

TAXABLE QSCB EQUIPMENT LEASE/PURCHASE AGREEMENT

This Taxable QSCB Equipment Lease/Purchase Agreement (the "*Agreement*") dated _____, 2014, and entered into between _____, a(n) _____ ("*Lessor*"), and Tucson Unified School District No. 1 of Pima County, Arizona, a body corporate and politic existing under the laws of the State of Arizona ("*Lessee*").

WITNESSETH:

WHEREAS, Lessee desires to lease and acquire from Lessor certain Equipment (as such term is defined herein), subject to the terms and conditions hereof;

WHEREAS, Lessee intends to finance the design, acquisition, construction and installation of certain energy efficiency equipment (the "*Equipment*") with the proceeds of Qualified School Construction Bonds (the "*QSCBs*") pursuant to Sections 54F and 54A of the Code (as defined herein), and intends to designate the QSCBs as Federally taxable and eligible for a direct payment subsidy pursuant to Section 6431(f)(3)(B) of the Code; and

WHEREAS, Lessee is authorized under the constitution and laws of the State to enter into this Agreement for the purposes set forth herein;

WHEREAS, Lessee has entered into an Installation Agreement and a Guaranteed Savings Agreement for Energy Savings Project, each dated _____, 2014 (collectively, the "*_____ Agreement*"), between Lessee and _____, for the design, acquisition, construction and installation of the Equipment to be owned and operated by Lessee for the rehabilitation or repair of its public school facilities; and

WHEREAS, Lessee desires to lease and acquire from Lessor such Equipment, subject to the terms and conditions hereof,

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and in consideration of the premises hereinafter contained, the parties hereby agree as follows:

ARTICLE I

Section 1.01. Definitions. The following terms will have the meanings indicated below unless the context clearly requires otherwise:

"*Acquisition Amount*" means \$_____. The Acquisition Amount is the amount represented by Lessee to be sufficient, together with proceeds from Lessee if any, to design, acquire, construct and install the Equipment and to pay Delivery Costs.

"*Acquisition Fund*" means the fund established and held by the Acquisition Fund Custodian pursuant to the Acquisition Fund Agreement, if any.

“*Acquisition Fund Agreement*” means the Acquisition Fund and Account Control Agreement in form and substance acceptable to and executed by Lessee, Lessor and the Acquisition Fund Custodian, pursuant to which an Acquisition Fund is established and administered.

“*Acquisition Fund Custodian*” means the Acquisition Fund Custodian identified in the Acquisition Fund Agreement, and its successors and assigns.

“*Acquisition Period*” means the period ending five (5) business days prior to _____, 20____.

“*Agreement*” means this Taxable QSCB Equipment Lease/Purchase Agreement, including the exhibits hereto, together with any amendments and modifications to the Agreement pursuant to Section 13.04.

“*Available Project Proceeds*” means (a) the proceeds from the sale or execution and deliver of this Agreement, less (b) Delivery Costs (not exceeding 2% of the proceeds described in (a)) plus (c) investment earnings on the amount representing the difference between (a) minus (b).

“*Calculation and Paying Agency Agreement*” means the Calculation and Paying Agency Agreement, dated the date hereof, by and between the Lessee and Paying Agent, together with any amendment thereof or supplement thereto.

“*Code*” means the Internal Revenue Code of 1986, as amended, including the United States Treasury Regulations proposed or in effect pursuant thereto, including but not limited to Internal Revenue Service Notices dealing with Sections 54A, 54F and 6431 of the Code and Internal Revenue Service Notice 2010-35.

“*Commencement Date*” means the date when Lessee’s obligation to pay rent commences hereunder, which shall be the date on which the Acquisition Amount is deposited with the Acquisition Fund Custodian.

“*Contract Rate*” means the rate identified as such in the Lease Payment Schedule.

“*Delivery Costs*” means the costs incurred in connection with the execution and delivery of this Agreement and the Acquisition Fund Agreement, including placement agent fees, Lessor’s origination fee, counsel fees, fees and expenses of Acquisition Fund Custodian, similar costs, fees and expenses.

“*Equipment*” means the property listed in the Equipment Schedule and all replacements, repairs, restorations, modifications and improvements thereof or thereto made pursuant to Section 8.01 or Article V. Whenever reference is made in this Agreement to Equipment, such reference shall be deemed to include all such replacements, repairs, restorations, modifications and improvements of or to such Equipment.

“Equipment Costs” means the total cost of the Equipment, including capitalized interest during the Acquisition Period and other related costs such as freight, installation and taxes, and capitalizable costs.

“Equipment Schedule” means the equipment schedule attached hereto as Exhibit A and made a part hereof.

“Event of Default” means an Event of Default described in Section 12.01.

“Expenditure Period” means the "expenditure period" defined in Section 54A(d)(2)(B)(ii) of the Code comprised of the period beginning on the Commencement Date and ending on the later of the date three (3) years after the Commencement Date or such later date, if any, as may be permitted by the Secretary of the United States Treasury.

“Lease Payment Schedule” means the Lease Payment Schedule attached hereto as Exhibit B and made a part hereof.

“Lease Term” means the Original Term and all Renewal Terms, until this Agreement is terminated, but not later than the earlier of _____, 20____, or the maximum term established by the Secretary of the United States Treasury that is applicable to this Agreement.

“Lessee” means the entity referred to as Lessee in the first paragraph of this Agreement.

“Lessor” means (a) the entity referred to as Lessor in the first paragraph of this Agreement or (b) any assignee or transferee of any right, title or interest of Lessor in and to this Agreement, including the Equipment, the Rental Payments and other amounts due hereunder, pursuant to Section 11.01, or the Acquisition Fund, but does not include any entity solely by reason of that entity retaining or assuming any obligation of Lessor to perform hereunder.

“Material Adverse Change” means any change in Lessee’s creditworthiness that could have a material adverse effect on (i) the financial condition or operations of Lessee, or (ii) Lessee’s ability to perform its obligations under this Agreement.

“Original Term” means the period from the Commencement Date until the end of the fiscal year of Lessee in effect at such Commencement Date.

“Paying Agent” means _____, or any successor paying agent acting pursuant to the Calculation and Paying Agency Agreement.

“Prepayment Price” means the amount provided in the Lease Payment Schedule.

“QSCBs” means this Agreement as designated as a Qualified School Construction Bond by Lessee in accordance with the Code.

“Qualified School Construction Project” means capital expenditures incurred by Lessee for the construction, rehabilitation or repair of a public school facility (including equipping of such public school facility) or the acquisition of land on which such a facility is to be

constructed, with part of the proceeds derived from the execution and delivery of this Agreement.

“*Renewal Terms*” means the renewal terms of this Agreement, each having a duration of one year and a term coextensive with Lessee’s fiscal year.

“*Rental Payments*” means the basic rental payments payable by Lessee hereunder pursuant to Section 4.01, consisting of a principal component and an interest component.

“*State*” means the State of Arizona.

“*Vendor*” means _____, the manufacturer, installer or supplier of the Equipment or any other person as well as the agents or dealers of the manufacturer, installer or supplier with whom Lessor arranged Lessee’s acquisition, installation, maintenance and/or servicing of the Equipment.

“*Vendor Agreement*” means any contract entered into by Lessee and any Vendor for the acquisition, installation, maintenance and/or servicing of the Equipment, including the _____ Agreement.

ARTICLE II

Section 2.01. Representations and Covenants of Lessee. Lessee represents, covenants and warrants for the benefit of Lessor on the date hereof as follows:

(a) Lessee is a political subdivision of the State within the meaning of Section 103(c) of the Code, duly organized and existing under the constitution and laws of the State, with full power and authority to enter into this Agreement, the Acquisition Fund Agreement and the transactions contemplated hereby and to perform all of its obligations hereunder.

(b) Lessee has duly authorized the execution and delivery of this Agreement and the Acquisition Fund Agreement by proper action of its governing body at a meeting duly called, regularly convened and attended throughout by the requisite quorum of the members thereof, or by other appropriate official approval, and all requirements have been met and procedures have occurred in order to ensure the validity and enforceability of this Agreement and the Acquisition Fund Agreement.

(c) No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default described herein exists at the date hereof.

(d) Lessee will do or cause to be done all things necessary to preserve and keep in full force and effect its existence as a body corporate and politic.

(e) Lessee has complied with such public bidding requirements as may be applicable to this Agreement and the acquisition by Lessee of the Equipment. Lessee has also complied with all applicable open public meeting and notice laws and requirements with respect to the meeting at which the Lessee’s execution of this Lease was authorized.

(f) During the Lease Term, the Equipment will be used by Lessee only for the purpose of performing essential governmental or proprietary functions of Lessee consistent with the permissible scope of Lessee's authority. Lessee does not intend to sell or otherwise dispose of the Equipment or any interest therein prior to the last Rental Payment (including all Renewal Terms) scheduled to be paid hereunder.

(g) Lessee has kept, and throughout the Lease Term shall keep, its books and records in accordance with generally accepted accounting principles and practices consistently applied, and shall deliver to Lessor (i) annual audited financial statements (including (1) a balance sheet, (2) statement of revenues, expenses and changes in fund balances for budget and actual, (3) statement of cash flows, and (4) footnotes, schedules and attachments to the financial statements) within 210 days of its fiscal year end, (ii) such other financial statements and information as Lessor may reasonably request, and (iii) upon Lessor's request, its annual budget for any prior or current fiscal year or the following fiscal. The financial statements described in subsection (g) shall be accompanied by an unqualified opinion of Lessee's auditor. Credit information relating to Lessee may be disseminated among Lessor and any of its affiliates and any of their respective successors and assigns.

(h) Lessee has an immediate need for the Equipment and expects to make immediate use of the Equipment. Lessee's need for the Equipment is not temporary and Lessee does not expect the need for any item of the Equipment to diminish during the Lease Term.

(i) The payment of the Rental Payments or any portion thereof is not directly or indirectly (x) secured by any interest in property used or to be used in any activity carried on by any person other than a state or local governmental unit or payments in respect of such property; or (y) on a present value basis, derived from payments (whether or not to Lessee) in respect of property, or borrowed money, used or to be used in any activity carried on by any person other than a state or local governmental unit. Lessee shall not permit the Federal government to guarantee any Rental Payments. The Equipment will not be used, directly or indirectly, in any activity carried on by any person other than a state or local governmental unit. No portion of the Acquisition Amount will be used, directly or indirectly, to make or finance loans to any person other than Lessee. Lessee has not entered into any management or other service contract with respect to the use and operation of the Equipment. Lessee will use the Equipment as part of its program to construct, rehabilitate or repair its public school facilities.

(j) There is no pending litigation, tax claim, proceeding or dispute that may adversely affect Lessee's financial condition or impairs its ability to perform its obligations under this Agreement or the Acquisition Fund Agreement. Lessee will, at its expense, maintain its legal existence in good standing and do any further act and execute, acknowledge, deliver, file, register and record any further documents Lessor may reasonably request in order to protect Lessor's first priority security interest in the Equipment and the Acquisition Fund and Lessor's rights and benefits under this Agreement and the Acquisition Fund Agreement.

(k) Lessee is the fee owner of the real estate where the Equipment is and will be located and has good and marketable title thereto, and there exists no mortgage, pledge, lien, security interest, charge or other encumbrance of any nature whatsoever on or with respect to such real estate.

(l) No lease, rental agreement, lease-purchase agreement, payment agreement or contract for purchase to which Lessee has been a party at any time has been terminated by Lessee as a result of insufficient funds being appropriated in any fiscal year. No event has occurred which would constitute an event of default under any debt, revenue bond or obligation which Lessee has issued during the past ten (10) years.

(m) The stated full Lease Term of this Agreement does not exceed the "expected life of the energy cost savings measures" prescribed by A.R.S. Section 15-213.01 for the Equipment financed or refinanced under this Agreement.

Section 2.02 Representations and Covenants of Lessor. Lessor represents, covenants and warrants for the benefit of Lessee on the date hereof as follows:

(a) Lessor is in good standing pursuant to the laws of the State of Arizona and is authorized to transact business in the State of Arizona.

(b) Lessor possesses all requisite authority, power, licenses, permits and franchises to conduct all business contemplated in this Agreement and to observe and perform its covenants, agreements and obligations pursuant to this Agreement.

(c) To the extent applicable, pursuant to the provisions of the Section 41-4401 of the Arizona Revised Statutes, and in accordance with federal law and Lessor's practice, Lessor hereby warrants and certifies that Lessor complies with the Immigration Reform and Control Act of 1986 and employment with the Lessor is contingent on the successful completion of the I-9 verification process and the E-Verify requirements of Section 23-214(A) of the Arizona Revised Statutes. Lessor's breach of the above-described warranty and certification is a material breach of this Agreement and may result in the termination of this Agreement by Lessee. Lessor does not knowingly employ any individuals in the United States who are not legally authorized to work in the United States. For associate confidentiality reasons, Lessor generally does not disclose the personnel records of its associates to third parties, including I-9 or e-Verify documentation. However, if there are concerns about an individual's eligibility to perform work in connection with this Agreement, please contact Lessor in accordance with Section 13.01 of this Agreement and Lessor will investigate and respond to these concerns.

(d) Lessor acknowledges and agrees it will not be entitled to any Federal tax credits as a result of Lessee's irrevocable election to designate this Agreement as a "qualified bond" for purposes of Section 6431 of the Code.

ARTICLE III

Section 3.01. Lease of Equipment. Subject to the terms of this Agreement, Lessor agrees to provide the Acquisition Amount to acquire the Equipment. Lessor hereby demises, leases, transfers and lets to Lessee, and Lessee hereby acquires, rents and leases from Lessor, the Equipment. The Lease Term may be continued, solely at the option of Lessee, at the end of the Original Term or any Renewal Term for the next succeeding Renewal Term up to the maximum Lease Term as set forth in the Lease Payment Schedule. At the end of the Original Term and at the end of each Renewal Term until the maximum Lease Term has been completed, Lessee shall

be deemed to have exercised its option to continue this Agreement for the next Renewal Term unless Lessee shall have terminated this Agreement pursuant to Section 3.03 or Section 10.01. The terms and conditions during any Renewal Term shall be the same as the terms and conditions during the Original Term, except that the Rental Payments shall be as provided in the Lease Payment Schedule.

Section 3.02. Continuation of Lease Term. Lessee intends, subject to Section 3.03, to continue the Lease Term through the Original Term and all Renewal Terms. Lessee affirms that sufficient funds are available for the current fiscal year, and Lessee reasonably believes that an amount sufficient to make all Rental Payments during the entire Lease Term can be obtained from legally available funds of Lessee. Lessee further intends to do all things lawfully within its power to obtain and maintain funds sufficient and available to discharge its obligation to make Rental Payments due hereunder, including making provision for such payments to the extent necessary in each budget or appropriation request submitted and adopted in accordance with applicable provisions of law, to have such portion of the budget or appropriation request approved and to exhaust all available reviews and appeals in the event such portion of the budget or appropriation request is not approved.

Section 3.03. Nonappropriation. Lessee is obligated only to pay such Rental Payments as may lawfully be made from funds budgeted and appropriated for that purpose during Lessee's then current fiscal year. Should Lessee fail to budget, appropriate or otherwise make available funds to pay Rental Payments following the then current Original Term or Renewal Term, this Agreement shall be deemed terminated at the end of the then current Original Term or Renewal Term. Lessee agrees to deliver notice to Lessor of such termination promptly after any decision to non-appropriate is made, but failure to give such notice shall not extend the term beyond such Original Term or Renewal Term. If this Agreement is terminated in accordance with this Section, Lessee agrees to cease use of the Equipment and peaceably remove and deliver at Lessee's expense the Equipment to Lessor at the location(s) to be specified by Lessor.

Section 3.04. Conditions to Lessor's Performance.

(a) As a prerequisite to the performance by Lessor of any of its obligations under this Agreement, Lessee shall deliver to Lessor the following:

(i) An Acquisition Fund Agreement in the form set forth in Exhibit I hereto, satisfactory to Lessor and executed by Lessee and the Acquisition Fund Custodian;

(ii) A certified copy of the minutes of the meeting of the Governing Board of the District on April 29, 2014, authorizing the execution and delivery of this Agreement and the Acquisition Fund Agreement and performance by Lessee of its obligations pursuant to this Agreement and the Acquisition Fund Agreement;

(iii) A Certificate executed by the Clerk or Secretary or other comparable officer of Lessee, in substantially the form attached hereto as Exhibit C, completed to the satisfaction of Lessor;

(iv) An opinion of counsel to Lessee in substantially the form attached hereto as Exhibit D and otherwise satisfactory to Lessor;

(v) Evidence of insurance as required by Section 7.02 hereof;

(vi) All documents, including financing statements, affidavits, notices and similar instruments, in form satisfactory to Lessor, which Lessor deems necessary or appropriate at that time pursuant to Section 6.02;

(vii) A waiver or waivers of interest in the Equipment, satisfactory to Lessor, from any mortgagee or any other party having an interest in the real estate on which the Equipment will be located and/or landlord of the real estate on which the Equipment will be located;

(viii) A copy of a fully completed and executed Form 8038-TC and the initial Form 8038-CP;

(ix) A certified copy of any Surety Bond satisfying the conditions set forth in Section 7.04 hereof, or, at Lessor's sole discretion, such Surety Bonds may be provided after the Commencement Date, provided however, that no "Disbursement Request" pursuant to the Acquisition Fund Agreement shall be authorized by Lessor until such Surety Bonds satisfying the conditions set forth in Section 7.04 hereof have been delivered to Lessor; and

(x) Such other items reasonably required by Lessor.

(b) In addition, the performance by Lessor of any of its obligations under this Agreement and the Acquisition Fund Agreement shall be subject to: (i) no Material Adverse Change in the financial condition of Lessee since the date of this Agreement, and (ii) no Event of Default having occurred and continuing.

(c) Subject to satisfaction of the foregoing, Lessor will deposit the Acquisition Amount with the Acquisition Fund Custodian.

ARTICLE IV

Section 4.01. Rental Payments. Subject to Section 3.03, Lessee shall promptly pay Rental Payments, in lawful money of the United States of America, to Lessor on the dates and in such amounts as provided in the Lease Payment Schedule. Interest on the Acquisition Amount shall begin to accrue as of the Commencement Date. Lessee shall pay Lessor a charge on any Rental Payment not paid on the date such payment is due at a rate equal to the Contract Rate plus 5% per annum or the maximum amount permitted by law, whichever is less, from such date.

Section 4.02. Interest and Principal Components. A portion of each Rental Payment is paid as, and represents payment of, interest, and the balance of each Rental Payment is paid as, and represents payment of, principal as more fully detailed on the Lease Payment Schedule.

Section 4.03. Rental Payments to Constitute a Current Expense of Lessee. Lessor and Lessee understand and intend that the obligation of Lessee to pay Rental Payments shall constitute a current expense of Lessee payable solely from its general fund or other funds that are legally available for that purpose and shall not in any way be construed to be a debt of Lessee in

contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by Lessee, nor shall anything contained herein constitute a pledge of the general tax revenues, funds or moneys of Lessee.

Section 4.04. Rental Payments to be Unconditional. Except as provided in Section 3.03, the obligations of Lessee to make Rental Payments and to perform and observe the other covenants and agreements contained in this Agreement shall be absolute and unconditional in all events without abatement, diminution, deduction, set-off or defense, for any reason, including without limitation any failure of the Equipment, any defects, malfunctions, breakdowns or infirmities in the Equipment or any accident, condemnation or unforeseen circumstances, or failure of any Vendor to deliver any Equipment or otherwise perform any of its obligations.

Section 4.05. Tax Covenants.

(a) *Qualifications as QSCBs.* Lessee agrees that it will not take any action that would cause this Agreement not to qualify as QSCBs, nor will Lessee omit to take or cause to be taken, in a timely manner, any action, which omission would cause this Agreement not to qualify as QSCBs.

(b) *Qualified School Construction Project Requirement; Capital Expenditures.* One hundred percent (100%) of the Available Project Proceeds will be used for a Qualified School Construction Project, as required by Section 54F(a)(1) of the Code. Lessee shall design, acquire, install and operate the Equipment in such a manner that the Equipment will be a Qualified School Construction Project.

(c) *Three Year Expenditure of Available Project Proceeds.* Lessee reasonably expects to expend 100% of the Available Project Proceeds on the Equipment within the Expenditure Period. To the extent that less than 100% of the Available Project Proceeds are expended for a Qualified School Construction Project by the end of the Expenditure Period, all nonqualified bonds (as determined under Section 142 of the Code) shall be prepaid within 90 days after the end of the Expenditure Period, all in accordance with the requirements of Section 54A(d)(2)(B) of the Code in the time and manner prescribed by the Code and as provided in Section 4.06 hereof.

(d) *Arbitrage Rebate.* Lessee will take any and all actions necessary to assure compliance with Section 148(f) of the Code, as modified by Section 54A(d)(4) of the Code, relating to the rebate of excess investment earnings, if any, to the Federal government, to the extent that such Section is applicable to this Agreement.

(e) *No Arbitrage.* Lessee will not take, or permit or suffer to be taken, any action with respect to the proceeds of this Agreement which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the Commencement Date would have caused this Agreement to be an "arbitrage bond" within the meaning of Section 148(a) of the Code, as modified by Section 54A(d)(4) of the Code.

(f) *I.R.S. Form 8038-CP.* Lessee acknowledges that, to receive the Direct Subsidy with respect to this Agreement under Section 6431 of the Code, it must, among other requirements, periodically file appropriate returns, now designated Form 8038-CP, *Return for*

Credit Payments to Issuers of Qualified Bonds, in accordance with the instructions to such return.

(g) *I.R.S. Information Reporting Return Form 8038-TC*. Lessee shall file or cause to be filed I.R.S. Form 8038-TC (and all other required information reporting returns) in a timely manner with respect to this Agreement.

(h) *Designation*. Lessee hereby irrevocably designates this Agreement for purposes of Section 54F(a)(3) of the Code as a "*qualified school construction bond*" within the meaning of Section 54F(a) of the Code.

(i) *Qualified Bond Election with respect to this Agreement*. Lessee hereby designates this Agreement as a QSCB in accordance with the Code, and hereby makes the irrevocable election to have Section 54F and 6431(f)(3)(B) of the Code apply to this Agreement so that this Agreement is treated as a "specified credit bond" and as a "qualified bond," with respect to which the Lessee will be allowed a refundable credit payable directly from the Secretary of the Treasury to the Lessee pursuant to 6431(f) of the Code (the "*Direct Subsidy*"). The amount of Direct Subsidy for the QSCBs with respect to any Lease Payments is equal to the lesser of (i) the amount of interest payable on the date of such Lease Payment, or (ii) the amount of interest which would have been payable on the date of such Lease Payment if such interest were determined at the applicable credit rate determined in accordance with Section 54A of the Code. Lessee will be solely responsible to calculate the amount of the Direct Subsidy, apply for the Direct Subsidy and comply with applicable provisions of the Code during the term of this Agreement to obtain payment of the Direct Subsidy from the United States Treasury.

(j) *Binding Commitment to Spend Available Project Proceeds*. Lessee has entered into a binding commitment with a third party to spend at least 10% of the Available Project Proceeds with respect to a "*qualified purpose*" within the meaning of Sections 54A(d)(2)(C)(v) and 54F(a)(1) of the Code.

(k) *Financing Capital Expenditures; No Working Capital*. All Available Project Proceeds will be spent on capital expenditures with respect to the Equipment with a reasonably expected economic life of one year or more.

(l) *Limitation on Delivery Costs*. No proceeds of this Agreement and investment earnings thereon, in an amount in excess of 2% of the proceeds of this Agreement, will be used to pay Delivery Costs. If the fees of Lessor upon execution and delivery of this Agreement are retained as a discount on the Acquisition Amount described in this Agreement, such retention shall be deemed to be an expenditure of proceeds for said fees.

(m) *Allocation of Qualified School Construction Bond Limitation*. Lessee has received an allocation of a portion of the Large Local Educational Agencies Volume Cap for Qualified School Construction Bonds in the aggregate amount of \$41,393,000, included in the transcript for this Agreement. This maximum aggregate principal component of this Agreement designated as a "*qualified school construction bond*" under subsection (h) of this Section 4.05 for purposes of Section 54F(a)(3) of the Code does not exceed the amount of the Large Local

Educational Agencies Volume Cap for Qualified School Construction Bonds allocated to Lessee under Section 54F(d) of the Code.

(n) *Limitation on Replacement Funds.* No fund or moneys are pledged to, or are reasonably expected to be used directly or indirectly to pay, Lease Payments or are reserved or otherwise set aside such that there is a reasonable assurance that such amounts will be available to pay Lease Payments.

(o) *Davis-Bacon Act Compliance.* Lessee shall comply with the requirements of Title 40, Subtitle II, Part A, Chapter 31, Subchapter IV of the United States Code in connection with the acquisition and installation of the Equipment.

(p) *No Private Activity.* Lessee shall assure that the Acquisition Amount and the Equipment are not used in a manner that would cause this Agreement to satisfy the private business tests of Section 141(b) of the Code or the private loan financing test of Section 141(c) of the Code.

(q) *Compliance with Conflicts of Interest Law.* Lessee shall comply with all State and local law requirements governing conflicts of interest as such requirements may relate, directly or indirectly, to this Agreement. Lessee hereby covenants and agrees to comply with any conflict of interest rules prescribed by the Internal Revenue Service or United States Department of Treasury governing the appropriate Member of Congress and Federal, State and local officials and their spouses as such rules may apply to this Agreement.

Section 4.06. Payment of Equipment Costs from Acquisition Fund; Mandatory Prepayment from Unspent Escrow Fund Moneys.

(a) Amounts on deposit in the Acquisition Fund may be expended for the payment of Equipment Costs for the Qualified School Construction Project in accordance with the Acquisition Fund Agreement to and including the earlier of (i) the expiration of the Acquisition Period, (ii) the date on which Lessee executes an Acceptance Certificate (in the form attached hereto as Exhibit E) or (iii) _____, 2017, or, if Lessee has obtained an extension for the expenditure of amounts in such Fund in accordance with Section 54A(d)(2) of the Code, the close of such extended period. All amounts remaining on deposit in the Acquisition Fund as of the earlier of such dates shall be applied by the Acquisition Fund Custodian as provided in the Acquisition Fund Agreement to prepay the principal component of Lease Payments in whole or in part in inverse order of Lease Payment dates. The prepayment price with respect to any such prepayment shall be equal to 102% of the principal portion of the Lease Payments to be prepaid (which includes a prepayment premium) plus accrued interest on such prepaid principal portion to the prepayment date.

(b) In connection with any prepayment pursuant to subsection (a) of this Section 4.06, Lessee shall pay the prepayment premium and interest portion of Lease Payments accrued to the prepayment date on such principal portion to be prepaid from funds legally available to Lessee for that purpose, but not from Available Project Proceeds.

(c) Lessee will give Lessor notice of any such prepayment in accordance with this Section 4.06 not less than 60 days in advance of the prepayment date.

ARTICLE V

Section 5.01. Delivery, Installation and Acceptance of Equipment.

(a) Lessee shall order the Equipment, cause the Equipment to be delivered, installed and inspected at the location specified in the Equipment Schedule and pay any and all delivery and installation costs and other Equipment Costs in connection therewith. Lessee shall conduct such inspection and/or testing of the Equipment as it deems necessary and appropriate in order to determine the Equipment's capability and functionality in order to accept such Equipment. When the Equipment has been delivered, installed, inspected and is operating in a manner consistent with the manufacturer's intended use, Lessee shall promptly and finally accept for all purposes such Equipment and evidence said acceptance by executing and delivering to Lessor an "Acceptance Certificate" in the form attached hereto as Exhibit E.

(b) Lessee shall deliver to Lessor original invoices (and proof of payment of such invoices) and bills of sale (if title to such Equipment has passed to Lessee) relating to each item of Equipment accepted by Lessee.

Section 5.02. Quiet Enjoyment of Equipment. So long as Lessee is not in default hereunder, neither Lessor nor any entity claiming by, through or under Lessor, shall interfere with Lessee's quiet use and enjoyment of the Equipment during the Lease Term.

Section 5.03. Location; Inspection. Once installed, no item of the Equipment will be moved or relocated from the location specified for it in the Equipment Schedule without Lessor's prior written consent, which consent shall not be unreasonably withheld. Lessor shall have the right at all reasonable times during regular business hours to enter into and upon the property where the Equipment is located for the purpose of inspecting the Equipment.

Section 5.04. Use and Maintenance of the Equipment. Lessee shall not install, use, operate or maintain the Equipment (or cause the Equipment to be installed, used, operated or maintained) improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated hereby. Lessee shall provide all permits and licenses, if any, necessary for the installation and operation of the Equipment. In addition, Lessee agrees to comply in all respects with all applicable laws, regulations and rulings of any legislative, executive, administrative, or judicial body; *provided* that Lessee may contest in good faith the validity or application of any such law, regulation or ruling in any reasonable manner that does not, in the opinion of Lessor, adversely affect the interest (including the reversionary interest) of Lessor in and to the Equipment or its interest or rights hereunder.

Lessee agrees that it will maintain, preserve, and keep the Equipment in good repair and working order, in a condition comparable to that recommended by the manufacturer. Lessor shall have no responsibility to maintain, repair or make improvements or additions to the Equipment. In all cases, Lessee agrees to pay any costs necessary for the manufacturer to re-certify the Equipment as eligible for manufacturer's maintenance upon the return of the Equipment to Lessor as provided for herein.

Lessee shall not alter any item of Equipment or install any accessory, equipment or device on an item of Equipment if that would impair any applicable warranty, the originally

intended function or the value of that Equipment. All repairs, parts, accessories, equipment and devices furnished, affixed to or installed on any Equipment, excluding temporary replacements, shall thereupon become subject to the security interest of Lessor.

ARTICLE VI

Section 6.01. Title to the Equipment. During the Lease Term, and so long as Lessee is not in default under Article XII hereof, all right, title and interest in and to each item of the Equipment shall be vested in Lessee immediately upon its acceptance of each item of Equipment, subject to the terms and conditions hereof. Lessee shall at all times protect and defend, at its own cost and expense, its title in and to the Equipment from and against all claims, liens and legal processes of its creditors, and keep all Equipment free and clear of all such claims, liens and processes. Upon the occurrence of an Event of Default or upon termination of this Agreement pursuant to Section 3.03 hereof, full and unencumbered legal title to the Equipment shall, at Lessor's option, pass to Lessor, and Lessee shall have no further interest therein. In addition, upon the occurrence of such an Event of Default or such termination, Lessee shall execute and deliver to Lessor such documents as Lessor may request to evidence the passage of such legal title to Lessor and the termination of Lessee's interest therein, and upon request by Lessor shall deliver possession of the Equipment to Lessor in accordance with Section 12.02. Upon payment of all amounts due and owing under this Agreement in accordance with Section 10.01 (including upon payment of all Rental Payments and other amounts payable under this Agreement), Lessor's security interest or other interest in the Equipment shall terminate, and Lessor shall execute and deliver to Lessee such documents as Lessee may request to evidence the termination of Lessor's security interest in the Equipment. During the Lease Term, Lessor will not claim ownership of the Equipment for the purposes of any tax credits, benefits or deductions with respect to the Equipment.

Section 6.02. Security Interest. As additional security for the payment and performance of all of Lessee's obligations hereunder, Lessee hereby grants to Lessor a first priority security interest constituting a first lien on (a) the Equipment, (b) moneys and investments held from time to time in the Acquisition Fund and (c) any and all proceeds of any of the foregoing. Lessee authorizes Lessor to file (and Lessee agrees to execute, if applicable) such notices of assignment, chattel mortgages, financing statements and other documents, in form satisfactory to Lessor, which Lessor deems necessary or appropriate to establish and maintain Lessor's security interest in the Equipment, the Acquisition Fund and the proceeds thereof, including, without limitation, such financing statements with respect to personal property and fixtures under Article 9 of the Uniform Commercial Code of the State.

Section 6.03. Personal Property, No Encumbrances. Lessee agrees that the Equipment is deemed to be and will remain personal property, and will not be deemed to be affixed to or a part of the real estate on which it may be situated, notwithstanding that the Equipment or any part thereof may be or hereafter become in any manner physically affixed or attached to real estate or any building thereon. Lessee shall not create, incur, assume or permit to exist any mortgage, pledge, lien, security interest, charge or other encumbrance of any nature whatsoever on any of the real estate where the Equipment is or will be located or enter into any agreement to sell or assign or enter into any sale/leaseback arrangement of such real estate without the prior written consent of Lessor; provided, that if Lessor or its assigns is furnished with a waiver of

interest in the Equipment acceptable to Lessor or its assigns in its discretion from any party taking an interest in any such real estate prior to such interest taking effect, such consent shall not be unreasonably withheld.

ARTICLE VII

Section 7.01. Liens, Taxes, Other Governmental Charges and Utility Charges. Lessee shall keep the Equipment free of all levies, liens, and encumbrances except those created by this Agreement. The parties to this Agreement contemplate that the Equipment will be used for a governmental or proprietary purpose of Lessee and that the Equipment will therefore be exempt from all property taxes. If the use, possession or acquisition of any Equipment is nevertheless determined to be subject to taxation, Lessee shall pay when due all taxes and governmental charges lawfully assessed or levied against or with respect to such Equipment. Lessee shall pay all utility and other charges incurred in the use and maintenance of the Equipment. Lessee shall pay such taxes or charges as the same may become due; *provided* that, with respect to any such taxes or charges that may lawfully be paid in installments over a period of years, Lessee shall be obligated to pay only such installments as accrue during the Lease Term.

Section 7.02. Insurance. Lessee maintains casualty insurance and liability insurance coverage with the Arizona Risk Retention Trust and worker's compensation coverage in the coverage amounts specified in the Insurance Certificates attached hereto as Exhibit F. The liability insurance coverage shall contain an endorsement naming Lessor, its affiliates, successors and assigns, as their interests may appear, as an additional insured, and the casualty insurance coverage shall contain an endorsement naming Lessor, its affiliates, successors and assigns, as their interests may appear, as a loss payee, in so far as the Equipment is concerned. Lessee shall not cancel or modify such insurance or in any way that would affect the interests of Lessor without first giving written notice thereof to Lessor at least thirty (30) days in advance of such cancellation or modification *provided, however*, that any such cancellation or modification shall be subject to the approval of the Lessor, which approval shall not be unreasonably withheld.

Section 7.03. Risk of Loss. Whether or not covered by insurance or self-insurance, Lessee hereby assumes all risk of loss of, or damage to and liability related to injury or damage to any persons or property arising from the Equipment from any cause whatsoever, and no such loss of or damage to or liability arising from the Equipment shall relieve Lessee of the obligation to make the Rental Payments or to perform any other obligation under this Agreement. Whether or not covered by insurance or self-insurance, Lessee hereby agrees to reimburse Lessor (to the fullest extent permitted by applicable law, but only from legally available funds) for any and all liabilities, obligations, losses, costs, claims, taxes or damages suffered or incurred by Lessor, regardless of the cause thereof and all expenses incurred in connection therewith (including, without limitation, counsel fees and expenses, and penalties connected therewith imposed on interest received) arising out of or as a result of (a) entering into of this Agreement or any of the transactions contemplated hereby, (b) the ordering, acquisition, ownership use, operation, condition, purchase, delivery, acceptance, rejection, storage or return of any item of the Equipment, (c) any accident in connection with the operation, use, condition, possession, storage or return of any item of the Equipment resulting in damage to property or injury to or death to any person, and/or (d) the breach of any covenant of Lessee under or in connection with this

Agreement or any material misrepresentation provided by Lessee under or in connection with this Agreement. The provisions of this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under this Agreement or the termination of the Lease Term for any reason.

Section 7.04. Surety Bonds; Lessee to Pursue Remedies Against Contractors and Sub-Contractors and Their Sureties. Lessee shall secure from each Vendor directly employed by Lessee in connection with the acquisition, construction, installation, improvement or equipping of the Equipment, a payment and performance bond (“Surety Bond”) executed by a surety company authorized to do business in the State, having a financial strength rating by A.M. Best Company of “A-” or better, and otherwise satisfactory to Lessor and naming Lessor as a co-obligee in a sum equal to the entire amount to become payable under each Vendor Agreement. Each bond shall be conditioned on the completion of the work in accordance with the plans and specifications for the Equipment and upon payment of all claims of subcontractors and suppliers. Lessee shall cause the surety company to add Lessor as a co-obligee on each Surety Bond, and shall deliver a certified copy of each Surety Bond to Lessor promptly upon receipt thereof by Lessee. Any proceeds from a Surety Bond shall be applied first to amounts due Lessor under this Agreement, and any remaining amounts shall be payable to Lessee.

In the event of a material default of any Vendor under any Vendor Agreement in connection with the acquisition, construction, maintenance and/or servicing of the Equipment or in the event of a material breach of warranty with respect to any material workmanship or performance guaranty with respect to the Equipment, Lessee will promptly proceed to exhaust its remedies against the Vendor in default. Lessee shall advise Lessor of the steps it intends to take in connection with any such default. Any amounts received by Lessee in respect of damages, refunds and adjustments or otherwise in connection with the foregoing shall be paid to Lessor and applied against Lessee’s obligations hereunder.

Section 7.05. Advances. In the event Lessee shall fail to keep the Equipment in good repair and working order or to maintain insurance as required under this Agreement, Lessor may, but shall be under no obligation to, maintain and repair the Equipment and pay the cost thereof or to obtain and maintain insurance for purposes of this Agreement. All amounts so advanced by Lessor shall constitute additional rent for the then current Original Term or Renewal Term and Lessee covenants and agrees to pay such amounts so advanced by Lessor with interest thereon from the due date until paid at a rate equal to the Contract Rate plus 5% per annum or the maximum amount permitted by law, whichever is less.

ARTICLE VIII

Section 8.01. Damage, Destruction and Condemnation. If, prior to the termination of the Lease Term, (a) the Equipment or any portion thereof is destroyed, in whole or in part, or is damaged by fire or other casualty or (b) title to, or the temporary use of, the Equipment or any part thereof shall be taken under the exercise or threat of the power of eminent domain by any governmental body or by any person, firm or corporation acting pursuant to governmental authority, (i) Lessee and Lessor will cause the Net Proceeds of any insurance claim or condemnation award or sale under threat of condemnation to be applied to the prompt replacement, repair, restoration, modification or improvement of the Equipment and any balance

of the Net Proceeds remaining after such work has been completed shall be paid to Lessee or (ii) Lessee shall exercise its option to prepay the obligations hereunder in accordance with Section 10.01(b).

If Lessee elects to replace any item of the Equipment (the “*Replaced Equipment*”) pursuant to this Section, the replacement equipment (the “*Replacement Equipment*”) shall be new or of a quality, type, utility and condition at least as good as the Replaced Equipment, shall be of equal or greater value than the Replaced Equipment and shall provide at least the same level of energy and/or operational savings expected in the aggregate from the Replaced Equipment prior to such casualty, destruction or condemnation. Lessee shall grant to Lessor a first priority security interest in any such Replacement Equipment. Lessee shall represent, warrant and covenant to Lessor that each item of Replacement Equipment is free and clear of all claims, liens, security interests and encumbrances, excepting only those liens created by or through Lessor, and shall provide to Lessor any and all documents as Lessor may reasonably request in connection with the replacement, including, but not limited to, documentation in form and substance satisfactory to Lessor evidencing Lessor’s security interest in the Replacement Equipment. Lessor and Lessee hereby acknowledge and agree that any Replacement Equipment acquired pursuant to this paragraph shall constitute “Equipment” for purposes of this Agreement. Lessee shall complete the documentation of Replacement Equipment on or before the next Rental Payment date after the occurrence of a casualty event, or be required to exercise its option to prepay the obligations hereunder with respect to equipment in accordance with Section 10.01(b).

For purposes of this Article, the term “*Net Proceeds*” shall mean the amount remaining from the gross proceeds of any insurance claim or condemnation award or sale under threat of condemnation after deducting all expenses, including attorneys’ fees, incurred in the collection thereof.

Section 8.02. Insufficiency of Net Proceeds. If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement referred to in Section 8.01, Lessee shall either (a) complete such replacement, repair, restoration, modification or improvement and pay any costs thereof in excess of the amount of the Net Proceeds, or (b) pay or cause to be paid to Lessor the amount of the then applicable Prepayment Price for the Equipment, and, upon such payment, the Lease Term shall terminate and Lessor’s security interest in the Equipment shall terminate as provided in Section 6.01 hereof. The amount of the Net Proceeds, if any, remaining after completing such repair, restoration, modification or improvement or after paying the applicable Prepayment Price for such Equipment shall be retained by Lessee. If Lessee shall make any payments pursuant to this Section, Lessee shall not be entitled to any reimbursement therefor from Lessor nor shall Lessee be entitled to any diminution of the amounts payable under Article IV.

ARTICLE IX

Section 9.01. Disclaimer of Warranties. Lessor makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for use of the Equipment, or any other warranty or representation, express or implied, with respect thereto and, as to Lessor, Lessee’s acquisition of the Equipment

shall be on an “as is” basis. In no event shall Lessor be liable for any incidental, indirect, special or consequential damage in connection with or arising out of this Agreement, the Equipment or the existence, furnishing, functioning or Lessee’s use of any item, product or service provided for in this Agreement.

Section 9.02 Vendor’s Agreements; Warranties. Lessee covenants that it shall not in any material respect amend, modify, rescind or alter any Vendor Agreement without the prior written consent of Lessor. Lessor hereby irrevocably appoints Lessee its agent and attorney-in-fact during the Lease Term, so long as Lessee shall not be in default under this Agreement, to assert from time to time whatever claims and rights (including without limitation warranties) relating to the Equipment that Lessor may have against Vendor. Lessee’s sole remedy for the breach of such warranty, indemnification or representation shall be against the applicable Vendor of the Equipment, and not against Lessor. Any such matter shall not have any effect whatsoever on the rights and obligations of Lessor hereunder, including the right to receive full and timely Rental Payments. Lessee expressly acknowledges that Lessor makes, and has made, no representations or warranties whatsoever as to the existence or the availability of such warranties relating to the Equipment.

ARTICLE X

Section 10.01. Prepayment Option. Lessee shall have the option to prepay or satisfy all its obligations hereunder, at the following times and upon the following terms:

(a) From and after the date specified (if any) in the Lease Payment Schedule (the “*Prepayment Option Commencement Date*”), on the Rental Payment dates specified in the Lease Payment Schedule, upon not less than 30 days prior written notice, and upon payment in full of the Rental Payments then due and all other amounts then owing hereunder plus the then applicable Prepayment Price, which may include a prepayment premium on the unpaid balance as set forth in the Lease Payment Schedule; or

(b) In the event of substantial damage to or destruction or condemnation of substantially all of the Equipment, on the day specified in Lessee’s notice to Lessor of its exercise of the prepayment option (which shall be the earlier of the next Rental Payment date or 90 days after the casualty event) upon payment in full to Lessor of the Rental Payment then due plus the then applicable Prepayment Price (or, in the event such prepayment occurs on a date other than a Rental Payment date, the sum of (i) the Prepayment Price relating to the Rental Payment immediately prior to the date of such prepayment plus (ii) accrued interest on the Outstanding Balance relating to the Rental Payment immediately prior to the date of such prepayment, plus all other amounts then owing hereunder); or

(c) Upon the expiration of the Lease Term, upon payment in full of all Rental Payments then due and all other amounts then owing hereunder to Lessor.

After payment of the applicable Prepayment Price and all other amounts owing hereunder, Lessor’s security interests in and to such Equipment will be terminated and Lessee will own the Equipment free and clear of Lessor’s security interest in the Equipment.

ARTICLE XI

Section 11.01. Assignment by Lessor.

(a) Lessor's right, title and interest in and to this Agreement, the Rental Payments and any other amounts payable by Lessee hereunder, the Acquisition Fund Agreement, its security interest in the Equipment and Acquisition Fund, and all proceeds therefrom may be assigned and reassigned in whole or in part to one or more assignees or subassignees by Lessor, without the necessity of obtaining the consent of Lessee; *provided*, that any such assignment, transfer or conveyance to a trustee for the benefit of owners of certificates of participation shall be made in a manner that conforms to any applicable State law. Nothing in this Section 11.01 shall be construed, however, to prevent Lessor from executing any such assignment, transfer or conveyance that does not involve funding through the use of certificates of participation within the meaning of applicable State law, including any such assignment, transfer or conveyance as part of a multiple asset pool to a partnership or trust; *provided* such certificates are sold only on a private placement basis (and not pursuant to any "public offering") to a purchaser(s) who represents that (i) such purchaser has sufficient knowledge and experience in financial and business matters to be able to evaluate the risks and merits of the investment, (ii) such purchaser understands that neither this Agreement nor certificates will be registered under the Securities Act of 1933, (iii) such purchaser is either an "accredited investor" within the meaning of Regulation D under the Securities Act of 1933, or a qualified institutional buyer within the meaning of Rule 144A, and (iv) it is the intention of such purchaser to acquire such certificates (A) for investment for its own account or (B) for resale in a transaction exempt from registration under the Securities Act of 1933; *provided further*, that in any event, Lessee shall not be required to make Rental Payments, to send notices or to otherwise deal with respect to matters arising under this Agreement with or to more than one individual or entity.

(b) Unless to an affiliate controlling, controlled by or under common control with Lessor, no assignment, transfer or conveyance permitted by this Section 11.01 shall be effective until Lessee shall have received a written notice of assignment that discloses the name and address of each such assignee; *provided*, that if such assignment is made to a bank or trust company as trustee or paying agent for owners of certificates of participation, trust certificates or partnership interests with respect to the Rental Payments payable under this Agreement, it shall thereafter be sufficient that Lessee receives notice of the name and address of the bank or trust company as trustee or paying agent. During the Lease Term, Lessee shall keep, or cause to be kept, a complete and accurate record of all such assignments in form necessary to comply with Section 149 of the Code. Lessee shall retain all such notices as a register of all assignees and shall make all payments to the assignee or assignees designated in such register. Lessee shall not have the right to and shall not assert against any assignee any claim, counterclaim or other right Lessee may have against Lessor or the Vendor. Assignments in part may include without limitation assignment of all of Lessor's security interest in and to the Equipment and all rights in, to and under this Agreement related to such Equipment, and all of Lessor's security interest in and to the Acquisition Fund, or all rights in, to and under the Acquisition Fund Agreement.

(c) If Lessor notifies Lessee of its intent to assign this Agreement, Lessee agrees that it shall execute and deliver to Lessor a Notice and Acknowledgement of Assignment

substantially in the form of Exhibit H attached hereto within five (5) business days after its receipt of such request.

Section 11.02. Assignment and Subleasing by Lessee. None of Lessee's right, title, and interest in, to and under this Agreement or any portion of the Equipment or the Acquisition Fund Agreement or the Acquisition Fund may be assigned, encumbered or subleased by Lessee for any reason, and any purported assignment, encumbrance or sublease without Lessor's prior written consent shall be null and void.

ARTICLE XII

Section 12.01. Events of Default Defined. Any of the following events shall constitute an "Event of Default" under this Agreement:

(a) Failure by Lessee to (i) pay any Rental Payment or other payment required to be paid under this Agreement within 10 days after the date when due as specified herein or (ii) maintain insurance as required herein;

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

(c) Any statement, representation or warranty made by Lessee in or pursuant to this Agreement or its execution, delivery or performance shall prove to have been false, incorrect, misleading, or breached in any material respect on the date when made;

(d) Any default occurs under any other agreement for borrowing money, lease financing of property or otherwise receiving credit under which Lessee is an obligor, if such default (i) arises under any other agreement for borrowing money, lease financing of property or provision of credit provided by Lessor or any affiliate of Lessor, or (ii) arises under any obligation under which there is outstanding, owing or committed an aggregated amount in excess of \$500,000;

(e) Lessee shall (i) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of Lessee, or of all or a substantial part of the assets of Lessee, (ii) be unable, fail or admit in writing its inability generally to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors, (iv) have an order for relief entered against it under applicable federal bankruptcy law, or (v) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law or any answer admitting the material allegations of a petition filed against Lessee in any bankruptcy, reorganization, moratorium or insolvency proceeding; or

(f) An order, judgment or decree shall be entered by any court of competent jurisdiction, approving a petition or appointing a receiver, trustee, custodian or liquidator for Lessee or of all or a substantial part of the assets of Lessee, in each case without its application, approval or consent, and such order, judgment or decree shall continue unstayed and in effect for any period of 30 consecutive days.

Section 12.02. Remedies on Default. Whenever any Event of Default exists, Lessor shall have the right, at its sole option without any further demand or notice, to take one or any combination of the following remedial steps:

(a) By written notice to Lessee, Lessor may declare all Rental Payments payable by Lessee and other amounts payable by Lessee hereunder to the end of the then current Original Term or Renewal Term to be due;

(b) With or without terminating the Lease Term, Lessor may enter the premises where the Equipment is located and retake possession of such Equipment or require Lessee at Lessee's expense to promptly return any or all of such Equipment to the possession of Lessor at such place within the United States as Lessor shall specify, and sell or lease such Equipment or, for the account of Lessee, sublease such Equipment, continuing to hold Lessee liable, but solely from legally available funds, for the difference between (i) the Rental Payments payable by Lessee and other amounts hereunder or the Equipment that are payable by Lessee to the end of the then current Original Term or Renewal Term, as the case may be, and (ii) the net proceeds of any such sale, leasing or subleasing (after deducting all expenses of Lessor in exercising its remedies hereunder , including without limitation all expenses of taking possession, storing, reconditioning and selling or leasing such Equipment and all brokerage, auctioneer's and attorney's fees), subject, however, to the provisions of Section 3.03. The exercise of any such remedies respecting any such Event of Default shall not relieve Lessee of any other liabilities hereunder or the Equipment;

(c) Lessor may terminate the Acquisition Fund Agreement and apply any proceeds in the Acquisition Fund to the Rental Payments due hereunder; and

(d) Lessor may take whatever action at law or in equity may appear necessary or desirable to enforce its rights under this Agreement or the Acquisition Fund Agreement or as a secured party in any or all of the Equipment or the Acquisition Fund.

Section 12.03. No Remedy Exclusive. No remedy herein conferred upon or reserved to Lessor is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle Lessor to exercise any remedy reserved to it in this Article it shall not be necessary to give any notice other than such notice as may be required in this Article.

ARTICLE XIII

Section 13.01. Notices. All notices, certificates or other communications under this Agreement shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage prepaid, or delivered by overnight courier, or sent by facsimile transmission (with electronic confirmation) to the parties hereto at the addresses immediately after the signatures to this Agreement (or at such other address as either party hereto shall designate in writing to the other for notices to such party) and to any assignee at its address as it appears on the registration books maintained by Lessee.

Section 13.02. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon Lessor and Lessee and their respective successors and assigns.

Section 13.03. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 13.04. Amendments, Changes and Modifications. This Agreement may only be amended by Lessor and Lessee in writing signed by both Lessor and Lessee.

Section 13.05. Execution in Counterparts. This Agreement 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 13.06. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State.

Section 13.07. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

Section 13.08 Transactional Conflicts of Interest. As required by the provisions of the Section 38-511 of the Arizona Revised Statutes, notice is hereby given that Lessee may, within three (3) years of the execution hereof, cancel this Agreement without penalty or further obligations, if any person significantly involved in initiating, negotiation, securing, drafting or creating this Agreement on behalf of the Lessee is, at any time while this Agreement or any extension of this Agreement is in effect, an employee or agent of the Lessor or a consultant to the Lessor with respect to the subject matter of this Agreement. The cancellation shall be effective when written notice from the Lessee is received by the Lessor unless the notice specifies a later time.

Section 13.09 Arbitration. To the extent permitted by law, any dispute, controversy or claim arising out of or based upon the terms of this Lease or the transactions contemplated hereby shall be settled exclusively and finally by binding arbitration. Upon written demand for arbitration by any party hereto, the parties to the dispute shall confer and attempt in good faith to agree upon one arbitrator. If the parties have not agreed upon an arbitrator within thirty (30) days after receipt of such written demand, each party to the dispute shall appoint one arbitrator and those two arbitrators shall agree upon a third arbitrator. Any arbitrator or arbitrators

appointed as provided in this section shall be selected from panels maintained by, and the binding arbitration shall be conducted in accordance with the commercial arbitration rules of, the American Arbitration Association (or any successor organization), and such arbitration shall be binding upon the parties. The arbitrator or arbitrators shall have no power to add or detract from the agreements of the parties and may not make any ruling or award that does not conform to the terms and conditions of this Lease. The arbitrator or arbitrators shall have no authority to award punitive damages or any other damages not measured by the prevailing party's actual damages. Judgment upon an arbitration award may be entered in any court having jurisdiction. The prevailing party in the arbitration proceedings shall be awarded reasonable attorney fees and expert witness costs and expenses. The parties agree that venue for any arbitration commenced in connection with this Agreement shall be located in Maricopa County, Arizona, and the parties hereby waive any right to object to such venue.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Lessor and Lessee have caused this Agreement to be executed in their names by their duly authorized representatives as of the date first above written.

LESSOR:

Attn: _____

LESSEE:

Tucson Unified School District No. 1
of Pima County, Arizona
1010 E. Tenth St.
Tucson, AZ 85719
Attn: Yousef Awwad
Deputy Superintendent of Operations
Fax: (520) 225-6698

By: _____
Name: _____
Title: _____

By: _____
Name: Adelita S. Grijalva
Title: Board President

Attest:

By: _____
Name: _____
Title: _____

List of Exhibits

- Exhibit A -- Equipment Schedule
- Exhibit B -- Form of Lease Payment Schedule
- Exhibit C -- Form of Incumbency and Authorization Certificate
- Exhibit D -- Form of Opinion of Counsel Form
- Exhibit E -- Form of Acceptance Certificate
- Exhibit F -- Insurance Certificate
- Exhibit G -- [Reserved]
- Exhibit H -- Form of Notice and Acknowledgement of Assignment
- Exhibit I -- Form of Acquisition Fund and Account Control Agreement

EXHIBIT A
EQUIPMENT SCHEDULE
(To Be Attached)

EXHIBIT B
LEASE PAYMENT SCHEDULE

<u>Payment Date</u>	<u>Principal Portion</u>	<u>Interest Portion</u>	<u>Principal and Interest</u>	<u>QSCB Subsidy</u>	<u>Net Payment After Subsidy</u>

Contract Rate. The Contract Rate is _____% per annum.

Prepayment Option Commencement Date. For purposes of Section 10.01 of the Agreement, the Prepayment Purchase Option Commencement Date begins _____, 2014 at the applicable Prepayment Price.

Tax Credit Rate. ___% per annum.

LESSOR:

LESSEE:
Tucson Unified School District No. 1
of Pima County, Arizona

By: _____
Name: _____
Title: _____

By: _____
Adelita S. Grijalva, President

EXHIBIT C

FORM OF INCUMBENCY AND AUTHORIZATION CERTIFICATE

The undersigned, a duly elected or appointed and acting Clerk to the Governing Board of the Tucson Unified School District No. 1 of Pima County, Arizona (“*Lessee*”) certifies as follows:

A. The following listed persons are duly elected or appointed and acting officials of Lessee (the “*Officials*”) in the capacity set forth opposite their respective names below and that the facsimile signatures are true and correct as of the date hereof;

B. The Officials are duly authorized, on behalf of Lessee, to negotiate, execute and deliver the Taxable QSCB Equipment Lease/Purchase Agreement, dated _____, 2014, by and between Lessee and _____ (“*Lessor*”), the Acquisition Fund and Account Control Agreement, dated _____, 2014, among Lessee, _____, a(n) _____, as Acquisition Fund Custodian, and Lessor, and all documents related thereto and delivered in connection therewith (collectively, the “*Agreements*”), and these Agreements are each the binding and authorized agreements of Lessee, enforceable in all respects in accordance with their respective terms.

<u>Name of Official</u>	<u>Title</u>	<u>Signature</u>
Adelita S. Grijalva	Board President	_____
Dr. H.T. Sánchez	Superintendent	_____
Yousef Awwad	Deputy Superintendent Of Operations	_____
Karla Soto	Chief Financial Officer	_____

Dated: _____

By _____
Kristel Ann Foster
Clerk to the Governing Board

(The signer of this Certificate cannot be listed above as authorized to execute these Agreements.)

EXHIBIT D

FORM OF OPINION OF COUNSEL TO LESSEE

_____, 2014

Yousef Awwad
Deputy Superintendent of Operations
Tucson Unified School District No. 1
1010 E. Tenth St.
Tucson, AZ 85719

Attention: _____

Re: Tucson Unified School District No. 1 of Pima County, Arizona
Taxable QSCB Equipment Lease/Purchase Agreement with _____

Ladies and Gentlemen:

We are furnishing this opinion in connection with the Equipment Lease/Purchase Agreement between _____, a(n) _____ (“Lessor”) and Tucson Unified School District No. 1 of Pima County, Arizona (“Lessee”).

In connection with this opinion, we have examined such matters of law as we deemed necessary and the following documents (collectively, the “Lessee Documents”):

(a) An executed copy of the Taxable QSCB Equipment Lease/Purchase Agreement by and between Lessor and Lessee, dated _____, 2014 (the “Lease”);

(b) An executed copy of the adopted Resolution by the Governing Board of Lessee on April 29, 2014, authorizing the execution, delivery and performance of the Lease and related documents by Lessee (the “Resolution”); and

(c) An executed counterpart of the Acquisition Fund and Account Control Agreement, dated _____, 2014 (the “*Acquisition Fund Agreement*”), among Lessor, Lessee, and _____, a(n) _____, as Acquisition Fund Custodian;

(d) Executed counterparts of the Installation Agreement, the Guaranteed Savings Agreement for Energy Savings Improvement Project, each dated _____, 2014, between the Lessee and _____;

(e) An executed copy of the Closing Certificate, Certificate as to Arbitrage, and Certificate of Board Members, dated _____, 2014, including the Resolution, Minutes and Agenda attached to the District Closing Certificate and Arbitrage, relating to Lessee’s adoption of the Resolution and compliance with Arizona Open Meeting Laws in connection with the meeting at which the Resolution was adopted (the “Certificate”).

As to matters of fact, we have relied solely on our actual knowledge, on the Resolution and the Certificate, and on representations of the Deputy Superintendent of Operations of the Lessee, Yousef Awwad, with respect to the appropriation of moneys.

In rendering this opinion, we have assumed, without inquiry:

(a) The authenticity of all documents submitted to us as certified copies of the originals, and the conformity of such copies to the originals as they are finally executed and delivered by Lessee and Lessor;

(b) That the Lease has been or will be duly authorized, executed and delivered by Lessor;

(c) That the Lease constitutes a valid, legal and binding obligation of Lessor enforceable against Lessor in accordance with its terms; and

(d) That the Lease accurately describes and contains the mutual understandings of the parties, and that there are not oral or written statements or agreements that modify, amend or vary, or purport to modify, amend or vary, any of the terms thereof.

Based upon the foregoing, and subject to all the assumptions, qualifications and limitations set forth herein, we are of the opinion that:

1. Lessee is a school district and political subdivision duly organized and existing under the laws of the State of Arizona.

2. Lessee is authorized and has power under applicable law to enter into the Lessee Documents and to carry out its obligations thereunder and the transactions contemplated thereby.

3. The Lessee Documents have been duly authorized, approved, executed and delivered by and on behalf of Lessee. The Lessee Documents are legal, valid and binding obligations of Lessee enforceable in accordance with their respective terms.

4. The execution of the Lease and the appropriation of moneys to pay the payments coming due thereunder do not result in the violation of any constitutional provision or statutory laws of the State of Arizona.

5. Based solely on the Certificate, there is no proceeding pending or threatened in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would adversely affect the transactions contemplated by the Lessee Documents, or the security interest of Lessor or its assigns, as the case may be, in the Equipment, the Acquisition Fund (each as defined in the Lease) or other collateral thereunder.

6. The Lease is a "Qualified School Construction Bond" for purposes of Section 54F of the Internal Revenue Code, as amended and supplemental from time-to-time, and any applicable regulations thereunder.

All of the opinions set forth above are also subject to the following qualifications, limitations and exceptions:

(a) The opinions expressed herein are limited to matters governed by the laws of the United States of America and the State of Arizona.

(b) The opinions expressed herein are based upon the law in effect on the date hereof, and we assume no obligation to revise or supplement them if the law is changed by legislative action, judicial decision or otherwise.

(c) All of the opinions in this letter are subject to (i) all applicable bankruptcy, reorganization, insolvency, fraudulent conveyance, moratorium and other similar laws; (ii) the qualification that certain waivers, restrictions and remedies provided for in the Lease, including without limitation certain indemnification obligations imposed on a school district, may be wholly or partially unenforceable against a school district or under Arizona law; and (iii) limitations affecting rights or the enforceability of remedies imposed by public policy and equitable principles as applied by the courts.

The foregoing opinion is solely for your benefit in connection with the Lease. It may not be relied on by anyone other than you or any assignees or successors of Lessor, and may not be shown, quoted or delivered to any other person or entity without our express prior written consent.

Very truly yours,

James T. Giel
For the Firm

JTG:akr

EXHIBIT E

FORM OF ACCEPTANCE CERTIFICATE

Attn: _____

Re: Taxable QSCB Equipment Lease/Purchase Agreement, dated _____, 2014,
between _____, as Lessor, and Tucson Unified School District
No. 1 of Pima County, Arizona, as Lessee

Ladies and Gentlemen:

In accordance with the Taxable QSCB Equipment Lease/Purchase Agreement (the "*Agreement*"), the undersigned Lessee hereby certifies and represents to, and agrees with Lessor as follows:

1. All of the Equipment (as such term is defined in the Agreement) has been delivered, installed, is operating in a manner consistent with the manufacturer's intended use and finally accepted for all purposes on the date hereof.

2. Lessee has conducted such inspection and/or testing of the Equipment as it deems necessary and appropriate in order to determine the Equipment's capability and functionality in order to accept such Equipment and hereby acknowledges that it accepts the Equipment for all purposes.

3. Lessee is currently maintaining the insurance coverage required by Section 7.02 of the Agreement.

4. Lessee hereby reaffirms that the representations, warranties and covenants contained in the Agreement are true and correct as of the date hereof.

5. No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default (as defined in the Agreement) exists at the date hereof.

Date: _____

LESSEE:
Tucson Unified School District No. 1
of Pima County, Arizona

By: _____
Name: _____
Title: _____

EXHIBIT F

INSURANCE CERTIFICATE

(TO BE ATTACHED)

EXHIBIT G
[RESERVED]

EXHIBIT H

FORM OF NOTICE AND ACKNOWLEDGMENT OF ASSIGNMENT

Dated: _____

_____ (“Assignor”) hereby gives notice that it has assigned and sold to _____ (“Assignee”) all of Assignor’s right, title and interest in, to and under the Taxable QSCB Equipment Lease/Purchase Agreement, dated _____, 2014 (the “Agreement”), between Assignor and the Tucson Unified School District No. 1 of Pima County, Arizona (“Lessee”), together with all exhibits, schedules, addenda and attachments related thereto, and all certifications and other documents delivered in connection therewith, the Rental Payments and other amounts due under the Agreement, all of Assignor’s right, title and interest in the Equipment (as defined in the Agreement), and all of Assignor’s right, title and interest in, to and under the Acquisition Fund and Account Control Agreement, dated _____, 2014 (the “Acquisition Fund Agreement”), by and among _____, a(n) _____, as acquisition fund custodian, the Lessee, and Assignor, together with the Acquisition Fund related thereto (collectively, the “Assigned Property”).

1. In accordance with the terms of the Agreement, Lessee hereby consents to and acknowledges the effect of the assignment of the Assigned Property and absolutely and unconditionally agrees to deliver to Assignee all Rental Payments and other amounts coming due under the Agreement in accordance with the terms thereof on and after the date of this Acknowledgement.

2. Lessee hereby agrees that: (i) Assignee shall have all the rights of Lessor under the Agreement and all related documents, including, but not limited to, the rights to issue or receive all notices and reports, to give all consents or agreements to modifications thereto, to receive title to the Equipment in accordance with the terms of the Agreement, to declare a default and to exercise all remedies thereunder; and (ii) except as provided in Section 3.03 of the Agreement, the obligations of Lessee to make Rental Payments and to perform and observe the other covenants and agreements contained in the Agreement shall be absolute and unconditional in all events without abatement, diminution, deduction, set-off or defense.

3. Lessee agrees that, as of the date of this Notice and Acknowledgement of Assignment (this “Acknowledgement”), the following information about the Agreement is true, accurate and complete:

Number of Rental Payments Remaining	_____
Amount of Each Rental Payment	See Lease Payment Schedule
Total Amount of Rents Remaining	\$ _____
Frequency of Rental Payments	_____
Next Rental Payment Due	_____
Funds Remaining in Acquisition Fund	\$ _____

4. The Agreement remains in full force and effect, has not been amended and no non-appropriation or Event of Default described therein (or event which with the passage of time or the giving of notice or both would constitute a default) has occurred.

5. Any inquiries of Lessee related to the Agreement and any requests for disbursements from the Acquisition Fund, if applicable, and all Rental Payments and other amounts coming due pursuant to the Agreement on and after the date of this Acknowledgement should be remitted to Assignee at the following address (or such other address as provided to Lessee in writing from time to time by Assignee):

Attn: _____
Title: _____

ACKNOWLEDGED AND AGREED:

LESSEE:
TUCSON UNIFIED SCHOOL DISTRICT NO. 1
OF PIMA COUNTY, ARIZONA

By: _____
Name: _____
Title: _____

ASSIGNOR:

By: _____
Name: _____
Title: _____

EXHIBIT I

FORM OF ACQUISITION FUND AND ACCOUNT CONTROL AGREEMENT

This Acquisition Fund and Account Control Agreement (this "Agreement"), dated _____, 2014, by and among _____, a(n) _____ (hereinafter referred to as "Lessor"), Tucson Unified School District No. 1 of Pima County, Arizona, a political subdivision of the State of Arizona (hereinafter referred to as "Lessee") and _____, (a)n _____ (hereinafter referred to as "Acquisition Fund Custodian").

Reference is made to that certain Taxable QSCB Equipment Lease/Purchase Agreement, dated _____, 2014, between Lessor and Lessee (hereinafter referred to as the "Lease"), covering the acquisition and lease of certain Equipment described therein (the "Equipment"). It is a requirement of the Lease that the Acquisition Amount be deposited with the Acquisition Fund Custodian hereunder for the purpose of providing a mechanism for the application of such amounts to the payment of Equipment Costs and the Delivery Costs.

The parties agree as follows:

1. Creation of Acquisition Fund.

(a) There is hereby created a special trust fund to be known as the "Tucson Unified School District No. 1 of Pima County, Arizona Acquisition Fund" (the "Acquisition Fund") to be held in trust by the Acquisition Fund Custodian for the purposes stated herein, for the benefit of Lessor and Lessee, to be held, disbursed and returned in accordance with the terms hereof. On the date hereof, from proceeds of the Agreement, Lessor has caused the amount of \$_____ to be transferred to Acquisition Fund Custodian for deposit into the Acquisition Fund.

(b) The Acquisition Fund Custodian shall invest and reinvest moneys on deposit in the Acquisition Fund in Qualified Investments in accordance with written instructions received from Lessee. Lessee shall be solely responsible for ascertaining that all proposed investments and reinvestments are Qualified Investments and that they comply with federal, state and local laws, regulations and ordinances governing investment of such funds and for providing appropriate notice to the Acquisition Fund Custodian for the reinvestment of any maturing investment. Accordingly, neither the Acquisition Fund Custodian nor Lessor shall be responsible for any liability, cost, expense, loss or claim of any kind, directly or indirectly arising out of or related to the investment or reinvestment of all or any portion of the moneys on deposit in the Acquisition Fund, and Lessee agrees to and does hereby release the Acquisition Fund Custodian and Lessor from any such liability, cost, expenses, loss or claim. Interest on the Acquisition Fund shall become part of the Acquisition Fund, and gains and losses on the investment of the moneys on deposit in the Acquisition Fund shall be borne by the Acquisition Fund. The Acquisition Fund Custodian shall have no discretion whatsoever with respect to the management, disposition or investment of the Acquisition Fund and is not a trustee or a fiduciary to Lessee. The Acquisition Fund Custodian shall not be responsible for any market decline in the value of the Acquisition Fund and has no obligation to notify Lessor and Lessee of any such

decline or take any action with respect to the Acquisition Fund, except upon specific written instructions stated herein. For purposes of this agreement, "Qualified Investments" means any investments which meet the requirements of Arizona Revised Statutes Section 35-323.

(c) Lessee covenants that all investments of amounts deposited in the Acquisition Fund or other fund containing gross proceeds of the Lease will be acquired, disposed of and valued at the fair market value thereof. Investments in funds or accounts (or portions thereof) that are subject to a yield restriction under applicable provisions of the Internal Revenue Code of 1986, as amended (the "*Code*") will be valued at their present value. Terms used in this subsection (c) shall have the meanings given them in the applicable provisions of the Code.

(d) Unless the Acquisition Fund is earlier terminated in accordance with the provisions of paragraph (e) below, amounts in the Acquisition Fund shall be disbursed by the Acquisition Fund Custodian in payment of amounts described in Section 2 hereof upon receipt of written authorization(s) from Lessor, as is more fully described in Section 2 hereof. If the amounts in the Acquisition Fund are insufficient to pay such amounts, Lessee shall provide any balance of the funds needed to complete the acquisition of the Equipment. Any moneys remaining in the Acquisition Fund on or after the earlier of (i) the expiration of the Acquisition Period and (ii) the date on which Lessee executes an Acceptance Certificate shall be applied as provided in Section 4 hereof.

(e) The Acquisition Fund shall be terminated at the earliest of (i) the final distribution of amounts in the Acquisition Fund, or (ii) written notice given by Lessor of the occurrence of a default or termination of the Lease due to non-appropriation.

(f) The Acquisition Fund Custodian may act in reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine and may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument. The Acquisition Fund Custodian shall not be liable in any manner for the sufficiency or correctness as to form, manner of execution, or validity of any instrument nor as to the identity, authority, or right of any person executing the same; and its duties hereunder shall be limited to the receipt of such moneys, instruments or other documents received by it as the Acquisition Fund Custodian, and for the disposition of the same in accordance herewith. In the event conflicting instructions as to the disposition of all or any portion of the Acquisition Fund are at any time given by Lessor and Lessee, the Acquisition Fund Custodian shall abide by the instructions or entitlement orders given by Lessor without consent of the Lessee.

(g) Unless the Acquisition Fund Custodian is guilty of gross negligence or willful misconduct with regard to its duties hereunder, Lessee agrees to and does hereby release and indemnify the Acquisition Fund Custodian and hold it harmless from any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity, or any other expense, fees or charges of any character or nature, which it may incur or with which it may be threatened by reason of its acting as Acquisition Fund Custodian under this Agreement; and in connection therewith, does to the extent permitted by law indemnify the Acquisition Fund Custodian against any and all expenses; including reasonable attorneys' fees and the cost of defending any action, suit or proceeding or resisting any claim.

(h) If Lessee and Lessor shall be in disagreement about the interpretation of the Lease, or about the rights and obligations, or the propriety of any action contemplated by the Acquisition Fund Custodian hereunder, the Acquisition Fund Custodian may, but shall not be required to, file an appropriate civil action to resolve the disagreement. The Acquisition Fund Custodian shall be reimbursed by Lessee for all costs, including reasonable attorneys' fees, in connection with such civil action, and shall be fully protected in suspending all or part of its activities under the Lease until a final judgment in such action is received.

(i) The Acquisition Fund Custodian may consult with counsel of its own choice and shall have full and complete authorization and protection with the opinion of such counsel. The Acquisition Fund Custodian shall otherwise not be liable for any mistakes of fact or errors of judgment, or for any acts or omissions of any kind unless caused by its willful misconduct.

(j) Lessee shall reimburse the Acquisition Fund Custodian for all reasonable costs and expenses, including those of the Acquisition Fund Custodian's attorneys, agents and employees incurred for extraordinary administration of the Acquisition Fund and the performance of the Acquisition Fund Custodian's powers and duties hereunder in connection with any Event of Default under the Lease, or in connection with any dispute between Lessor and Lessee concerning the Acquisition Fund.

(k) The Acquisition Fund custodian or any successor may at any time resign by giving mailed notice to Lessee and Lessor of its intention to resign and of the proposed date of resignation (the "Effective Date"), which shall be a date not less than 90 days after such notice is delivered to an express carrier, charges prepaid, unless an earlier resignation date and the appointment of a successor shall have been approved by the Lessee and Lessor. After the Effective Date, the Acquisition Fund Custodian shall be under no further obligation except to hold the Acquisition Fund in accordance with the terms of this Agreement, pending receipt of written instructions from Lessor regarding further disposition of the Acquisition Fund.

(l) The Acquisition Fund Custodian shall have no responsibilities, obligations or duties other than those expressly set forth in this Agreement and no fiduciary or implied duties, responsibilities or obligations shall be read into this Agreement.

2. Acquisition of Property.

(a) Acquisition Contracts. Lessee will arrange for, supervise and provide for, or cause to be supervised and provided for, the acquisition of the Equipment, with moneys available in the Acquisition Fund. Lessee represents the estimated costs of the Equipment are within the funds estimated to be available therefor, and Lessor makes no warranty or representation with respect thereto. Lessor shall have no liability under any of the acquisition or construction contracts. Lessee shall obtain all necessary permits and approvals, if any, for the acquisition, equipping and installation of the Equipment, and the operation and maintenance thereof.

(b) Authorized Acquisition Fund Disbursements. Disbursements from the Acquisition Fund shall be made for the purpose of paying (including the reimbursement to Lessee for advances from its own funds to accomplish the purposes hereinafter described) the Equipment Costs.

(c) Requisition Procedure. No disbursement from the Acquisition Fund shall be made unless and until Lessor has approved such requisition. Prior to disbursement from the Acquisition Fund there shall be filed with the Acquisition Fund Custodian a requisition for such payment in the form of Disbursement Request attached hereto as Schedule 1, stating each amount to be paid and the name of the person, firm or corporation to whom payment thereof is due. Each such requisition shall be signed by an authorized representative of Lessee (an "Authorized Representative") and by Lessor, and shall be subject to the following:

1. Delivery to Lessor of an executed Disbursement Request in the form attached hereto as Schedule 1 certifying that:
 - (i)(A) an obligation in the stated amount has been incurred by Lessee, and that the same is a proper charge against the Acquisition Fund for costs relating to the Equipment identified in the Lease, and has not been paid (or has been paid by Lessee and Lessee requests reimbursement thereof); (B) the Equipment relating to such obligation has been delivered, installed, is operating in a manner consistent with the manufacturer's intended use and has been inspected and finally accepted for all purposes by Lessee, and (C) Lessee has conducted such inspection and/or testing of the Equipment relating to such obligation as it deems necessary and appropriate in order to determine the Equipment's capability and functionality in order to accept such Equipment; (ii) the Authorized Representative has no notice of any vendor's, mechanic's or other liens or rights to liens, chattel mortgages, conditional sales contracts or security interest which should be satisfied or discharged before such payment is made; (iii) such requisition contains no item representing payment on account, or any retained percentages which Lessee is, at the date of such certificate, entitled to retain (except to the extent such amounts represent a reimbursement to Lessee); (iv) the Equipment is insured in accordance with the Lease; (v) no Event of Default (nor any event which, with notice or lapse of time or both, would become an Event of Default) has occurred and is continuing and (vi) the representations, warranties and covenants of Lessee set forth in the Lease are true and correct as of the date hereof.
2. Delivery to Lessor invoices (and proofs of payment of such invoices, if Lessee seeks reimbursement) and bills of sale (if title to such Equipment has passed to Lessee) therefor as required by Section 3.04 of the Lease and any additional documentation reasonably requested by Lessor; and
3. The disbursement shall occur during the Acquisition Period.

3. Deposit to Acquisition Fund. Upon satisfaction of the conditions specified in Section 3.04 of the Lease, Lessor will cause the Acquisition Amount of \$_____ to be deposited into the Acquisition Fund. Lessee agrees to pay any costs with respect to the Equipment in excess of amounts available therefor in the Acquisition Fund and to pay Delivery Costs in excess of amounts available therefor in the Acquisition Fund; provided, however, that any amount required for either such purpose shall be payable solely from moneys that are legally available to Lessee for such purpose.

4. Excess Moneys in Escrow Fund. Any moneys remaining in the Acquisition Fund on or after the earlier of (i) the date on which Lessee executes an Acceptance Certificate, (ii) the later of _____, 2017, or, if Lessee has obtained an extension for the expenditure of amounts in the Acquisition Fund in accordance with the provisions of Section 54A(d)(2) of the Code, the end of such extended period or (iii) the occurrence of an Event of Default described in the Lease-Purchase Agreement shall be applied by Acquisition Fund Custodian to the prepayment of lease payments pursuant to the Lease-Purchase Agreement as provided therein.

5. Security Interest. The Acquisition Fund Custodian and Lessee acknowledge and agree that the Acquisition Fund and all proceeds thereof are being held by Acquisition Fund Custodian for disbursement or return as set forth herein. Lessee hereby grants to Lessor a first priority perfected security interest in the Acquisition Fund and all proceeds thereof, and all investments made with any amounts in the Acquisition Fund. If the Acquisition Fund or any part thereof, is converted to investments as set forth in this agreement, such investments shall be made in the name of Acquisition Fund Custodian and the Acquisition Fund Custodian hereby agrees to hold such investments as bailee for Lessor so that Lessor is deemed to have possession of such investments for the purpose of perfecting its security interest.

6. Control of Acquisition Fund. In order to perfect Lessor's security interest by means of control in (i) the Acquisition Fund established hereunder, (ii) all securities entitlements, investment property and other financial assets now or hereafter credited to the Acquisition Fund, (iii) all of Lessee's rights in respect of the Acquisition Fund, such securities entitlements, investment property and other financial assets, and (iv) all products, proceeds and revenues of and from any of the foregoing personal property (collectively, the "Collateral"), Lessor, Lessee and Acquisition Fund Custodian further agree as follows:

(a) All terms used in this Section 6 which are defined in the Commercial Code of the state of Arizona ("Commercial Code") but are not otherwise defined herein shall have the meanings assigned to such terms in the Commercial Code, as in effect on the date of this Agreement.

(b) Acquisition Fund Custodian will comply with all entitlement orders originated by Lessor with respect to the Collateral, or any portion of the Collateral, without further consent by Lessee.

(c) Acquisition Fund Custodian hereby represents and warrants (a) that the records of Acquisition Fund Custodian show that Lessee is the sole owner of the Collateral, (b) that Acquisition Fund Custodian has not been served with any notice of levy or received any notice of any security interest in or other claim to the Collateral, or any portion of the Collateral,

other than Lessor's claim pursuant to this Agreement, and (c) that Acquisition Fund Custodian is not presently obligated to accept any entitlement order from any person with respect to the Collateral, except for entitlement orders that Acquisition Fund Custodian is obligated to accept from Lessor under this Agreement and entitlement orders that Acquisition Fund Custodian, subject to the provisions of paragraph (e) below, is obligated to accept from Lessee.

(d) Without the prior written consent of Lessor, Acquisition Fund Custodian will not enter into any agreement by which Acquisition Fund Custodian agrees to comply with any entitlement order of any person other than Lessor or, subject to the provisions of paragraph (e) below, Lessee, with respect to any portion or all of the Collateral. Acquisition Fund Custodian shall promptly notify Lessor if any person requests Acquisition Fund Custodian to enter into any such agreement or otherwise asserts or seeks to assert a lien, encumbrance or adverse claim against any portion or all of the Collateral.

(e) Except as otherwise provided in this paragraph (e) and subject to Section 1(b) hereof, Acquisition Fund Custodian may allow Lessee to effect sales, trades, transfers and exchanges of Collateral within the Acquisition Fund, but will not, without the prior written consent of Lessor, allow Lessee to withdraw any Collateral from the Acquisition Fund. Acquisition Fund Custodian acknowledges that Lessor reserves the right, by delivery of written notice to Acquisition Fund Custodian, to prohibit Lessee from effecting any withdrawals (including withdrawals of ordinary cash dividends and interest income), sales, trades, transfers or exchanges of any Collateral held in the Acquisition Fund. Further, Acquisition Fund Custodian hereby agrees to comply with any and all written instructions delivered by Lessor to Acquisition Fund Custodian (once it has had a reasonable opportunity to comply therewith) and has no obligation to, and will not, investigate the reason for any action taken by Lessor, the amount of any obligations of Lessee to Lessor, the validity of any of Lessor's claims against or agreements with Lessee, the existence of any defaults under such agreements, or any other matter.

(f) Lessee hereby irrevocably authorizes Acquisition Fund Custodian to comply with all instructions and entitlement orders delivered by Lessor to Acquisition Fund Custodian.

(g) Acquisition Fund Custodian will not attempt to assert control, and does not claim and will not accept any security or other interest in, any part of the Collateral, and Acquisition Fund Custodian will not exercise, enforce or attempt to enforce any right of setoff against the Collateral, or otherwise charge or deduct from the Collateral any amount whatsoever.

(h) Acquisition Fund Custodian and Lessee hereby agree that any property held in the Acquisition Fund shall be treated as a financial asset under such section of the Commercial Code as corresponds with Section 8-102 of the Uniform Commercial Code, notwithstanding any contrary provision of any other agreement to which Acquisition Fund Custodian may be a party.

(i) Acquisition Fund Custodian is hereby authorized and instructed, and hereby agrees, to send to Lessor at its address set forth in Section 7 below, concurrently with the sending thereof to Lessee, duplicate copies of any and all monthly Acquisition Fund statements or reports issued or sent to Lessee with respect to the Acquisition Fund.

7. Information Required Under USA PATRIOT ACT. The parties acknowledge that in order to help the United States government fight the funding of terrorism and money laundering activities, pursuant to Federal regulations that became effective on _____, 20____ (Section 326 of the USA PATRIOT Act) all financial institutions are required to obtain, verify, record and update information that identifies each person establishing a relationship or opening an account. The parties to this Agreement agree that they will provide to the Acquisition Fund Custodian such information as it may request, from time to time, in order for the Acquisition Fund Custodian to satisfy the requirements of the USA PATRIOT Act, including but not limited to the name, address, tax identification number and other information that will allow it to identify the individual or entity who is establishing the relationship or opening the account and may also ask for formation documents such as articles of incorporation or other identifying documents to be provided.

8. Miscellaneous.

(a) As required by the provisions of Arizona Revised Statutes Section 38-511, as amended, notice is hereby given that Lessee may, within three (3) years of the execution hereof, cancel this Agreement without penalty or further obligations, if any person significantly involved in initiating, negotiation, securing, drafting or creating this Agreement on behalf of Lessee is, at any time while this Agreement or any extension of this Agreement is in effect, an employee or agent of Acquisition Fund Custodian or a consultant to Acquisition Fund Custodian with respect to the subject matter of this Agreement. The cancellation shall be effective when written notice from Lessee is received by Acquisition Fund Custodian unless the notice specifies a later time.

(b) Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Lease. This agreement may not be amended except in writing signed by all parties hereto. This agreement may be executed in one or more counterparts, each of which shall be deemed to be an original instrument and each shall have the force and effect of an original and all of which together constitute, and shall be deemed to constitute, one and the same instrument. Notices hereunder shall be made in writing and shall be deemed to have been duly given when personally delivered or when deposited in the mail, first class postage prepaid, or delivered to an express carrier, charges prepaid, or sent by facsimile with electronic confirmation, addressed to each party at its address below:

If to Lessor: _____

Attn: _____
Fax: _____

If to Lessee: Tucson Unified School District No. 1
of Pima County, Arizona
1010 E. Tenth Street
Tucson, AZ 85719
Attention: Yousef Awwad, Deputy Superintendent of Operations
Karla Soto, Chief Financial Officer
Fax: (520) 225-6698

If to Acquisition Fund Custodian: _____

Attn: _____
Phone: _____
Fax: _____

In Witness Whereof, the parties have executed this Acquisition Fund and Account Control Agreement as of the date first above written.

as Lessor

Tucson Unified School District No. 1
of Pima County, Arizona, as Lessee

By: _____
Name: _____
Title: _____

By: _____
Adelita S. Grijalva, President

as Acquisition Fund Custodian

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

SCHEDULE 1

TO THE ACQUISITION FUND AND ACCOUNT CONTROL AGREEMENT

FORM OF DISBURSEMENT REQUEST

Re: Equipment Lease/Purchase Agreement, dated _____, 2014 (the "Lease"), between _____, as Lessor, and Tucson Unified School District No. 1 of Pima County, Arizona, as Lessee (Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Lease.)

In accordance with the terms of the Acquisition Fund and Account Control Agreement, dated _____, 2014 (the "Acquisition Fund and Account Control Agreement") by and among _____, a(n) _____ ("Lessor"), Tucson Unified School District No. 1 of Pima County, Arizona ("Lessee") and _____, a(n) _____ (the "Acquisition Fund Custodian"), the undersigned hereby requests the Acquisition Fund Custodian pay the following persons the following amounts from the Acquisition Fund created under the Acquisition Fund and Account Control Agreement for the following purposes:

PAYEE'S NAME AND ADDRESS	INVOICE NUMBER	DOLLAR AMOUNT	PURPOSE

The undersigned hereby certifies as follows:

(i) The date on which Equipment Acceptance occurred with respect to the portion of the Equipment for which disbursement is hereby requested is _____, and such portion of Equipment is hereby accepted by Lessee for all purposes of the Lease.

(ii) An obligation in the stated amount has been incurred by Lessee, and the same is a proper charge against the Acquisition Fund for costs relating to the Equipment identified in the Lease, and has not been paid (or has been paid by Lessee and Lessee requests reimbursement thereof), and the Equipment relating to such obligation has been delivered, installed, is operating in a manner consistent with the manufacturer's intended use and has been inspected and finally accepted for all purposes by Lessee. Lessee has conducted such inspection and/or testing of the Equipment relating to such obligation as

it deems necessary and appropriate in order to determine the Equipment's capability and functionality in order to accept such Equipment. Attached hereto is the original invoice with respect to such obligation.

(iii) The undersigned, as Authorized Representative, has no notice of any vendor's, mechanic's or other liens or rights to liens, chattel mortgages, conditional sales contracts or security interest which should be satisfied or discharged before such payment is made.

(iv) This requisition contains no item representing payment on account, or any retained percentages which Lessee is, at the date hereof, entitled to retain (except to the extent such amounts represent a reimbursement to Lessee).

(v) The Equipment is insured in accordance with the Lease.

(vi) No Event of Default, and no event which with notice or lapse of time, or both, would become an Event of Default, under the Lease has occurred and is continuing at the date hereof.

(vii) The disbursement shall occur during the Acquisition Period.

(viii) No Material Adverse Change in Lessee's financial condition shall have occurred since the date of the execution of the Lease.

(ix) The representations, warranties and covenants of Lessee set forth in the Lease are true and correct as of the date hereof.

Dated: _____

Tucson Unified School District No. 1
of Pima County, Arizona

By: _____
Authorized Representative

Disbursement of funds from the Acquisition Fund in accordance with the foregoing Disbursement Request hereby is authorized

_____,
as Lessor under the Lease

By: _____
Name: _____
Title: _____