) Any breakage fees shall be payable only on debt service payment dates and shall be subordinated to the payment of debt service and debt service reserve fund replenishments.

(iv) The provider must submit at closing a bankruptcy opinion to the effect that upon any bankruptcy, insolvency or receivership of the provider, the securities will not be considered to be a part of the provider’s estate.

13. Forward delivery agreements in which the securities delivered mature after the funds may be required but provide for the right of the Issuer or the Trustee to put the securities back to the provider under a put, guaranty or other hedging arrangement.

14. With respect to the Series 2004A Notes, any other investment approved by the Bond Insurer, if the Series 2004A Notes are insured.

15. Maturity of investments shall be governed by the following:

(a) Investments of monies (other than reserve funds) shall be in securities and obligations maturing not later than the dates on which such monies will be needed to make payments.

(b) Investments shall be considered as maturing on the first date on which they are redeemable without penalty at the option of the holder or the date on which the Trustee may require their repurchase pursuant to repurchase agreements.

(c) Investments of monies in reserve funds not payable upon demand shall be restricted to maturities of five years or less.

Such investments shall be valued by the Trustee or other fiduciary not less often than annually, at the market value thereof, exclusive of accrued interest. Deficiencies in the amount on deposit in any fund or account resulting from a decline in market value shall be restored no later than the succeeding valuation date.

“Person” means an individual, a corporation or any division thereof, a partnership, an association, a joint stock company, a joint venture, a trust, an unincorporated organization or a government or any agency or political subdivision.

“Pledged Revenues” means all rents, fees, charges or other income received by or accrued to the Issuer from the operation and use of the Facilities, including but not limited to, operating revenues, interest earnings on funds and accounts (including funds and accounts held by the Trustee), charges for room and board, charges for food service, fees for providing
space for meetings, conferences and conventions, revenues from the operation of vending machines, snack bars and catering services, and any and all other revenues derived from the Facilities as calculated in accordance with GAAP.

“Principal Account” means the account by that name established within the Notes Payment Fund, pursuant to Section 5.01 hereof.

“Principal Installment” means, as of any date of calculation, so long as any Notes are Outstanding, (i) the principal amount of Notes due on a certain future date for which no Mandatory Redemption Requirements have been established or (ii) the unsatisfied balance of any such Mandatory Redemption Requirements due on a certain future date for Series 2004A Notes, in a principal amount equal to said unsatisfied balance of such Mandatory Redemption Requirements.

“Principal Payment Date” means July 1, 2005.

“Project” means the planning, design, acquisition, construction and equipping of certain renovations and improvements to Shaw Hall and Thacher Hall and other capital renovations and improvements to the University’s residence halls (collectively, the “Project”), together with all necessary appurtenances, on the Shepherdstown, West Virginia, campus of the University.

“Rebate Analyst” means a certified public accountant, financial analyst or attorney, or any firm of the foregoing, or a financial institution (which may include the Trustee) experienced in making the arbitrage and rebate calculations required pursuant to Section 148 of the Code and retained by the Issuer to make the computations and give the directions required pursuant to the Tax Regulatory Agreement.

“Rebate Fund” means the Rebate Fund established pursuant to Section 5.01 hereof.

“Redemption Price” means the price at which Notes are redeemed prior to the stated maturity thereof and shall include the principal thereof, and the premium thereon, if any.

“Refunding Notes” means refunding University facilities revenue notes or bonds issued by the Issuer to refund one or more series of the Notes.

“Registrar” means the Trustee or any successor thereto acting in such capacity under this Indenture.

“Regular Record Date” means, with respect to an Interest Payment Date, the close of business on the 15th day of the month next preceding such Interest Payment Date, whether or not such 15th day of the month is a Business Day.
“S&P” means Standard & Poor’s Ratings Group, a division of The McGraw-Hill Companies, Inc., and its successors and assigns, if such successors and assigns shall continue to perform the functions of a securities rating agency.

“Special Record Date” for the payment of Defaulted Interest means the date fixed by the Trustee pursuant to Section 2.08.

“State” means the State of West Virginia.

“Supplemental Indenture” means any indenture entered into between the Issuer and the Trustee pursuant to Article XI hereof which is supplemental hereto or amendatory hereof.

“Tax Regulatory Agreement” means the No Arbitrage Certificate and Tax Regulatory Agreement, dated the Closing Date for the Series 2004A Notes, among the Issuer and the Trustee, as amended or supplemented from time to time.

“Trust Estate” means the property, rights, moneys, securities and other amounts pledged and assigned to the Trustee pursuant to the Granting Clauses hereof.

“Trustee” means the Person named as Trustee in the first paragraph of this Indenture until any successor trustee shall have become such pursuant to the applicable provisions of this Indenture, and, thereafter, “Trustee” shall mean such successor Trustee hereunder.

“University” means Shepherd University and any successor thereto.

“Value,” which shall be determined as of the end of each month, means that the value of any investments shall be calculated as follows:

(a) As to investments the bid and asked prices of which are published on a regular basis in The Wall Street Journal (or, if not there, then in The New York Times): the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination;

(b) As to investments the bid and asked prices of which are not published on a regular basis in The Wall Street Journal or The New York Times: the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the University in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service;

(c) As to certificates of deposit and bankers acceptances: the face amount thereof, plus accrued interest; and
(d) As to any investment not specified above: the value thereof established by prior agreement between the Issuer and the Trustee.

Section 1.02. Interpretation. Any reference herein to the Issuer include the University, and any reference herein to the Issuer or the University or to any member, officer, employee or official thereof includes entities, officers, employees or officials succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or who are lawfully performing their functions.

Any reference to a section or provision of the Constitution of the State or the Act, or to a section, provision or chapter of the West Virginia Code, or to any statute of the United States of America, includes that section, provision or chapter as amended, modified, revised, supplemented or superseded from time to time; provided, that no amendment, modification, revision, supplement or superseding section, provision or chapter shall be applicable solely by reason of this paragraph, if it constitutes in any way an impairment of rights or obligations of the Issuer, the Owners, the Trustee, the Registrar or any Paying Agent under this Indenture, the Issuer Resolution, the Notes or any other instrument or document entered into in connection with any of the foregoing, including without limitation, any alteration of the obligation to pay Debt Service Charges in the amount and manner, at the times, and from the sources provided in the Issuer Resolution and this Indenture, except as provided herein.

Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa. The terms “hereof,” “hereby,” “herein,” “hereto,” “hereunder,” “hereinafter” and similar terms refer to this Indenture as a whole and not to any particular Article, Section or subdivision of this Indenture; and the term “heretofore” means after, and the term “heretofore” means before, the date of this Indenture. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

All accounting terms not otherwise defined herein will have the meanings assigned to them in accordance with GAAP, and all computations provided for herein will be made in accordance with GAAP.

Section 1.03. Captions and Headings. The captions and headings in this Indenture are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Articles, Sections, subsections, paragraphs, subparagraphs or clauses hereof.
ARTICLE II

AUTHORIZATION, TERMS, EXECUTION,
FORM AND REGISTRATION OF NOTES

Section 2.01. Issuance of Series 2004A Notes. There shall be issued and secured by this Indenture a series of Notes to be known and designated as “Shepherd University Board of Governors, University Facilities Revenue Notes, Series 2004A.” The aggregate principal amount of Series 2004A Notes which may be authenticated and delivered under this Indenture is limited to [$2,000,000], except for Series 2004A Notes authenticated and delivered upon registration or transfer of, or in exchange for, or in lieu of other Series 2004A Notes, as provided herein. The Series 2004A Notes shall be issued as fully registered Notes without coupons, in denominations of $5,000 principal amount, or any integral multiple thereof, numbered from AR-I upward.

The Series 2004A Notes shall be dated as of July __, 2004, shall mature on July 1, 2005 and shall bear interest at the rate ___% per annum payable on each Interest Payment Date.

Except as otherwise provided in this Section, each Note shall bear interest (calculated on the basis of a 360 day year of twelve 30-day months) from such date or from the most recent Interest Payment Date to which interest has been paid or duly provided for, as the case may be. However, when there is no existing default in the payment of interest on the Notes, each Note authenticated after the Regular Record Date for any Interest Payment Date but prior to such Interest Payment Date shall bear interest from such Interest Payment Date; provided, however, that if and to the extent that the Issuer shall default in the payment of the interest due on any Interest Payment Date, then all such Notes of the series as to which default occurred shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, unless no interest has been paid on such series of Notes, in which case from their dated date (July __, 2004, with respect to the Series 2004A Notes).

The Person in whose name any Note is registered at the Regular Record Date with respect to an Interest Payment Date shall be entitled to receive the interest payable on such Note on such Interest Payment Date notwithstanding the cancellation of such Note upon any registration of transfer or exchange thereof subsequent to such Regular Record Date and prior to such Interest Payment Date; provided, however, that if and to the extent the Issuer shall default in the payment of the interest due on any Interest Payment Date, such Defaulted Interest shall be paid as provided in Section 2.08.

The principal of and interest on the Notes shall be payable in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts at the office of the Treasurer of the State at the State Capitol or, at the option of the Owner, at the corporate trust office of the Trustee in ______________, __________; provided, however, that interest on the Notes shall be paid by check mailed to the Person entitled thereto at his address appearing on the Note Register, and in the
case of an owner of $1,000,000 or more of the Notes, by wire transfer to a designated account
at a member bank of the Federal Reserve System, specified in writing to the Trustee at least
five Business Days preceding such Interest Payment Date by such Owner.

Section 2.02. Execution. The Notes shall be executed by the Governor on
behalf of the State and the Chairman of the Issuer with their manual or facsimile signatures,
and attested by the manual or facsimile signature of the Secretary of State and shall have
impressed or imprinted thereon, the Great Seal of the State. In case any officer whose
signature, or whose facsimile signature, shall appear on the Notes shall cease to be such
officer before the delivery of such Notes, such signature, or the facsimile signature thereof,
shall nevertheless be valid and sufficient for all purposes, the same as if he or she had
remained in office until delivery.

Section 2.03. Authentication. No Note shall be valid or obligatory for any
purpose or entitled to any security or benefit under this Indenture unless and until a certificate
of authentication on such Note substantially in the form set forth in Exhibit A shall have been
duly executed by the Trustee, and such executed certificate of the Trustee upon any such Note
shall be conclusive evidence that such Note has been executed, authenticated and delivered
under this Indenture. The Certificate of Authentication and Registration on any Note shall be
deemed to have been executed by the Trustee if manually signed by an authorized officer of
the Trustee, but it shall not be necessary that the same officer sign the Certificate of
Authentication and Registration on all of the Notes issued hereunder.

Section 2.04. Form of Notes. The Series 2004A Notes issued under this
Indenture shall be substantially in the form set forth on Exhibit A hereto with such variations,
omissions and insertions as are permitted or required by this Indenture and which variations,
omissions or insertions do not adversely affect the rights of any Noteholder as set forth herein.

Series 2.05. Delivery of Series 2004A Notes. Upon the execution and delivery
of this Indenture, the Issuer shall execute and deliver to the Trustee and the Trustee shall
authenticate the Series 2004A Notes to be originally issued, and deliver them to the Original
Purchasers thereof as directed by the Issuer.

Prior to the delivery of any of the Series 2004A Notes, there shall be filed with
the Trustee:

1. A Certified copy of the Issuer Resolution;
2. Certified copies of the authorizing resolution or resolutions of the
Higher Education Policy Commission;
3. An original executed counterpart of this Indenture;
4. A request and authorization to the Trustee signed by the Authorized
Representative to authenticate the Series 2004A Notes, to be originally issued,
and to deliver them to the Original Purchasers therein identified upon payment of the sums specified in such request for deposit in the funds and accounts as set forth in Section 5.01 hereof; and

5. An opinion of Bond Counsel substantially to the effect that the Series 2004A Notes constitute legal, valid and binding obligations of the Issuer, enforceable in accordance with their terms, and that the interest on the Series 2004A Notes is excludable from the gross income of the Owners for purposes of federal income taxation.

Section 2.06. Mutilated, Lost, Stolen or Destroyed Notes. In the event any Note is mutilated, lost, stolen or destroyed, the Issuer shall execute and the Trustee shall authenticate a new Note of like series, date, maturity and denomination as that mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Note, such mutilated Note shall first be surrendered to the Trustee for cancellation and, in the case of any lost, stolen or destroyed Note, there shall be first furnished to the Issuer and the Trustee evidence of such loss, theft or destruction satisfactory to them, together with any indemnity satisfactory to them. In the case of a past-due or a matured, lost, stolen or destroyed Note, the face amount of such past-due or matured Note may be paid upon delivery to the Issuer and the Trustee of evidence of such loss, theft or destruction satisfactory to them, together with any indemnity satisfactory to them. The Issuer and the Trustee may charge the Owner of such Note their reasonable fees and expenses in this connection.

Any such duplicate Notes issued pursuant to this Section shall constitute original, additional contractual obligations on the part of the State, whether or not the lost, stolen or destroyed Notes be at any time found by any one, and such duplicate Notes shall be entitled to equal and proportionate benefits and rights as to lien and source of security for payment from the Trust Estate with all other Notes issued hereunder.

Section 2.07. Exchange of Notes; Persons Treated as Owners; Transfer and Registration. The Issuer shall cause books for the registration and for the registration of transfer of the Notes as provided in this Indenture to be kept by the Trustee at its principal office. At reasonable times and under reasonable regulations established by the Trustee, said list may be inspected and copied by the Issuer or by a representative of the Owners of not less than 50% of the aggregate principal amount of Notes then outstanding.

Upon surrender for registration of transfer of any Note at such office, the Trustee shall authenticate and deliver in the name of the transferee or transferees one or more new fully registered Notes, if any, of authorized denomination of the same maturity and like aggregate principal amount. At the option of the Noteholder, Notes may be exchanged for other Notes of authorized denominations of the same series and maturity and like aggregate principal amount upon surrender at any such office. Whenever any Notes are so surrendered for exchange, the Trustee shall authenticate and deliver in exchange therefor the Note or Notes that the Noteholder making the exchange shall be entitled to receive.
All Notes presented for registration of transfer or exchange shall (if so required by the Issuer or the Trustee), be accompanied by a written instrument or instruments of transfer in form and with a guaranty of signature satisfactory to the Trustee, duly executed by the registered owner or by such owner’s duly authorized attorney.

The Trustee may require payment by the person requesting an exchange or registration of transfer of Notes of a sum sufficient to cover any transfer fee, tax or other governmental charge that may be imposed in relation thereto.

The Issuer and the Trustee shall not be required to issue, register the transfer of or exchange any Notes during a period beginning at the Regular Record Date preceding an Interest Payment Date and ending at the close of business on the Interest Payment Date.

All Notes delivered upon any registration of transfer or exchange of Notes shall be valid obligations of the Issuer, evidencing the same debt and entitled to the same benefits under this Indenture as the Notes surrendered.

Prior to due presentment for registration of transfer of any Note, the Issuer and the Trustee, and any agent of the Issuer or the Trustee may treat the person in whose name any Note is registered as the absolute owner thereof for all purposes (subject to Section 2.08), whether or not such Note shall be overdue, and shall not be bound by any notice to the contrary.

Section 2.08. Payment of Interest; Interest Rights Preserved. Interest on any Note which is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the person in whose name that Note (or one or more predecessor Notes) is registered on the Regular Record Date for such Interest Payment Date.

Any Defaulted Interest shall forthwith cease to be payable to the registered Owner on the relevant Regular Record Date by virtue of having been such Owner; and such Defaulted Interest shall be paid by the Trustee to the persons in whose names the Notes (or their respective predecessor Notes) are registered at the close of business on a Special Record Date for the payment of such Defaulted Interest, which shall be fixed in the following manner. The issuer shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Note and the date of the proposed payment, and at the same time the Issuer shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest. Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest, which shall be not more than 15 nor less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Issuer of such Special Record Date and shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class, postage prepaid, to each Noteholder at
his address as it appears in the Note Register not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the persons in whose names the Notes (or their respective predecessor Notes) are registered on such Special Record Date.

Subject to the foregoing provisions of this Section, each Note delivered under this Indenture upon transfer of or in exchange for or in lieu of any other Note shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Note.

Section 2.09. Cancellation and Destruction of Notes. Whenever any outstanding Note shall be delivered to the Trustee for payment of the principal amount represented thereby or for replacement pursuant to Section 2.06 or registration of transfer or exchange pursuant to Section 2.07, such Note shall be canceled and destroyed by the Trustee and counterparts of a certificate of destruction evidencing such destruction shall be furnished to the Issuer.

Section 2.10. Book-Entry Format.

(a) Except as provided in subsection (c) of this Section, the Registered Owner of all of the Series 2004A Notes shall be DTC, and the Series 2004A Notes shall be registered in the name of Cede & Co., as nominee of DTC. Payment of interest for any Series 2004A Notes registered as of each Regular Record Date in the name of Cede & Co. shall be made by wire transfer to the account of Cede & Co. on the Interest Payment Date for the Series 2004A Notes at the address indicated on the Regular Record Date for Cede & Co. in the registry book of the Issuer kept by the Trustee.

(b) The Series 2004A Notes shall initially be issued in the form of separate single authenticated fully registered Series 2004A Notes in the principal amount of each stated maturity of each series of Series 2004A Notes. Upon initial issuance, the ownership of each such Series 2004A Note shall be registered in the Note Register in the name of Cede & Co., as nominee of DTC. The Trustee and the Issuer may treat DTC (or its nominee) as the sole and exclusive owner of the Series 2004A Notes registered in its name for the purposes of payment of the principal of or interest on the Series 2004A Notes, giving any notice permitted or required to be given to Noteholders under this Indenture, registering the transfer of Series 2004A Notes, obtaining any consent or other action to be taken by Noteholders and for all other purposes whatsoever; and neither the Trustee nor the Issuer shall be affected by any notice to the contrary. Neither the Trustee nor the Issuer shall have any responsibility or obligation to any DTC participant, any person claiming a beneficial ownership interest in the Series 2004A Notes under or through DTC or any DTC participant, or any other person which is not shown on the registration books of the Issuer kept by the Trustee as being a Noteholder with respect to the accuracy of any records maintained by DTC, Cede & Co. or any DTC participant; the payment by DTC or any DTC participant to any beneficial owner of any amount in respect of the principal of or interest on the Series 2004A Notes; the delivery to any DTC participant or any interest on the Series 2004A Notes;
delivery to any DTC participant or any beneficial owner of any notice which is permitted or
required to be given to Noteholders under this Indenture; the selection by DTC or any DTC
participant of any person to receive payment in the event of a partial payment of the Series
2004A Notes; or any consent given or other action taken by DTC as Noteholder. The Paying
Agent shall pay all principal of and interest on the Series 2004A Notes only to or “upon the
delivery to any DTC participant or any beneficial owner of any notice which is permitted or
required to be given to Noteholders under this Indenture; the selection by DTC or any DTC
participant of any person to receive payment in the event of a partial payment of the Series
2004A Notes; or any consent given or other action taken by DTC as Noteholder. The Paying
Agent shall pay all principal of and interest on the Series 2004A Notes only to or “upon the
order of” (as that term is used in the Uniform Commercial Code as adopted in the State) Cede
& Co., as nominee of DTC, and all such payments shall be valid and effective to fully satisfy
and discharge the Issuer’s obligations with respect to the principal of and interest on the Series
2004A Notes to the extent of the sum or sums so paid. Upon delivery by DTC to the Trustee
of written notice to the effect that DTC had determined to substitute a new nominee in place
of Cede & Co., and subject to the provisions herein with respect to record dates, the word
“Cede & Co.” in this Indenture shall refer to such new nominee of DTC.

(c) In the event that (i) DTC determines not to act as securities
depository for the Series 2004A Notes; or (ii) the Issuer advises DTC of its determination that
DTC is incapable of discharging its duties; or (iii) the Issuer determines that it is in the best
interest of the beneficial owners of the Series 2004A Notes that they be able to obtain Note
certificates, the Issuer shall, if the event is triggered by either (i) or (ii) above, attempt to
locate another qualified securities depository. If the Issuer fails to locate such a replacement,
then it shall notify DTC and the Trustee, requesting DTC to notify its participants, of the
availability through DTC of Note certificates. In such event, the Trustee shall issue, transfer
and exchange Note certificates as requested by DTC and any other Noteholders in appropriate
amounts. The Issuer and Trustee shall be obligated to deliver Note certificates as described in
this Indenture. In the event Note certificates are issued to Noteholders other than DTC, the
provisions of this Indenture shall apply to, among other things, the transfer and exchange of
such certificates and the method of payment of principal of an interest on such Series 2004A
Notes. Whenever DTC requests the Issuer and the Trustee to do so, the Trustee and the Issuer
will cooperate with DTC in taking appropriate action after reasonable notice (a) to make
available one or more separate certificates evidencing the Series 2004A Notes to any DTC
participant having Series 2004A Notes credited to its DTC account or (b) to arrange for
another securities depository to maintain custody of certificates evidencing the Series 2004A
Notes.

(d) Notwithstanding any other provision of this Indenture to the
contrary, so long as any Series 2004A Note is registered in the name of Cede & Co., as
nominee of DTC, all payments with respect to the principal of and interest on such Series
2004A Note and all notices with respect to such Series 2004A Note shall be made and given
to DTC as provided in the Letter of Representation.

(e) In connection with any notice or other communication to be
provided to Noteholders pursuant to this Indenture by the Issuer or the Trustee with respect to
any consent or other action to be taken by Noteholders, so long as any Series 2004A Note is
registered in the name of Cede & Co., as nominee of DTC, the Issuer or the Trustee, as the
case may be, shall establish a record date for such consent or other action and give DTC
notice of such record date not less than 15 calendar days in advance of such record date to the extent possible.

(f) As long as a series of Series 2004A Notes are registered in the name of a securities depository, or its nominee, the Trustee agrees to comply with the terms and provisions of the Letter of Representations, including the provisions of the Letter of Representations with respect to any delivery of such Series 2004A Notes to the Trustee, which provisions shall supersede the provisions of this Indenture with respect thereto.

Section 2.11. Additional Notes. Additional Notes may be issued pursuant to this Indenture under the conditions and in the manner provided in this Section 2.11.

Additional Notes may be issued from time to time for any one or more of the following purposes: (a) financing the costs of the acquisition or construction of new Facilities or improvements to the Facilities, or (b) refunding all or a portion of one or more series of Notes issued pursuant hereto. In the event Additional Notes are issued to finance new Facilities, the Issuer and Trustee shall enter into a Supplemental Indenture, the purpose of which shall be to authorize the Additional Notes and provide the lien on the Trust Estate as security therefor.

No Additional Notes shall be authenticated and delivered by the Trustee unless there has been or is simultaneously with the issuance of the Additional Series 2004A Notes delivered to the Trustee:

(a) The resolutions, documents and opinions required for delivery of the Series 2004A Notes pursuant to Section 2.05 hereof, appropriately modified;

(b) An Issuer’s Certificate to the effect that the Issuer is not in default hereunder; and

(c) An Issuer’s Certificate to the effect that the aggregate principal amount of the Additional Notes being issued, together with the aggregate principal amount of Additional Notes previously issued, does not exceed $1,000,000.

Additional Notes issued under the provisions and within the limitations of this Section shall be payable from the Trust Estate on a parity with the Series 2004A Notes, and all the covenants and other provisions of this Indenture (except as to details of such Additional Notes inconsistent herewith) shall be for the equal benefit, protection and security of the Owners of the Series 2004A Notes and the Owners of any Additional Notes subsequently issued from time to time within the limitations of and in compliance with this Section. All Notes, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the Trust Estate, and their source of and security for payment from said Trust Estate, without preference of any Note over any other.
No Additional Notes shall be issued at any time, however, unless all the payments into the respective funds and accounts provided for in this Indenture on account of the Notes then Outstanding, and any other payments provided for in this Indenture, shall have been made in full as required to the date of delivery of the Additional Notes.

Section 2.12. Special Obligations. The Notes are payable solely out of (i) the proceeds of the Bonds, (ii) the proceeds of the Refunding Notes, (iii) other funds of the University available for such purpose, (iv) the Pledged Revenues and (v) other amounts held under this Indenture. The Notes are special, self-liquidating obligations of the Issuer and shall not be deemed to be general obligations or debts of any manner or nature of the Issuer or the State within the meaning of or as contemplated by the Constitution of the State, and the credit or taxing power, if any, of the Issuer or the State shall not be pledged therefor. No Owner of any of the Notes shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer or the State to pay the Notes or the interest thereon.
ARTICLE III

REDEMPTION OF NOTES

Section 3.01.  Limitation on Redemption.  Except as provided in this Article III, the Series 2004A Notes shall not be subject to redemption in whole or in part.  Additional Notes shall be subject to mandatory redemption and optional redemption prior to maturity at such times, to the extent and in the manner provided in the Supplemental Indenture authorizing such Additional Notes.

Section 3.02.  Mandatory Redemption of the Series 2004A Notes.  The Series 2004A Notes are subject to mandatory redemption prior to maturity at a Redemption Price equal to 100% of the principal amount thereof, plus accrued interest to the date of redemption upon the earlier to occur of the following:  (i) the date of issuance of a series of Bonds, or (ii) the date of issuance of Refunding Notes to refund the Series 2004A Notes.

Section 3.03.  Optional Redemption of the Series 2004A Notes.  The Series 2004A Notes are subject to redemption prior to maturity, at the option of the Issuer, in whole or in part, on any Business Day, by lot in multiples of $5,000, from any moneys available for such purpose, at a Redemption Price equal to 100% of the principal amount thereof, plus accrued interest to the date fixed for redemption.

Section 3.04.  [RESERVED].

Section 3.05.  Redemption Requests.  Redemptions of Notes permitted or required by this Article III shall be made as follows, and the Trustee shall give the notice of redemption referred to in Section 3.07 hereof in respect of each such redemption:

(i)  Redemption shall be made pursuant to Section 3.02 hereof as and when required by such Section, without any further request, instruction or notice to the Trustee.

(ii) Redemption shall be made pursuant to Section 3.03 hereof at such times as the Issuer shall, not later than 60 days prior to the date on which any Notes may be redeemed pursuant to Section 3.03, designate in an Issuer’s Certificate delivered to the Trustee.

Section 3.06.  Selection of Notes To Be Redeemed.  In the event of redemption of less than all of the Outstanding Notes of like series and maturity, the Trustee, or DTC (or other securities depository) and its Participants with respect to Book-Entry Notes, shall select the Notes to be redeemed by lot, using such method of selection as it shall deem proper in its discretion.  In making such selection the Trustee or DTC shall treat each Note as representing
that number of Notes of the lowest authorized denomination as is obtained by dividing the principal amount of such Notes by such denomination.

Section 3.07. Notice of Redemption. When the Trustee shall receive notice from the Issuer of its election or direction to redeem Notes pursuant to Section 3.03, when redemption of Notes is required by this Indenture pursuant to Section 3.02 or when redemption of any Additional Notes is required pursuant to any Supplemental Indenture, the Trustee shall give notice, in the name of the Issuer, of the redemption of such Notes. Notice of any such redemption shall be given by the Trustee by mailing a copy of the redemption notice by registered or certified mail (postage prepaid) not less than 30 nor more than 60 days prior to the date fixed for redemption to the registered owner of each Note to be redeemed in whole or in part at the address shown on the Note Register. Failure to give such notice by mailing to any Owner, or any defect therein, shall not affect the validity of any proceedings for the redemption of Notes with respect to Notes or portions thereof for which no failure has occurred.

All notices of redemption shall be dated and shall state (i) the redemption date; (ii) the Redemption Price; (iii) the identifying number and CUSIP number (and in the case of partial redemption, the respective principal amounts) of the Notes to be redeemed; (iv) the date of issuance of the Notes; (v) the interest rate or rates and maturity date or dates of the Notes to be redeemed; (vi) that on the redemption date the Redemption Price will become due and payable on each such Note and interest thereon will cease to accrue thereon from and after said date; (vii) the agent name, contact person and address where such Notes are to be surrendered for payment; and (viii) any other descriptive information that, in the opinion of the Trustee, is needed to identify accurately the Notes being redeemed. A second notice shall be sent if after 60 days from the redemption date such Notes have not been surrendered for payment.

Notice of any redemption of Notes shall either (i) explicitly state that the proposed redemption is conditioned on there being on deposit in the applicable fund or account on the redemption date sufficient money to pay the full redemption price of the Notes to be redeemed, or (ii) be sent only if sufficient money to pay the full redemption price of the Notes to be redeemed is on deposit in the applicable fund or account.

Any notice mailed as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner of such Notes receives the notice.

Unless the Notes to be redeemed are in Book-Entry form, in addition to the foregoing notice, further notice shall be given by the Trustee as set out below, but no defect in said further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as above prescribed.

(a) Each further notice of redemption given hereunder shall contain the information required above for an official notice of redemption.
(b) Each such further notice shall be published once in The Bond Buyer of New York, New York or, if such publication is impractical or unlikely to reach a substantial number of the Owners of the Notes, in some other financial newspaper or journal which regularly carries notices of redemption of other obligations similar to the Notes, such publication to be made at least 30 days prior to the date fixed for redemption.

(c) Upon the payment of the Redemption Price of Notes being redeemed, each check or other transfer of funds issued for such purpose shall bear the CUSIP number identifying, by issue and maturity, the Notes being redeemed with the proceeds of such check or other transfer.

Section 3.08. Partial Redemption of Notes. Upon surrender of any Note for redemption in part only, the Issuer shall execute, and the Trustee shall register, authenticate and deliver to the Owner thereof, a new Note or Notes of authorized denominations in an aggregate principal amount equal to the unredeemed portion of the Note surrendered.

The Issuer and the Trustee may agree with DTC that DTC may, in lieu of surrendering a partially redeemed Note for a new Note, endorse on such Note a notice of such partial redemption, which notice shall set forth, over the signature on behalf of DTC, the payment date, the principal amount redeemed and the principal amount remaining unpaid. Such partial redemption shall be valid upon payment of the amount thereof to the Owner of any such Note and the Issuer and the Trustee shall be fully released and discharged from all liability to the extent of such payment irrespective of whether such endorsement shall or shall not have been made upon the reverse of such Note by DTC and irrespective of any error or omission in such endorsement.

Section 3.09. Effect of Call for Redemption. On the date designated for redemption by notice given as herein provided, the Notes so called for redemption shall become and be due and payable at the Redemption Price provided for on such date, If on the date fixed for redemption moneys for payment of the Redemption Price and accrued interest are held by the Trustee or Paying Agent as provided herein, interest on such Notes so called for redemption shall cease to accrue, such Notes shall cease to be entitled to any benefit or security hereunder except the right to receive payment from the moneys held by the Trustee or the Paying Agent and the amount of such Series 2004A Notes so called for redemption shall be deemed paid and no longer Outstanding.

ARTICLE IV

GENERAL COVENANTS

Section 4.01. Payment of Principal and Interest. The Issuer covenants to promptly pay the principal or Redemption Price of and interest on every Note issued under this Indenture at the place, on the dates and in the manner provided herein and in said Notes.
according to the true intent and meaning thereof, provided that the such principal or Redemption Price and interest shall be payable solely from the Trust Estate, which is hereby pledged to the payment thereof.

Section 4.02. Performance of Covenants by Issuer. The Issuer covenants to faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in any and every Note executed, authenticated and delivered hereunder and in all proceedings pertaining hereto. The Issuer covenants that it is duly authorized under the Constitution and laws of the State, including particularly the Act, to issue the Notes authorized hereby and to execute this Indenture, and to pledge the amounts hereby pledged in the manner and to the extent herein set forth; that all action on its part for the issuance of the Notes and for the execution and delivery of this Indenture has been duly and effectively taken, and that the Notes in the hands of the Owners thereof are and will be valid and enforceable obligations of the Issuer according to the terms thereof and hereof.

Section 4.03. Instruments of Further Assurance. The Issuer agrees that the Trustee may defend the Pledged Revenues and other amounts pledged by the Issuer to the payment of the Notes for the benefit of the Owners of the Notes against the claims and demands of all Persons whomsoever. The Issuer covenants to do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such indentures supplemental hereto and such further acts, instruments and transfers as the Trustee may reasonably require for the better assuring, transferring, pledging, assigning and confirming unto the Trustee all and singular the rights assigned hereby and the amounts pledged hereby to the payment of the principal of and interest on the Notes. The Issuer covenants and agrees that, it will not sell, convey, assign, pledge, encumber or otherwise dispose of any part of the Trust Estate except as herein provided.

Section 4.04. Tax Covenants. The Issuer and the Trustee shall at all times do and perform all acts and things permitted by law and this Indenture which are necessary or desirable in order to assure that the interest paid on the Notes (or any of them) shall not be includable in the gross income of the Owners thereof for federal income tax purposes, and specifically, will not permit at any time or times any of the proceeds of the Notes or other funds of the Issuer to be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause any of the Notes to be “arbitrage bonds” within the meaning of Section 148 of the Code.

The Issuer and the Trustee jointly and severally covenant with the Owners of the Notes from time to time Outstanding, that so long as any of the Notes remain Outstanding, moneys held under this Indenture, whether or not such moneys were derived from the proceeds of the sale of the Notes or from any other sources, will not be used in any manner which to their knowledge will cause the interest on the Series 2004A Notes to become subject to federal income taxation. The Issuer and the Trustee reserve the right, however, to make any investment of such moneys permitted by the terms of this Indenture if, when and to the extent that the Code shall be repealed or interpreted to permit such investment or shall be held void by final judgment of a court of competent jurisdiction, but only if such investment made by
virtue of such repeal, interpretation or decision would not, in the opinion of Bond Counsel, result in making the interest on the Series 2004A Notes subject to inclusion in the gross income of the Owners thereof for federal income tax purposes.

Section 4.05. Use of Facilities. The Issuer shall require freshmen and sophomore students who live outside a 60-mile radius of the University’s main campus to live in the University’s residence halls and other housing facilities; provided, that the University may except any student on whom this requirement places undue hardship or if the University’s residence halls and other housing facilities are filled to capacity.

Section 4.06. Obligation To Construct and Acquire Project. The Issuer shall cause the construction and acquisition of the Project to proceed with due diligence and to be completed in accordance with the plans and specifications therefor.

Section 4.07. Rents, Charges and Fees. If Debt Service Charges are not paid when due, no Pledged Revenues may be used for Operating Expenses or any other purposes other than the payment of Debt Service Charges, but shall be paid directly to the Trustee for deposit in the Notes Payment Fund.

Section 4.08. Operation and Maintenance. The Issuer will maintain the Facilities in good condition and will operate the same as a revenue-producing enterprise in an efficient and economical manner, making such expenditures for equipment and for renewal, repair and replacement as may be necessary to maintain compliance with the provisions of Section 4.07 hereof.

Except for leasing as required in the ordinary course of business (e.g. housing contracts), the Facilities may be sold, mortgaged, leased, or otherwise disposed of only as a whole, or substantially as a whole, and only if the Net Proceeds to be realized from such disposition shall be sufficient to fully pay or redeem at or prior to maturity all the Notes Outstanding and if in compliance with Section 4.08 hereof; provided, however, that the Issuer may sell, lease or dispose of any part of the Facilities if after such disposition the Issuer remains in compliance with the provisions of this Article IV. In the event of the disposition of the Facilities as a whole or substantially as a whole, the Net Proceeds from such sale, mortgage, lease or other disposition of the Facilities shall immediately be remitted to the Trustee for deposit in the Notes Payment Fund, and the Issuer shall direct the Trustee to apply such proceeds to the payment of principal and interest at the maturity of Series 2004A Notes about to mature and to the redemption prior to maturity, at the earliest date permitted hereby and at the Redemption Price, of all other outstanding Notes. Any balance remaining after the redemption or payment of all the Notes and interest thereon shall be remitted to the Issuer by the Trustee.

The Issuer shall not own or operate any dormitories, student housing facilities or food service facilities at or near its Shepherdstown, West Virginia, campus, the income from the operation of which does not constitute a part of the Pledged Revenues.
Section 4.09. Books and Records; Audited Statements. The Issuer covenants that all books and documents in its possession relating to all receipts and disbursements with respect to the Notes and the Facilities shall at all times be open to inspection by such accountants or other agencies as the Trustee may designate.

The Issuer will cause the financial statements with respect to the Facilities to be audited by a Certified Public Accountant, whose audited report shall be submitted to the Trustee and the Original Purchasers within 180 days after the end of each Fiscal Year during which Notes are Outstanding, accompanied by an Issuer’s Certificate to the effect that as of the end of such period, the issuer was not in Default under the terms hereof and specifically demonstrating compliance with the requirements of Section 4.07 hereof.

Section 4.10. Insurance. The Issuer will carry such insurance and in such amounts as is customarily carried with respect to properties similar to the Facilities, with a reputable insurance carrier or carriers, against loss or damage by fire, explosion, hurricane, earthquake, cyclone, occupancy or other hazards and risks. The Issuer will require that each of its contractors and all subcontractors maintain, prior to the Completion Date, workers’ compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder’s risk insurance (fire and extended coverage) to protect the interests of the Issuer, the prime contractor and all subcontractors as their interests may appear, during construction of the Project in the full insurable value thereof. The Net Proceeds of all such insurance policies shall be disposed of as provided in this Indenture and otherwise shall be placed in a construction fund and used only for the repair and restoration of the damaged or destroyed properties. The Issuer will also carry liability insurance for damage or injury to persons or property in amounts adequate for such purposes and customarily carried with respect to works and properties similar to the Facilities. The Trustee shall be a named as a loss payee, additional insured, mortgagee or other appropriate status under all such policies.

Notwithstanding any of the foregoing, the Issuer may provide for the insurance required by this Section 4.10 through the State Board of Risk and Insurance Management or by any program of self-insurance that the State provides for itself and its agencies.

Section 4.11. Damage or Destruction of Facilities. In the event of the damage or destruction of any one or more of the Facilities and the receipt of Net Proceeds equaling or exceeding $500,000, the Issuer shall either (a) repair and restore the specific Facility to substantially its condition or condition of at least equivalent value, immediately prior to such event, or make improvements to the other Facilities, in which instance the Net Proceeds shall be paid to the Issuer for the purpose of such repair and restoration, or (b) direct that an optional redemption of a portion of the Series 2004A Notes shall occur in accordance with the provisions of Section 3.03 hereof, in which instance the Net Proceeds shall be paid into the Notes Payment Fund. If the Net Proceeds are less than $500,000, the Net Proceeds shall be used as provided in clause (a) of the preceding sentence, provided, however, that repair and
restoration shall not be required in the event that after such casualty the Issuer remains in compliance with the requirements of Section 4.07 hereof.

Section 4.12. Other Obligations and Encumbrances. The Issuer shall not issue any other obligations whatsoever, except Additional Notes provided for in Section 2.11 hereof, payable from the (i) proceeds of the Bonds, (ii) proceeds of the Refunding Notes or (iii) the Pledged Revenues, which rank prior to, or equally, as to lien on and source of and security for payment from the (i) proceeds of the Bonds, (ii) proceeds of the Refunding Notes or (iii) the Pledged Revenues, except such Additional Notes, shall contain an express statement that such obligations are junior and subordinate as to lien on and source of and security for payment from such (i) proceeds of the Bonds, (ii) proceeds of the Refunding Notes or (iii) Pledged Revenues and in all other respects to the Notes.

The Issuer shall not create, or cause or permit to be created any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or, except with respect to said Additional Notes, being on a parity with the lien of the Notes, and the interest thereon, upon any of the income and revenues of the Facilities pledged for payment of the Notes and the interest thereon in this Indenture or upon the Facilities or any part thereof.

Section 4.13. Issuance of Bonds. The Issuer shall use its best efforts to issue a series of Bonds on or prior to the Principal Payment Date in an amount at least sufficient to pay the entire outstanding principal of and interest on the Notes.

Section 4.14. Refunding of Notes. In the event proceeds of the Bonds are not sufficient or available on a timely basis to pay the Notes in full by the maturity date of the Notes, the Issuer covenants and agrees to use its best efforts to issue and sell its refunding notes or bonds in an amount sufficient to pay the entire outstanding principal of and interest on the Notes.

ARTICLE V

DEPOSIT OF NOTE PROCEEDS; FUNDS AND ACCOUNTS;

Section 5.01. Creation of Funds and Accounts. There are hereby created and ordered established, the following trust funds and trust accounts to be held by the Trustee:

(a) The Construction Fund;

(b) The Costs of Issuance Fund;
(c) The Notes Payment Fund, which shall contain the following accounts:

(i) The Interest Account; and

(ii) The Principal Account; and

(d) The Rebate Fund.

Section 5.02. Deposit of Note Proceeds. The proceeds of the sale of the Series 2004A Notes, including accrued interest thereon, shall be deposited immediately upon payment and delivery of the Series 2004A Notes as follows:

(i) All interest accrued on the Series 2004A Notes from the date thereof to the date of delivery thereof ($_______) shall be deposited in the Interest Account and applied to payment of interest due on the Series 2004A Notes on ___________________,

(ii) A sum in the amount of $__________, representing costs of issuance, shall be deposited in the Costs of Issuance Fund and applied to payment of costs relating to the issuance of the Series 2004A Notes.

(iii) A sum in the amount of $__________ shall be deposited in the Construction Fund and applied to the payment of costs of the Project.

Proceeds of any series of Additional Notes will be applied as provided in the Supplemental Indenture for such series of Notes.

Section 5.03. Costs of Issuance Fund.

(a) The proceeds of the Notes deposited in the Costs of Issuance Fund shall be used and withdrawn by the Trustee only as provided in this Section 5.03. No amount in any other fund or account created by this Indenture shall be expended for Costs of Issuance.

(b) The Trustee is authorized and directed to make disbursements from the Costs of Issuance Fund for Costs of Issuance set forth on the settlement statement or closing memorandum delivered in connection with the issuance of the Notes and, in addition, upon receipt from time to time of an Issuer’s Certificate setting forth the amounts due and payable, together with such other documentation as may be required hereunder, and certifying that such amounts may be properly paid. The Trustee shall make such disbursements not later than five days after receipt of all the documentation required by this Section 5.03(b).
(c) Notwithstanding any provision to the contrary, any amounts remaining in the Costs of Issuance Fund 180 days after the Closing Date shall be transferred to the Construction Fund.

Section 5.04. Source of Payment of Notes. The Notes and all payments by the Issuer hereunder are not general obligations of the State but are special, limited obligations payable solely from the Trust Estate. The pledge of the Trust Estate, including the Pledged Revenues, proceeds of the Bonds, and proceeds of the Refunding Notes, and the funds and accounts hereunder as security for the performance of all obligations of the Issuer hereunder, shall be valid and binding from the time such pledge is made. The Pledged Revenues, proceeds of the Bonds, and proceeds of the Refunding Notes, immediately shall be subject to the lien of this Indenture without any physical delivery therefor further act. Upon receipt of any Pledged Revenues, the proceeds of the Bonds, the proceeds of the Refunding Notes or other payments hereunder, the Trustee shall deposit the same in the appropriate fund or funds or account or accounts established hereunder. Except as otherwise provided herein, the Trust Estate, shall be collected, held and applied for the equal and ratable benefit and security of all Owners.

Section 5.05. [RESERVED]

Section 5.06. The Notes Payment Fund. (a) There shall be deposited to the credit of the appropriate account of the Notes Payment Fund (i) proceeds of the Bonds; (ii) proceeds of the Refunding Notes; (iii) moneys transferred to the Notes Payment Fund pursuant to Section 4.07 hereof, and (iv) any other moneys required hereunder to be transferred thereto or for which no other designation as to a fund or account has been made. Subject to such priorities of application as are established herein, moneys on deposit in the Notes Payment Fund shall be used to pay Debt Service Charges when due at maturity, upon prior redemption, prepayment or acceleration, or otherwise.

(a) Income from the investment of moneys on deposit in the Interest Account shall be deposited in such account; provided, that, prior to the Completion Date, any moneys on deposit in the Interest Account in excess of interest due on the 2004A Notes on the next Interest Payment Date shall be transferred to the Construction Fund and applied as provided in Section 6.01 hereof.

Section 5.07. Notes Not Presented for Payment. In the event any Notes shall not be presented for payment when the principal thereof becomes due, either at maturity or at the date fixed for redemption or prepayment thereof or the acceleration of maturity, if moneys sufficient to pay such Notes are held by the Trustee, the Trustee shall segregate and hold such moneys in trust, without liability for interest thereon, for the benefit of the Holders of such Notes who shall, except as provided in the following paragraph, thereafter be restricted exclusively to such fund or funds for the satisfaction of any claim of whatever nature on their part under this Indenture or relating to said Notes.
Any moneys which the Trustee shall segregate and hold in trust for the payment of the Debt Service Charges on any Note and which remain unclaimed for two years after such Debt Service Charges have become due and payable shall be paid to the Issuer. After the payment of such unclaimed moneys to the Issuer, the Holder of any such Note shall thereafter look only to the Issuer for the payment thereof, and all liability of the Trustee with respect to such moneys shall thereupon cease.

Section 5.08. Rebate Fund.

(a) The Rebate Fund shall be separate from any other fund established and maintained hereunder or under any laws governing the creation and use of funds by the Issuer. There shall be deposited in the Rebate Fund such amounts as are required to be deposited therein pursuant to the Tax Regulatory Agreement. Subject to the transfer provisions provided in paragraph (e) below, all money at any time deposited in the Rebate Fund shall be held by the Trustee in trust, to the extent required to satisfy the Rebate Amount (as defined in the Tax Regulatory Agreement), for payment to the federal government of the United States of America, and neither the Issuer nor the Holder of any Notes shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section, and by the Tax Regulatory Agreement (which is incorporated herein by reference).

(b) Notwithstanding any other provisions herein, the Trustee shall deposit amounts to the Rebate Fund from deposits by the Issuer or from amounts available for such purpose held in the Construction Fund and the Notes Payment Fund, if and to the extent required, when stipulated pursuant to the Tax Regulatory Agreement. Computations of the Rebate Amount shall be furnished to the Trustee in accordance with the Tax Regulatory Agreement.

(c) The Trustee shall have no obligations to rebate any amounts required to be rebated pursuant to this Section, other than from moneys held in the funds and accounts created under this Indenture or from other moneys provided to it by the Issuer.

(d) The Trustee shall invest all amounts held in the Rebate Fund in Permitted Investments as directed by the Issuer and subject to the restrictions set forth in the Tax Regulatory Agreement.

(e) The Trustee shall remit part or all of the balances in the Rebate Fund to the United States. At the direction of the Issuer, any funds remaining in the Rebate Fund after redemption and payment of all of the Notes and payment and satisfaction of any Rebate Amount, or provision made therefor satisfactory to the Trustee shall be withdrawn and remitted to the Issuer.

(f) Notwithstanding any other provision of this Indenture, the obligation to remit the Rebate Amounts to the United States and to comply with all other
requirements of this Section and the Tax Regulatory Agreement shall survive the defeasance or payment in full of the Notes.

Section 5.09. Moneys Held in Trust. Except where moneys have been deposited with or paid to the Trustee pursuant to an instrument restricting their application to particular Notes, all moneys required or permitted to be deposited with or paid to the Trustee or any Paying Agent under any provision of this Indenture and to be used to pay Debt Service Charges, and any investments thereof, shall be held by the Trustee or that Paying Agent in trust. Except (i) for moneys deposited with or paid to the Trustee or any Paying Agent for the redemption of Notes, notice of the redemption of which shall have been duly given and (ii) for moneys held by the Trustee pursuant to Section 5.07 hereof, and (iii) for moneys held in the Rebate Fund, all moneys described in the preceding sentence held by the Trustee or any Paying Agent shall be subject to the lien hereof while so held.

Section 5.10. Payment to the Issuer. After the right, title and interest of the Trustee in and to the Trust Estate and all covenants, agreements and other obligations of the Issuer to the Holders shall have ceased, terminated and become void and shall have been satisfied and discharged in accordance with Article IX hereof, and amounts due and owing to the United States of America pursuant to Section 5.08 hereof and all fees, expenses and other amounts payable to the Issuer, the Trustee, the Registrar, any Authenticating Agent, any Paying Agent, the Rebate Analyst and the Disclosure Agent, pursuant to any provision hereof shall have been paid in full, any moneys remaining in any fund or account held under this Indenture (other than moneys held for the payment of Debt Service Charges) shall be paid to the Issuer, except as otherwise provided in Section 5.09 hereof.

ARTICLE VI

CONSTRUCTION FUND

Section 6.01. Construction Fund. Moneys deposited in the Construction Fund shall be used and applied solely for the payment of the Costs of the Project. With the approval of Bond Counsel, the Issuer may be reimbursed for all or a portion of the cost of acquisition or construction of the Project. Any moneys not needed immediately for said purposes shall be invested in Permitted Investments having maturities so as to enable the moneys to be available as deemed necessary by an Authorized Representative. If for any reason such moneys, or any part thereof, are not necessary for, or are not applied to, such purposes, then such unapplied moneys may, with the approval of Bond Counsel, be used for other capital construction or acquisition needs for the Facilities during the period of three years following the issuance of the Series 2004A Notes and, thereafter, shall be held by the Trustee in escrow and used to redeem the Series 2004A Notes at the first redemption date and, prior thereto, to pay a proportional amount of the principal of the Series 2004A Notes. All such moneys shall constitute a trust fund for such purposes, and until so applied, there is hereby created a lien upon such moneys in favor of the Owners.
The Trustee is hereby authorized to disburse moneys from the Construction Fund to pay Costs of the Project upon receipt of a requisition signed by an Authorized Representative. Each such requisition shall state with respect to each payment to be made:

(i) The requisition number;

(ii) The name and address of the Person to whom payment is due or to who an advance by the Issuer has been made;

(iii) The amount to be paid; and

(iv) That each obligation mentioned therein has been properly incurred, is currently due and payable, is a proper charge for a portion of the Costs, is unpaid or unreimbursed and has not been the basis of any previous requisition.

In making any payment from the Construction Fund, the Trustee shall conclusively rely on any requisition delivered to it in accordance with this Section 6.01 and the Trustee shall be relieved of all liability for making any such payments in accordance with such requisition without inspection of the Project or any other investigation.

Section 6.02. Completion of the Project. The Issuer shall deliver a Certificate to the Trustee certifying that the construction, improvement and equipping of the Project has been completed as of a date certain, which date certain shall be the Completion Date.

ARTICLE VII

INVESTMENT OF MONEYS

Section 7.01. Investment of Moneys. Except as otherwise provided in this Indenture, any moneys held as a part of the funds and accounts created pursuant to this Indenture shall be invested or reinvested by the Trustee at the written direction of the issuer in any Permitted Investments; provided, however, that, in the absence of any direction from the Issuer, the Trustee shall keep such funds invested in Defeasance Obligations.

Except as otherwise specifically provided herein, any such investment shall be held by or under the control of the Trustee and shall be deemed at all times a part of the fund in which such moneys were originally held. Any loss resulting from such investments shall be charged to such fund. Any interest or other gain from any fund from any investment or reinvestment shall be allocated and transferred as follows:

(a) Any interest or other gain as a result of any investments or reinvestments of moneys in the Notes Payment Fund shall remain in the Notes Payment Fund;
(b) Any interest or other gain realized as a result of any investments or reinvestments of moneys in the Construction Fund shall be credited to the Construction Fund until the Completion Date, and thereafter to the Notes Payment Fund.

The Trustee shall value the investments held for any fund at the lower of cost or then current market, or at the redemption price thereof if then redeemable at the option of the owner, including the value of accrued interest and giving effect to the amortization of discount. The Trustee shall sell at the best price reasonably obtainable and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund is insufficient to make the payments required from such fund regardless of the loss on such liquidation. The Trustee may make any and all investments permitted by this Section 7.01 through its own bond department.

In making investments of the moneys held hereunder the Trustee may rely on the written direction of the Issuer and shall not be liable for any investments made in violation of the covenant as to arbitrage contained herein or otherwise, if made pursuant to such direction.

All investments shall be valued as of the end of each Bond Year and on such other dates as required by the term of this Indenture.

ARTICLE VIII

DISCHARGE OF INDENTURE

Section 8.01. Discharge of Indenture. (a) Subject to the provisions of (b) through (g) of this Section 8.01, if the Issuer shall pay or cause to be paid, or there shall be otherwise paid, to or for the Owners of the Notes, the Debt Service Charges due or to become due thereon at the times and in the manner stipulated therein from the funds and accounts established hereunder as a part of the Trust Estate, and shall pay or cause to be paid to the Trustee all sums of money due or to become due according to the provisions hereof, then these presents and the estate and rights hereby granted shall cease, determine and become void, whereupon the Trustee shall cancel and discharge the lien of this Indenture and execute and deliver to the Issuer such instruments in writing as shall be requisite to cancel and discharge the lien hereof, and release, assign and deliver unto the Issuer, any and all of the estate, right, title and interest in and to any and all rights assigned or pledged to the Trustee or otherwise subject to the lien of this indenture, except moneys or securities held by the Trustee for the payment of the Debt Service Charges on the Notes.

(b) The Bonds shall be deemed paid within the meaning of Section 8.01(a) if all Notes shall have become due and payable in accordance with their terms at their stated maturity or otherwise as provided in this Indenture or have been duly called for redemption, or irrevocable instructions to call the Notes for redemption or to pay the Notes at
their stated dates of maturity have been given to the Trustee and either (i) the whole amount of the principal and interest so due and payable upon all of the Notes (other than Notes theretofore canceled or delivered to the Trustee for cancellation) shall have been paid or (ii) there shall have been deposited with the Trustee Defeasance Obligations which are non-callable prior to the stated maturity thereof and having stated maturities arranged so that the principal or redemption price of and interest becoming due and payable on such Defeasance Obligations will under any and all circumstances (and without further investment or reinvestment of either the principal amount thereof or the interest earned thereon) be sufficient (as confirmed by a Certified Public Accountant) to pay and discharge the entire indebtedness of each Note, not theretofore delivered to the Trustee for cancellation, or Debt Service Charges to the stated maturity or redemption date or dates, as the case may be, thereof.

(c) If all Notes have not become due and payable, the Issuer has delivered to the Trustee a ruling of the Internal Revenue Service or an opinion of Bond Counsel to the effect that the operation of this Section 8.01 would not cause interest on the Notes to become includable in the gross income of the Owners thereof for federal income tax purposes or cause the Notes to be “arbitrage bonds” within the meaning of Section 148 of the Code.

(d) If the date of satisfaction and discharge of this Indenture is more than six months prior to the stated maturity date of the Notes, and redemption of the Notes is then required by the Issuer, arrangements, satisfactory to the Trustee, shall have been made for the giving of notice of redemption of the Notes on the date selected for redemption.

(e) The Issuer has delivered to the Trustee a certificate on behalf of the Issuer and an opinion of Bond Counsel, each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Indenture have been complied with.

(f) In the event of an advance refunding, the Issuer on behalf of the Issuer shall cause to be delivered a verification report of an Independent nationally recognized Certified Public Accountant. If a forward supply contract is employed in connection with the refunding, (i) such verification report shall expressly state that the adequacy of the escrow to accomplish the refunding relies solely on the initial escrowed investments and the maturing principal thereof and interest income thereon and does not assume performance under or compliance with the forward supply contract, and (ii) the applicable escrow agreement shall provide that in the event of any discrepancy or difference between the terms of the forward supply contract and the escrow agreement (or the authorizing document, if no separate escrow agreement is utilized), the terms of the escrow agreement or authorizing document, if applicable, shall be controlling.

(g) The obligation of the Issuer to pay the fees and expenses of the Trustee, and to indemnify the Trustee (but only from Pledged Revenues), shall survive defeasance of the Notes.
ARTICLE IX

DEFAULT PROVISIONS AND REMEDIES OF TRUSTEE AND NOTEHOLDERS

Article 9.01. Defaults; Events of Default. If any of the following events occur, it is hereby defined as and declared to be and constitute an “Event of Default”:

(a) Default by the Issuer in the due and punctual payment of any interest on any Note;

(b) Default by the Issuer in the due and punctual payment of any Principal Installment;

(c) Upon the expiration of the period for filing a responsive pleading, in the event any proceeding is instituted in a court of competent jurisdiction which may adversely affect the lien of the Owners upon the Trust Estate, unless (i) a responsive pleading has been filed on behalf of the Issuer contesting the bona fides of such proceeding or (ii) the Issuer causes an opinion of counsel (which counsel must be reasonably satisfactory to the Trustee) to be delivered to the Trustee to the effect such proceeding is without merit; or

(d) Default in the performance of observance of any other of the covenants, agreements or conditions on the part of the Issuer contained in this Indenture or in the Notes and failure to remedy the same after notice thereto pursuant to Section 9.10.

Section 9.02. Rights and Remedies of Trustee. Upon the occurrence of an Event of Default the Trustee may pursue any available remedy at law or in equity to enforce the payment of the principal of and interest on the Notes then Outstanding, including, but not limited to, a proceeding in mandamus to enforce any rights on behalf of the Owners or the appointment of a receiver for the protection of the Owners.

If an Event of Default shall have occurred, and if requested to do so by the Owners of no less than 25% of the Notes Outstanding and indemnified as provided in Section 10.01(1) hereof, the Trustee shall be obligated to exercise one or more of the rights and powers conferred by this Article as the Trustee, being advised by counsel, shall deem most expedient in the interests of the Owners.

The Trustee shall have the right to compel an immediate accounting with respect to the Pledged Revenues and to have all Pledged Revenues transferred to the Trustee for the payment of the principal of and interest on the Notes and the payment of all other obligations of the Issuer hereunder or otherwise with respect to the Notes in accordance with the terms hereof.

No remedy by the terms of this Indenture conferred upon or reserved to the Trustee (or to the Owners) is intended to be exclusive of any other remedy, but each and every
such remedy shall be cumulative and shall be in addition to any other remedy given to the
Trustee or to the Owners hereunder or now or hereafter existing at law or in equity or by
statute.

No delay or omission to exercise any right or power accruing upon any default
or Event of Default shall impair any such right or power or shall be construed to be a waiver
of any such default or Event of Default or acquiescence therein; and every such right and
power may be exercised from time to time as often as may be deemed expedient.

No waiver of any default or Event of Default hereunder, whether by the
Trustee or by the Owners, shall extend to or shall affect any subsequent default or Event of
Default or shall impair any rights or remedies consequent thereon.

Section 9.03. Right of Owners to Direct Proceedings. Anything in this
Indenture to the contrary notwithstanding, the Owners of a majority of the Notes Outstanding
shall have the right, at any time, by an instrument or instruments in writing executed and
delivered to the Trustee, to direct the method and place of conducting all proceedings to be
taken by the Trustee in connection with the enforcement of the terms and conditions of this
Indenture, or for the appointment of a receiver or any other proceedings hereunder; provided
that such direction shall not be otherwise than in accordance with the provisions of law and of
this Indenture.

In the event the Trustee receives conflicting instructions from the Owners of
the Notes, the Trustee shall follow the instructions of the Owners of the greatest principal
amount of Notes if the greatest principal amount is at least 25% of the Notes Outstanding.

Section 9.04. Appointment of Receiver. Upon the occurrence of an Event of
Default, and upon the filing of a suit or other commencement of judicial proceedings to
enforce the rights of the Trustee and of the Owners under this Indenture, the Trustee shall be
entitled, as a matter of right, to the appointment of a receiver or receivers of the Trust Estate
and, to the extent then permitted by law, of the Facilities, pending such proceedings, with such
powers as the court making such appointment shall confer.

Whenever all Debt Service Charges then due shall have been paid and made
good, and all defaults under the provisions of this Indenture shall have been cured and made
good, control of the Pledged Revenues and possession of the Facilities shall be surrendered to
the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default,
the Trustee shall have the same right to secure the further appointment of a receiver upon any
such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon
him or her or it, shall be under the direction and supervision of the court making such
appointment, shall at all times be subject to the orders and decrees of such court and may be
removed thereby, and a successor receiver may be appointed in the discretion of such court.
Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such
other and further orders and decrees as such court may deem necessary or appropriate for the
exercise by the receiver of any function not specifically set forth herein.

Such receiver shall have no power to sell, assign, mortgage or otherwise
dispose of any assets of any kind or character belonging or pertaining to the Facilities, but the
authority of such receiver shall be limited to the possession, operation and maintenance of the
Facilities, for the sole purpose of the protection of both the Issuer and Owners, and the curing
and making good of any default under the provisions of this Indenture, and the title to and
ownership of said Facilities shall remain in the Issuer, and no court shall have any jurisdiction
to enter any order or decree permitting or requiring such receiver to sell, mortgage, or
otherwise dispose of any assets of the Facilities.

Section 9.05. Application of Moneys. All moneys received by the Trustee
pursuant to any right given or action taken under the provisions of this Article shall, after
payment of the costs and expenses of the proceedings resulting in the collection of such
moneys and of the expenses, fees, liabilities and advances, including counsel fees, incurred or
made by the Trustee, be deposited in the Notes Payment Fund, and all moneys in the Notes
Payment Fund shall be applied as follows:

(a) Unless the principal of all the Notes shall have become due and
payable, all such moneys shall be applied:

FIRST -- to the payment to the persons entitled thereto of all interest
then due on the Notes, in the order of the due dates of such interest and, if the amount
available shall not be sufficient to pay in full said amount, then to the payment ratably,
according to the amounts due to the persons entitled thereto, without any discrimination or
privilege;

SECOND -- to the payment to the persons entitled thereto of the unpaid
principal of any of the Notes which shall have become due (other than the Notes matured for
the payment of which moneys are held pursuant to the provisions of this Indenture), in the
order of their due dates, with interest on such Notes from the respective dates upon which they
became due at the rates borne by the Notes and, if the amount available shall not be sufficient
to pay in full Notes due on any particular date, together with such interest, then to the payment
ratably, according to the amount of principal due on such date, to the persons entitled thereto
without any discrimination or privilege; and

THIRD -- to be held for the payment to the persons entitled thereto as
the same shall become due of the principal of and interest on the Notes which may thereafter
become due at maturity and, if the amount available shall not be sufficient to pay in full Notes
due on any particular date, together with interest then due and owing thereon, payment shall
be made ratably according to the amount of principal due on such date to the persons entitled
thereto without any discrimination or privilege.
(b) If the principal of all the Notes shall have become due, all such moneys shall be applied to the payment of the principal and interest then due and unpaid upon the Notes, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Note over any other Note, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or privilege.

Section 9.06. Remedies Vested in the Trustee. All rights of action (including the right to file proof of claims) under this Indenture or under any of the Notes may be enforced by the Trustee without the possession of any of the Notes or the production thereof in any trial or other proceeding related thereto and any such suit or proceeding instituted by the Trustee shall be brought in its name as the Trustee without the necessity of joining as plaintiffs or defendants any Owner of the Notes, and any recovery of judgment shall be for the equal and ratable benefit of the Owners of the outstanding Notes.

Section 9.07. Rights and Remedies of Noteholders. No Owner of any Note shall have any right to institute any suit, action or proceeding at law or in equity for the enforcement of this Indenture or for the execution of any trust hereof or for the appointment of a receiver of any other remedy hereunder, unless (i) a default has occurred of which the Trustee has been notified as provided in Section 10.01(h) hereof, or of which by said subsection it is deemed to have received notice, (ii) such default shall have become an Event of Default and the Owners of not less than 25% of the Notes Outstanding shall have made written notice to the Trustee and shall have offered it reasonable opportunity either to proceed to exercise the powers hereinafore granted or to institute such action, suit or proceeding in their own name or names, (iii) they have offered to the Trustee indemnity as provided in Section 10.01(1) hereof, and (iv) the Trustee shall thereafter fail or refuse to exercise the powers hereinafore granted, or to institute such action, suit or proceeding in its own name; and such notification, request and offer of indemnity are hereby declared in every case at the option of the Trustee to be conditions precedent to the execution of the powers and for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder; it being understood and intended that no one or more Owners of the Notes shall, solely by virtue of being such Owner, have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture by its, his or their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal and ratable benefit to the Owners of all Notes then outstanding. However, nothing contained in this Indenture shall affect or impair the right of any Owners to enforce the payment of the principal of and interest on any Note at and after the maturity thereof, or the obligation of the Issuer to pay the principal of and interest on each of the Notes issued hereunder to the respective Owners thereof at the time, place, from the sources and in the manner in the Notes expressed.

Section 9.08. Termination of Proceedings. In the case the Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or
shall have been determined adversely, then and in every such case the Issuer, the Trustee and the Owners shall be restored to their former positions and rights hereunder, respectively, with regard to the property herein subject to this Indenture, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

Section 9.09. Waivers of Events of Default. The Trustee may at its discretion waive any Event of Default hereunder and its consequences, and shall do so upon the written request of the Owners of (i) more than two-thirds of the Notes Outstanding in respect of which default in the payment of principal or interest, or both, exists, or (ii) more than 50% of the Notes Outstanding in the case of any other default; provided, however, that there shall not be waived (a) any Event of Default in the payment of the principal of any outstanding Notes at the date of maturity specified therein, or (b) any default in the payment when due of the interest on any such Notes unless, prior to such waiver or rescission, all arrears of interest or all arrears of payments of principal when due, as the case may be, with interest on overdue principal at the rate borne by the Notes, and all expenses of the Trustee in connection with such default shall have been paid or provided for, and in case of any such waiver or rescission, or in case any proceedings taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case the Issuer, the Trustee and the Owners shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon.

Section 9.10. Notice of Defaults Under Section 9.01(d): Opportunity of Issuer to Cure Such Defaults. Anything herein to the contrary notwithstanding, no default under Section 9.01(d) shall constitute an Event of Default until actual notice of such default by first class mail (postage prepaid) shall be given to the Issuer by the Trustee or by the Owners of not less than 25% of the Notes Outstanding affected by such default, and the Issuer shall have had 60 days after receipt of such notice to correct said default or cause said default to be corrected, and shall not have corrected said default or cause said default to be corrected, and shall not have corrected said default or caused said default to be corrected within the applicable period; provided, however, if said default be such that it cannot be corrected within the applicable period, it shall not constitute an Event of Default if corrective action is instituted by or on behalf of the Issuer within the applicable period and diligently pursued until the default is corrected.

Section 9.11. Acceleration and Annulment Thereof.

(a) Upon the occurrence of an Event of Default specified in Section 9.01 hereof, and at any time thereafter while such Event of Default shall continue in each and every case, unless the principal of all the Notes shall already have become due and payable, the Trustee may and, upon written request of the Owners of 25% of aggregate principal amount of the Notes then Outstanding shall declare the principal of all the Notes then Outstanding, and the interest accrued thereon, to be due and payable immediately, and upon any such declaration the same shall become and be immediately due and payable, anything in this Indenture or in any of the Notes contained and to the contrary notwithstanding.
(b) The provisions of the preceding paragraph however, are subject, to the condition that if, after the principal of the Notes has been so declared to be due and payable, all arrears of interest upon the Notes (and interest on overdue installments of interest at the maximum rate permitted by law or two percent over the interest rate on the respective Notes, whichever is less) are paid by or on behalf of the Issuer, and no Event of Default or event which, with the passage of time or the giving of notice, or both, would constitute an Event of Default, is continuing hereunder, and the Issuer also performs or causes to be performed all other things in respect to which the Issuer may have been in default hereunder and pays (but only from the Pledged Revenues or otherwise from the Trust Estate) or causes to be paid the reasonable charges of the Trustee and the Owners, including reasonable attorneys fees, then, and in every such case, the Trustee may annul such declaration and its consequences and such annulment shall be binding upon the Trustee and upon all Owners of Notes issued hereunder, but no such annulment shall extend to or affect any subsequent default or impair any right or remedy consequent thereon.
ARTICLE X

THE TRUSTEE

Section 10.01. Acceptance of the Trusts. The Trustee hereby accepts the trusts imposed upon it by this Indenture and agrees to perform said trusts, but only upon and subject to the following express terms and conditions to all of which the Issuer agrees and the respective Noteholders agree by their acceptance of any of the Notes:

(a) The Trustee, prior to the occurrence of an Event of Default and after the curing of all events of default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In case an Event of Default has occurred (which has not been cured or waived), the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

(b) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, receivers or employees but shall be answerable for the conduct of the same in accordance with the standard specified above, and shall be entitled to advice of counsel concerning all matters of trusts hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such attorneys, agents, receivers and employees as may reasonably be employed in connection with the trusts hereof. The Trustee may act upon the opinion or advice of any attorneys (who may be the attorney or attorneys for the Issuer), approved by the Trustee in the exercise of reasonable care. The Trustee shall not be responsible for any loss or damage resulting from any action or nonaction in good faith in reliance upon such opinion or advice.

(c) The Trustee shall not be responsible for any recital herein, or in the Notes, or for the validity of the execution by the Issuer of this Indenture or of any supplements hereto or instruments of further assurance, or for the sufficiency of the security for the Notes issued hereunder or intended to be secured hereby.

(d) The Trustee shall not be accountable for the use of any Notes authenticated or delivered hereunder. The Trustee may become the owner of Notes secured hereby with the same rights which it would have if not the Trustee.

(e) Except with respect to the matters covered in Section 12.01 hereof, the Trustee shall be protected in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram, or other paper or document believed to be genuine and correct and to have been signed or sent by the proper person or persons. The Trustee shall not withhold unreasonably its consent, approval or action to any reasonable request to the Issuer. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of any person who at the time of making such request or giving such authority or
consent is the owner of any Note, shall be conclusive and binding upon all future owners of the same Note and upon Notes issued in exchange therefor or in place thereof.

(f) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled to rely upon a certificate signed by the Authorized Representative of the Issuer as sufficient evidence of the facts therein contained and prior to the occurrence of a default of which the Trustee has been notified as provided in subsection (h) of this Section, or of which by said subsection it is deemed to have notice, shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may, at its discretion, secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same.

(g) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty and it shall not be answerable for other than its gross negligence or willful misconduct.

(h) The Trustee shall not be required to take notice or be deemed to have notice of any default hereunder except failure by the Issuer to cause to be made any of the payments to the Trustee required to be made by Article V or the failure of the Issuer to file with the Trustee any document required by this Indenture to be so filed subsequent to the issuance of the Notes, unless the Trustee shall be specifically notified in writing of such default by the Issuer or by the owners of at least 25% of the Notes Outstanding and all notices or other instruments required by this Indenture to be delivered to the Trustee must, in order to be effective, be delivered at the principal office of the Trustee, and, in the absence of such notice so delivered, the Trustee may conclusively assume there is no default except as aforesaid.

(i) At any and all reasonable times, the Trustee, and its duly authorized agents, attorneys, experts, engineers, accountants and representatives shall have the right fully to inspect any and all of the property herein conveyed, including all books, papers, and records of the Issuer pertaining to the Pledged Revenues or otherwise with respect to the Trust Estate and the Notes, and to take such memoranda from and in regard thereto as may be desired.

(j) The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

(k) Notwithstanding anything elsewhere in this Indenture contained, the Trustee shall have the right, but shall not be required, to demand, in respect of the authentication of any Notes, the withdrawal of such any cash, or any action whatsoever within purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required as a condition of such action by the Trustee deemed desirable for the purpose of
establishing the right of the Issuer to the authentication of any Notes, the withdrawal of any cash or the taking of any other action by the Trustee.

(l) Before taking the action referred to in Section 9.02 or 9.07 hereof, the Trustee may require that a satisfactory indemnity bond be furnished for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its negligence or willful default by reason of any action so taken.

(m) All moneys received by the Trustee or any Paying Agent shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received but need not be segregated from other funds except to the extent required by law. Neither the Trustee nor any Paying Agent shall be under any liability for interest on any moneys received hereunder except such as may be agreed upon.

Section 10.02 Fees, Charges and Expenses of Trustee. The Trustee shall be entitled to payment and reimbursement for reasonable fees for its services rendered hereunder and all advances, counsel fees and other expenses reasonably and necessarily made or incurred by the Trustee in connection with such services solely from moneys available therefor. Upon an Event of Default, but only upon an Event of Default, the Trustee shall have a first lien with right of payment prior to payment on account of principal of and interest on any Note upon the Trust Estate for the foregoing fees, charges and expenses incurred by it.

Section 10.03 Notice to Owners in the Event of Default or Certain Other Occurrences. If a default occurs of which the Trustee is by Section 10.01(h) required to take notice or if notice of default be given as in Section 10.01(h) provided, then the Trustee shall promptly give written notice thereof by registered or certified mail to the Owners of all Notes then Outstanding shown on the Note Register.

Section 10.04 Intervention by Trustee. In any judicial proceeding concerning the issuance or the payment of the Notes to which the Issuer is a party and which in the opinion of the Trustee has a substantial bearing on the interests of Owners of the Notes, the Trustee may intervene on behalf of Owners and shall do so if requested in writing by the owners of at least 25% of the Notes Outstanding and being provided a bond as described in Section 10.01(1) hereof.

Section 10.05 Successor Trustee. Any corporation or association into which the Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, ipso facto shall be and become successor Trustee hereunder and vested with all of the title to the Trust Estate and all the trusts, powers, discretion, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.
Section 10.06. Resignation by Trustee. The Trustee and any successor Trustee may at any time resign from the trusts hereby created by giving 90 days’ written notice by registered or certified mail to the Issuer and by first class mail (postage prepaid) Owners of each Note, and such resignation shall take effect upon the appointment of a successor Trustee by the Owners or by the Issuer. The Issuer hereby agrees to make a reasonable effort to appoint such a successor Trustee within a reasonable period of time.

Section 10.07. Removal of Trustee. The Trustee may be removed at any time by an instrument or concurrent instruments in writing delivered to the Trustee and to the Issuer signed by the Owners of a majority in aggregate principal amount of the Notes Outstanding.

Section 10.08. Appointment of Successor Trustee by the Noteholders; Temporary Trustee. In case the Trustee hereunder shall resign or be removed, or be dissolved, or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, a successor may be appointed by the Owners of a majority in aggregate principal amount of the Notes Outstanding, by an instrument or concurrent instruments in writing signed by such Owners, or by their attorneys in fact, duly authorized and a copy of which shall be delivered personally or sent by registered mail to the Issuer. Nevertheless, in case of such vacancy, the Issuer may appoint a temporary Trustee to fill such vacancy until a successor trustee shall be appointed by the Owners in the manner above provided; and any such temporary Trustee so appointed by the Issuer shall immediately and without further act be superseded by the Trustee so appointed by the Owners. Notice of the appointment of a successor trustee shall be given in the same manner as provided in Section 10.06 with respect to the resignation of a Trustee. Every such Trustee appointed pursuant to the provisions of this Section shall be a trust company or bank in good standing, which has combined capital, surplus and undivided profits of not less than $50,000,000. No resignation or removal of the Trustee, Paying Agent or Registrar shall become effective until a successor has been appointed and has accepted the duties of Trustee, Paying Agent or Registrar, as applicable, and the appointment of any successor thereto.

Section 10.09. Concerning Any Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its or his predecessor and also to the Issuer, an instrument in writing accepting such appointment hereunder and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessors; but such predecessors shall, nevertheless, on the written request of the Issuer, execute and deliver an instrument transferring to such successor Trustee all the estates, properties, rights, powers and trusts of such predecessor hereunder and every predecessor Trustee shall deliver all securities and moneys held by it as Trustee hereunder to its or his successor. Should any instrument in writing from the Issuer be required by a successor Trustee for more fully and certainly vesting in such successor the estate, rights, powers and duties hereby vested or intended to be vested in the predecessor, any and all such instruments in writing shall, on
request, be executed, acknowledged and delivered by the Issuer. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor hereunder, together with all other instruments provided for in this Article, shall be filed or recorded by the successor Trustee in each recording office where this Indenture shall have been filed or recorded, if any.

Section 10.10, Designation and Succession of Paying Agent. The Issuer at all times shall employ one or more Paying Agents for the Notes. Initially, the Issuer hereby appoints the Trustee as Paying Agent. Any bank or trust company with or into which any Paying Agent may be merged or consolidated, or to which the assets or business of such Paying Agent may be sold, shall be deemed the successor of such Paying Agent for the purposes of this Indenture. If the position of Paying Agent shall become vacant for any reason, the Issuer shall, within 30 days thereafter, appoint a bank or trust company as such Paying Agent to fill such vacancy; provided, however, that if the Issuer shall fail to appoint such Paying Agent within said period, the Trustee shall make such appointment. Other Paying Agents may be appointed pursuant to Article X hereof by the Issuer if in its discretion additional Paying Agents are deemed advisable.

The Paying Agent shall enjoy the same protective provisions in the performance of their duties hereunder as are specified in Section 10.01 hereof with respect to the Trustee insofar as such provisions may be applicable.

Notice of the appointment of additional Paying Agents shall be given in the same manner as provided in Section 10.08 hereof with respect to the appointment of a successor Trustee.

Section 10.11, Appointment of Co-Trustee. It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the laws of the State) denying or restricting the right of banking corporations or associations to transact business as Trustee in such jurisdiction. It is recognized that, in case of litigation under this Indenture and, in particular, in case of the enforcement hereof on default, or in case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Trustee or hold title to the properties, in trust, as herein granted, or taken any other action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee appoint an additional individual or institution as a separate Co-Trustee. The following provisions of this Section are adopted to these ends.

In the event that the Trustee appoints an additional individual or institution as a separate Co-Trustee, each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vest in such separate Co-Trustee but only to the extent necessary to enable such separate or Co-Trustee to exercise such powers, rights, and remedies, and every covenant and obligation
necessary to the exercise thereof by such separate or Co-Trustee shall run to and be enforceable by either of them.

Should any instrument in writing from the Issuer be required by the separate or Co-Trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to him or it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer. In case any separate or Co-Trustee or a successor to either shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate or Co-Trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a new Trustee or successor to such separate or Co-Trustee.

ARTICLE XI

SUPPLEMENTS AND AMENDMENTS

Section 11.01 Supplemental Trust Indentures Not Requiring Consent of Noteholders.  The Issuer and the Trustee may, without the consent of, or notice to, any of the Noteholders, enter into an indenture or indentures supplemental to this Indenture as shall not be inconsistent with the terms and provisions hereof for any one or more of the following purposes:

(a) To cure any ambiguity or defective provision or omission to this Indenture;

(b) To grant to or confer upon the Trustee for the benefit of the Noteholders any additional benefits, rights, remedies, powers or authorities that may lawfully be granted to or conferred upon the Noteholders or the Trustee, or to make any change which, in the judgment of the Trustee, is not to the prejudice of the Noteholders;

(c) To subject to this Indenture additional revenue, properties or collateral as may be reasonably required, including any rents, fees or charges from new dormitories being constructed with the proceeds of Additional Notes and not already included in the definition of Pledged Revenues hereunder;

(d) To comply with the provisions of the Code, as now or hereafter amended, and any applicable court decisions, if such amendment, in the opinion of Bond Counsel, will insure that the tax-exempt status of interest on the Notes is not impaired;

(e) To modify, amend or supplement this Indenture or any indenture supplemental hereto in such manner as to permit the qualification hereof and thereof under the Trust Indenture Act of 1939 or any similar federal statute hereafter in effect or to permit the qualification of the Notes for sale under the securities laws of any of the states of the United States of America, and, if they so determine, to add to this Indenture or any
indenture supplemental hereto such other terms, conditions and provisions as may be permitted by said Trust Indenture Act of 1939 or similar federal statute;

(f) To evidence the appointment of a separate or Co-Trustee or the succession of a new Trustee or Paying Agent hereunder;

(g) To provide for the issuance of a series of Additional Notes;

(h) To comply with the requirements of any nationally recognized rating agency as long as such requirements do not impair the security for the Notes or adversely effect other ratings on the Notes.

Section 11.0 Supplemental Trust Indentures Requiring Consent of Noteholders. Exclusive of supplemental indentures covered by Section 11.01, subject to the terms and provisions contained in this Section, and not otherwise, the Owners of not less than two-thirds of any series of Outstanding Notes shall have the right, from time to time, anything contained in this Indenture to the contrary notwithstanding, to consent to and approve the execution by the Issuer and the Trustee of such other indenture or indentures supplemental hereto as shall be deemed necessary and desirable by the Trustee for the purpose of modifying, altering, amending adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any supplemental indenture relating to such series of Notes; provided, however, that nothing contained in this Section shall permit, or be construed as permitting, without the consent of the owners of all Outstanding Notes of any series, (a) an extension of the maturity date of the principal of or the interest on any Note of such series, or (b) a reduction in the principal amount of any Note of such series or the rate of interest thereon, or (c) a privilege or priority of any Note of such series over any other Notes of any series, or (d) a reduction in the principal amount of such series of Outstanding Notes required for consent to such supplemental indenture, or (e) the creation of any lien other than a lien ratably securing all of the Outstanding Notes of such series at any time, or (f) any modification of the trusts, powers, rights, obligations, duties, remedies, immunities and privileges of the Trustee without the written consent of the Trustee.

If at any time the Issuer shall request the Trustee to enter into any such supplemental indenture for any of the purposes of this Section, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such supplemental indenture to be mailed by registered or certified mail to each owner of a Note of a series effected thereby. Such notices shall briefly set forth the nature of the proposed supplemental indenture and shall state that copies thereof are on file at the principal office of the Trustee for inspection by all Noteholders of the series effected thereby. If, within 60 days or such longer period as shall be prescribed by the Issuer following the mailing of such notice, the holders of not less than two-thirds of the Notes Outstanding of a series effected thereby at the time of the execution of any such supplemental indenture shall have consented to and approved the execution thereof as herein provided, no holder of any Note of such series shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or
to enjoin or restrain the Trustee or the Issuer from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such supplemental indenture as permitted and provided for in this Section and the delivery to the Trustee of an opinion of Bond Counsel that such supplemental indenture is in compliance with the provisions hereof, this Indenture shall be and be deemed to be modified and amended in accordance herewith.

**ARTICLE XII**

**MISCELLANEOUS**

**Section 12.01, Consents, Etc. of Noteholders.** Any consent, request, direction, approval, objection or other instrument required by this Indenture to be signed and executed by the Noteholders may be in any number of counterparts and may be signed or executed by such Noteholders in person or by an agent appointed in writing. Proof of the execution of any such consent, request, direction, approval, objection or other instrument or of the writing appointing any such agent and or the ownership of, if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee and any Paying Agent with regard to any action taken by it under such request or other instrument, namely:

(a) The fact and date of the execution by any person of any such writing may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such writing acknowledged before him the execution thereof, or by an affidavit of any witness to such execution; or

(b) The fact of ownership of Notes and the amount or amounts, numbers and other identification of Notes, and the date of holding the same shall be proved by the registration books of the Issuer maintained by the Trustee pursuant to Section 2.07 hereof.

**Section 12.02, Severability.** If any provision of this Indenture shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

**Section 12.03, Notices.** Any notice, request, complaint, demand, communication or other paper shall be sufficiently given and shall be deemed given when delivered or mailed by registered or certified mail, postage prepaid, or sent by telegram, addressed to the appropriate address. The Issuer and the Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communication shall be sent.
if to the Issuer: Shepherd University Board of Governors
Shepherd University
Ikenberry 213
P. O. Box 3210
Shepherdstown, West Virginia 25443-3210
Attention: President

if to the Trustee: ____________________________

Section 12.04. Payments Due on Non-Business Days. In any case where the
date of maturity of interest on or principal of the Notes shall be a non-Business Day, then
payment of interest or principal may be made on the succeeding Business Day with the same
force and effect as if made on the date of maturity.

Section 1.05. Counterparts. This Indenture 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 1.06. Applicable Provisions of Law. This Indenture shall be governed
by and construed in accordance with the laws of the State.

Section 1.07. Captions. The captions or headings in this Indenture are for
convenience only and in no way define, limit or describe the scope or intent of any provisions
or Sections of this Indenture.

Section 1.08. Parties Interested Herein. Nothing in this Indenture expressed or
implied is intended or shall be construed to confer upon, or to give to, any person or entity,
other than the Issuer, the Trustee, the Paying Agent and the Noteholders, any right, remedy or
claim under or by reason of this Indenture or any covenant, condition or stipulation hereof,
and all covenants, stipulations, promises and agreements in this Indenture contained by and on
behalf of the Issuer shall be for the sole and exclusive benefit of the Issuer, the Trustee, the
Paying Agent and the Owners of the Series 2004A Notes.

IN WITNESS WHEREOF, the Issuer has executed this Indenture, and the
Trustee, to evidence its acceptance of the trusts created hereunder, has caused this Indenture to
be executed in its name by its duly authorized officers and duly attested, all as of the day and
year first above written.

SHEPHERD UNIVERSITY
BOARD OF GOVERNORS

By: ____________________________
Its Authorized Officer and Chairman

__________________________, as
Trustee

By: ______________________
Its: ______________________
Exhibit A

Form of Note

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
SHEPHERD UNIVERSITY BOARD OF GOVERNORS
UNIVERSITY FACILITIES REVENUE NOTES
SERIES 2004A

NUMBER: AR-_______ INTEREST RATE: _____% CUSIP:_____
MATURETY DATE: ____ , 20__ NOTE DATE: July __, 2004
REGISTERED OWNER: Cede & Co.
PRINCIPAL AMOUNT: $ _____________________________ DOLLARS

KNOW ALL MEN BY THESE PRESENTS: That the SHEPHERD UNIVERSITY BOARD OF GOVERNORS ((the “Board” or the “University”), a public body organized under the laws of the State of West Virginia (the “State”), on behalf of the State, for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the Registered Owner set forth above, on the Maturity Date set forth above, the Principal Amount set forth above and solely from such special funds also to pay interest on said sum from the Note Date, set forth above, at the Interest Rate set forth above [semiannually, on the first day of ___________ and the first day of ___________ in each year, beginning ____________, ], both principal of and interest on this Note being payable in any coin or currency which, on the respective dates of payment of principal and interest, is legal tender for the payment of public and private debts under the laws of the United States of America. The interest on this Note is payable by check mailed to the Registered Owner hereof at the address as it appears on the books of ____________, as trustee, registrar and paying agent (the “Trustee”) (such payment by the Trustee being at the option of the Registered Owner so long as the Note is in fully registered form), at the close of business on the 15th day of the month preceding an Interest Payment Date (the “Record Date”); provided, that an owner of 51,000,000 or more of the Notes may have interest paid by wire transfer to a designated bank account at a member of the Federal Reserve Bank specified in writing to the Trustee at least five days proceeding the Interest Payment Date.

This Note is one of a series of notes (the “Notes”), in the aggregate principal amount of $___________, of like date and of like tenor and effect, except as to number, issued to pay, together with other funds available therefor, the costs of the planning, design, acquisition, construction and equipping of certain renovations and improvements to Shaw Hall and Thacher Hall and other capital renovations and improvements to the University’s
residence halls (collectively, the “Project” or the “Facilities”) pending the issuance of the revenue bonds hereinafter described, capitalizing interest on the Notes, and paying the costs of issuance of the Notes, all under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 18B, Article 2A, of the Code of West Virginia, 1931, as amended, and Chapter 18, Article 23 of the Code of West Virginia, 1931, as amended (the “Act”), a resolution duly adopted by the Board on the 13th day of May, 2004, as supplemented and amended by a Supplemental Resolution duly adopted by the Board on the 10th day of June 2004 (collectively, the “Resolution”), and a Trust Indenture and Security Agreement, dated as of July __, 2004 (the “Indenture”) between the Board and the Trustee and is subject to all the terms and conditions of said Resolution and Indenture.

The Notes are subject to mandatory redemption prior to maturity at a Redemption Price equal to 100% of the principal amount thereof, plus accrued interest to the date of redemption upon the earlier to occur of the following: (i) the date of issuance of a series of revenue bonds issued by the Board after the date of issuance of the Notes pursuant to the Act and payable from the Pledged Revenues, as hereinafter defined, or (ii) the date of issuance of refunding University facilities revenue notes or bonds issued by the Board to refund the Notes.

For purposes of this Note and the Indenture, “Pledged Revenues” means all rents, fees, charges or other income received by or accrued to the Board from the operation and use of the Facilities, including but not limited to, operating revenues, interest earnings on funds and accounts (including funds and accounts held by the Trustee), funds representing capitalized interest, charges for room and board, charges for food service, fees for providing space for meetings, conferences and conventions, revenues from the operation of vending machines, snack bars and catering services, and any and all other revenues derived from the Facilities as calculated in accordance with GAAP.

The Notes are subject to redemption prior to maturity, at the option of the Issuer, in whole, or in part, on any Business Day, by lot within a maturity, in multiples of $5,000, at a Redemption Price equal to 100% of the principal amount thereof, plus accrued interest to the date of redemption.

The Notes are payable from (i) the proceeds of revenue bonds subsequently issued by the Board pursuant to the Act and payable from the Pledged Revenues (the “Bonds”), (ii) the proceeds of refunding University facilities revenue notes or bonds issued by the Board to refund the Notes (“Refunding Notes”), (iii) other funds of the Board lawfully available for such purpose, and (iv) the Pledged Revenues, and are secured by a first lien on (i) the proceeds of the Bonds, (ii) the proceeds of the Refunding Notes, (iii) the Pledged Revenues, and (iv) certain other funds held under the Indenture. The revenues and other funds pledged to the payment of the Notes shall be sufficient to pay the principal of and interest on all Notes which may be issued pursuant to the Act and shall be set aside as a special fund pledged for such purpose. The Notes are special, self-liquidating obligations, payable solely out of the Trust Estate pledged under the Indenture. The Notes shall not be deemed to be
general obligations or debts of any manner or nature of the Board or the State within the
meaning of or as contemplated by the Constitution of the State. No recourse shall be had for
the payment of the principal of, premium, if any, or interest on the Notes or for any claim
based thereon, on the Act or the Resolution, or on any of the documents executed in
connection therewith against any official, member, officer or employee of the Issuer or the
State or any person executing the Notes, and neither members of the Board nor any person
executing the Notes, shall be liable personally on the Notes by reason of the issuance thereof.

Additional Notes may be issued under the Indenture, and reference is made to
the Indenture with respect to the requirements for the issuance of Additional Notes which
shall be equally and ratably secured under the Indenture with the Notes.

This Note is transferable, as provided in the Indenture, only upon the books of
the Trustee, which shall he kept for that purpose at the office of the Trustee, by the Registered
Owner or by its attorney or legal representative duly authorized in writing, upon surrender of
this Note, together with a written instrument of transfer satisfactory to the Trustee duly
executed by the Registered Owner or its duly authorized attorney or legal representative duly
authorized in writing.

Subject to registration requirements, this Note under the provision of the Act is
and has all the qualities and incidents of a negotiable instrument under the Uniform
Commercial Code of the State of West Virginia.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts,
conditions and things required to exist, happen and be performed precedent to and in the
issuance of this Note have existed, have happened and have been performed in due time, form
and manner as required by law.

All provisions of the Resolution, Indenture and statutes under which this Note
is issued shall be deemed to be a part of the contract evidenced by this Note to the same extent
as if written fully herein.

IN WITNESS WHEREOF, the State has caused this Note to be signed by its
Governor and the Board by the Chairman thereof, under the Great Seat of the State attested by
the Secretary of State, all as of the Note Date.

______________________________
Governor

[SEAL]

ATTEST:

______________________________
Secretary of State
SHEPHERD UNIVERSITY
BOARD OF GOVERNORS

Chairman
CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Note is one of the Shepherd University Board of Governors Facilities Revenue Notes, Series 2004A, described in the within-mentioned Resolution and Indenture and has been duly registered in the name of the Registered Owner set forth above on the date set forth below.

Date: ________________

____________________, AS REGISTRAR.

By____________________

Its Authorized Officer
ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto ________________, Social Security Number or other identifying number of Assignee ________________, the within Series 2004A Note, and does hereby irrevocably constitute and appoint ________________, Attorney, to transfer said Series 2004A Note on the books kept for registration of the within Series 2004A Note of said Issuer with full power of substitution in the premises.

Dated: ______________________

Signature Guaranteed: ____________________________

NOTICE: The Assignor’s signature to this Assignment must correspond with the name as it appears upon the face of the within Series 2004A Note in every particular, without alteration or any change whatever.
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