

**FORM OF  
TERMS AND CONDITIONS AGREEMENT**

School Name: \_\_\_\_\_

RE: Not to exceed \$[\_\_\_\_\_] [INSERT TITLE OF PROPOSED BONDS]  
(the “**Obligations**”)

This Terms and Conditions Agreement (this “**Agreement**”) dated [DATE PRIOR TO PRICING OF OBLIGATIONS], constitutes an agreement between [INSERT NAME OF ACHIEVEMENT DISTRICT SCHOOL] (together with its successors and permitted assigns, the “**School**”), and the **CREDIT ENHANCEMENT ELIGIBILITY BOARD** (the “**Board**”) on behalf of the ARIZONA PUBLIC SCHOOL CREDIT ENHANCEMENT FUND (the “**Fund**”).

On [APPROVAL DATE] (the “**Approval Date**”), the Board approved the School’s application for the guarantee by the Fund pursuant to the Arizona Public School Credit Enhancement Program established pursuant to Article 11 of Chapter 16 of Title 15 of the Arizona Revised Statutes (the “**Enabling Statutes**”) of the timely payment of principal and interest payments due on the referenced Obligations. The Board agrees, upon satisfaction of the conditions herein no later than 120 days following the Approval Date (the “**Expiration Date**”),<sup>1</sup> to issue a certificate (the “**Fund Certificate**”) confirming the guarantee by the Fund of timely payments of principal of and interest on each scheduled interest payment date, maturity date or mandatory redemption date on the Obligations, subject to the terms and conditions of the Fund Certificate. The final debt service schedule for the Obligations will be attached as an exhibit to the Fund Certificate. The Fund will not guarantee payment of any other obligations or amounts related to the Obligations or otherwise. The issuance of the Fund Certificate shall be subject to the following terms and conditions:

1. *Transaction Documents.* (a) The Board shall have received the documents, opinions, resolutions and certificates set forth on the attached **Exhibit A** (collectively, the “**Transaction Documents**”) in connection with the Obligations in form and substance acceptable to the Board.

(b) Document provisions substantially similar to those set forth on the attached **Exhibit B**, together with any other document provisions reasonably required by the Board, shall be incorporated into the applicable Transaction Documents in form and substance acceptable to the Board.

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<sup>1</sup> [Note: Per the Rules, this date is required to be 120 days from the Approval Date. The Board has the option to extend the Expiration Date for an additional 60 days if requested in writing by the School.]

(c) The School shall have entered into a reimbursement agreement with the Board in form and substance acceptable to the Board (the “**Reimbursement Agreement**”). The Reimbursement Agreement will include, without limitation, provisions relating to: (a) the payment of the Participation Fee (as defined below) and other amounts to the Board and the Fund; (b) certain indemnifications by the School to the Board and the Fund; (c) certain representations, warranties and covenants of the School; and (d) reporting and other obligations of the School.

2. *Fees and Expenses.* The School shall make, or cause to be made, the following payments pursuant to the wire instructions set forth on the attached **Exhibit C**:

(a) *Program Participation Fees.* Payments of the program participation fee (the “**Participation Fee**”) shall be made, on behalf of the School, by the paying agent/trustee (the “**Paying Agent/Trustee**”) for the Obligations identified in the Transaction Documents on each date on which interest payments are due on the Obligations (each a “**Participation Fee Payment Date**”) from amounts paid by the School for such purpose pursuant to the Transaction Documents, to the Arizona State Treasurer on behalf of the Board for deposit in the Fund. The Participation Fee shall be payable in an amount based on a rate of [\_\_\_\_]%<sup>2</sup> per annum computed on the basis of a 360-day year consisting of twelve 30-day months and shall be payable on the outstanding principal balance of the Obligations as of the related Participation Fee Payment Date before giving effect to any payment of principal on such date, with the Participation Fee rounded to the nearest dollar amount. All payments of the Participation Fee shall be nonrefundable.

(b) *Expenses.* At the time of delivery of the Fund Certificate, a payment of the legal fees and expenses of counsel to the Board shall be made payable by the Paying Agent/Trustee (or title company if costs of issuance will be paid outside of the related indenture or other similar Transaction Document), on behalf of the School, pursuant to the wire instructions on the attached **Exhibit C**. If the Obligations and/or the Fund Certificate are not issued for any reason by the Expiration Date or this Agreement is otherwise terminated as provided herein, the School hereby agrees to promptly pay or reimburse the Fund for all fees and expenses, including, without limitation, the legal fees and expenses of counsel to the Board, incurred by the Board or any third party in connection with this transaction. [INSERT DESCRIPTION OF ANY OTHER FEES AND EXPENSES OF THE BOARD/FUND TO BE PAID AT CLOSING OR IF OBLIGATIONS/FUND CERTIFICATE NOT ISSUED.]

3. *Ratings Confirmation.* The Board shall have received (a) either (i) certification from the School that there is no underlying rating on the Obligations or (ii) a

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<sup>2</sup> [Note: Per §15-2155(E) of the Enabling Statutes, the Participation Fee for Charter Schools shall be at least 0.25% per annum. Participation Fees for District Schools shall be as determined by the Board.]

designation from S&P Global Ratings (or its successors and assigns, collectively, “S&P”) or Moody’s Investors Service (or its successors and assigns, collectively, “Moody’s”) of the rating assigned to the Obligations without regard to the issuance of the Fund Certificate<sup>3</sup> and (b) confirmation from S&P that the rating assigned to the Obligations after taking into account the issuance of the Fund Certificate is at least [“AA-”]. The School shall be responsible for the payment of all rating agency fees payable with respect to any rating requirements.

4. *[Funding of Debt Service Reserve Fund [for Charter School financings only].* At the time the Obligations are issued, each series of Obligations will be secured by a debt service reserve fund within which monies (or equivalent) are deposited in an amount calculated to be equal to at least the maximum amount permitted by federal law in connection with the issuance of tax exempt obligations, irrespective of whether a series of Obligations is tax-exempt or otherwise.]

5. *[Debt Service Coverage Ratio [for Charter School financings only].* At the time the Obligations are issued, the School shall certify to the Board that one of the following debt service coverage ratio requirements is met: (a) The ratio of the net cash flow (i.e., total revenues less operating expenses excluding debt or lease payments on land and facilities and non-cash expenses) for the most recently completed fiscal year to the maximum annual combined payments on existing debt, leases of land and facilities and the Obligations must be at least 110%; OR (b)(i) The ratio of the net cash flow (i.e., total revenues less operating expenses excluding debt or lease payments on land and facilities and non-cash expenses) for the most recently completed fiscal year to the combined payments on existing debt and leases, but excluding the Obligations, must be at least 110% AND (ii) the ratio of projected net cash flow as defined above for each of the subsequent five fiscal years to the combined maximum annual payments on existing debt, leases of land and facilities, and the Obligations, must be at least 110%. For this requirement (ii), the projections must be accompanied by a report from an independent certified public accountant or a financial consultant with demonstrated expertise in public charter school financings confirming that the accountant or consultant has reviewed the School’s projections and deems the projections to be fair and reasonable.]

6. *[Appraisal [for Charter School and lease financings only].* The Board shall have received an independent appraisal dated not less than 30 days and not more than 60 days prior to the date of issuance of the Fund Certificate which indicates that the “as built” value of the pledged property being financed with the proceeds of the Obligations is equal to or greater than the principal amount of the Obligations, net of reserves securing the Obligations and transaction costs for the Obligations. If the Obligations, together with parity debt will be secured directly or indirectly by a pool of collateral, then appraisals shall have been obtained on the existing property in the pool evidencing that on such appraisal date the value of such existing property was equal to or

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<sup>3</sup> [Note: Per §15-2155(C) of the Enabling Statutes, after 10 Guaranteed Financings have been approved by the Board, not more than 25% of the aggregate principal amount of Guaranteed Financings can be rated less than “BB-“ or a comparable rating.]

greater than the principal amount of the outstanding parity debt (net of reserves securing such debt and transaction costs incurred in connection with such parity debt) at such time. If the appraisals on such existing property will not be updated, the Borrower will certify that the current value of such existing property equals or exceeds the currently outstanding debt to be secured on a parity basis with the Obligations and, when the “as built” value of the pledged property being financed by the proceeds of the Obligations is included, that the total value equals or exceeds the principal amount of the currently outstanding parity debt plus the principal amount of the Obligations (net of reserves securing the Obligations and the parity debt and net of transaction costs for the Obligations and those incurred in connection with the issuance of the parity debt).

7. *[Construction or Major Renovations [for Charter School and lease financings only].* The Board shall have received a copy of a guaranteed maximum price contract or other acceptable mechanism ensuring project completion for any new construction projects or major renovation projects of \$1 million or more, along with a completion bond or its equivalent from the contractor, in each case in form and substance acceptable to the Board.]

8. *[Refinancings.* The Board shall have received evidence satisfactory to the Board that (a) the principal and interest payments due on the Obligations will not be greater in any fiscal year than the scheduled principal and interest payments due on the bonds being refinanced and (b) the savings to be generated on a present value basis will equal or exceed 5% of the principal amount of the bonds being refinanced.]

9. *True Information and No Material Adverse Change.* As of the date of issuance of the Fund Certificate:

(a) Since the date hereof, there shall have been no material adverse change in the Obligations or any of the Transaction Documents (including, without limitation, in any of the financial information included in the final official statement) unless previously approved in writing by the Board.

(b) Since the date of submission of the Application Information (defined below), there shall have been no material adverse change in any of the information or documents submitted by or on behalf of the School to the Board as part of the application to become an Achievement District School (as defined in the Enabling Statutes) or to have the Obligations approved by the Board as a Guaranteed Financing (as defined in the Enabling Statutes) (collectively, the “**Application Information**”). None of the Application Information shall contain any untrue or misleading statement of a material fact or fail to state a material fact required to be stated therein or necessary in order to make the statements contained therein not misleading.

(c) No event shall have occurred which would allow any underwriter or any other purchaser of the Obligations to avoid or cancel its obligation to purchase the Obligations on the date of issuance of the Fund Certificate.

(d) Since the date of submission of the Application Information, no material adverse change affecting any security for the Obligations and no substitution of security for the Obligations shall have occurred unless previously approved in writing by the Board.

(e) The School shall represent and warrant that the proceeds of the Obligations shall be used solely for the benefit of its [charter] school facilities operated in the State of Arizona (the “State”).

(f) The School and the issuance of the Obligations are in full compliance with Arizona Revised Statutes § 15-491 and Title 15, Chapter 9, Article 7 of the Arizona Revised Statutes. [INCLUDE FOR PUBLIC DISTRICT SCHOOLS ONLY] OR The School is in full compliance with Arizona Revised Statutes § 15-181 *et seq.* and the School’s Charter Contract. [INCLUDE FOR PUBLIC CHARTER SCHOOLS ONLY]

10. *No Proceedings.* There shall be no pending action or proceeding before any court, governmental agency or authority, regulator or administrative body or arbitrator against the School or involving the School and, to the best of its knowledge, there shall be no threatened action or proceeding affecting the School, before any court, governmental agency or authority, regulatory or administrative body or arbitrator which, in the case of any such pending or threatened action or proceeding, would be reasonably likely to materially and adversely affect the financial condition of the School, the ability of the School to perform its duties under any of the Transaction Documents or the validity or enforceability of any of the Transaction Documents.

11. *No Defaults.* There shall be no event of default on the part of the School under any agreement entailing financial obligations, which default would materially adversely impact the financial condition of the School or the ability of the School to perform its duties under any of the Transaction Documents.

12. *Termination.* This Agreement shall terminate upon the earlier of (a) issuance of the Fund Certificate pursuant to the terms hereof; (b) the Expiration Date, unless extended in writing by the Board; or (c) the Board provides to the School written notice of termination of this Agreement upon breach of any of the covenants of the School set forth herein or failure of the School to satisfy any of the conditions set forth herein; provided, however, the obligations of the School specified in paragraph 12 shall survive any termination of this Agreement.

13. *Indemnification.* The School hereby agrees to indemnify and hold harmless the Board and the Fund, and their respective officers, directors, employees, counsel and agents (each of the foregoing indemnified parties being an “**Indemnified Party**”), for, from and against any and all claims, liabilities, losses, costs, expenses (including counsel fees and expenses) and damages (hereinafter “claims”) which may be incurred by or asserted against any Indemnified Party relating to or arising out of the issuance of the Fund Certificate or transactions specifically contemplated by this

Agreement and the Transaction Documents unless such claims result from the gross negligence or willful misconduct of an Indemnified Party, irrespective of whether the transactions contemplated hereby are consummated. In the event the transactions contemplated hereby are consummated, the foregoing indemnity shall be superseded by indemnities provided for in the Reimbursement Agreement.

14. *Statutory Provisions.* The provisions set forth on the attached **Exhibit D** are hereby incorporated by reference into this Agreement.

15. *Governing Law.* This Agreement shall be construed in accordance with the laws of the State.

16. *Counterparts.* This Agreement may be signed in counterpart by the parties hereto.

[Signature pages follow.]

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IN WITNESS WHEREOF, each of the parties hereto have duly executed and delivered this Agreement as of the date first above written.

CREDIT ENHANCEMENT ELIGIBILITY BOARD

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

Title: Governor's Designee and Authorized Signatory

*[Signature Page of Credit Enhancement Eligibility Board]*

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[INSERT NAME OF ACHIEVEMENT  
DISTRICT SCHOOL]

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

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

*[Signature Page of School]*

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**EXHIBIT A  
TO THE TERMS AND CONDITIONS AGREEMENT**

**Transaction Documents**

[INSERT LIST OF APPLICABLE DOCUMENTS, OPINIONS, RESOLUTIONS AND CERTIFICATES TO BE REVIEWED BY THE BOARD AND ITS COUNSEL, FOR EXAMPLE]:

- (a) Preliminary Official Statement, Final Official Statement, Limited Offering Memorandum or any other offering document;
- (b) Bond Indenture;
- (c) Master Indenture of Trust;
- (d) Deed of Trust;
- (e) Loan Agreement;
- (f) Promissory Note;
- (g) Leases;
- (h) Assignment of Leases;
- (i) Irrevocable Intercept Direction;
- (j) Charter Contracts;
- (k) Deposit Account Control Agreement;
- (l) Escrow Agreement;
- (m) Bond Purchase Agreement;
- (n) Final form of Bonds;
- (o) Continuing Disclosure Undertaking;
- (p) Issuer's Closing Certificate;
- (q) Issuer's Resolution;
- (r) Tax Certificate;
- (s) Borrower's Closing Certificate;
- (t) Bond Counsel Opinion addressed to the Board;

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- (u) Underwriter's Opinion;
- (v) Issuer's Counsel Opinion addressed to the Board;
- (w) Borrower's/School's Counsel Opinion addressed to the Board;
- (x) UCC-1s;
- (y) Title Policy;
- (z) Reimbursement Agreement; and
- (aa) Any other documents, opinions, certificates, resolutions and/or information which is reasonably requested by the Board.

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**EXHIBIT B**  
**TO THE TERMS AND CONDITIONS AGREEMENT**

**Required Transaction Document Provisions**

If any draw is made from the debt service reserve fund to pay principal or interest on the Obligations, the Paying Agent/Trustee shall deliver Written Notice (as defined below) of such draw to the Credit Enhancement Eligibility Board (the "**Board**"), on behalf of the Arizona Public School Credit Enhancement Fund (the "**Fund**"), and to the Arizona State Treasurer (the "**Treasurer**") within ten business days after such draw.

If, no later than the fifth business day prior to any payment date on the Obligations, the Paying Agent/Trustee has not received sufficient monies to pay all principal of and interest on the Obligations due on such payment date and after any monies in any debt service reserve fund securing the Obligations are fully expended (and, in the case of a debt service reserve fund securing both the Obligations and parity debt, any monies in such debt service reserve fund are fully expended), then the Paying Agent/Trustee shall immediately notify in writing the Board and the Treasurer on the same business day by telephone and email, confirmed in writing by registered or certified mail (collectively, "**Written Notice**"), of the amount of the deficiency. Such notice shall specify (a) the Paying Agent/Trustee name, (b) the Fund Certificate number, (c) the claimed deficiency and (d) the date on which such amount is due to Bondholders. Such notice will be deemed received by the Board and the Treasurer on a given business day if it is received prior to 1:00 p.m. Mountain Standard Time on such business day; otherwise, it will be deemed received on the next business day.

If the deficiency is made up from amounts other than payments under the Fund Certificate in whole or in part prior to or on the related payment date, the Paying Agent/Trustee shall immediately provide Written Notice to the Board and the Treasurer on the same business day.

In addition, if the Paying Agent/Trustee has notice that any registered or beneficial owner of the Obligations (a "**Bondholder**") has been required to disgorge payments of principal or interest on the Obligations to a trustee in bankruptcy or creditors or others pursuant to a final judgment by a court of competent jurisdiction that such payment constitutes an avoidable preference to such Bondholder within the meaning of any applicable bankruptcy laws (a "**Preference Claim**"), then the Paying Agent/Trustee shall provide Written Notice to the Board and the Treasurer of such fact on the same business day. The Paying Agent/Trustee shall furnish to the Board and the Treasurer its records listing the payments on the affected Obligations, if any, that have been made by the Paying Agent/Trustee and subsequently recovered from the affected Bondholders and the dates on which such payments were made by the Paying Agent/Trustee. Notwithstanding anything to the contrary herein, each Bondholder, by its purchase of the Obligations, and the Paying Agent/Trustee hereby agree that the Board may at any time during the continuation of any proceeding relating to a Preference Claim direct all matters relating to such Preference Claim, including, without limitation, (i) the direction of any appeal of

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any order relating to any Preference Claim and (ii) the posting of any surety, supersedeas or performance bond pending any such appeal. In addition and without limitation of the foregoing, the Board shall be subrogated to the rights of the Paying Agent/Trustee and each Bondholder in the conduct of any Preference Claim, including, without limitation, all rights of any party to an adversary proceeding action with respect to any court order issued in connection with any such Preference Claim.

The Paying Agent/Trustee shall establish a separate special purpose trust account in the name of the Paying Agent/Trustee for the benefit of the Bondholders (the “**Fund Payments Account**”) over which the Paying Agent/Trustee shall have exclusive control and sole right of withdrawal and in which none of the Issuer, the School the Bondholders or any other Person shall have any legal or beneficial interest. The Paying Agent/Trustee shall deposit any amount paid pursuant to the Fund Certificate into the Fund Payments Account and distribute such amount only for the purpose of making the payments to the Bondholders in respect of the payment for which the related claim was made pursuant to the Fund Certificate. Such amounts shall be allocated by the Paying Agent/Trustee to the Bondholders affected by such payment deficiency in the same manner as principal and interest payments are to be allocated with respect to the Obligations pursuant to Section . It shall not be necessary for such payments to be made by checks or wire transfers separate from the checks or wire transfers used to make regular payments hereunder with funds withdrawn from the  Account. However, any payments made on the Obligations from funds in the Fund Payments Account shall be noted as provided in subsection  below. Funds held in the Fund Payments Account shall be invested by the Paying Agent/Trustee in “Government Obligations” or, if not in Government Obligations, then shall remain uninvested or invested in only those investments approved by the Board, in each case maturing on or prior to the related payment date.

The Paying Agent/Trustee shall establish a separate special purpose trust account in the name of the Paying Agent/Trustee for the benefit of the Board and the Fund (the “**Participation Fee Payments Account**”) over which the Paying Agent/Trustee shall have exclusive control and sole right of withdrawal and in which none of the Issuer, the Bondholders, the School or any other Person shall have any legal or beneficial interest. The School shall pay, or cause to be paid, an annual program participation fee (the “**Participation Fee**”) such that an amount equal to the applicable portion of the annual Participation Fee due from the School to the Fund is available to be paid on each interest payment date of the Obligations (ex: in the case of January 1 and July 1 interest payment dates, one half of the annual Participation Fee would be paid on January 1 and the second half on July 1). Amounts received by the Paying Agent/Trustee under the Transaction Documents for payment of the Participation Fee shall be deposited by the Paying Agent/Trustee into the Participation Fee Payments Account on parity with principal and/or interest payments otherwise required under the Transaction Documents or as high in priority as is possible in any “waterfall.” The Paying Agent/Trustee shall pay such Participation Fee to the Treasurer on behalf of the Fund on each Obligation interest payment date. Funds held in the Participation Fee Payments Account shall be invested by the Paying Agent/Trustee in “Government Obligations” or, if not in Government

Obligations, then shall remain uninvested or invested in only those investments approved by the Board, in each case maturing on or prior to the related payment date

The Paying Agent/Trustee is hereby irrevocably designated, appointed, directed and authorized to act as attorney-in-fact for Bondholders as follows:

1. If and to the extent there is a deficiency in amounts required to pay interest on the Obligations, the Paying Agent/Trustee shall (a) execute and deliver to the Board and Treasurer, in form satisfactory to the Board, an instrument appointing the Board as agent for such Bondholders in any legal proceeding related to the payment of such interest and an assignment to the Board of the claims for interest to which such deficiency relates and which are paid by the Board, (b) receive as designee of the respective Bondholders (and not as Paying Agent/Trustee) in accordance with the tenor of the Fund Certificate payment from the Treasurer on behalf of the Fund with respect to the claims for interest so assigned, and (c) disburse the same to such respective Bondholders; and
2. If and to the extent of a deficiency in amounts required to pay principal of the Obligations, the Paying Agent/Trustee shall (a) execute and deliver to the Board and the Treasurer in form satisfactory to the Board an instrument appointing the Board as agent for such Bondholders in any legal proceeding relating to the payment of such principal and an assignment to the Board of any of the Obligations surrendered to the Board of so much of the principal amount thereof as has not previously been paid or for which monies are not held by the Paying Agent/Trustee and available for such payment (but such assignment shall be delivered only if payment from the Treasurer on behalf of the Fund is received), (b) receive as designee of the respective Bondholders (and not as Paying Agent/Trustee) in accordance with the tenor of the Fund Certificate payment therefor from the Trustee on behalf of the Fund, and (c) disburse the same to such Bondholders.

Anything herein to the contrary notwithstanding, payments with respect to claims for interest on and principal of Obligations disbursed by the Paying Agent/Trustee from the Treasurer on behalf of the Fund shall not be considered to discharge the obligation of the Issuer or the School under the related indenture of trust (or other similar Transaction Document) with respect to such Obligations, and the Board shall become the owner of such unpaid Obligation and claims for the interest and principal in accordance with the tenor of the assignment made to it under the provisions of this subsection or otherwise.

Irrespective of whether any such assignment is executed and delivered and notwithstanding anything to the contrary herein, the Issuer and the Paying Agent/Trustee hereby agree, and each Bondholder by its acceptance of the Obligations agrees, for the benefit of the Board that, without the need for any further action on the part of the Board, the Fund, the Treasurer, the Issuer or the Paying Agent/Trustee:

1. That to the extent the Treasurer on behalf of the Fund makes payments, directly or indirectly (as by paying through the Paying Agent/Trustee), on account of principal of or interest on any of the Obligations, the Board will be fully subrogated to the rights of such Bondholders to take all actions and enforce all rights of such Bondholders and to receive the amount of such principal and interest from the Issuer, with interest thereon as provided in the Transaction Documents and the Obligations. The Bondholders by acceptance of the Obligations, assign their rights as Bondholders to the extent of the Board's interest with respect to amounts paid pursuant to the Fund Certificate; and
2. They will accordingly pay to the Treasurer for deposit in the Fund the amount of such principal and interest, with interest thereon as provided in the Transaction Documents and the Obligation, but only from the sources and in the manner provided herein for the payment of principal of and interest on the Obligations to Bondholders, and will otherwise treat the Board as the owner of such rights to the amount of such principal and interest.

Any funds received from the Treasurer on behalf of the Fund for deposit into the Fund Payments Account pursuant to the Fund Certificate in respect of a payment date or otherwise as a result of any claim pursuant to the Fund Certificate shall be applied by the Paying Agent/Trustee directly to the payment in full of the payment due on such payment date on the Obligations. Funds received by the Paying Agent/Trustee from the Treasurer on behalf of the Fund shall be used solely for payment to the Bondholders and may not be applied for any other purpose, including, without limitation, satisfaction of any costs, expenses or liabilities of the Paying Agent/Trustee, the Issuer, the School or any other party or payment of any amount not guaranteed pursuant to the Fund Certificate. Any funds remaining in the Fund Payments Account on the first Business Day after each payment date shall be remitted promptly to the Treasurer pursuant to the written instruction of the Treasurer for deposit into the Fund.

The Paying Agent/Trustee shall keep complete and accurate records in respect of (i) all funds remitted to it by the Treasurer on behalf of the Fund and deposited into the Fund Payments Account and (ii) the allocation of such funds to payments of interest on and principal in respect of the Obligations. The Board and the Treasurer shall have the right to inspect such records at reasonable times during normal business hours upon one Business Day prior notice to the Paying Agent/Trustee.

The Paying Agent/Trustee shall establish a separate special purpose trust account in the name of the Paying Agent/Trustee for the benefit of the Board and the Fund (the "**Reimbursement Account**") over which the Paying Agent/Trustee shall have exclusive control and sole right of withdrawal and in which none of the Issuer, the Bondholders, the School or any other Person shall have any legal or beneficial interest. Upon receipt of any payment from or on behalf of the School, the Paying Agent/Trustee shall deposit into the Reimbursement Account immediately after any deposits otherwise required under the Transaction Documents to be made to the principal and interest accounts of the

Obligations and any parity indebtedness and to any debt service reserve fund securing the Obligations and any parity indebtedness or as high in priority as is possible in any “waterfall,” an amount equal to the remaining amounts due from the School to the Board and the Fund under the Reimbursement Agreement. Within one Business Day of such deposit or as soon as disbursements are made by the Paying Agent/Trustee, the Paying Agent/Trustee shall pay such amounts to the Treasurer on behalf of the Fund. Funds held in the Reimbursement Account shall be invested by the Paying Agent/Trustee in “Government Obligations” or, if not in Government Obligations, then shall remain uninvested or invested in only those investments approved by the Board, in each case maturing on or prior to the related payment date

Upon becoming aware of the occurrence of any “event of default,” the Paying Agent/Trustee shall promptly notify the Board of such “event of default.” Any acceleration of any principal or interest payment on the Obligations shall require the prior written consent of the Board.

Subject to the terms of the Transaction Documents, the Board shall have the right to direct the Paying Agent/Trustee with respect to the exercise of any remedies available relating to the Obligations.

Notwithstanding anything to the contrary in the Transaction Documents, each Bondholder of the Obligations agrees that the Board shall be treated by the Issuer, the School, the Paying Agent/Trustee and all other parties as if the Board were the Holder of all of the Obligations for the purpose of the giving of any consent or waiver, the making of any direction or the exercise of any voting or other control rights otherwise given to the Bondholders under the Transaction Documents without any further consent of any Bondholder. The Bondholders of the Obligations may not exercise any such rights without the prior written consent of the Board. The rights of the Board to direct certain actions and to consent to certain actions of the Bondholders of the Obligations under the Transaction Documents will terminate at such time as the outstanding principal amount of the Obligations has been reduced to zero and the Fund has been reimbursed for all payments made pursuant to the Fund Certificate and any other amounts owed to the Board or the Fund under the Reimbursement Agreement or any other Transaction Document and the Fund has no further obligation pursuant to the Fund Certificate. The Board’s consent shall not be required with respect to (i) the issuance of additional bonds that meet all of the conditions precedent and additional bonds/additional indebtedness tests set forth in the Transaction Documents, (ii) refunding bonds that meet all of the conditions precedent and refunding issuance tests set forth in the Transaction Documents, or (iii) issuance of general obligation bonds.

Subject to the terms of the Transaction Documents, any removal of the Paying Agent/Trustee and/or appointment of a successor Paying Agent/Trustee shall require the prior written consent of the Board.

Subject to the terms of the Transaction Documents, each amendment to any of the Transaction Documents shall require the prior written consent of the Board.

[ ] Except those posted to the EMMA system of the Municipal Securities Rulemaking Board, the School shall, or shall cause the Paying Agent/Trustee to, send to the Board copies of all notices, statements, reports, certificates and any other information or communication delivered to the Paying Agent/Trustee, the Issuer, S&P (or any rating agency) and/or Bondholders, and any other information, certificates or reports reasonably requested by the Board. Information permitted to be delivered to the Board by posting to the EMMA system is deemed delivered to the Board upon such information being uploaded under the correct CUSIP identifier. Any information required to be given to the Board or the Fund outside of the EMMA system shall be in writing and shall be sent by registered or certified mail addressed to Credit Enhancement Eligibility Board, c/o Office of the Governor, 1700 West Washington Street, Phoenix, Arizona 85007, Attention: Dawn Wallace, or electronically to [dwallace@az.gov](mailto:dwallace@az.gov) - referencing Fund Certificate No. \_\_\_\_, or such other address as the Board shall specify to the Paying Agent/Trustee in writing. Any notices, statements, reports, certificates and other information required to be given to the Treasurer shall be in writing and shall be sent by registered or certified mail addressed to Office of the Arizona State Treasurer, 1700 West Washington Street, Phoenix, Arizona 85007 Attention: Mark Swenson, or electronically to [marks@aztreasury.gov](mailto:marks@aztreasury.gov) - referencing Arizona Public School Credit Enhancement Fund Certificate No. \_\_\_\_, or such other address as the Treasurer shall specify to the Paying Agent/Trustee in writing.

[ ] With respect to any advance or current refunding of the Obligations, the School agrees to (i) make all applicable notice filings pursuant to the United States Securities Exchange Commission's Rule 15c2-12; (ii) provide the Board with verification by an independent firm of the sufficiency of the escrow to timely retire the refunded Obligations; and (iii) to the extent that such advance or current refunding is intended to discharge or defease the Issuer's obligations under the related indenture of trust (or other similar Transaction Document), provide the Board with an opinion of counsel, stating that the Obligations have been legally defeased and that the escrow agreement establishing such defeasance operates to legally defease the Obligations within the meaning of the Transaction Documents.

[ ] The Issuer and the Paying Agent/Trustee agree that the Board and the Fund are each explicitly recognized as being an express third-party beneficiary under the Transaction Documents with the power to enforce any right, remedy, or claim conferred, given or granted to it under such Transaction Documents as if it were a party thereto.

[ ] In connection with the determination of any action to be taken or any right or remedy to be exercised, all references in the Transaction Documents (other than in any offering document) to the ratings assigned to the Obligations and to the interests of the Bondholders shall be without regard to the Fund Certificate.

[ ] All references in the Transaction Documents to the Board, the Fund and the Arizona Public School Credit Enhancement Program shall be as provided by, or as approved by, the Board.



The Paying Agent/Trustee and the Issuer shall cooperate with any reasonable request by the Board to preserve or enforce the rights and/or interests of the Board, the Fund and/or the Treasurer under the Transaction Documents.

The Board shall have the right, upon three (3) Business Days' prior notice to the bond register, to obtain from the register a complete list of the Bondholders and, upon request of the Board, the register shall assist the Board with obtaining from DTC a list of the related "participants" acting on behalf of beneficial owners of the Obligations if held as book-entry securities.

Excepting existing assignments contained in the Transaction Documents, the Issuer shall not assign any of its obligations under any of the Transaction Documents without the prior written consent of the Board.

The School agrees to reimburse the Board, the Fund and the Treasurer immediately and unconditionally upon demand, to the extent permitted by law, for all reasonable expenses, including attorneys' fees and expenses, incurred by the Board, the Fund and/or the Treasurer in connection with the enforcement by the Board, the Fund and/or the Treasurer of the School's obligations, or the preservation or defense of any rights of the Board the Fund or the Treasurer, under any of the Transaction Documents and any other document executed in connection with the issuance of the Obligations.

Payments to the Treasurer on behalf of the Fund shall be made by wire transfer of immediately available funds pursuant to the following wiring instructions:

Bank Name: Bank of America  
ABA Routing Number: 026009593  
Account Number: 001000985  
Account Name: Arizona State Treasurer's Office  
Reference: TRA-CEF-LGIP Credit Enhancement Fund – [ACHIEVEMENT DISTRICT SCHOOL NAME]

unless the Board or the Treasurer otherwise notifies the Paying Agent/Trustee in writing.

The Paying Agent/Trustee and Issuer acknowledge, and each Bondholder by its acceptance of the Obligations acknowledges: (a) the obligations of the Fund and/or the Board pursuant to the Fund Certificate, under the Transaction Documents or otherwise only apply to, and are only enforceable against, the Fund and the Board and shall not bind, obligate or constitute a charge of any nature against the assets of the State of Arizona (the "State") which are not held by, or on behalf of the Fund or the Treasurer on behalf of the Fund. The obligations of the Board and the Fund are payable exclusively from the assets of the Fund and do not constitute a debt or a loan of credit or a pledge of the full faith and credit or taxing power of the State, or any political subdivision thereof, within the meaning of any State constitutional provision or statutory limitation and will never constitute nor give rise to a pecuniary liability of the State. The Board has no taxing power.

**EXHIBIT C  
TO THE TERMS AND CONDITIONS AGREEMENT**

**Fees and Expenses**

Wiring Instructions:

Treasurer:

Bank Name: Bank of America  
ABA Routing Number: 026009593  
Account Number: 001000985  
Account Name: Arizona State Treasurer's Office  
Reference: TRA-CEF-LGIP Credit Enhancement Fund – [ACHIEVEMENT  
DISTRICT SCHOOL NAME]

Board Counsel:

Bank Name: \_\_\_\_\_  
ABA Routing Number: \_\_\_\_\_  
Account Number: \_\_\_\_\_  
Account Name: \_\_\_\_\_  
Reference: \_\_\_\_\_

**EXHIBIT D  
TO THE TERMS AND CONDITIONS AGREEMENT**

**Arizona Statutory Provisions**

(a) *Compliance with Executive Order 2009-9.* The School shall comply with Executive Order 2009-9, which mandates that all persons, regardless of race, color, religion, sex, age, or national origin not mentioned in such Order shall have equal access to employment opportunities, and all other applicable state and Federal employment laws, rules and regulations, including the Americans with Disabilities Act. The School shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability.

(b) *Compliance with Applicable Immigration Laws.* The School warrants compliance with all applicable Federal and state immigration laws and regulations relating to employees and further warrants, to the extent that it has business operations located within the State of Arizona, that it complies and shall comply throughout the term of this Agreement with A.R.S. § 23-214, Subsection A, which reads as follows: “After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the e-verify program.” A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of this Agreement and the School may be subject to penalties up to and including termination of this Agreement. The Board retains the legal right to inspect the papers of any employee who works on this Agreement to ensure that the School or any subcontractor is complying with the warranty under this paragraph.

(c) *Record Retention.* Pursuant to A.R.S. §§ 35-214 and 35-215, the School shall retain all business records relating to this Agreement for a period of five (5) years after completion of this Agreement. All records shall be subject to inspection and audit by the Board at reasonable times. Upon request, the School shall produce the original of any or all such records at the offices of the Fund.

(d) *Dispute Resolution.* The parties to this Agreement agree to resolve all disputes arising out of or relating to this Agreement through arbitration to the extent required by A.R.S. § 12-1518 except as may be required by other applicable statutes.

(e) *Compliance with Arizona Revised Statute § 38-511.* The requirements of Arizona Revised Statute § 38-511 apply to this Agreement. The Board may cancel this Agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the Board is, at any time while this Agreement or any extension is in effect, an employee, agent or consultant of the School with respect to the subject matter of this Agreement.

(f) *Disclosure.* Notwithstanding anything to the contrary in this Agreement, the Board and the Fund shall be authorized to disclose any documents provided by the School and required to be disclosed by the Arizona Public Records Act, A.R.S. §§ 39-121

Exhibit D-1

*et seq.*, and for all purposes, the laws of Arizona shall govern and control the disclosure obligations of the Board and the Fund under this Agreement.

(g) *Compliance with A.R.S. §§35-393.01(A)*. In accordance with A.R.S. §§35-393.01(A), the School hereby certifies that it has not and shall not, for the duration of this Agreement, engage in a boycott of the State of Israel.

(h) *Indemnification*. Notwithstanding any provision of this Agreement to the contrary, the Board and the Fund do not have authority to indemnify the School. All claims against the Board or the Fund arising under this Agreement must be submitted in accordance with A.R.S. § 12-821.01.

(i) *Antitrust Violation Proceeds*. The School assigns to the Board any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services supplied by third parties to the School toward fulfillment of this Agreement.

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