

After recording return to:  
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**FORM OF**  
**STATE OF COLORADO**  
**BUILDING EXCELLENT SCHOOLS TODAY**  
**SITE LEASE OF [NAME OF SITE LESSOR]**

by and between

\_\_\_\_\_,  
as site lessor

and

**ZIONS FIRST NATIONAL BANK ,**  
**solely in its capacity as Trustee under the Indenture identified herein,**  
as site lessee

Dated as of December [6], 2012

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**STATE OF COLORADO  
BUILDING EXCELLENT SCHOOLS TODAY  
SITE LEASE OF \_\_\_\_\_**

This State of Colorado Building Excellent Schools Today Site Lease (this "Site Lease") is dated as of December [6], 2012 and is entered into by and between \_\_\_\_\_ (the "Site Lessor"), as lessor, and Zions First National Bank, a national banking association duly organized and validly existing under the laws of the United States, solely in its capacity as trustee under the Indenture (the "Trustee"), as lessee. *Capitalized terms used but not defined in this Site Lease have the meanings assigned to them in the Glossary attached to the State of Colorado Building Excellent Schools Today Master Trust Indenture dated August 12, 2009, as such Glossary has been amended, supplemented and restated by the Glossary attached to the State of Colorado Building Excellent Schools Today Series 2012H Supplemental Trust Indenture dated December [6], 2012 and as it may further be amended, supplemented and restated from time to time.*

RECITALS

A. The Site Lessor owns the land described in attached Exhibit A hereto (the "Land") and the buildings, structures and improvements now or hereafter located on the Land (the Land and such buildings, structures and improvements, collectively, are referred to as the "Leased Property").

B. The Site Lessor is authorized by applicable law, its governing documents, if relevant, and action of its Governing Body to, and will, lease the Leased Property to the Trustee pursuant to this Site Lease. The State Treasurer, on behalf of the State and on the instructions of the Assistance Board, will lease the Leased Property from the Trustee pursuant to the 2012H Lease.

C. The State Treasurer, on behalf of the State, on the instructions of the Assistance Board and as authorized under the Act, will sublease the Leased Property to the Sublessee identified in the Sublease under which the Leased Property is subleased to such Sublessee. Proceeds of the Series 2012H Certificates issued pursuant to the Indenture will be used to finance the Project of such Sublessee.

AGREEMENT

For and in consideration of the mutual covenants and the representations, covenants and warranties herein contained, the parties hereto hereby agree as follows:

**ARTICLE I**

**CERTIFICATIONS, REPRESENTATIONS AND AGREEMENTS**

**Section 1.01. Representations, Covenants and Warranties by Trustee.** The Trustee hereby certifies, represents and agrees that all the certifications, representations and agreements of the Trustee set forth in Section 6.01 of the Master Indenture are true and accurate and makes

the same certifications, representations and agreements under this Site Lease as if set forth in full herein.

**Section 1.02. Certifications, Representations and Agreements by Site Lessor.** The Site Lessor certifies, represents and agrees that:

(a) The Site Lessor is a Participating K-12 Institution or is the Chartering Authority for a Participating K-12 Institution that is a charter school.

(b) The Site Lessor is duly organized, validly existing and in good standing under Colorado law. The Site Lessor is authorized under applicable law, its governing documents, if relevant, and action of its Governing Body to lease the Leased Property to the Trustee pursuant to this Site Lease and to execute, deliver and perform its obligations under this Site Lease.

(c) The Site Lessor is the owner of the fee interest in the Leased Property, subject only to Permitted Encumbrances.

(d) The Site Lessor has received all approvals and consents required for the Site Lessor's execution, delivery and performance of its obligations under this Site Lease.

(e) This Site Lease has been duly executed and delivered by the Site Lessor and is enforceable against the Site Lessor in accordance with its terms, limited only by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally, by equitable principles, whether considered at law or in equity, by the exercise by the State and its governmental bodies of the police power inherent in the sovereignty of the State and by the exercise by the United States of America of the powers delegated to it by the Constitution of the United States of America.

(f) The execution, delivery and performance of this Site Lease does not and will not conflict with or result in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Site Lessor is now a party or by which the Site Lessor is bound, or constitute a default under any of the foregoing, violate any Requirement of Law applicable to the Site Lessor, or, except as specifically provided in the 2012H Lease, the Indenture and the Sublease pursuant to which the Leased Property is subleased to the Site Lessor or to a charter school for which the Site Lessor is the Chartering Authority, result in the creation or imposition of a lien or encumbrance whatsoever upon any of the property or assets of the Site Lessor.

(g) There is no litigation or proceeding pending or threatened against the Site Lessor or any other Person affecting the right of the Site Lessor to execute, deliver or perform the obligations of the Site Lessor under this Site Lease.

(h) The Site Lessor will receive economic and other benefits by the leasing of the Leased Property by the Site Lessor pursuant to this Site Lease. The initial Leased Property leased pursuant to this Site Lease is, and any Leased Property substituted for the initial Leased Property will be, property that is necessary and essential to the purposes

and operations of the Site Lessor or a Participating K-12 Institution for which the Site Lessor is the Chartering Authority. The Site Lessor expects that the Leased Property will adequately serve the needs for which it is being leased throughout the Scheduled Site Lease Term.

(i) The Site Lessor is not aware of any current violation of any Requirement of Law relating to the Leased Property and accepts full responsibility for any prior or future violations of any Requirement of Law relating to environmental issues relating to the Leased Property.

(j) Minor defects, irregularities, encumbrances and clouds on title as normally exist with respect to property of the general character of the Leased Property that exist with respect to the Leased Property do not materially impair title to the Leased Property.

## **ARTICLE II**

### **DEMISING CLAUSE; ENJOYMENT OF LEASED PROPERTY**

**Section 2.01. Demising Clause.** The Site Lessor demises and leases the land described in Exhibit A hereto (the “Land” for purposes of this Site Lease) and the buildings, structures and improvements now or hereafter located on the Land (the “Leased Property” for purposes of this Site Lease) to the Trustee in accordance with the terms of this Site Lease, subject only to Permitted Encumbrances, to have and to hold for the Site Lease Term.

**Section 2.02. Enjoyment of Leased Property.** The Site Lessor covenants that, during the Site Lease Term and so long as no Event of Default hereunder shall have occurred, the Trustee shall peaceably and quietly have, hold and enjoy the Leased Property without suit, trouble or hindrance from the Site Lessor, except as expressly required or permitted by this Site Lease.

## **ARTICLE III**

### **SITE LEASE TERM; TERMINATION OF SITE LEASE**

#### **Section 3.01. Site Lease Term.**

(a) The Site Lease Term shall commence on the date this Site Lease is executed and delivered and shall expire upon the earliest of any of the following events:

(i) December [6], [2052];

(ii) conveyance of the Leased Property to the Site Lessor pursuant to the Sublease relating to the Leased Property;

(iii) termination of this Site Lease following an Event of Default under this Site Lease in accordance with Section 10.02(a) hereof; or

(iv) cancellation of the Sublease pursuant to which the Leased Property is subleased pursuant to Section 3.03 of such Sublease.

**Section 3.02. Effect of Termination of Site Lease Term.** Upon termination of the Site Lease Term, all unaccrued obligations of the Trustee hereunder shall terminate, but all obligations of the Trustee that have accrued hereunder prior to such termination shall continue until they are discharged in full.

## **ARTICLE IV**

### **SITE LESSOR IS THIRD PARTY BENEFICIARY OF CERTAIN COVENANTS OF STATE IN 2012H LEASE**

The Site Lessor and its successors and assigns are intended third party beneficiaries of the covenants of the State in Articles VI and VII and Section 9.02, 9.03(b) and 12.02 and of the Trustee in Section 9.03(a) of the 2012H Lease (the "Site Lessor Protection Provisions"). If the 2012H Lease is terminated for any reason, this Site Lease is not terminated and the Trustee leases or subleases all or any portion of the Leased Property or assigns an interest in this Site Lease, as a condition to such lease, sublease or assignment, the lessee, sublessee or assignee must execute an instrument, in form and substance reasonably satisfactory to the Site Lessor, that contains substantially the same covenants as the Site Lessor Protection Provisions and names the Site Lessor and its successors and assigns as intended third party beneficiaries of such covenants. Any provision of this Site Lease that is similar to any of the Site Lessor Protection Provisions shall not be interpreted to limit or restrict the rights of the Site Lessor under this Article.

## **ARTICLE V**

### **RENT**

The Trustee is not obligated to pay any rent under this Site Lease. The consideration to the Site Lessor for the right to use the Leased Property during the Site Lease Term is the deposit of proceeds of the Series 2012H Certificates into the Project Account held by the Trustee under the Indenture to finance the Project of the Site Lessor or a charter school for which the Site Lessor is the Chartering Authority. The provisions of Article IV of this Site Lease are intended to assure that the State or another lessee, sublessee or assignee pays Additional Rent in accordance with the 2012H Lease or an amount equal to the Additional Rent that would have been paid under the 2012H Lease under another instrument executed and delivered pursuant to Article IV of this Site Lease.

## **ARTICLE VI**

### **TITLE TO LEASED PROPERTY; ENCUMBRANCES, EASEMENTS, MODIFICATIONS, SUBSTITUTION, DAMAGE, PERSONAL PROPERTY**

**Section 6.01. Title to Leased Property.** Title to the Leased Property shall be held in the name of the Site Lessor, subject to this Site Lease, the 2012H Lease and the Sublease of the Site Lessor or a charter school for which the Site Lessor is the Chartering Authority.

**Section 6.02. Limitations on Disposition of and Encumbrances on Leased Property.**

Except as otherwise permitted in this Article or Article VII or VIII hereof and except for Permitted Encumbrances, the Site Lessor shall not sell, assign, transfer or convey any portion of or any interest in the Leased Property or directly or indirectly create, incur or assume any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Leased Property.

**Section 6.03. Granting of Easements.** The Site Lessor shall, at the request of the Trustee or the State consent to grants of easements, licenses, rights-of-way and other rights or privileges in the nature of easements with respect to the Leased Property on the same terms and in the same manner as the Trustee is required to do so pursuant to Section 7.03 of the 2012H Lease.

**Section 6.04. Subleasing and Other Grants of Use.** The Trustee is expressly authorized to lease or sublease the Leased Property to the State pursuant to the 2012H Lease. The State is expressly authorized to sublease the Leased Property to the Site Lessor or a charter school for which the Site Lessor is the Chartering Authority as Sublessee pursuant to a Sublease. The Trustee is expressly authorized to lease or sublease the Leased Property to or create other interests in the Leased Property for the benefit of any other Person or Persons in connection with the exercise of the Trustee's remedies under the 2012H Lease and the Indenture following an Event of Default or Event of Nonappropriation under the 2012H Lease.

**Section 6.05. Substitution of Other Property for Leased Property.** If the State substitutes other real property under the 2012H Lease for any portion of the Site Lessor's Leased Property, the property so substituted under the 2012H Lease may also be substituted for Leased Property under this Site Lease in any manner and on any terms determined by the State in its sole discretion.

**Section 6.06. Property Damage, Defect or Title Event.** If a Property Damage, Defect or Title Event occurs with respect to any portion of the Leased Property, the Net Proceeds received as a consequence thereof shall be deposited and used in accordance with Section 7.07 of the 2012H Lease.

**Section 6.07. Condemnation by State or Site Lessor.** In the event the State brings an eminent domain or condemnation proceeding with respect to the Leased Property and the 2012H Lease has not terminated, the terms of Section 7.08 of the 2012H Lease shall apply. In the event the Site Lessor brings an eminent domain or condemnation proceeding with respect to the Leased Property and the Sublease pursuant to which the Leased Property is subleased to the Site Lessor or a charter school for which the Site Lessor is the Chartering Authority has not terminated, the terms of Section 8.08 of such Sublease shall apply. If (a) the 2012H Lease or the Sublease pursuant to which the Leased Property is subleased to the Site Lessor or a charter school for which the Site Lessor is the Chartering Authority are terminated for any reason, (b) this Site Lease is not terminated and (c) the Trustee leases or subleases all or any portion of the Leased Property or assigns an interest in this Site Lease to a governmental entity that has eminent domain or condemnation powers, such lease or sublease shall include a provision similar to Section 7.08 of the Sublease pursuant to which the Leased Property is subleased to the Site Lessor or a charter school for which the Site Lessor is the Chartering Authority.



**Section 6.08. Personal Property of Trustee, State and Others.** The Trustee, the State, the Sublessee and any other Person who has the right to use the Leased Property under this Site Lease, the 2012H Lease or the Sublease pursuant to which the Leased Property is subleased to the Site Lessor or a charter school for which the Site Lessor is the Chartering Authority, at its own expense, may install equipment and other personal property in or on any portion of the Leased Property, which equipment or other personal property shall not become part of the Leased Property unless it is permanently affixed to the Leased Property or removal of it would materially damage the Leased Property, in which case it will become part of the Leased Property.

## ARTICLE VII

### LICENSES AND SHARED UTILITIES

**Section 7.01. Access Licenses.** The Site Lessor grants to the Trustee and its subtenants, successors and assigns, and the tenants, customers, employees and invitees of all of them, during the Site Lease Term, a non-exclusive blanket license over, upon and through the roadways, drive lanes, parking areas and sidewalks now or hereafter located on real property owned by the Site Lessor that is adjacent to but not included in the Leased Property (the “Access Area”) for the purpose of walking upon, moving equipment and goods and supplies through and driving vehicles upon, over and across all of the sidewalk areas, entrances, drives, lanes and parking areas, alleys and other areas for ingress and egress to and from the Leased Property; provided that such license shall not conflict with or adversely affect the use of the Access Area by the Site Lessor and its subtenants, successors and assigns, and the tenants, customers, employees and invitees of all of them. The Trustee grants to the Site Lessor and its subtenants, successors and assigns, and the tenants, customers, employees and invitees of all of them, a non-exclusive blanket license over, upon and through the roadways, drive lanes, parking areas and sidewalks now or hereafter located on the Leased Property for the purpose of walking upon, moving equipment and goods and supplies through and driving vehicles upon, over and across all of the sidewalk areas, entrances, drives, lanes and parking areas, alleys and other areas for ingress and egress to and from the Access Area; provided that such license shall not conflict with or adversely affect the Trustee’s use of the Leased Property.

**Section 7.02. Appurtenant Staging Areas Licenses.** The Site Lessor grants to the Trustee and its subtenants, successors and assigns, and the tenants, customers, employees and invitees of all of them, during the Site Lease Term, non-exclusive licenses over, upon and through real property owned by the Site Lessor that is adjacent to but not included in the Leased Property (the “Appurtenant Staging Area”) for the purposes of constructing, placing, operating and maintaining all necessary pipes, vents, conduits, wires and utilities necessary to maintain and operate the Leased Property and for the maintenance of any nonmaterial encroachments of the improvements constituting the Leased Property; provided that such license shall not adversely affect the use of the Appurtenant Staging Area by the Site Lessor and its subtenants, successors and assigns, and the tenants, customers, employees and invitees of all of them. The Trustee grants to the Site Lessor and its subtenants, successors and assigns, and the tenants, customers, employees and invitees of all of them, during the Site Lease Term, non-exclusive licenses over, upon and through the Leased Property for the purposes of constructing, placing, operating and maintaining all necessary pipes, vents, conduits, wires and utilities necessary to maintain and operate the Appurtenant Staging Area and for the maintenance of any nonmaterial encroachments

of the improvements constituting the Appurtenant Staging Area; provided that such license shall not adversely affect the use of the Leased Property by the Trustee and its subtenants, successors and assigns, and the tenants, customers, employees and invitees of all of them.

**Section 7.03. Offsite Parking Licenses.** The Site Lessor grants to the Trustee and its subtenants, successors and assigns, and the tenants, customers, employees and invitees of all of them, during the Site Lease Term, a non-exclusive license for the use of areas designated as parking areas, and access to and from such parking areas, now or hereafter located on real property owned by the Site Lessor but not included in the Leased Property (the “Offsite Parking Area”) for the purpose of parking of passenger vehicles (buses and similar vehicles excluded) in connection with the use of the Leased Property by the Trustee and its subtenants, successors and assigns, and the tenants, customers, employees and invitees of all of them; provided that such license shall not conflict with or adversely affect the use of the Offsite Parking Area by the Site Lessor and its subtenants, successors and assigns, and the tenants, customers, employees and invitees of all of them; and provided, further that, the Site Lessor reserves the right to implement and enforce reasonable rules and regulations for the use of the Offsite Parking Area, including, without limitation: (a) to direct and regulate vehicular traffic and provide safe vehicular access to and from the Offsite Parking Area; (b) to specify and enforce rules and regulations with regard to the use of the Offsite Parking Area spaces; (c) to designate certain parking spaces to be used only by handicapped drivers, employees or visitors; (d) to implement and enforce parking fees and fines; and (e) to restrict time periods for permitted parking. The Trustee grants to the Site Lessor and its subtenants, successors and assigns, and the tenants, customers, employees and invitees of all of them, during the Site Lease Term, a non-exclusive license for the use of areas designated as parking areas, and access to and from such parking areas, now or hereafter located on the Leased Property (the “Onsite Parking Area”) for the purpose of parking of passenger vehicles (buses and similar vehicles excluded) in connection with the use of other real property not included in the Leased Property by the Site Lessor and its subtenants, successors and assigns, and the tenants, customers, employees and invitees of all of them; provided that such license shall not conflict with or adversely affect the use of the Onsite Parking Area by the Trustee and its subtenants, successors and assigns, and the tenants, customers, employees and invitees of all of them; and provided, further that, the Trustee reserves the right to implement and enforce reasonable rules and regulations for the use of the Onsite Parking Area similar to those implemented and enforced by the Site Lessor with respect to the Offsite Parking Area.

**Section 7.04. Shared Utilities.** The Site Lessor agrees to provide the Leased Property with all gas, water, steam, electricity, heat, power and other utilities provided by Site Lessor to the Leased Property on the date hereof on a continuous basis except for periods of repair. The Site Lessor shall be entitled to reimbursement for its actual and reasonable costs incurred in providing such utilities, determined in a fair and reasonable manner based on the use of such utilities by the Leased Property or portions thereof, the operational, maintenance and repair costs of such utilities elements and any costs to acquire or relocate any easements or lines relating to or used in connection with the operation of such utilities. Pursuant to the 2012H Lease, the State has agreed to reimburse the Trustee for such costs during the Lease Term of the 2012H Lease. Pursuant to the Sublease pursuant to which the Leased Property is subleased to the Site Lessor or a charter school for which the Site Lessor is the Chartering Authority, the Sublessee under such Sublease, has agreed to reimburse the State for such costs during the Sublease Term of such Sublease. If, (a) the 2012H Lease is terminated for any reason, (b) this Site Lease is not

terminated and (c) the Trustee leases or subleases all or any portion of the Leased Property or assigns an interest in this Site Lease, the lessee, sublessee or assignee, as a condition to such lease, sublease or assignment, must agree to reimburse the Site Lessor for such costs.

## ARTICLE VIII

### GENERAL COVENANTS

**Section 8.01. Further Assurances and Corrective Instruments.** So long as this Site Lease is in full force and effect, the Trustee and the Site Lessor shall have full power to carry out the acts and agreements provided herein and the Site Lessor and the Trustee, at the written request of the other, shall from time to time, execute, acknowledge and deliver or cause to be executed, acknowledged and delivered such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Leased Property leased or intended to be leased hereunder, or for otherwise carrying out the intention of or facilitating the performance of this Site Lease.

**Section 8.02. Compliance with Requirements of Law.** On and after the date hereof, the Site Lessor shall not take any action with respect to the Leased Property that violates the terms hereof or is contrary to the provisions of any Requirement of Law.

**Section 8.03. Participation in Legal Actions.** At the request of and at the cost of the Trustee or the State, the Site Lessor shall join and cooperate fully in any legal action in which the Trustee or the State asserts its right to the enjoyment of the Leased Property; that involves the imposition of any charges, costs or other obligations or liabilities on or with respect to the Leased Property or the enjoyment of the Leased Property by the Trustee or the State; or that involves the imposition of any charges, costs or other obligations with respect to the Trustee's execution, delivery and performance of its obligations under this Site Lease or the State's execution, delivery and performance of its obligations under the 2012H Lease.

## ARTICLE IX

### LIMITS ON OBLIGATIONS

**Section 9.01. Disclaimer of Warranties.** THE SITE LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR FITNESS FOR USE OF THE LEASED PROPERTY OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE LEASED PROPERTY. In no event shall the Site Lessor be liable for any incidental, special or consequential damage in connection with or arising out of this Site Lease or the existence, furnishing, functioning or use by the Trustee of any item, product or service provided for herein.

**Section 9.02. Financial Obligations of Trustee Limited to Trust Estate.** Notwithstanding any other provision hereof, all financial obligations of the Trustee under this Site Lease, except those resulting from its willful misconduct or negligence, are limited to the Trust Estate.

## ARTICLE X

### EVENTS OF DEFAULT AND REMEDIES

**Section 10.01. Event of Default Defined.** An “Event of Default” under this Site Lease shall be deemed to have occurred upon failure by the Trustee to observe and perform any covenant, condition or agreement on its part to be observed or performed for a period of 30 days after written notice, specifying such failure and requesting that it be remedied shall be given to the Trustee by the Site Lessor, unless the Site Lessor shall consent in writing to an extension of such time prior to its expiration; provided, however, that:

(a) if the failure stated in the notice cannot be corrected within the applicable period, the Site Lessor shall not withhold its consent to an extension of such time if corrective action shall be instituted within the applicable period and diligently pursued until the default is corrected; and

(b) if, by reason of Force Majeure, the Trustee shall be unable in whole or in part to carry out any agreement on its part herein contained the Trustee shall not be deemed in default during the continuance of such inability; provided, however, that the Trustee shall, as promptly as legally and reasonably possible, remedy the cause or causes preventing the Trustee from carrying out such agreement, except that the settlement of strikes, lockouts and other industrial disturbances shall be solely within the discretion of the Trustee.

**Section 10.02. Remedies on Default.** Whenever any Event of Default shall have happened and be continuing, the Site Lessor may take one or any combination of the following remedial steps:

(a) terminate the Site Lease Term and give notice to the Trustee to immediately vacate the Leased Property;

(b) sell or lease its interest in all or any portion of the Leased Property, subject to the purchase option of the Sublessee under the Sublease pursuant to which the Leased Property is subleased to the Site Lessor or a charter school for which the Site Lessor is the Chartering Authority;

(c) enforce any provision of this Site Lease by equitable remedy, including, but not limited to, enforcement of the restrictions on assignment, encumbrance, conveyance, transfer or succession under Article XI hereof by specific performance, writ of mandamus or other injunctive relief; and

(d) take whatever action at law or in equity may appear necessary or desirable to enforce its rights in and to the Leased Property under this Site Lease, subject, however, to the limitations on the obligations of the Trustee set forth in Section 9.02 hereof.

**Section 10.03. No Remedy Exclusive.** Subject to Section 9.02 hereof, no remedy herein conferred upon or reserved to the Site Lessor is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or

hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Site Lessor to exercise any remedy reserved in this Article, it shall not be necessary to give any notice, other than such notice as may be required in this Article.

**Section 10.04. Waivers.** The Site Lessor may waive any Event of Default under this Site Lease and its consequences. In the event that any agreement contained herein should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

## ARTICLE XI

### TRANSFERS OF INTERESTS IN LEASE OR LEASED PROPERTY

**Section 11.01. Assignment by Site Lessor.** The Site Lessor shall not, except as otherwise provided elsewhere in this Site Lease, assign, convey or otherwise transfer to any Person any of the Site Lessor's interest in the Leased Property or the Site Lessor's rights, title or interest in, to or under this Site Lease.

**Section 11.02. Transfer of the Trustee's Interest in Lease and Leased Property Prohibited.** Except as otherwise permitted by Section 6.04 hereof with respect to subleasing or grants of use of the Leased Property and Section 6.05 hereof with respect to substitutions or as otherwise required by law, the Trustee shall not sublease, assign, encumber, convey or otherwise transfer all or any portion of its interest in this Site Lease or the Leased Property to any Person, whether now in existence or organized hereafter.

**Section 11.03. Conveyance of Leased Property to State Pursuant to 2012H Lease.** The parties recognize and agree that, notwithstanding any other provision of this Site Lease, the 2012H Lease or any Sublease, upon conveyance of all the Leased Property subject to the 2012H Lease by the Trustee to the State pursuant to Article VIII of the 2012H Lease and conveyance of the Leased Property subject to this Site Lease by the State to the Sublessee pursuant Section 9.03 of the Sublease applicable to such Leased Property: (a) if the Site Lessor under this Site Lease and the Sublessee under such Sublease are the same, this Site Lease shall terminate; and (b) if the Site Lessor under this Site Lease and the Sublessee are not the same, this Site Lease shall continue with the Sublessee succeeding to the rights and obligations of the Trustee under this Site Lease.

## ARTICLE XII

### MISCELLANEOUS

**Section 12.01. Binding Effect.** This Site Lease shall inure to the benefit of and shall be binding upon the Trustee and the Site Lessor and their respective successors and assigns, including, but not limited to, the State under the 2012H Lease and the Sublessee under the Sublease pursuant to which the Leased Property is subleased to the Site Lessor or a charter school for which the Site Lessor is the Chartering Authority, subject, however, to the limitations

set forth in Article XI hereof. This Site Lease and the covenants set forth herein are expressly intended to be covenants, conditions and restrictions running with the Leased Property and the leasehold estate in the Leased Property under this Site Lease.

**Section 12.02. Interpretation and Construction.** This Site Lease and all terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein to sustain the validity of this Site Lease. For purposes of this Site Lease, except as otherwise expressly provided or unless the context otherwise requires:

(a) All references in this Site Lease to designated “Articles,” “Sections,” “subsections,” “paragraphs,” “clauses” and other subdivisions are to the designated Articles, Sections, subsections, paragraphs, clauses and other subdivisions of this Site Lease. The words “herein,” “hereof,” “hereto,” “hereby,” “hereunder” and other words of similar import refer to this Site Lease as a whole and not to any particular Article, Section or other subdivision.

(b) The terms defined in the Glossary have the meanings assigned to them in the Glossary and include the plural as well as the singular.

(c) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles applicable to governmental entities, subject to statutory exceptions and modifications, as in effect from time to time.

(d) The term “money” includes any cash, check, deposit, investment security or other form in which any of the foregoing are held hereunder.

(e) In the computation of a period of time from a specified date to a later specified date, the word “from” means “from and including” and each of the words “to” and “until” means “to but excluding.”

**Section 12.03. Acknowledgement of 2012H Lease and Sublease.** The Trustee has received a copy of, and acknowledges the terms of, the 2012H Lease and the Sublease pursuant to which the Leased Property is subleased to the Site Lessor or a charter school for which the Site Lessor is the Chartering Authority.

**Section 12.04. Trustee, State and Site Lessor Representatives.** Whenever under the provisions hereof the approval of the Trustee, the State or the Site Lessor is required, or the Trustee, the State or the Site Lessor is required to take some action at the request of the other, unless otherwise provided, such approval or such request shall be given for the Trustee by the Trustee Representative, for the State by the State Representative and by the Site Lessor by the Site Lessor Representative and the Trustee, the State and the Site Lessor shall be authorized to act on any such approval or request. The Site Lessor Representative is the \_\_\_\_\_ of the Site Lessor or any Person appointed as Site Lessor Representative by such Person.

**Section 12.05. Manner of Giving Notices.** All notices, certificates or other communications hereunder shall be in writing and shall be deemed given when mailed by first

class United States mail, postage prepaid, or when sent by facsimile transmission or electronic mail, addressed as follows: if to the Site Lessor, to \_\_\_\_\_, Attention: Superintendent, facsimile number: \_\_\_\_\_, electronic mail address: \_\_\_\_\_; if to the Trustee, to Zions First National Bank, 1001 Seventeenth Street, Suite 850, Denver, Colorado 80202, Attention: Corporate Trust Services, facsimile number: 855-547-6178, electronic mail address: [denvercorporatetrust@zionsbank.com](mailto:denvercorporatetrust@zionsbank.com); and if to the State, to Colorado State Treasurer, 140 State Capitol, 200 E. Colfax Ave., Denver, CO 80203, Attention: Deputy State Treasurer, facsimile number: 303-866-2123, electronic mail address: [brett.j.johnson@state.co.us](mailto:brett.j.johnson@state.co.us), with a copy to Colorado State Controller, 633 Seventeenth Street, Suite 1500, Denver, Colorado 80203, Attention: David J. McDermott, facsimile number: 303-866-4233, electronic mail address: [david.mcdermott@state.co.us](mailto:david.mcdermott@state.co.us). Any notice party may, by written notice to the others, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

**Section 12.06. No Individual Liability.** All covenants, stipulations, promises, agreements and obligations of the Site Lessor or the Trustee, as the case may be, contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Site Lessor or the Trustee, as the case may be, and not of any member, director, officer, employee, servant or other agent of the Site Lessor or the Trustee in his or her individual capacity, and no recourse shall be had on account of any such covenant, stipulation, promise, agreement or obligation, or for any claim based thereon or hereunder, against any member, director, officer, employee, servant or other agent of the Site Lessor or the Trustee or any natural person executing this Site Lease or any related document or instrument; provided that such person is acting within the scope of his or her employment, membership, directorship or agency, as applicable, and not in a manner that constitutes gross negligence or willful misconduct.

**Section 12.07. Amendments, Changes, Modifications and Release.** Except as otherwise provided herein or in the Indenture, this Site Lease may only be amended, changed, modified, altered or released by a written instrument executed by the Site Lessor and the Trustee; and the Trustee shall, if and when requested by the State, execute and deliver any amendment to or release of this Site Lease proposed by the State upon delivery to the Trustee of an opinion of Bond Counsel stating that such amendment or release does not violate the Indenture or the Leases.

**Section 12.08. Events Occurring on Days that are not Business Days.** If the date for making any payment or the last day for performance of any act or the exercising of any right under this Site Lease is a day that is not a Business Day, such payment may be made, such act may be performed or such right may be exercised on the next succeeding Business Day, with the same force and effect as if done on the nominal date provided in this Site Lease.

**Section 12.09. Legal Description of Land Included in Leased Property.** The legal description of the land included in the Leased Property subject to this Site Lease is set forth in Exhibit A hereto. If the land included in the Leased Property subject to this Site Lease is modified pursuant to the terms of this Site Lease or other land is substituted for land included in the Leased Property subject to this Site Lease pursuant to the terms of this Site Lease, the legal description set forth in Exhibit A hereto will be amended to describe the land included in the Leased Property subject to this Site Lease after such modification or substitution.

**Section 12.10. Merger.** The State, the Site Lessor, the Trustee and any Sublessee that leases the Leased Property intend that the legal doctrine of merger shall have no application to this Site Lease, the 2012H Lease or the Sublease pursuant to which the Leased Property is subleased to the Site Lessor or a charter school for which the Site Lessor is the Chartering Authority and that none of the execution and delivery of this Site Lease by the Site Lessor and the Trustee, the 2012H Lease by the Trustee and the State or such Sublease by the State and the Sublessee or the exercise of any remedies by any party under this Site Lease, the 2012H Lease or such Sublease shall operate to terminate or extinguish this Site Lease, the 2012H Lease or such Sublease.

**Section 12.11. Severability.** In the event that any provision of this Site Lease, other than the obligation of the Site Lessor to provide quiet enjoyment of the Leased Property, 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 12.12. Captions.** The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this Site Lease.

**Section 12.13. Applicable Law.** The laws of the State and rules and regulations issued pursuant thereto, as the same may be amended from time to time, shall be applied in the interpretation, execution and enforcement of this Site Lease. Any provision of this Site Lease, whether or not incorporated herein by reference, which provides for arbitration by an extra-judicial body or person or which is otherwise in conflict with said laws, rules and regulations shall be considered null and void. Nothing contained in any provision hereof or incorporated herein by reference which purports to negate this Section in whole or in part shall be valid or enforceable or available in any action at law whether by way of complaint, defense or otherwise. Any provision rendered null and void by the operation of this Section will not invalidate the remainder of this Site Lease to the extent that this Site Lease is capable of execution. At all times during the performance of this Site Lease, the Site Lessor and the Trustee shall strictly adhere to all applicable federal and State laws, rules and regulations that have been or may hereafter be established.

**Section 12.14. Execution in Counterparts.** This Site Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 12.15. Value of Land.** The Site Lessor estimates that the value of the land included in the Leased Property as of the date this Site Lease is entered into is \_\_\_\_\_.



IN WITNESS WHEREOF, the Trustee and the Site Lessor have executed this Site Lease as of the date first above written.

ZIONS FIRST NATIONAL BANK, solely in its capacity as trustee under the Indenture

By \_\_\_\_\_  
Authorized Signatory

[DISTRICT SEAL]

[\_\_\_\_\_]

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

ATTEST:

By \_\_\_\_\_  
Secretary

[Signature Page to Site Lease of \_\_\_\_\_]

STATE OF COLORADO )  
 ) ss.  
CITY AND COUNTY OF DENVER )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of December, 2012  
by \_\_\_\_\_, as an authorized signatory of Zions First  
National Bank.

WITNESS MY HAND AND OFFICIAL SEAL, the day and year above written.

[NOTARIAL SEAL]

\_\_\_\_\_  
Notary

My commission expires:

\_\_\_\_\_

STATE OF COLORADO            )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of December, 2012,  
by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_.

WITNESS MY HAND AND OFFICIAL SEAL, the day and year above written.

[NOTARIAL SEAL]

\_\_\_\_\_  
Notary

My commission expires:

\_\_\_\_\_

**EXHIBIT A**

**LEGAL DESCRIPTION OF LAND INCLUDED IN LEASED PROPERTY**

[insert]

After recording return to:  
Michael R. Johnson  
Kutak Rock LLP  
1801 California Street, Suite 3100  
Denver, Colorado 80202

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**FORM OF**  
**STATE OF COLORADO**  
**BUILDING EXCELLENT SCHOOLS TODAY**  
**SUBLEASE OF [NAME OF SUBLESSEE]**

by and between

**STATE OF COLORADO,**  
**acting by and through the State Treasurer,**

and

**PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE BOARD,**  
**acting on behalf of the State of Colorado,**  
**both as sublessor**

and

\_\_\_\_\_,  
**as the Sublessee**

[and

**[if Sublessee is a charter school, insert name of Chartering Authority],**  
**as the Sublessee's Chartering Authority]**

Dated as of December [6], 2012

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**STATE OF COLORADO  
BUILDING EXCELLENT SCHOOLS TODAY  
SUBLEASE OF [NAME OF INSTITUTION]**

This State of Colorado Building Excellent Schools Today Sublease of [name of sublessee] (this "Sublease") is dated as of December [6], 2012 and is entered into by and between the State of Colorado, acting by and through the State Treasurer, and the Public School Capital Construction Assistance Board, acting on behalf of the State (collectively, the "State"), both as sublessor, [and] \_\_\_\_\_, as sublessee (the "Sublessee") [, and \_\_\_\_\_, as the Sublessee's Chartering Authority]. *Capitalized terms used but not defined in this Sublease have the meanings assigned to them in the Glossary attached to the State of Colorado Building Excellent Schools Today Master Trust Indenture dated August 12, 2009, as such Glossary has been amended, supplemented and restated by the Glossary attached to the State of Colorado Building Excellent Schools Today Series 2012H Supplemental Trust Indenture dated December [6], 2012 and as it may further be amended, supplemented and restated from time to time.*

RECITALS

A. The Sublessee or the Sublessee's Chartering Authority has leased the Leased Property to the Trustee pursuant to a Site Lease. The State Treasurer, on behalf of the State and on the instructions of the Assistance Board, has leased the Leased Property from the Trustee pursuant to the 2012H Lease.

B. The State, acting by and through the State Treasurer on the instructions of the Assistance Board set forth in Assistance Board Resolution No. 12-\_\_ and as authorized under the Act, and the Assistance Board, acting on behalf of the State and as authorized under the Act, will sublease the Leased Property to the Sublessee pursuant to this Sublease; and the Sublessee is authorized by applicable law, its governing documents, if relevant, and action of its Governing Body to, and will, sublease the Leased Property from the State pursuant to this Sublease.

C. To satisfy the Sublessee's obligation to pay Matching Moneys to the State with respect to the Sublessee's Project, the Sublessee, in accordance with Article V hereof, has delivered a Matching Moneys Bond or agreed to pay cash, Matching Moneys Installment Payments or Base Rent to the State.

D. Proceeds of the 2012H Certificates issued pursuant to the Indenture will be used to finance the Project of the Sublessee.

AGREEMENT

For and in consideration of the mutual covenants and the representations, covenants and warranties herein contained, the parties hereto hereby agree as follows:

## ARTICLE I

### CERTIFICATIONS, REPRESENTATIONS AND AGREEMENTS

**Section 1.01. Certifications, Representations and Agreements by State.** The State hereby certifies, represents and agrees that:

(a) The State Treasurer, pursuant to § 22-43.7-110(2)(f) of the Act, has reviewed this Sublease and, by executing this Sublease, is providing written authorization to the Assistance Board to enter into it. The State Treasurer, acting on behalf of the State, is entering into this Sublease pursuant to the instructions of the Assistance Board set forth in Assistance Board Resolution No. 12-\_\_.

(b) The State is authorized under the Act to lease the Leased Property to the Sublessee pursuant to this Sublease and to execute, deliver and perform its obligations under this Sublease.

(c) This Sublease has been duly executed and delivered by the State and is valid and binding obligation enforceable against the State in accordance with its terms, limited only by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally, by equitable principles, whether considered at law or in equity, by the exercise by the State and its governmental bodies of the police power inherent in the sovereignty of the State and by the exercise by the United States of America of the powers delegated to it by the Constitution of the United States of America.

(d) The execution, delivery and performance of the terms of this Sublease by the State does not and will not conflict with or result in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the State is now a party or by which the State is bound, or constitute a default under any of the foregoing, violate any Requirement of Law applicable to the State, or, except as specifically provided in the 2012H Lease, the Indenture, this Sublease or the Sublessee's Site Lease, result in the creation or imposition of a lien or encumbrance whatsoever upon any of the property or assets of the State.

(e) There is no litigation or proceeding pending or threatened against the State or any other Person affecting the right of the State to execute, deliver or perform its obligations of the State under this Sublease.

**Section 1.02. Certifications, Representations and Agreements by Sublessee.** The Sublessee certifies, represents and agrees that:

(a) The Sublessee is an Eligible K-12 Institution and is duly organized, validly existing and in good standing under Colorado law. The Sublessee is authorized under applicable law, its governing documents, if relevant, and action of its Governing Body to sublease the Leased Property from the State pursuant to this Sublease and to execute, deliver and perform its obligations under this Sublease and, if applicable, the Sublessee's Matching Moneys Bond.

(b) The Sublessee's Project is a capital construction project as defined in the Act and all moneys requisitioned from the Sublessee's Project Account pursuant to Section 4.10 hereof will be used to pay costs of capital construction as defined in the Act.

(c) The execution, delivery and performance of this Sublease and, if applicable, the Sublessee's Matching Moneys Bond have been duly authorized by the Governing Body of the Sublessee.

(d) The Sublessee has received all approvals and consents required for the Sublessee's execution, delivery and performance of its obligations under this Sublease and, if applicable, the Sublessee's Matching Moneys Bond.

(e) This Sublease and, if applicable, the Sublessee's Matching Moneys Bond have been duly executed and delivered by the Sublessee and are valid and binding obligations enforceable against the Sublessee in accordance with their respective terms, limited only by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally, by equitable principles, whether considered at law or in equity, by the exercise by the State and its governmental bodies of the police power inherent in the sovereignty of the State and by the exercise by the United States of America of the powers delegated to it by the Constitution of the United States of America.

(f) The execution, delivery and performance of this Sublease and, if applicable, the Sublessee's Matching Moneys Bond do not and will not conflict with or result in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Sublessee is now a party or by which the Sublessee is bound, or constitute a default under any of the foregoing, violate any Requirement of Law applicable to the Sublessee, or, except as specifically provided in the 2012H Lease, the Indenture, this Sublease or the Site Lease pursuant to which the Leased Property is leased to the Trustee or, if applicable, the Sublessee's Matching Moneys Bond result in the creation or imposition of a lien or encumbrance whatsoever upon any of the property or assets of the Sublessee.

(g) There is no litigation or proceeding pending or threatened against the Sublessee affecting the right of the Sublessee to execute, deliver or perform its obligations under this Sublease or, if applicable, the Sublessee's Matching Moneys Bond.

(h) The Sublessee will receive economic and other benefits by the subleasing of the Leased Property by the Sublessee pursuant to this Sublease. The initial Leased Property is, and any Leased Property substituted for the initial Leased Property will be, property that is necessary and essential to the purposes and operations of the Sublessee. The Sublessee expects that the Leased Property will adequately serve the needs for which it is being subleased throughout the Scheduled Sublease Term.

(i) The Sublessee's Proportionate Share of the Base Rent payable by the State under the 2012H Lease in each Fiscal Year during the Lease Term of the 2012H Lease is

not more than the fair value of the use of the Sublessee's Leased Property during such Fiscal Year.

(j) The sum of the Rent payable by the Sublessee under this Sublease and, as applicable, the principal, premium, if any, and interest payable by the Sublessee under its Matching Moneys Bond or the Matching Moneys Installment Payments payable by the Sublessee in each Fiscal Year during the Sublease Term is not more than the fair value of the use of the Sublessee's Leased Property during such Fiscal Year and does not exceed a reasonable amount so as to place the Sublessee under an economic compulsion to take one of the following actions in order to avoid forfeiting such excess (i) to continue this Sublease beyond any Fiscal Year, (ii) not to exercise its right to terminate this Sublease at any time through an Event of Nonappropriation or (iii) to exercise its option to purchase the Leased Property hereunder. The Sublessee's Purchase Option Price pursuant to Section 9.01 hereof is the Sublessee's current best estimate of the fair purchase price of the Leased Property that will be in effect at the time of exercise of the Sublessee's option to purchase the Leased Property pursuant to such Section. The Scheduled Sublease Term of this Sublease does not exceed the weighted average useful life of the improvements or any other real property improvements included in the Leased Property. In making the representations, covenants and warranties set forth above in this subsection and the immediately preceding subsection of this Section, the Sublessee has given due consideration to the Sublessee's Project, the purposes for which the Leased Property will be used by the Sublessee, the benefits to the Sublessee from the use of the Leased Property, the Sublessee's option to purchase the Leased Property hereunder and the terms of this Sublease governing the use of the Leased Property.

(k) The Sublessee presently intends and expects to continue the Sublease Term annually until title to the Leased Property is acquired by the Sublessee pursuant to this Sublease; but this representation does not obligate or otherwise bind the Sublessee.

(l) The Sublessee is not aware of any current violation of any Requirement of Law relating to the Leased Property and accepts full responsibility for any prior or future violations of any Requirement of Law relating to environmental issues relating to the Leased Property.

(m) The Governing Body of the Sublessee has appropriated sufficient moneys to pay the Additional Rent estimated to be payable hereunder in the current Fiscal Year and, as applicable, the Base Rent, the principal and interest payable under its Matching Moneys Bond or the Matching Moneys Installment Payments payable in the current Fiscal Year.

(n) The certifications, representations and agreements with respect to federal income tax matters set forth in the Tax Compliance Certificate executed and delivered by the Sublessee in connection with the execution and delivery of this Sublease are hereby incorporated in this Sublease as if set forth in full in this subsection.

(o) The Sublessee has not, except as otherwise specifically provided herein, entered into any agreement or arrangement to transfer to any Person all or any portion of

its interest in the Leased Property or to any fee title that it may obtain in the real estate to which the Leased Property relates.

## ARTICLE II

### DEMISING CLAUSE; ENJOYMENT OF LEASED PROPERTY

**Section 2.01. Demising Clause.** The State demises and leases the State's leasehold estate under the 2012H Lease in the land described in Exhibit A hereto (the "Land" for purposes of this Sublease) and the buildings, structures and improvements now or hereafter located on the Land (together with the Land, the "Leased Property" for purposes of this Sublease) to the Sublessee in accordance with the terms of this Sublease, subject only to Permitted Encumbrances, to have and to hold for the Sublease Term.

**Section 2.02. Enjoyment of Leased Property.** The State covenants that, during the Sublease Term and so long as no Event of Default hereunder shall have occurred, the Sublessee shall peaceably and quietly have, hold and enjoy the Leased Property without suit, trouble or hindrance from the State, except as expressly required or permitted by this Sublease.

## ARTICLE III

### SUBLEASE TERM; TERMINATION OF SUBLEASE TERM

#### **Section 3.01. Sublease Term.**

(a) The Sublease Term is the Initial Term and successive one-year Renewal Terms, subject to subsection (b) of this Section.

(b) The Sublease Term shall expire upon the earliest of any of the following events:

(i) termination of the 2012H Lease in accordance with its terms;

(ii) June 30 of the Initial Term or June 30 of any Renewal Term during which, in either case, an Event of Nonappropriation under this Sublease has occurred; or

(iii) termination of this Sublease following an Event of Default under this Sublease in accordance with Section 12.02(a) hereof.

**Section 3.02. Effect of Termination of Sublease Term.** Upon termination of the Sublease Term:

(a) all unaccrued obligations of the Sublessee under this Sublease shall terminate, but all such obligations of the Sublessee that have accrued hereunder prior to such termination shall continue until they are discharged in full;

(b) if the termination occurs because of the occurrence of an Event of Nonappropriation or an Event of Default under this Sublease or because of the termination of the 2012H Lease as a result of an Event of Nonappropriation or an Event of Default under the 2012H Lease, the Sublessee's right to possession of the Leased Property hereunder shall terminate and (i) the Sublessee shall, within 90 days, vacate the Leased Property; and (ii) if and to the extent the Governing Body of the Sublessee has appropriated funds for payment of Base Rent, if applicable, and Additional Rent payable during, or with respect to the Sublessee's use of the Leased Property during, the period between termination of the Sublease Term and the date the Leased Property is vacated pursuant to clause (i), the Sublessee shall pay Base Rent, if applicable, to the State and Additional Rent to the Person entitled thereto; and

(c) the obligations of the Sublessee to make payments under the Sublessee's Matching Moneys Bond or Matching Money Installment Payments, as applicable, shall continue until, as applicable, all amounts payable under the Sublessee's Matching Moneys Bond have been paid or the Sublessee's Matching Moneys Bond is redeemed or cancelled in accordance with its terms or all Matching Moneys Installment Payments have been paid.

**Section 3.03. Cancellation of Sublease by State.** Notwithstanding any other provision hereof, the State, in its sole discretion, may cancel this Sublease at any time if, on or before December [6], 2013, (a) the Trustee has not received the title insurance policy for the Leased Property described in paragraph 1 of the form of Requisition attached as Appendix B to the 2012H Supplemental Indenture (which amends and restates in its entirety the form of Requisition attached to Appendix A to the Master Indenture) and (b) the Sublessee has not entered into and does not have a reasonable expectation that it will enter into one or more Project Contracts for the Sublessee's Project as described in paragraph 2 of the form of Requisition attached as Appendix B to the 2012H Supplemental Indenture (which amends and restates in its entirety the form of Requisition attached to Appendix A to the Master Indenture). The State shall deliver written notice to the Sublessee specifying the effective date of any such cancellation at least 15 days prior to the effective date of the cancellation. Upon cancellation, the Sublessee shall have no further rights under this Sublease, the State may direct the Trustee to use the moneys in the Sublessee's Project Account for the Costs of another Project or for any purpose permitted under the Indenture, the State shall cause the Trustee to cancel and release the Site Lease pursuant to which the Leased Property has been leased to the Trustee and the State shall return to the Sublessee any Matching Moneys paid to the State (including any principal or interest paid on the Sublessee's Matching Money's Bond) and cancel and return to the Sublessee the Sublessee's Matching Moneys Bond.

## ARTICLE IV

### PROJECT

**Section 4.01. Sublessee to Construct Project in Accordance with Specifications.** The Sublessee shall construct the Project (the "Work") in accordance with the Specifications attached hereto as Exhibit B, with such changes in the Specifications, if any, that are approved by the State in writing.

#### **Section 4.02. Completion Date.**

(a) The Sublessee shall cause the Work to be done promptly and with due diligence and shall use its best efforts to cause the Completion Date to occur by the third anniversary of this Sublease (the “Scheduled Completion Date”). The “Completion Date” is the date the Sublessee delivers a certificate (the “Completion Certificate”) to the State and the Trustee (i) stating that to the best of the Sublessee’s knowledge, based upon the representations of contractors, architects, engineers, vendors or other consultants, (A) the Project has been completed in accordance with Section 4.01 hereof and (B) except for any amounts estimated by the Sublessee to be necessary for payment of any Costs of the Project not then due and payable and costs of the Project included in requisitions that have been submitted to the Trustee but have not yet been paid by the Trustee, all Costs of the Project have been paid; (ii) stating that the real property improved by the Project has been insured in accordance with Section 7.01 hereof in the dollar amount set forth in such certificate or the certificate of insurance attached thereto; and (iii) to which is attached a certificate of insurance in which the insurer certifies that the real property improved by the Project has been insured by such insurer in the dollar amount set forth therein.

(b) If the Completion Date does not occur by the Scheduled Completion Date for any reason other than Force Majeure, the State or the Trustee, with the consent of the State, may, but shall not be required to, retain a Person other than the Sublessee to complete the Project and recover from the Sublessee all reasonable costs incurred by or on behalf of the State or the Trustee in completing the Project.

**Section 4.03. Contractor Guarantees.** The Sublessee shall cause each Contractor with which the Sublessee contracts directly to guarantee all Work performed by it or any subcontractor or other Person performing Work on its behalf against defective workmanship and materials for a period of one year after the Completion Date, provided that such one year period shall not begin with respect to any item that is not completed on the Completion Date until such item is completed. The Sublessee shall assign to the State any guarantee of workmanship and materials which it may receive but shall retain the right to enforce such guarantee directly.

**Section 4.04. Performance and Payment Bonds.** The Sublessee shall require that each Contractor provide a performance bond and a separate labor and material payment bond, each of which shall (a) be executed by a corporate surety licensed to do business in the State, (b) be in customary form, (c) be in the amount payable to such Contractor pursuant to its Project Contract and (d) be payable to the Sublessee. If, at any time prior to completion of the Work covered by any such bond, the surety shall be disqualified from doing business within the State, a new bond shall be provided from an alternate surety licensed to do business in the State. The amount of each bond shall be increased or decreased, as appropriate, to reflect changes to the Specifications orders under Section 4.01 hereof. A copy of each such bond and all modifications thereto shall be furnished to the State within 60 days of the effective date of the related Project Contract. The Sublessee hereby assigns its rights to any proceeds under such bonds to the State and the Trustee.

**Section 4.05. Builder’s Risk Completed Value Insurance.** The Sublessee shall procure and maintain, at its own cost and expense, until the property to which such insurance relates is insured by the Sublessee pursuant to Section 7.01 hereof or, if Section 7.01 does not



apply because the property improved by the Project is not included in the Leased Property, until the Project is completed, standard, all risk of loss builder's risk completed value insurance upon property included in or that is imposed by the Project. A certificate of insurance evidencing such insurance shall be provided to the State.

**Section 4.06. General Public Liability and Property Damage Insurance.** The Sublessee shall require that each Contractor procure and maintain, at its own cost and expense, during such Contractor's Project Contract, standard form comprehensive general public liability and property damage insurance that covers all claims for bodily injury, including death, and claims for destruction of or damage to the property (other than the Work itself), arising out of or in connection with any operations under the Contractor's Project Contract, whether such operations be by the Contractor or by a subcontractor. The insurance shall include the limits and coverage specified for the State of Colorado, Office of the State Architect, State Buildings Programs. Such policies shall include the State and the Trustee as additional insureds and shall include a provision prohibiting cancellation, termination or alteration except pursuant to the policy. A certificate of insurance evidencing such insurance shall be provided to the State with respect to each Contractor within 60 days of the effective date of the related Project Contract.

**Section 4.07. Workers' Compensation Insurance.** The Sublessee shall require that each Contractor procure and maintain, at its own cost and expense, workers' compensation insurance as required by Colorado law during the term of its contract, covering all persons working under its Project Contract. Such insurance shall contain a provision that such coverage shall not be canceled, terminated or altered without 30 days' prior written notice to the State and the Trustee. Certificates evidencing such coverage shall be provided to the State.

**Section 4.08. Defaults Under Project Contracts.** In the event of any default under any Project Contract, or in the event of a breach of warranty with respect to any materials, workmanship or performance or other Work, which default or breach results in frustration of the purpose for which the property improved by the Project was intended, the Sublessee shall promptly proceed, either separately or in conjunction with others, to pursue diligently its remedies, including any remedy against the surety of any bond securing the performance of the Project Contract.

**Section 4.09. Assignment of Rights Under Project Contracts.** The Sublessee hereby assigns to the State and the Trustee, and each Project Contract shall expressly provide that the State and the Trustee shall have, the right to enforce each Project Contract against the Contractor (a) following termination of this Sublease and (b) in any case where, in the reasonable judgment of the State or the Trustee, with the consent of the State, the Sublessee has failed to enforce the terms of such Project Contract in a manner consistent with the obligations of the Sublessee under this Sublease.

**Section 4.10. Costs of the Project.**

(a) The Sublessee, with the approval of the State, may withdraw available money from the Sublessee's Project Account in an amount up to the proceeds of the Series 2012H Certificates and Allocated Investment Earnings deposited into the Sublessee's Project Account pursuant to the Indenture to pay, or reimburse the Sublessee

for the payment by Sublessee of, Costs of the Sublessee's Project by delivering to the Trustee a Requisition in the form of Appendix B to the 2012H Supplemental Indenture (which amends and restates in its entirety the form of Requisition attached to Appendix A to the Master Indenture), signed by the Sublessee Representative and with the State's approval evidenced by the signature of the State Representative. If more than one Project Account has been established pursuant to the Indenture to pay Costs of the Sublessee's Project, the term Project Account in this subsection shall include all such Project Accounts and moneys shall be withdrawn from such Project Accounts pursuant to this subsection in the order provided in the Indenture.

(b) If the Sublessee has satisfied its obligation to pay Matching Moneys with respect to its Project by delivering a cash payment and if Exhibit D hereto states that a specified amount of money in the Assistance Fund will be available to pay a portion of the Costs of the Sublessee's Project, after the Sublessee has withdrawn all moneys that it may withdraw from the Sublessee's Project Account pursuant to subsection (a) of this Section, the Sublessee, with the approval of the State, may withdraw money from the Assistance Fund in an amount up to the amount specified in Exhibit D hereto to pay, or reimburse the Sublessee for the payment by Sublessee of, Costs of the Sublessee's Project by delivering to the Assistance Board a Requisition in the form of Exhibit E hereto, signed by the Sublessee Representative and with the State's approval evidenced by the signature of the State Representative.

(c) Upon and effective on each date a Requisition is signed and delivered to the Trustee pursuant to subsection (a) of this Section or to the Assistance Board pursuant to subsection (b) of this Section, the representations of the Sublessee set forth in such Requisition are incorporated in this Sublease as if set forth herein in full.

**Section 4.11. Excess Costs and Cost Savings.** The Sublessee shall pay all Costs of the Project that exceed the moneys that may be withdrawn from the Sublessee's Project Account and the Assistance Fund pursuant to Section 4.10 hereof from sources other than money withdrawn from the Sublessee's Project Account and the Assistance Fund pursuant to Section 4.10 hereof. If the Costs of the Project are less than the amount of the moneys that may be withdrawn from the Sublessee's Project Account and the Assistance Fund pursuant to Section 4.10 hereof (a "cost savings"), a portion of such cost savings, as determined by the State Treasurer, may, upon the consent of the Assistance Board, be shared with the Sublessee through the return of a portion of any cash payment of Matching Moneys or forgiveness of a portion of the Base Rent that would otherwise be payable hereunder, principal, premium, if any, and interest that would otherwise be due on the Sublessee's Matching Moneys Bond or Matching Moneys Installment Payments that would otherwise be payable hereunder, as applicable.

**Section 4.12. Compliance with Tax Certificate.** The Sublessee shall comply with the provisions of the Tax Compliance Certificate executed and delivered by the Sublessee in connection with the execution and delivery of this Sublease that are applicable to the construction of the Project, including but not limited to, if the Tax Compliance Certificate provides that such standards are applicable to the Sublessee's Project, complying with the prevailing wage standards under 40 U.S.C. § 3141 (sometimes referred to as the Davis-Bacon Act).

**Section 4.13. Records.** The Sublessee shall maintain copies of all requisition forms and Project Contracts, including but not limited to subcontracts, purchase orders and procurement documents, and provide copies to the State and the Assistance Board upon request. All such documents and records relating to the Project shall be retained by the Sublessee during the term of this Sublease and shall be provided to the State upon request. The Trustee is required under the Indenture to provide to the Sublessee at its request an accounting of all receipts and disbursements from the Sublessee's Project Account.

## ARTICLE V

### MATCHING MONEYS

**Section 5.01. Sublessee's Obligation to Pay Matching Moneys.** Certain information regarding the Sublessee's obligation to pay Matching Moneys with respect to its Project is set forth in Exhibit D hereto.

(a) ***No Matching Moneys.*** If Exhibit D hereto provides that there are no Matching Moneys, the Sublessee is not obligated to pay Matching Moneys with respect to its Project.

(b) ***Cash Payment.*** If Exhibit D hereto provides that the source of Matching Moneys is a cash payment, the Sublessee has satisfied its obligation to pay Matching Moneys by paying cash to the State on the date this Sublease is executed and delivered. If Exhibit D states that a specified amount of money in the Assistance Fund will be available to pay a portion of the Costs of the Sublessee's Project, the Sublessee shall be authorized to withdraw money, up to the amount specified in Exhibit D hereto, to pay Costs of the Sublessee's Project in accordance with, and subject to the terms of Section 4.10(b) hereof.

(c) ***Base Rent.*** If Exhibit D hereto provides that the source of Matching Moneys is Base Rent, the Sublessee shall, subject only to the provisions of Article VI hereof, pay Base Rent to the State during the Lease Term in immediately available funds in the amounts and on the Base Rent Payment Dates set forth in Exhibit D hereto.

(d) ***Matching Moneys Bond.*** If Exhibit D hereto provides that the source of Matching Moneys is a Matching Moneys Bond, the Sublessee has satisfied its obligation to pay Matching Moneys with respect to its Project by issuing and delivering to the State the Sublessee's Matching Moneys Bond on the date this Sublease is executed.

(e) ***Matching Moneys Installment Payments.*** If Exhibit D hereto provides that the source of Matching Moneys is Matching Moneys Installment Payments, the Sublessee shall make cash payments in immediately available funds to the State in the amounts, on the payment dates and from the sources set forth in Exhibit D hereto. Notwithstanding any other provision hereof, the obligation of a Sublessee to pay a Matching Moneys Installment Payment in any Fiscal Year beyond the Sublessee's current Fiscal Year is subject to appropriation of such Matching Moneys Payment by the Governing Body of such Sublessee. The officer of the Sublessee who is responsible for

formulating budget proposals with respect to Matching Moneys Installment Payments is hereby directed to include as a line item in each annual budget proposal submitted to the Governing Body of the Sublessee for any Fiscal Year in which an Matching Moneys Installment Payment is payable the entire amount of the Matching Moneys Installment Payment payable during such Fiscal Year; it being the intention of the Sublessee that any decision to pay or not to pay such Matching Moneys Installment Payment shall be made solely by the Governing Body of the Sublessee, in its sole discretion, and not by any department, agency or official of the Sublessee. If the Sublessee intends to fund its Matching Moneys Installment Payments from the proceeds of a grant, the Governing Body of the Sublessee agrees to use its best efforts to comply with the terms of the grant and to pay all proceeds of the grant when received by the Sublessee.

(f) *Special Arrangements.* Any special arrangement regarding the Sublessee's Matching Moneys that does not fit the categories described in subsections (a) through (e) of this Section shall be described in Exhibit D hereto.

(g) *More Than One Source.* If Exhibit D hereto provides that there is more than one source of Matching Moneys, the provisions hereof regarding the payment of Matching Moneys shall apply to each such source separately.

**Section 5.02. Obligations and Rights with respect to Matching Moneys Bond and Matching Moneys Installment Payments Independent of Sublease.** The obligations of the Sublessee and the rights of the State with respect to the Sublessee's Matching Moneys Bond or the Sublessee's Matching Moneys Installment Payments, as applicable, are independent of the obligations of the Sublessee and the rights of the State under this Sublease and, except as otherwise specifically provided herein, (a) the obligations of the Sublessee and the rights of the State with respect to the Sublessee's Matching Moneys Bond or the Sublessee's Matching Moneys Installment Payments, as applicable, shall survive the termination of this Sublease and (b) no failure to perform or other action of the State with respect to this Sublease shall affect the State's rights to enforce the obligations of the Sublessee to make payments under the Sublessee's Matching Moneys Bond or to pay its Matching Moneys Installment Payments, as applicable.

**Section 5.03. Use of Matching Moneys.** The State shall deposit Matching Moneys it receives into the Assistance Fund.

**Section 5.04. References to Cash Payments of Matching Moneys, Base Rent, Matching Moneys Bonds, and Matching Moneys Installment Payments.** The State has entered into many, and in the future will enter into many more, subleases similar to this Sublease pursuant to which the sublessees will satisfy their obligations to pay Matching Moneys in a variety of ways. In order to assist the State in administering such subleases, the subleases have been drafted to be as uniform as practicable, including the inclusion of references to cash payments of Matching Moneys that are not applicable to the Sublessee if it is not satisfying its obligations to pay Matching Moneys by making cash payments, references to Base Rent that are not applicable to the Sublessee if the Sublessee is not satisfying its obligation to pay Matching Moneys by paying Base Rent, references to Matching Moneys Bonds that are not applicable to the Sublessee if the Sublessee is not satisfying its obligation to pay Matching Moneys by

delivering a Matching Moneys Bond and references to Matching Moneys Installment Payments that are not applicable to the Sublessee if the Sublessee is not satisfying its obligation to pay Matching Moneys by paying Matching Moneys Installment Payments. In applying the terms of this Sublease to the Sublessee, (a) references to cash payments of Matching Moneys apply to the Sublessee only if the Sublessee is satisfying its obligation to pay Matching Moneys by making a cash payment, (b) references to Base Rent apply to the Sublessee only if the Sublessee is satisfying its obligation to pay Matching Moneys by paying Base Rent, (c) references to Matching Moneys Bonds apply to the Sublessee only if the Sublessee is satisfying its obligation to pay Matching Moneys by delivering a Matching Moneys Bond and (d) references to Matching Moneys Installment Payments apply to the Sublessee only if the Sublessee is satisfying its obligation to pay Matching Moneys by paying Matching Moneys Installment Payments.

## ARTICLE VI

### RENT; EVENT OF NONAPPROPRIATION

**Section 6.01. Base Rent.** If the Sublessee is satisfying its obligation to pay Matching Moneys by paying Base Rent, the Sublessee shall, subject only to the other Sections of this Article, pay Base Rent to the State during the Lease Term in immediately available funds in the amounts and on the Base Rent Payment Dates set forth in Exhibit D hereto.

**Section 6.02. Additional Rent.** Regardless of the manner in which the Sublessee is satisfying its obligation to pay Matching Moneys, the Sublessee shall, subject only to the other Sections of this Article, pay Additional Rent in immediately available funds in the amounts and on the dates on which it is due. The Sublessee shall pay all Additional Rent that specifically relates to the Leased Property subject to the Sublease directly to the Person or Persons to which it is owed. The Sublessee shall pay its Proportionate Share of any Additional Rent that does not specifically relate to the Leased Property subject to this Sublease that the State, in its sole discretion, determines should be paid by the Participating K-12 Institutions, to the State within 14 days of notice from the State or the Trustee of the amount due. The State's determinations as to whether any Additional Rent is specifically related to the Leased Property subject to this Sublease and as to whether any Additional Rent not specifically related to the Leased Property subject to this Sublease should be paid by the Participating K-12 Institutions, shall be binding on and shall not be subject to dispute or negotiation by the Sublessee. It is the expectation of the State that Additional Rent payable to the State pursuant hereto will not be significant.

**Section 6.03. Unconditional Obligations.** The obligation of the Sublessee to pay Base Rent, if applicable, during the Sublease Term shall, subject only to the other Sections of this Article, and the obligation of the Sublessee to pay Additional Rent during the Sublease Term shall, subject only to the other Sections of this Article, including, without limitation, Sections 6.04 and 6.05 hereof, be absolute and unconditional and shall not be abated or offset for any reason related to the Leased Property. Notwithstanding any dispute between the Sublessee and the State or between the Sublessee or the State and any other Person relating to the Leased Property, the Sublessee shall, during the Sublease Term, pay all Rent when due; the Sublessee shall not withhold any Rent payable during the Sublease Term pending final resolution of such dispute and shall not assert any right of set off or counter claim against its obligation to pay Rent, provided, however, that the payment of any Rent shall not constitute a waiver by the Sublessee

of any rights, claims or defenses which the Sublessee may assert; and no action or inaction on the part of the State shall affect the Sublessee's obligation to pay Rent during the Sublease Term.

**Section 6.04. Event of Nonappropriation.**

(a) The officer of the Sublessee who is responsible for formulating budget proposals with respect to payments of Rent is hereby directed (i) to estimate the Additional Rent payable in the next ensuing Fiscal Year prior to the submission of each annual budget proposal to the Governing Body of the Sublessee during the Sublease Term and (ii) to include as a line item in each annual budget proposal submitted to the Governing Body of the Sublessee during the Sublease Term the entire amount of Base Rent scheduled to be paid and Additional Rent estimated to be payable during the next ensuing Fiscal Year; it being the intention of the Sublessee that any decision to continue or to terminate the Sublease Term shall be made solely by the Governing Body of the Sublessee, in its sole discretion, and not by any other department, agency or official of the Sublessee.

(b) An Event of Nonappropriation shall be deemed to have occurred, subject to the Sublessee's right to cure pursuant to subsection (c) of this Section, on June 30 of any Fiscal Year if the Governing Body of the Sublessee has, on such date, failed, for any reason, to appropriate sufficient amounts authorized and directed to be used to pay all Base Rent scheduled to be paid and all Additional Rent estimated to be payable in the next ensuing Fiscal Year.

(c) Notwithstanding subsection (b) of this Section, an Event of Nonappropriation shall not be deemed to occur if, on or before August 1 of the next ensuing Fiscal Year, (i) the Governing Body of the Sublessee has appropriated or otherwise authorized the expenditure of amounts sufficient to avoid an Event of Nonappropriation under subsection (b) of this Section and (ii) the Sublessee has paid all Additional Rent due during the period from June 30 through the date of such appropriation or authorization.

(d) If the Sublessee shall determine to exercise its annual right to terminate the Sublease Term effective on June 30 of any Fiscal Year, the Sublessee shall give written notice to such effect to the State not later than March 1 of such Fiscal Year; provided, however, that a failure to give such notice shall not (i) constitute an Event of Default, (ii) prevent the Sublessee from terminating this Sublease or (iii) result in any liability on the part of the Sublessee.

(e) The Sublessee shall furnish the State with copies of all appropriation or expenditure authorization measures relating to Rent or the Purchase Option Price promptly upon the adoption thereof by the Governing Body of the Sublessee, but not later than 20 days following the adoption thereof by the Governing Body of the Sublessee; provided however, that a failure to furnish copies of such measures shall not (i) constitute an Event of Default, (ii) prevent the Sublessee from terminating this Sublease or (iii) result in any liability on the part of the Sublessee.

**Section 6.05. Limitations on Obligations of Sublessee.**

(a) The obligation of the Sublessee to pay (i) Rent hereunder and (ii) all other payments by the Sublessee hereunder except cash Matching Moneys payments (which must be paid on the date this Sublease is executed and delivered) and amounts payable pursuant to any Matching Money Bond (which are debt of the Sublessee) shall constitute currently appropriated expenditures of the Sublessee. All obligations of the Sublessee under this Sublease (except obligations to pay cash Matching Moneys payments and amounts payable pursuant to any Matching Moneys Bond) shall be subject to the action of the Governing Body of the Sublessee in annually making moneys available for payments hereunder. The obligations of the Sublessee to pay Rent and Matching Moneys Installment Payments and such other obligations (except cash Matching Moneys payments and amounts payable pursuant to any Matching Money Bond) are subject to appropriation by the Governing Body of the Sublessee in its sole discretion, and shall not be deemed or construed as creating an indebtedness of the Sublessee within the meaning of any provision of the State Constitution or the laws of the State concerning or limiting the creation of indebtedness of the Sublessee and shall not constitute a multiple fiscal year direct or indirect debt or other financial obligation of the Sublessee within the meaning of Section 20(4) of Article X of the State Constitution. In the event the Sublessee does not renew the Sublease Term, the sole security available to the State, as sublessor under this Sublease, for any such obligation of the Sublessee under this Sublease shall be the Leased Property.

(b) All of the Sublessee's obligations under this Sublease (except cash Matching Moneys payments and amounts payable pursuant to any Matching Moneys Bond) shall be subject to the Sublessee's annual right to terminate this Sublease upon the occurrence of an Event of Nonappropriation.

(c) The Sublessee shall be under no obligation whatsoever to exercise its option to purchase the Leased Property pursuant to Article IX hereof.

**Section 6.06. No Right to Compel Payment of Rent or Matching Moneys by State or another Participating K-12 Institution.** The Sublessee shall have no right to compel the State or any other Participating K-12 Institution to pay any Rent under any Lease or Rent, Matching Moneys or Matching Moneys Installment Payments under any Sublease or to pay the principal of, premium, if any, and interest on any Matching Moneys Bond and neither the State nor any such other Participating K-12 Institution shall have any liability to the Sublessee for a failure by the State to pay Rent under any Lease or a failure by any such other Participating K-12 Institution to pay such other Participating K-12 Institution's Rent, Matching Moneys or Matching Moneys Installment Payments under any such other Sublease or principal, premium, if any, or interest on its Matching Moneys Bond for any reason.

**ARTICLE VII**

**OPERATION, MAINTENANCE AND INSURANCE OF LEASED PROPERTY**

**Section 7.01. Taxes, Utilities and Insurance.**

(a) The Sublessee shall pay, as Additional Rent, all of the following expenses with respect to the Leased Property:

(i) all taxes, assessments and other charges lawfully made by any governmental body, provided that any such taxes, assessments or other charges that may lawfully be paid in installments may be paid in installments as such installments are due;

(ii) all gas, water, steam, electricity, heat, power and other utility charges incurred in connection with the Leased Property (including but not limited to, amounts paid to a Site Lessor for utilities provided by such Site Lessor pursuant to a Site Lease);

(iii) casualty and property damage insurance with respect to the Leased Property in an amount equal to the full replacement value of the Leased Property;

(iv) public liability insurance with respect to the activities to be undertaken by the Sublessee in connection with the Leased Property, the Sublessee's Project and this Sublease: (A) to the extent such activities result in injuries for which immunity is not available under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 et seq. or any successor statute, in an amount not less than the amounts for which the Sublessee may be liable to third parties thereunder and (B) for all other activities, in an amount not less than \$1,000,000 per occurrence.

(b) Except for Permitted Encumbrances, the Sublessee shall not allow any liens for taxes, assessments, other governmental charges or utility charges to exist with respect to any portion of the Leased Property. If the Sublessee shall first notify the Trustee and the State of the intention of the Sublessee to do so, the Sublessee may, however, in good faith contest any such tax, assessment, other governmental charge or utility charge and, in the event of any such contest, may permit the tax, assessment, other governmental charge or utility charge so contested to remain unpaid during the period of such contest and any appeal therefrom, unless the Trustee or the State shall notify the Sublessee that, in the opinion of Independent Counsel, whose fees and expenses shall be paid by the Sublessee, by nonpayment of any such item the interest of the Trustee or the State in the Leased Property will be materially interfered with or endangered or the Leased Property or any portion thereof will be subject to loss or forfeiture, in which event such tax, assessment, other governmental charge or utility charge shall be paid forthwith; provided, however, that such payment shall not constitute a waiver of the right to continue to contest such tax, assessment, other governmental charge or utility charge. At the request of the Sublessee, the State will cooperate fully with the Sublessee in any such contest.

(c) The insurance policies provided pursuant to subsection (a) of this Section shall meet the following conditions: (i) any insurance policy may have a deductible clause in an amount deemed reasonable by the State; (ii) each insurance policy shall be provided by an insurer that, at the time such policy is obtained or renewed, is rated "A"



by A.M. Best or in the two highest rating categories of S&P and Moody's; (iii) each insurance policy shall be so written or endorsed as to make losses, if any, payable to the State, the Sublessee and the Trustee, as their respective interests may appear; (iv) each insurance policy shall contain a provision to the effect that the insurance company shall not cancel the policy or modify it materially and adversely to the interest of the State, the Sublessee or the Trustee without first giving written notice thereof to the State, the Sublessee and the Trustee at least 30 days in advance of such cancellation or modification; (v) upon request each insurance policy, or each certificate evidencing such policy, shall be provided to the Trustee; (vi) full payment of insurance proceeds under any insurance policy up to the dollar limit required by this Section in connection with damage to the Leased Property shall, under no circumstance, be contingent on the degree of damage sustained at other property owned or leased by the State or any Sublessee; and (vii) each insurance policy shall explicitly waive any co-insurance penalty.

(d) In the Sublessee's discretion, the insurance required by this Section may be provided under blanket insurance policies which insure not only the risks required to be insured hereunder but also other similar risks or may be provided through a self-insurance program described in this subsection. If the property of the Sublessee is covered by the Colorado School Districts Self Insurance Pool, the self-insurance program shall be the Colorado School Districts Self Insurance Pool. If the property of the Sublessee is not covered by the Colorado School Districts Self Insurance Pool, the self-insurance program may, with the State's consent, be the Sublessee's independent risk management program, if any.

(e) At the request of the State or the Trustee, the Sublessee shall cause one or more insurance consultants to annually review the self-insurance program through which insurance is provided pursuant to this Section and confirm that it is maintained on an actuarially sound basis.

**Section 7.02. Maintenance and Operation of Leased Property.** The Sublessee shall maintain, preserve and keep the Leased Property, or cause the Leased Property to be maintained, preserved and kept, in good repair, working order and condition, subject to normal wear and tear, shall operate the Leased Property, or cause the Leased Property to be operated, in an efficient manner and at a reasonable cost, and shall make or cause to be made all necessary and proper repairs, except as otherwise provided in Sections 8.05 and 8.07 hereof.

**Section 7.03. Capital Renewal Reserve.** The Sublessee shall establish a capital renewal budget and make annual contributions to a capital renewal reserve as defined in § 22-43.7-109(4)(d) of the Act for the purpose of replacing major systems of the Project with projected life cycles such as roofs, interior finishes, electrical systems and heating, ventilating and air conditioning systems.

## ARTICLE VIII

### **TITLE TO LEASED PROPERTY; ENCUMBRANCES, EASEMENTS, MODIFICATIONS, SUBSTITUTION, DAMAGE, PERSONAL PROPERTY**

**Section 8.01. Title to Leased Property.** Title to the leasehold estate in the Leased Property under the 2012H Lease shall be held in the name of the State, subject to the Site Lease pursuant to which the Leased Property is leased to the Trustee, the 2012H Lease and this Sublease, until the Leased Property is conveyed or otherwise disposed of as provided herein, and the Sublessee shall have no right, title or interest in the Leased Property except as expressly set forth herein.

#### **Section 8.02. Limitations on Disposition of and Encumbrances on Leased Property.**

(a) Except as otherwise permitted in this Article or Article X or XI hereof and except for Permitted Encumbrances, (i) neither the State nor the Sublessee shall sell, assign, transfer or convey any portion of or any interest in the Leased Property or directly or indirectly create, incur or assume any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Leased Property, and (ii) the Sublessee shall promptly take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrance or claim.

(b) Notwithstanding subsection (a) of this Section, if the Sublessee shall first notify the Trustee and the State of the intention of the Sublessee to do so, the Sublessee may in good faith contest any such mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Leased Property, and in the event of any such contest, may permit the item so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom, unless the Trustee or the State has notified the Sublessee that, in the opinion of Independent Counsel, whose fees shall be paid by the Sublessee, by failing to discharge or satisfy such item the interest of the Trustee or the State in the Leased Property will be materially interfered with or endangered, or the Leased Property or any part thereof will be subject to loss or forfeiture, in which event such item shall be satisfied and discharged forthwith; provided, however, that such satisfaction and discharge shall not constitute a waiver by the Sublessee of the right to continue to contest such item. At the request of the Sublessee, the State will cooperate fully with the Sublessee in any such contest.

**Section 8.03. Granting of Easements.** As long as no Event of Nonappropriation or Event of Default shall have happened and be continuing, the State shall, at the request of the Sublessee and with the consent of the Trustee:

(a) consent to the grant of easements, licenses, rights of way (including the dedication of public highways) and other rights or privileges in the nature of easements with respect to the Leased Property, free from this Sublease and the 2012H Lease and any security interest or other encumbrance created hereunder or thereunder;

(b) consent to the release of existing easements, licenses, rights of way and other rights and privileges with respect to the Leased Property, free from this Sublease or the 2012H Lease and any security interest or other encumbrance created hereunder or thereunder, with or without consideration; and

(c) execute and deliver any instrument necessary or appropriate to confirm and grant or release any easement, license, right of way or other grant or privilege under subsection (a) or (b) of this Section, upon receipt of: (i) a copy of the instrument of grant or release; and (ii) a written application signed by the Sublessee Representative requesting such instrument and stating that such grant or release will not materially adversely affect the value, or interfere with the effective use or operation, of the Leased Property.

**Section 8.04. Subleasing and Other Grants of Use.** The Sublessee may sublease or otherwise grant the right to use such Leased Property to another Person, but only if:

(a) the sublease or grant of use by the Sublessee complies with the covenant in Section 10.04 hereof; and

(b) the obligations of the Sublessee under this Sublease shall remain obligations of the Sublessee, and the Sublessee shall maintain its direct relationship with the State, notwithstanding any such sublease or grant of use.

**Section 8.05. Modification of Leased Property.** The Sublessee, at its own expense, may remodel, or make substitutions, additions, modifications or improvements to, its portion of the Leased Property, provided that: (a) such remodeling, substitutions, additions, modifications and improvements (i) shall not in any way damage such portion of the Leased Property as it existed prior thereto and (ii) shall become part of the Leased Property; (b) the value of the Leased Property after such remodeling, substitutions, additions, modifications and improvements shall be at least as great as the value of the Leased Property prior thereto; (c) the cost of all remodeling, substitutions, additions, modifications and improvements shall not exceed 10% of the sum of the proceeds of the Series 2012H Certificates and Allocated Investment Earnings deposited into the Sublessee's Project Account without the written approval of the State; and (d) the Leased Property, after such remodeling, substitutions, additions, modifications and improvements, shall continue to be used as provided in, and shall otherwise be subject to the terms of, this Sublease.

**Section 8.06. Substitution of Other Property for Leased Property.** The Sublessee, with the consent of the State, which may be granted or withheld at the sole discretion of the State, may at any time propose that other property be substituted for the Leased Property subject to the Sublease under both the 2012H Lease and this Sublease. Any such proposal must be accompanied by the items listed below in form and substance satisfactory to the State. If the items listed below are delivered, the State consents to the substitution and the Sublessee pays the costs of the substitution, the State shall, and shall cooperate with the Sublessee to cause the Trustee to, execute and deliver any documents or instruments requested by the Sublessee to accomplish the substitution. The items are:

(a) A certificate by the Sublessee certifying that, following such substitution, the Fair Market Value of the substituted property, determined as of the date of substitution, is equal to or greater than the Fair Market Value of the property for which it is to be substituted.

(b) A title insurance policy, an amendment or supplement to a previously issued title insurance policy or a commitment to issue such a policy, amendment or supplement that would allow the Sublessee and the State to make the title insurance representation set forth in the form of Project Account requisition attached as Appendix B to the 2012H Supplemental Indenture.

(c) A certificate by the Sublessee certifying that (i) the useful life of the substituted property extends to or beyond the final maturity of the Series 2012H Certificates and (ii) the substituted property is at least as essential to the Sublessee as the property for which it was substituted.

(d) An agreement by the Sublessee to pay all costs incurred by the Sublessee, the State, the Trustee or any other Person in connection with the substitution, including but not limited to, the costs of the title insurance required by clause (b) of this Section, the Trustee's fees and expenses, the State's third party costs and reasonable charges for the time of State employees and allocable overhead.

(e) An opinion of Bond Counsel to the effect that such substitution is permitted by Section 7.06 of the 2012H Lease, will not cause the Sublessee to violate its tax covenant set forth in Section 10.04 hereof and will not cause the State to violate its tax covenant set forth in Section 9.04 of the 2012H Lease.

#### **Section 8.07. Property Damage, Defect or Title Event.**

(a) If a Property Damage, Defect or Title Event occurs with respect to any portion of the Leased Property, the Net Proceeds received as a consequence thereof shall be deposited into a special trust fund held by the Trustee.

(b) If the costs of the repair, restoration, modification, improvement or replacement of the portion of the Leased Property affected by the Property Damage, Defect or Title Event are equal to or less than the Net Proceeds, the Net Proceeds shall be used promptly to repair, restore, modify, improve or replace the affected portion of the Leased Property and any excess shall be delivered to the Sublessee.

(c) If the costs of the repair, restoration, modification, improvement or replacement of the portion of the Leased Property affected by the Property Damage, Defect or Title Event are more than the Net Proceeds, then, the Sublessee shall elect one of the following alternatives:

(i) to use the Net Proceeds to promptly repair, restore, modify or improve or replace the affected portion of the Leased Property with property of a value equal to or in excess of the value of such portion of the Leased Property, in which case the Net Proceeds shall be used to pay a portion of the costs thereof and

the Sublessee shall, subject to Article VI hereof, pay the remainder of such costs as Additional Rent;

(ii) to substitute property for the affected portion of the Leased Property pursuant to Section 8.06 hereof, in which case the Net Proceeds shall be delivered to the Sublessee; or

(iii) to use the Net Proceeds to promptly repair, restore, modify or improve or replace the affected portion of the Leased Property to the extent possible with the Net Proceeds.

(d) The Sublessee shall not voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim, performance or payment bond claim, prospective or pending condemnation proceeding, or any action relating to default or breach of warranty under any contract relating to any portion of the Leased Property without the written consent of the State and the Trustee.

(e) No Property Damage, Defect or Title Event shall affect the obligation of the Sublessee to pay Additional Rent hereunder.

**Section 8.08. Condemnation by Sublessee.** The Sublessee agrees that, to the extent permitted by law, in the event it brings an eminent domain or condemnation proceeding with respect to the Leased Property, such proceeding shall be with respect to all the Leased Property and the value of the Leased Property for purposes of such proceeding shall be not less than the Sublessee's Purchase Option Price.

**Section 8.09. Personal Property of State or Sublessee.** The State or the Sublessee, at their own expense, may install equipment and other personal property in or on any portion of the Leased Property, which equipment or other personal property shall not become part of the Leased Property unless it is permanently affixed to the Leased Property or removal of it would materially damage the Leased Property, in which case it will become part of the Leased Property.

## ARTICLE IX

### SUBLESSEE'S PURCHASE OPTION; CONVEYANCE TO SUBLESSEE UPON CONVEYANCE TO STATE

#### **Section 9.01. Sublessee's Purchase Option.**

(a) The Sublessee is hereby granted the option to purchase all, but not less than all, of the Leased Property subject to this Sublease following the occurrence of an Event of Default or an Event of Nonappropriation under the 2012H Lease by paying to the Trustee the "Sublessee's Purchase Option Price," which is an amount equal to (i) the principal amount of the Attributable Certificates (defined below in this subsection) and interest thereon through the closing date for the purchase of the Leased Property and (ii) all Additional Rent payable through the date of conveyance of such Leased Property to the Sublessee pursuant to Section 9.02 hereof, including, but not limited to, all fees and

expenses of the Trustee and all expenses of the State relating to the conveyance of the Leased Property and the payment of the Attributable Certificates.

As used in this subsection, the term “Attributable Certificates” means, subject to the next sentence, (i) a principal amount of the Outstanding Series 2012H Certificates determined by multiplying the principal amount of all the Outstanding Series 2012H Certificates by a fraction, the numerator of which is the sum of the proceeds of the Series 2012H Certificates and the Allocated Investment Earnings deposited into the Sublessee’s Project Account and the denominator of which is sum of the proceeds of the Series 2012H Certificates and the Allocated Investment Earnings deposited into the Project Accounts of all 2012H Sublessees; and (ii) which principal amount shall be allocated among the maturities of the Outstanding Series 2012H Certificates in proportion to the principal amount of each maturity of the Outstanding Series 2012H Certificates, rounded to the nearest \$5,000 in principal amount of each such maturity. Notwithstanding the preceding sentence, if any portion of the Series 2012H Certificates has been paid, redeemed or defeased with the proceeds of another Series of Certificates, in applying this definition, Outstanding Certificates of the portion of the other Series of Certificates the proceeds of which were used to pay, redeem or defease the Series 2012H Certificates shall be substituted for the Series 2012H Certificates that were paid, redeemed or defeased. The rounding pursuant to the first sentence of this definition and the substitution of Outstanding Certificates of another Series of Certificates pursuant to the immediately preceding sentence shall be accomplished in any reasonable manner selected by the State in its sole discretion.

(b) In order to exercise its option to purchase the Leased Property pursuant to subsection (a) of this Section, the Sublessee must: (i) give written notice to the Trustee and the State within 15 Business Days after the Sublessee is notified by the Trustee that an Event of Default or an Event of Nonappropriation under the 2012H Lease has occurred (A) stating that the Sublessee intends to purchase the Leased Property pursuant to this Section, (B) identifying the Person to which the Leased Property is to be conveyed, (C) identifying the source of funds it will use to pay Sublessee’s Purchase Option Price and (D) specifying a closing date for such purpose which is no more than 90 days after the delivery of such notice; and (ii) pay the Sublessee’s Purchase Option Price to the Trustee in immediately available funds on the closing date.

(c) Upon payment of the Sublessee’s Purchase Option Price to the Trustee pursuant to this Section, the Sublessee’s obligation to pay, as applicable, Base Rent, principal of, premium, if any, and interest on its Matching Moneys Bond or Matching Moneys Installment Payments shall terminate and, if the Sublessee has delivered a Matching Moneys Bond, the State shall cancel such Matching Moneys Bond or return it to the Sublessee, as directed by the Sublessee.

**Section 9.02. Conveyance of Leased Property.** At the closing of any purchase of the Leased Property pursuant to Section 9.01 hereof, the State shall execute and deliver, and shall cooperate with the Sublessee to cause the Trustee to execute and deliver, to the Sublessee all necessary documents assigning, transferring and conveying to the Sublessee or its designee the same ownership interest in the Leased Property that was conveyed to the Trustee by the Site

Lessor under its Site Lease to the Trustee, subject only to the following: (i) Permitted Encumbrances, other than this Sublease, the 2012H Lease, the Indenture and the Site Lease pursuant to which the Leased Property was leased to the Trustee; (ii) all liens, encumbrances and restrictions created or suffered to exist by the Trustee or the State as required or permitted by the 2012H Lease or this Sublease or arising as a result of any action taken or omitted to be taken by the Trustee or the State as required or permitted by this Sublease, the 2012H Lease, the Indenture, the Site Lease pursuant to which the Leased Property was leased to the Trustee; (iii) any lien or encumbrance created or suffered to exist by action of the Sublessee; and (iv) those liens and encumbrances (if any) to which the Leased Property was subject when acquired by the Trustee and the State.

**Section 9.03. Conveyance to Sublessee upon Conveyance to State.** If the Sublessee has complied with and performed all of its obligations under this Sublease and its Matching Moneys Bond, upon the conveyance of the Leased Property to the State pursuant to Section 8.04 of the 2012H Lease, the State shall assign, transfer and convey its ownership interest in the Leased Property to the Sublessee or its designee in the manner described in, and subject to the provisions of, Section 9.02 hereof without any additional payment by the Sublessee. Such conveyance of the State's ownership interest in the Leased Property will not, however, extinguish or otherwise affect the Sublessee's independent obligations to continue to pay any unpaid principal of, premium, if any, and interest on its Matching Moneys Bond pursuant to the terms of its Matching Moneys Bond or to pay its Matching Money Installment Payments hereunder.

## ARTICLE X

### GENERAL COVENANTS

**Section 10.01. Further Assurances and Corrective Instruments.** So long as this Sublease is in full force and effect and no Event of Nonappropriation or Event of Default shall have occurred, the State and the Sublessee shall have full power to carry out the acts and agreements provided herein and the Sublessee and the State, at the written request of the other, shall from time to time, execute, acknowledge and deliver or cause to be executed, acknowledged and delivered such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Leased Property leased or intended to be leased hereunder, or for otherwise carrying out the intention of or facilitating the performance of this Sublease.

**Section 10.02. Compliance with Requirements of Law.** On and after the date hereof, neither the State nor the Sublessee shall take any action with respect to the Leased Property that violates the terms hereof or is contrary to the provisions of any Requirement of Law. Without limiting the generality of the preceding sentence, the Sublessee, in particular, shall use the Leased Property in a manner such that (a) the Leased Property at all times is operated in compliance with all Requirements of Law; (b) all permits required by Requirements of Law in respect of the Sublessee's use of the Leased Property are obtained, maintained in full force and effect and complied with; (c) there shall be no hazardous substance, pollutant or contaminant (as those terms are defined in the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. § 9601, et seq., any applicable state law or regulations

promulgated under either), solid or hazardous waste (as defined in the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6901, et seq., any applicable state law or regulations promulgated under either), special waste, petroleum or petroleum derived substance, radioactive material or waste, polychlorinated biphenyls, asbestos or any constituent of any of the foregoing located on, in or under the Leased Property in violation of any Requirements of Law; (d) there shall be no disposal of any of the items referred to in clause (c) on, from, into or out of the Leased Property in violation of any Requirements of Law; and (e) there shall be no spillage, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leeching, dumping, disposing, depositing or dispersing of any of the items referred to in clause (c) into the indoor or outdoor environment from, into or out of the Leased Property, including but not limited to the movement of any such items through or in the air, soil, surface water, ground water from, into or out of the Leased Property or the abandonment or discard of barrels, containers or other open or closed receptacles containing any such items from, into or out of the Leased Property in violation of any Requirements of Law.

### **Section 10.03. Participation in Legal Actions.**

(a) At the request of and at the cost of the Sublessee (payable as Additional Rent hereunder), the State shall, and shall cooperate with the Sublessee to cause the Trustee to, join and cooperate fully in any legal action in which the Sublessee asserts its right to the enjoyment of the Leased Property; that involves the imposition of any charges, costs or other obligations or liabilities on or with respect to the Leased Property or the enjoyment of the Leased Property by the Sublessee; or that involves the imposition of any charges, costs or other obligations with respect to the Sublessee's execution, delivery and performance of its obligations under this Sublease, the Sublessee's Matching Moneys Bond or the Site Lease pursuant to which the Leased Property was leased to the Trustee.

(b) At the request of the State or the Trustee, the Sublessee shall, at the cost of the Sublessee (payable as Additional Rent hereunder), join and cooperate fully in any legal action in which the State or the Trustee asserts its ownership of or interest in the Leased Property; that involves the imposition of any charges, costs or other obligations on or with respect to the Leased Property for which the Trustee or the State is responsible under the 2012H Lease or this Sublease; or that involves the imposition of any charges, costs or other obligations with respect to the execution and delivery or acceptance of this Sublease, the Sublessee's Matching Moneys Bond, the Site Lease pursuant to which the Leased Property was leased to the Trustee, the 2012H Lease or the Indenture by the State or the Trustee or the performance of the obligations of the State or the Trustee hereunder or thereunder.

**Section 10.04. Tax Covenant of Sublessee.** The Sublessee (a) will not use or permit any other Person to use its Project and will not use, invest or direct any other Person to use or invest any moneys that it withdraws from its Project Account in a manner that would cause an Adverse Tax Event or Adverse Federal Direct Payment Event and (b) will comply with the certifications, representations and agreements set forth in the Tax Compliance Certificate executed and delivered by the Sublessee in connection with the execution of this Sublease. The



Sublessee acknowledges that the State, in the 2012H Lease, has agreed to enforce the covenant of the Sublessee set forth in this Section against the Sublessee.

**Section 10.05. Fees and Expenses of Trustee; State Expenses; Deposits to Rebate Fund; Rebate Calculations.** The Additional Rent that may be payable by the Sublessee in accordance with Section 6.02 hereof shall include the Sublessee's Proportionate Share of (a) the fees and expenses payable to the Trustee pursuant to Section 9.05 of the 2012H Lease and any similar provision of any other Lease; (b) the costs and expenses incurred by the State in connection with the Leased Property, the Projects, the Certificates, the Leases, the Indenture, the Site Leases, the Subleases, the Matching Money Bonds or any matter related thereto, including, but not limited to, a reasonable charge for the time of State employees and allocable overhead; (c) the amounts paid by the State pursuant to Section 9.06 of the 2012H Lease and any similar provision of any other Lease to make deposits to the Rebate Fund; and (d) the costs and expenses incurred in connection with the rebate calculations required by the Master Indenture.

**Section 10.06. Investment of Funds.** By authorizing the execution and delivery of this Sublease, the Sublessee specifically authorizes the investment of moneys held by the Trustee in Permitted Investments (as defined in the Indenture) where the period from the date of purchase thereof to the maturity date is in excess of five years.

## ARTICLE XI

### LIMITS ON OBLIGATIONS OF STATE

**Section 11.01. Disclaimer of Warranties.** THE STATE MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR FITNESS FOR USE OF THE LEASED PROPERTY OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE LEASED PROPERTY. In no event shall the State be liable for any incidental, special or consequential damage in connection with or arising out of this Sublease or the existence, furnishing, functioning or use by the Sublessee of any item, product or service provided for herein.

**Section 11.02. Financial Obligations of State Limited to Sublessee's Project Account and Specified Amounts from the Assistance Fund.** Notwithstanding any other provision hereof, all financial obligations of the State under this Sublease are limited to the Sublessee's Project Account and the specified amount of money in the Assistance Fund that is available to pay a portion of the Costs of the Sublessee's Project in accordance with Section 4.10 hereof.

## ARTICLE XII

### EVENTS OF DEFAULT AND REMEDIES

**Section 12.01. Events of Default Defined.**

(a) Any of the following shall constitute an "Event of Default" under this Sublease, subject to Section 14.22 hereof:

(i) failure by the Sublessee to pay, as applicable, any specifically appropriated Base Rent to the State on or before the applicable Base Rent Payment Date, any principal of, premium, if any, or interest on its Matching Moneys Bond when due or any Matching Moneys Installment Payment when due;

(ii) failure by the Sublessee to pay any Additional Rent for which funds have been specifically appropriated when due, or if such Additional Rent is payable to a Person other than the State, when nonpayment thereof has, or may have, a material adverse effect upon any of the Certificates, any of the Leased Property or the interest of the State in any of the Leased Property;

(iii) failure by the Sublessee to vacate the Leased Property within 90 days following an Event of Nonappropriation or Event of Default under this Sublease or a termination of the 2012H Lease as a result of an Event of Nonappropriation or Event of Default under the 2012H Lease;

(iv) any sublease, assignment, encumbrance, conveyance or other transfer of the interest of the Sublessee in all or any portion of this Sublease or the Leased Property in violation of Section 13.01 hereof or any succession to all or any portion of the interest of the Sublessee in the Leased Property in violation of Section 13.02 hereof; or

(v) failure by the Sublessee to observe and perform any covenant, condition or agreement on its part to be observed or performed in this Sublease, in its Matching Moneys Bond or in any other instrument related hereto or thereto (including but not limited to the Tax Compliance Certificate executed or issued in connection with this Sublease), other than as referred to in clause (i), (ii), (iii) or (iv) above, for a period of 30 days after written notice, specifying such failure and requesting that it be remedied shall be given to the Sublessee by the State, unless the State shall consent in writing to an extension of such time prior to its expiration; provided, however, that if the failure stated in the notice cannot be corrected within the applicable period, the State shall not withhold its consent to an extension of such time if corrective action shall be instituted within the applicable period and diligently pursued until the default is corrected.

(b) The provisions of subsection (a) of this Section are subject to the following limitations:

(i) the Sublessee shall remain obligated to pay, as applicable, principal of, premium, if any, and interest on its Matching Moneys Bond and its Matching Money Installment Payments when due, notwithstanding any termination of the Sublease Term or this Sublease or any limitation on any of the other obligations of the Sublessee hereunder;

(ii) the Sublessee shall be obligated to pay Rent only during the Sublease Term, except as otherwise expressly provided in Section 3.02(b)(ii) hereof; and

(iii) if, by reason of Force Majeure, the Sublessee shall be unable in whole or in part to carry out any agreement on its part herein contained, other than its obligation to pay money, the Sublessee shall not be deemed in default during the continuance of such inability; provided, however, that the Sublessee shall, as promptly as legally and reasonably possible, remedy the cause or causes preventing the Sublessee from carrying out such agreement, except that the settlement of strikes, lockouts and other industrial disturbances shall be solely within the discretion of the Sublessee; and provided further that this paragraph shall not apply to any obligation of the Sublessee under the Sublessee's Matching Moneys Bond or with respect to its Matching Moneys Installment Payments.

**Section 12.02. Remedies on Default.** Whenever any Event of Default shall have happened and be continuing, the State, with the consent of the Trustee, may take one or any combination of the following remedial steps:

(a) terminate the Sublease Term and give notice to the Sublessee to immediately vacate the Leased Property in the manner provided in Section 3.02(b) hereof;

(b) sell or lease its interest in all or any portion of the Leased Property;

(c) recover any of the following from the Sublessee that is not recovered pursuant to subsection (b) of this Section:

(i) the portion of Rent payable pursuant to Section 3.02(b)(ii) hereof;

(ii) all amounts due under the Sublessee's Matching Moneys Bond in accordance with the terms of the Sublessee's Matching Moneys Bond; and the portion of any Base Rent or Matching Moneys Installment Payments payable by the Sublessee for the then current Fiscal Year that has been specifically appropriated by the Sublessee's Governing Body, regardless of when the Sublessee vacates the Leased Property; and

(iii) the portion of the Additional Rent for the then current Fiscal Year that has been specifically appropriated by the Sublessee's Governing Body, but only to the extent such Additional Rent is payable prior to the date, or is attributable to the use of the Leased Property prior to the date, the Sublessee vacates the Leased Property;

(d) enforce any provision of this Sublease by equitable remedy, including, but not limited to, enforcement of the restrictions on assignment, encumbrance, conveyance, transfer or succession under Article XIII hereof by specific performance, writ of mandamus or other injunctive relief; and

(e) take whatever action at law or in equity may appear necessary or desirable to enforce its rights in and to the Leased Property under this Sublease, subject, however, to the limitations on the obligations of the Sublessee under Sections 6.05 and 12.03 hereof.

**Section 12.03. Limitations on Remedies.** A judgment requiring a payment of money may be entered against the Sublessee by reason of an Event of Default only as to the Sublessee's liabilities described in Section 12.02(c) hereof.

**Section 12.04. No Remedy Exclusive.** Subject to Section 12.03 hereof, no remedy herein conferred upon or reserved to the State is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Sublessee to exercise any remedy reserved in this Article, it shall not be necessary to give any notice, other than such notice as may be required in this Article.

**Section 12.05. Waivers.** The State, with the consent of the Trustee, may waive any Event of Default under this Sublease and its consequences. In the event that any agreement contained herein should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

## **ARTICLE XIII**

### **TRANSFERS OF INTERESTS IN SUBLEASE OR LEASED PROPERTY**

**Section 13.01. Transfers Prohibited.** Except as otherwise permitted by Section 8.04 hereof with respect to subleasing or grants of use of the Leased Property, Section 8.06 with respect to substitutions of other property for Leased Property and Section 13.02 hereof with respect to transfers of the Leased Property following termination of the Sublease Term or as otherwise required by law, the Sublessee shall not sublease, assign, encumber, convey or otherwise transfer all or any portion of its interest in this Sublease or the Leased Property to any Person, whether now in existence or organized hereafter.

**Section 13.02. Transfer After Conveyance of Leased Property to Sublessee.** Notwithstanding Section 13.01 hereof, the Sublessee may, with the Site Lessor's prior written consent, transfer its leasehold interest in the Leased Property after, and only after, this Sublease Term has terminated and the Leased Property has been conveyed to the Sublessee pursuant to Article IX hereof.

## **ARTICLE XIV**

### **MISCELLANEOUS**

**Section 14.01. Binding Effect.** This Sublease shall inure to the benefit of and shall be binding upon the Sublessee and the State and their respective successors and assigns, subject, however, to the limitations set forth in Article XIII hereof. This Sublease and the covenants set forth herein are expressly intended to be covenants, conditions and restrictions running with the Leased Property and the leasehold estate in the Leased Property under this Sublease.

**Section 14.02. Interpretation and Construction.** This Sublease and all terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein to sustain the validity of this Sublease. For purposes of this Sublease, except as otherwise expressly provided or unless the context otherwise requires:

(a) All references in this Sublease to designated “Articles,” “sections,” “subsections,” “paragraphs,” “clauses” and other subdivisions are to the designated Articles, Sections, subsections, paragraphs, clauses and other subdivisions of this Sublease. The words “herein,” “hereof,” “hereto,” “hereby,” “hereunder” and other words of similar import refer to this Sublease as a whole and not to any particular Article, Section or other subdivision.

(b) The terms defined in the Glossary have the meanings assigned to them in the Glossary and include the plural as well as the singular.

(c) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles applicable to governmental entities, subject to statutory exceptions and modifications, as in effect from time to time.

(d) The term “money” includes any cash, check, deposit, investment security or other form in which any of the foregoing are held hereunder.

(e) In the computation of a period of time from a specified date to a later specified date, the word “from” means “from and including” and each of the words “to” and “until” means “to but excluding.”

**Section 14.03. Acknowledgement of and Subordination to 2012H Lease and Indenture.** The Sublessee has received copies of, and acknowledges the terms of, the 2012H Lease and the Indenture and agrees that its rights hereunder are subordinate and subject to the rights of the Trustee and the Owners of the Certificates under the 2012H Lease and the Indenture.

**Section 14.04. Trustee, State and Sublessee Representatives.** Whenever under the provisions hereof the approval of the Trustee, the State or the Sublessee is required, or the Trustee, State or the Sublessee is required to take some action at the request of the other, unless otherwise provided, such approval or such request shall be given for the Trustee by the Trustee Representative, for the State by the State Representative and by the Sublessee for the Sublessee Representative and the Trustee, the State and the Sublessee shall be authorized to act on any such approval or request. The Sublessee Representative is the \_\_\_\_\_ of the Sublessee or any Person appointed as Sublessee Representative by such Person.

**Section 14.05. Manner of Giving Notices.** All notices, certificates or other communications hereunder shall be in writing and shall be deemed given when mailed by first class United States mail, postage prepaid, or when sent by facsimile transmission or electronic mail, addressed as follows: if to the State, to Colorado State Treasurer, 140 State Capitol, 200 E. Colfax Ave., Denver, CO 80203, Attention: Deputy State Treasurer, facsimile number: 303-866-2123, electronic mail address: [brett.j.johnson@state.co.us](mailto:brett.j.johnson@state.co.us), with a copy to Colorado

State Controller, 633 Seventeenth Street, Suite 1500, Denver, Colorado 80203, Attention: David J. McDermott, facsimile number: 303-866-4233, electronic mail address: david.mcdermott@state.co.us, and with a copy to Public School Capital Construction Assistance Board, 1525 Sherman Street, Suite B17, Denver, Colorado 80203, Attention: Chair, facsimile number: 303.866.6168, electronic mail address: hughes\_t@cde.state.co.us; if to the Trustee, to Zions First National Bank, 1001 Seventeenth Street, Suite 850, Denver, Colorado 80202, Attention: Corporate Trust Services, facsimile number: 855-547-6168, electronic mail address: denvercorporatetrust@zionsbank.com; [and] if to the Sublessee, to \_\_\_\_\_, Attention: \_\_\_\_\_, facsimile number: \_\_\_\_\_, electronic mail address: \_\_\_\_\_]; and, if to the Sublessee's Chartering Authority, \_\_\_\_\_, Attention: Superintendent, facsimile number: \_\_\_\_\_, electronic mail address: \_\_\_\_\_]. Any notice party may, by written notice, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

**Section 14.06. No Individual Liability.** All covenants, stipulations, promises, agreements and obligations of the State or the Sublessee, as the case may be, contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the State or the Sublessee, as the case may be, and not of any member, director, officer, employee, servant or other agent of the State or the Sublessee in his or her individual capacity, and no recourse shall be had on account of any such covenant, stipulation, promise, agreement or obligation, or for any claim based thereon or hereunder, against any member, director, officer, employee, servant or other agent of the State or the Sublessee or any natural person executing this Sublease or any related document or instrument; provided, however, that such person is acting within the scope of his or her employment, membership, directorship or agency, as applicable, and not in a manner that constitutes gross negligence or willful misconduct.

**Section 14.07. Amendments, Changes and Modifications.** Except as otherwise provided herein, this Sublease may only be amended, changed, modified or altered by a written instrument executed by the State, the Assistance Board and the Sublessee.

**Section 14.08. State May Rely on Certifications, Representations and Agreements of Sublessee.** The State may rely on the certifications, representations and agreements of the Sublessee in this Sublease (including any Exhibit hereto) and may assume that the Sublessee will perform all of its obligations under this Sublease for purposes of making certifications, representations and agreements to and with the Trustee in the 2012H Lease and making certifications and representations to Bond Counsel, Owners or potential Owners of Certificates and any other Person with respect to the Leased Property, the Projects, the Leases, the Site Leases, the Matching Moneys Bonds, the Certificates, the Indenture or any matter related thereto.

**Section 14.09. Events Occurring on Days that are not Business Days.** If the date for making any payment or the last day for performance of any act or the exercising of any right under this Sublease is a day that is not a Business Day, such payment may be made, such act may be performed or such right may be exercised on the next succeeding Business Day, with the same force and effect as if done on the nominal date provided in this Sublease.

**Section 14.10. Legal Description of Land Included in Leased Property.** The legal description of the land included in the Leased Property subject to this Sublease is set forth in Exhibit B hereto. If the land included in Leased Property subject to this Sublease is modified pursuant to the terms of this Sublease or other land is substituted for land included in the Leased Property subject to this Sublease pursuant to the terms of this Sublease, the legal description set forth in Exhibit B hereto will be amended to describe the land included in the Leased Property subject to this Sublease after such modification or substitution.

**Section 14.11. Merger.** The State, the Trustee, the Site Lessor of the Leased Property and the Sublessee intend that the legal doctrine of merger shall have no application to this Sublease, the 2012H Lease or the Site Lease pursuant to which the Leased Property is leased to the Trustee by the Sublessee or the Sublessee's Chartering Authority and that none of the execution and delivery of this Sublease by the State and the Sublessee, the 2012H Lease by the Trustee and the State or such Site Lease by the Site Lessor and the Trustee or the exercise of any remedies by any party under this Sublease, the 2012H Lease or such Site Lease shall operate to terminate or extinguish this Sublease, the 2012H Lease or Site Lease.

**Section 14.12. Severability.** In the event that any provision of this Sublease, other than the obligation of the Sublessee to pay Additional Rent hereunder and the obligation of the State to provide quiet enjoyment of the Leased Property, 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 14.13. Captions.** The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this Sublease.

**Section 14.14. Applicable Law.** The laws of the State and rules and regulations issued pursuant thereto, as the same may be amended from time to time, shall be applied in the interpretation, execution and enforcement of this Sublease. Any provision of this Sublease, whether or not incorporated herein by reference, which provides for arbitration by an extra-judicial body or person or which is otherwise in conflict with said laws, rules and regulations shall be considered null and void. Nothing contained in any provision hereof or incorporated herein by reference which purports to negate this Section in whole or in part shall be valid or enforceable or available in any action at law whether by way of complaint, defense or otherwise. Any provision rendered null and void by the operation of this Section will not invalidate the remainder of this Sublease to the extent that this Sublease is capable of execution. At all times during the performance of this Sublease, the Sublessee shall strictly adhere to all applicable federal and State laws, rules and regulations that have been or may hereafter be established.

**Section 14.15. Execution in Counterparts.** This Sublease 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 14.16. State Controller's Approval.** This Sublease shall not be deemed valid until it has been approved by the State Controller or such assistant as the State Controller may

designate. Financial obligations of the State payable after the current Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available.

**Section 14.17. Non-Discrimination.** The Sublessee agrees to comply with the letter and the spirit of all applicable State and federal laws respecting discrimination and unfair employment practices.

**Section 14.18. Vendor Offset.** Pursuant to C.R.S. §§ 24-30-202(1) and 24-30-202.4, the State Controller may withhold payment of certain amounts owed by State agencies under the State's vendor offset intercept system for (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in C.R.S. § 39 21-101 et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts certified by the State Controller as owing to the State as a result of final agency determination or judicial action.

**Section 14.19. Employee Financial Interest.** The signatories to this Sublease aver that, to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described herein.

**Section 14.20. Accounting Allocation of State's Base Rent.** Exhibit C hereto allocates the Base Rent payments of the State under the 2012H Lease among the 2012H Sublessees for accounting purposes. Exhibit C is included solely at the request of the Sublessee for its accounting purposes and shall not affect, and may not be used to determine, any rights or obligations of the State, the Sublessee or any other Person under this Sublease, the 2012H Lease, the Indenture or the Site Lease or for any other purpose.

**Section 14.21. Assistance Board as Party.** The Assistance Board is a party to this Sublease solely for the purpose of complying with the Act. Except as otherwise provided in Section 14.05 and 14.07 hereof, all actions hereunder or with respect hereto may be taken by the State, acting by and through the State Treasurer, without any participation by the Assistance Board.

**Section 14.22. Rights and Obligations of Sublessee's Chartering Authority.** Notwithstanding any other provision of this Sublease, if the Sublessee's Chartering Authority is a party to this Sublease:

(a) The Sublessee's Chartering Authority is a party to this Sublease solely for purposes of this Section.

(b) If (i) the Sublessee's Charter is terminated or expires for any reason, (ii) the Sublessee attempts, without the written consent of the State and the Sublessee's Chartering Authority, to transfer all or any portion of its interest in, to sublease or to grant the right to use the Leased Property to any other Person other than the Sublessee's Chartering Authority (except for a right to use that does not interfere with the operation of the Leased Property as a charter school in accordance with the Sublessee's Charter) or (iii) the Sublessee fails to use the Leased Property as a charter school in accordance with its Charter, then, automatically, without any further action by any Person, all the



rights and obligations of the Sublessee under this Sublease and to the Leased Property shall terminate and the Sublessee's Chartering Authority shall succeed to all the rights and obligations of the Sublessee under this Sublease and to the Leased Property. If any such event occurs, the Sublessee and the Sublessee's Chartering Authority shall immediately deliver written notice to the State and the Trustee and the Sublessee, the Sublessee's Chartering Authority, the State and the Trustee shall take all actions reasonably requested by any of them to evidence such termination and succession, but a failure to deliver any such notice or take any such action shall not effect the operation of the first sentence of this subsection.

(c) If an Event of Default or Event of Nonappropriation under the 2012H Lease has occurred and the Sublessee has not delivered the notice required to be delivered to the Trustee and the State under Section 9.01(b)(i) hereof or the Sublessee has delivered such notice but has failed to pay the Sublessee's Purchase Option Price on the closing date pursuant to Section 9.01 hereof, the State shall notify the Sublessee's Chartering Authority and the Sublessee's Chartering Authority shall have the option to purchase the Leased Property in accordance with Section 9.01 hereof; provided that the Site Lessor shall have an additional 15 Business Days after delivery of the notice from the State to deliver a notice to the Trustee and the State in accordance with Section 9.01(b)(i) hereof.

(d) If, but for the application of this Section, an Event of Default has occurred or events have occurred that, with the passage of time without a cure, will result in an Event of Default (for purposes of this Section, a "prospective Event of Default"), the State shall notify the Sublessee's Chartering Authority and the Sublessee's Chartering Authority shall have the right to cure the prospective Event of Default within the time period available to the Sublessee under Section 12.01 hereof plus 15 Business Days. If the Sublessee's Chartering Authority cures the prospective Event of Default pursuant to this subsection, no Event of Default shall be deemed to have occurred and the Sublessee's Chartering Authority shall have the option to succeed to all rights and obligations of the Sublessee under this Sublease by delivering a written notice to the State and the Trustee that it desires to do so. If the Sublessee delivers such a notice, it shall automatically, without any further action by any Person, succeed to the rights and obligations of the Sublessee under this Sublease and the State and the Trustee shall take all actions reasonably requested by the Sublessee's Chartering Authority to effect and evidence such succession.

(e) If (i) the Sublessee's Chartering Authority is the Site Lessor under the Site Lease pursuant to which the Leased Property subject to this Sublease is leased to the Trustee and (ii)(A) such Leased Property is conveyed by the Trustee to the State pursuant to the Lease pursuant to which such Leased Property is leased to the State or (B) such Leased Property is conveyed by the State to the Sublessee pursuant to Section 9.03 hereof, then, the Sublessee and the Sublessee's Chartering Authority agree that such Site Lease shall, pursuant to Section 11.03 thereof, continue with the Sublessee succeeding to the rights and obligations of the Trustee thereunder.

THE PARTIES HERETO HAVE EXECUTED THIS SUBLEASE OF \_\_\_\_\_ AS OF THE DATE FIRST SET FORTH ABOVE

\* Person(s) signing hereby swear and affirm that they are authorized to act and acknowledge that the State is relying on their representations to that effect.

<p>[SUBLESSEE]</p> <p>_____</p> <p style="text-align: center;">Name, Title</p> <p>[DISTRICT SEAL]</p> <p>Attest:</p> <p>_____</p> <p style="text-align: center;">Name, Title</p> <p>[SUBLESSEE'S CHARTERING AUTHORITY]</p> <p>By: _____</p> <p>Title: _____</p> <p>_____</p> <p style="text-align: center;">*Signature</p>	<p>STATE OF COLORADO John W. Hickenlooper GOVERNOR Department of Treasury</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">By Walker R. Stapleton, State Treasurer</p>
<p>STATE OF COLORADO John W. Hickenlooper GOVERNOR Department of Personnel &amp; Administration Office of the State Architect, Real Estate Programs For the Executive Director</p> <p>By: _____</p> <p style="padding-left: 40px;">Michael R. Karbach, Manager of Real Estate Programs</p>	<p>PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE BOARD, acting on behalf of the State of Colorado</p> <p>By: _____</p> <p style="padding-left: 100px;">_____, Chair</p>
	<p style="text-align: center;">LEGAL REVIEW John W. Suthers, Attorney General</p> <p>By: _____</p> <p style="padding-left: 100px;">Heidi Dineen, Assistant Attorney General</p>

ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Contracts. This Contract is not valid until signed and dated below by the State Controller or delegate. Contractor is not authorized to begin performance until such time. If Contractor begins performing prior thereto, the State of Colorado is not obligated to pay Contractor for such performance or for any goods and/or services provided hereunder.

STATE CONTROLLER  
David J. McDermott, CPA

By: \_\_\_\_\_

David J. McDermott, State Controller

Date: \_\_\_\_\_

STATE OF COLORADO )  
 ) ss.  
CITY AND COUNTY OF DENVER )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of December, 2012, by Walker R. Stapleton, Colorado State Treasurer, acting on behalf of the State of Colorado, and by \_\_\_\_\_, Chair of the Public School Capital Construction Assistance Board, acting on behalf of the State of Colorado.

WITNESS MY HAND AND OFFICIAL SEAL the day and year above written.

[NOTARIAL SEAL]

\_\_\_\_\_  
Notary

My commission expires:

\_\_\_\_\_

STATE OF COLORADO )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of December, 2012  
by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_.

WITNESS MY HAND AND OFFICIAL SEAL the day and year above written.

[NOTARIAL SEAL]

\_\_\_\_\_  
Notary

My commission expires:

\_\_\_\_\_

[ADD CHARTER NOTARY IF APPLICABLE]

**EXHIBIT A**

**LEGAL DESCRIPTION OF LAND INCLUDED IN LEASED PROPERTY**

[insert]

**EXHIBIT B**  
**SPECIFICATIONS FOR PROJECT**

[insert]

**EXHIBIT C**

**ACCOUNTING ALLOCATION OF STATE'S BASE RENT**

[insert]

**EXHIBIT D**

**MATCHING MONEYS**

Matching Moneys Amount: [\$ \_\_\_\_\_] [None; no Matching Moneys.]

Matching Moneys Obligation Satisfied By: [None; no Matching Moneys.] [A cash payment on date Sublease is executed and delivered.] [Base Rent payable under this Sublease.] [The delivery of a Matching Moneys Bond.] [Matching Moneys Installment Payments.]

\*IF CASH PAYMENT AND SUBLESSEE IS AUTHORIZED TO WITHDRAW MONEY FROM THE ASSISTANCE FUND TO PAY COSTS OF THE SUBLESSEE'S PROJECT:  
Dollar Amount of Money in the Assistance Fund Available to Pay Costs of the Sublessee's Project: \$ \_\_\_\_\_.

\*IF BASE RENT:

The Sublessee is obligated to pay Base Rent under this Sublease on the dates and in the amounts set forth below:

<b>Payment Date</b>	<b>Base Rent</b>
	\$

\*IF MATCHING MONEYS BOND:

Description of Matching Moneys Bond: (name, date, principal amount, interest rate, maturity date(s), interest payment dates, other relevant terms) ]



\*IF MATCHING MONEYS INSTALLMENT PAYMENTS:

The Sublessee is obligated to pay Matching Moneys Installment Payments under this Sublease on the dates and in the amounts set forth below:

**Payment Date**

**Matching Moneys  
Installment Payment**

\$

Sources of Matching Moneys Installment Payments: [amount, sources, dates to be received]

## EXHIBIT E

### FORM OF ASSISTANCE FUND REQUISITION

Public School Capital Construction Assistance Board  
1525 Sherman Street, Suite B17  
Denver, Colorado 80203  
Attention: Chair

#### State of Colorado Building Excellent Schools Today

Ladies and Gentlemen:

This Assistance Fund Requisition is delivered by the Participating K-12 Institution identified below (the “Participating K-12 Institution”) and the State of Colorado, acting by and through the State Treasurer (the “State”), to the Public School Capital Construction Assistance Board (the “Assistance Board”) pursuant to the Building Excellent Schools Today Sublease of the Sublessee dated as of December [6], 2012 (the “Sublease”) between the Participating K-12 Institution and the State and the Assistance Board. *Capitalized terms used but not defined herein have the meanings assigned to them in the Glossary attached to the State of Colorado Building Excellent Schools Today Master Trust Indenture dated August 12, 2009, as such Glossary has been amended, supplemented and restated by the Glossary attached to the State of Colorado Building Excellent Schools Today Series 2012H Supplemental Trust Indenture dated December [6], 2012 and as it may further be amended, supplemented and restated from time to time.*

The Participating K-12 Institution and the State, in accordance with the Participating K-12 Institution’s Sublease, hereby requisitions the dollar amount described below from the Assistance Fund to pay, or reimburse the Participating K-12 Institution for the payment of, Costs of the Participating K-12 Institution’s Project.

**Representations of Participating K-12 Institution and State.** The Participating K-12 Institution and the State each represent that:

1. The Participating K-12 Institution has withdrawn all moneys that it may withdraw from the Participating K-12 Institution’s Project Account pursuant to Section 4.10(a) of the Participating K-12 Institution’s Sublease.
2. The total amount withdrawn from the Assistance Fund pursuant to this Requisition and all previous requisitions does not exceed the amount set forth in Exhibit D to the Participating K-12 Institution’s Sublease as the amount of money in the Assistance Fund available to pay Costs of the Participating K-12 Institution’s Project.

**Representations of Participating K-12 Institution.** The Participating K-12 Institution represents that:

(a) This Requisition is not for an amount that the Participating K-12 Institution does not intend to pay to a Contractor or material supplier because of a dispute or other reason.

(b) Title to all Work to be paid for with moneys withdrawn pursuant to this Requisition will pass to the Trustee no later than the time of payment. If the moneys withdrawn pursuant to this Requisition are to be used to pay for materials or equipment, the materials or equipment have already been delivered and title thereto has already been transferred to the Trustee.

(c) If the moneys withdrawn pursuant to this Requisition are to be used to pay, or to reimburse the Participating K-12 Institution for the payment of, Costs of the Project incurred in connection with the acquisition of any real estate included in or to be added to the Leased Property: (i) the Trustee owns such real estate or a leasehold interest in such real estate free and clear of encumbrances other than Permitted Encumbrances and (ii) the Fair Market Value of such real estate is at least equal to the amount of money to be withdrawn.

(d) If this Requisition is for the final installment of the Costs of the Project, a Certificate of Completion has been delivered to or is being delivered with this Requisition to the State and the Trustee.

(e) The Participating K-12 Institution's Sublease is in full force and effect and no Event of Default or Event of Nonappropriation has occurred and is continuing thereunder; and, if the Participating K-12 Institution has delivered a Matching Moneys Bond to the State, such Matching Moneys Bond is in full force and effect and the Participating K-12 Institution has paid all amounts due, and is not otherwise in default with respect to any of its obligations with respect to, such Matching Money Bond.

**Representations of State.** The State represents no Event of Default or Event of Nonappropriation has occurred and is continuing under any Lease.

NAME OF PARTICIPATING K-12 INSTITUTION:

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TOTAL DOLLAR AMOUNT REQUESTED PURSUANT TO THIS REQUISITION:

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The Assistance Board is hereby directed to mail checks in the amounts to the payees, and to deliver an IRS Form 1099 for the total amount paid to each such payee pursuant to this Requisition and other Requisitions during each calendar year, at the addresses shown in the Payment Schedule attached hereto.

The undersigned hereby certifies that he/she is, as appropriate, the Participating K-12 Institution Representative and the State Representative and is authorized to sign and deliver this Requisition to the Assistance Board pursuant to the Participating K-12 Institution's Sublease.

NAME OF PARTICIPATING K-12  
INSTITUTION:

\_\_\_\_\_  
BY PARTICIPATING K-12 INSTITUTION  
REPRESENTATIVE

\_\_\_\_\_  
Print Name of Participating K-12 Institution  
Representative

\_\_\_\_\_  
Signature of Participating K-12 Institution  
Representative

STATE OF COLORADO, ACTING BY AND  
THROUGH THE STATE TREASURER

By \_\_\_\_\_  
State Representative

Date: \_\_\_\_\_

**PAYMENT SCHEDULE TO ASSISTANCE FUND REQUISTION**

<b>Payee</b>	<b>Address</b>	<b>Amount to be Paid</b>
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