

ACQUISITION FUND AND ACCOUNT CONTROL AGREEMENT

This Acquisition Fund and Account Control Agreement (this "Agreement"), dated as of _____, 20__, by and among _____, a _____ [corporation] [limited liability company] (together with its successors and assigns, hereinafter referred to as "Lessor"), the New Jersey Educational Facilities Authority ("Lessee"), a body corporate and politic of the State of New Jersey established pursuant to the New Jersey Educational Facilities Authority Law, Public Laws of 1967, Chapter 271, N.J.S.A. 18A:72A-1 et seq., as amended and supplemented (the "Act"), _____, a public institution of higher education organized and existing under the laws of the State of New Jersey ("Sub-Lessee") and _____, a [banking corporation] [national banking association] organized under the laws of the _____ (hereinafter referred to as the "Acquisition Fund Custodian").

Reference is made to that certain Master Equipment Lease and Sublease Agreement dated as of _____, 20__ among Lessor, Lessee and Sub-Lessee and Schedule of Property No. __ (the "Schedule") thereto (hereinafter collectively referred to as the "Lease"), covering the acquisition and lease of certain Equipment described therein (the "Equipment"). It is a requirement of the Lease that the Equipment Cost of the Equipment (an amount not to exceed \$_____) be deposited into an escrow under terms satisfactory to Lessor, for the purpose of fully funding the Lease, and providing a mechanism for the application of such amounts to the purchase of and payment for the Equipment on or before _____, 20__ (the "Acquisition Period").

The parties agree as follows:

1. Creation of Acquisition Fund [and Expense Fund].

(a) There is hereby created a special trust fund to be known as the "_____ Equipment Lease Acquisition Fund" (the "Acquisition Fund") to be held in trust by the Acquisition Fund Custodian for the purposes stated herein, for the benefit of Lessor, Lessee and Sub-Lessee, to be held, disbursed and returned in accordance with the terms hereof.

(b) The Acquisition Fund Custodian shall invest and reinvest moneys on deposit in the Acquisition Fund in Qualified Investments in accordance with written instructions received from the Sub-Lessee. Sub-Lessee shall be solely responsible for ascertaining that all proposed investments and reinvestments are Qualified Investments and that they comply with federal, state and local laws, regulations and ordinances governing investment of such funds and for providing appropriate notice to the Acquisition Fund Custodian for the reinvestment of any maturing investment. Accordingly, neither the Acquisition Fund Custodian, Lessor or Lessee shall be responsible for any liability, cost, expense, loss or claim of any kind, directly or indirectly arising out of or related to the investment or reinvestment of all or any portion of the moneys on deposit in the Acquisition Fund, and Sub-Lessee agrees to and does hereby release the Acquisition Fund Custodian, Lessor and Lessee from any such liability, cost, expenses, loss or claim. Interest on the Acquisition Fund] shall become part of the Acquisition Fund, and gains

and losses on the investment of the moneys on deposit in the Acquisition Fund shall be borne by the Acquisition Fund. For purposes of this Agreement, "Qualified Investments" means (a) any direct and general obligations of, or any obligation fully and unconditionally guaranteed by the United States of America; [(b) any bond, debenture, note or participation certificate or other evidence of indebtedness issued by any United States Government Agency permitted as an investment under N.J.A.C. 17:16-11.1; (c) any guaranteed income contracts provided that: (i) the contract has a term of ten (10) years or less; (ii) the issuer of the guaranteed income contract is incorporated in the United States; (iii) the issuer is not in default as to payment of any of its outstanding obligations; and (iv) (a) the issuer, in the case of an insurance company, has a total combined capital stock and surplus reserve for contingencies of at least \$200,000,000 at the date of its last published financial statement and a credit rating of at least A+ from A. M. Best Company; or (b) the issuer, in the case of a commercial bank, meets all capital requirements as defined by the Federal Reserve Board at the date of its last published financial statement and has a short term debt rating of at least P1 from Moody's Investor Service or at least the equivalent thereof from another nationally recognized rating agency; and (v) the issuer is on a list of companies certified by the Director of the State Division of Investment as having met the foregoing requirements; (d) investments in a money market fund rated "AAAm" or "AAAm-G" or better by Standard & Poor's Rating Service or the equivalent thereof by another nationally recognized rating agency;] and (e) the New Jersey Cash Management Fund.

(c) Unless the Acquisition Fund is earlier terminated in accordance with the provisions of paragraph (d) below, amounts in the Acquisition Fund shall be disbursed by the Acquisition Fund Custodian in payment of amounts described in Section 2 hereof upon receipt of written authorization(s) from Sub-Lessee, as is more fully described in Section 2 hereof. If the amounts in the Acquisition Fund are insufficient to pay such amounts, Sub-Lessee shall provide any balance of the funds needed to complete the acquisition of the Equipment. Any moneys remaining in the Acquisition Fund after the expiration of the Acquisition Period shall be applied as provided in Section 4 hereof.

(d) The Acquisition Fund shall be terminated at the earliest of (i) the final distribution of amounts in the Acquisition Fund or (ii) written notice given by Lessor of the occurrence of a default under the Lease or of a termination of the Lease in accordance with the terms thereof.

(e) The Acquisition Fund Custodian may act in reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine and may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument. Except for any intentional acts or omissions of the Acquisition Fund Custodian, the Acquisition Fund Custodian shall not be liable in any manner for the sufficiency or correctness as to form, manner of execution, or validity of any instrument nor as to the identity, authority, or right of any person executing the same; and its duties hereunder shall be limited to the receipt of such moneys, instruments or other documents received by it as the Acquisition Fund Custodian, and for the disposition of the same in accordance herewith.

(f) Unless the Acquisition Fund Custodian is guilty of negligence or willful misconduct with regard to its duties hereunder, Sub-Lessee agrees to and does hereby indemnify, to the extent permitted by law, the Acquisition Fund Custodian, and hold it harmless from any

Lessor, Lessee and Sub-Lessee, to be held, disbursed and returned in accordance with the terms hereof. Moneys in the Expense Fund shall be used solely for the purpose of paying costs of issuance including (but not limited to) fees and expenses of Lessor and Lessee, including the fees and expenses of Lessee's financial advisor (if necessary), Lessor the Acquisition Fund Custodian and Lessee's bond counsel or special tax counsel (collectively, the "Costs of Issuance"). The Expense Fund shall not be invested, and any amounts remaining in the Expense Fund thirty (30) days following the funding of the Expense Fund shall be deposited into the Acquisition Fund and applied as provided in this Agreement, and the Expense Fund shall be closed.]

2. Acquisition of Property.

(a) Acquisition Contracts. Sub-Lessee will arrange for, supervise and provide for, or cause to be supervised and provided for, the acquisition of the Equipment, with moneys available in the Acquisition Fund. Sub-Lessee represents the estimated costs of the Equipment are within the funds estimated to be available therefor, and neither Lessor nor Lessee make any warranty or representation with respect thereto. Lessor and Lessee shall have no liability under any applicable acquisition, equipping or installation contracts. Sub-Lessee shall obtain all necessary permits and approvals, if any, for the acquisition, equipping and installation of the Equipment, and the operation and maintenance thereof.

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

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

1. Delivery to Lessor of a certificate of Sub-Lessee to the effect that:

- (i) an obligation in the stated amount has been incurred by Sub-Lessee, and that the same is a proper charge against the Acquisition Fund for costs relating to the Equipment identified in the Lease, and has not been paid;
- (ii) the Authorized Representative has no notice of any vendor's, mechanic's or other liens or rights to liens, chattel mortgages, conditional sales contracts or security interest which should be satisfied or discharged before such payment is made;
- (iii) such requisition contains no item representing payment on account, or any retained percentages which Sub-Lessee is, at the date of such certificate, entitled to retain; and
- (iv) the Equipment is insured in accordance with the Lease.

2. Delivery to Lessor of an Acceptance Certificate executed by Sub-Lessee together with invoices evidencing transfer of title to the Equipment from the vendor or supplier thereof to Sub-Lessee.
3. The disbursement shall occur during the Acquisition Period set forth in the Schedule applicable to such Equipment.
4. There shall exist no Event of Default under the Lease (nor any event which, with notice or lapse of time or both, would become an Event of Default).

3. Deposit to Acquisition Fund. Upon satisfaction of the conditions specified in Section 4.02 of the Lease, Lessor will cause the Lease Proceeds to be deposited in the Acquisition Fund [and the Expense Fund] in amounts as directed by the Lessee. Sub-Lessee agrees to pay any costs with respect to the Equipment [or Costs of Issuance] in excess of amounts available therefor in the Acquisition Fund [or the Expense Fund, as the case may be].

4. Excessive Acquisition Fund. Following the final disbursement from the Acquisition Fund at the end of the Acquisition Period, or termination of the Acquisition Fund as otherwise provided herein, the Acquisition Fund Custodian shall transfer any remainder from the Acquisition Fund to Lessor for application to the principal amounts of Rental Payments then outstanding under the Lease.

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

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

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

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

(c) Acquisition Fund Custodian hereby represents and warrants (a) that the records of Acquisition Fund Custodian show that Sub-Lessee is the sole owner of the Collateral, (b) that Acquisition Fund Custodian has not been served with any notice of levy or received any notice of any security interest in or other claim to the Collateral, or any portion of the Collateral, other than Lessor's claim pursuant to this Agreement, and (c) that Acquisition Fund Custodian is not presently obligated to accept any entitlement order from any person with respect to the Collateral, except for entitlement orders that Acquisition Fund Custodian is obligated to accept from Lessor under this Agreement and entitlement orders that Acquisition Fund Custodian, subject to the provisions of paragraph (e) below, is obligated to accept from Lessee with the consent of Sub-Lessee.

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

(e) Except as otherwise provided in this paragraph (e) and subject to Section 1(b) and Section 2 hereof, Acquisition Fund Custodian may allow Sub-Lessee to effect sales, trades, transfers and exchanges of Collateral within the Acquisition Fund, but will not, without the prior written consent of Lessor, allow Sub-Lessee to withdraw any Collateral from the Acquisition Fund. Acquisition Fund Custodian acknowledges that Lessor reserves the right, by delivery of written notice to Acquisition Fund Custodian, to prohibit Sub-Lessee from effecting any withdrawals (including withdrawals of ordinary cash dividends and interest income), sales, trades, transfers or exchanges of any Collateral held in the Acquisition Fund. Further, Acquisition Fund Custodian hereby agrees to comply with any and all written instructions delivered by Lessor to Acquisition Fund Custodian (once it has had a reasonable opportunity to comply therewith) and has no obligation to, and will not, investigate the reason for any action taken by Lessor, the amount of any obligations of Sub-Lessee to Lessor or Lessee, the amount of any obligations of Lessee to Lessor, the validity of any of Lessor's claims against or agreements with Lessee or Sub-Lessee, the existence of any defaults under such agreements, or any other matter.

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

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

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

(i) Acquisition Fund Custodian is hereby authorized and instructed, and hereby agrees, to send to Lessor at its address set forth in Section 12 herein, concurrently with the sending thereof to Lessee and Sub-Lessee, duplicate copies of any and all monthly Acquisition Fund statements or reports issued or sent to Lessee or Sub-Lessee with respect to the Acquisition Fund.

7. Compliance with P.L. 2005, c. 51 and Executive Order No. 117. The Acquisition Fund Custodian represents and warrants that all information, certifications and disclosure statements previously provided in connection with P.L. 2005, c. 51, and Executive Order No. 117 (Corzine, 2008) (“Executive Order 117”), are true and correct as of the date hereof and that all such statements have been made with full knowledge that the Authority has relied upon the truth of the statements contained therein in engaging the Acquisition Fund Custodian in connection with the Lease. The Acquisition Fund Custodian agrees that it will maintain continued compliance with P.L. 2005, c. 51, Executive Order 117 and any regulations pertaining thereto. The Acquisition Fund Custodian acknowledges that upon its failure to make required filings thereunder or the making of a contribution prohibited thereunder the Authority may remove the Acquisition Fund Custodian as trustee under this Agreement and may exercise any remedies afforded to it at law or in equity.

8. Compliance with P.L. 2005, c. 271 Reporting Requirements. The Acquisition Fund Custodian hereby acknowledges that it has been advised of its responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (“ELEC”) pursuant to N.J.S.A. 19:44A-20.13 (P.L. 2005, c. 271, section 3) if the Acquisition Fund Custodian enters into agreements or contracts such as this Agreement, with a New Jersey public entity, such as the Lessee, and receives compensation or fees in excess of \$50,000 or more in the aggregate from New Jersey public entities, such as the Lessee, in a calendar year. It is the Acquisition Fund Custodian’s responsibility to determine if filing is necessary. Failure to so file can result in the imposition of financial penalties by ELEC. Additional information about this requirement is available from ELEC at 888-313-3532 or at www.elec.state.nj.us.

9. P.L. 2005, c. 92 Covenant. In accordance with P.L. 2005, c. 92, the Acquisition Fund Custodian covenants and agrees that all services performed under this Agreement or any amendment thereto shall be performed within the United States of America.

10. Compliance with N.J.S.A. 52:32-58. The Acquisition Fund Custodian represents and warrants that it has complied with the requirements of N.J.S.A. 52:32-58 and has filed a certification with the Authority that it is not identified on the list of persons engaging in investment activities in Iran.

11. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of New Jersey[, including without limitation, the New Jersey Contractual Liability Act (N.J.S.A. 59:13-1 *et seq.*)]. The parties agree that [pursuant to the New Jersey Contractual Liability Act,] venue and jurisdiction regarding any matter pertaining to this Agreement shall be in the Superior Court of New Jersey, Law Division, and consent to same. The parties waive any claim to a venue or jurisdiction different from the foregoing.

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

If to Lessor:

Attn: _____
Fax: _____

If to Lessee:

New Jersey Educational Facilities Authority
103 College Road East
Princeton, New Jersey 08540-6612
Attn: Executive Director
Fax: (609) 987-0850

If to Sub-Lessee:

Attn: _____
Fax: _____

If to the Acquisition
Fund Custodian:

Attn: _____
Fax: _____

IN WITNESS WHEREOF, the parties have executed this Acquisition Fund and Account Control Agreement as of the date first above written.

_____,
as Lessor

New Jersey Educational Facilities Authority,
as Lessee

By: _____
Name:
Title:

By: _____
Name:
Title: Executive Director

_____,
as Sub-Lessee

_____,
as Acquisition Fund Custodian

By: _____
Name:
Title:

By: _____
Name:
Title:

DRAFT

SCHEDULE 1

FORM OF DISBURSEMENT REQUEST

Re: Master Equipment Lease and Sublease Agreement dated as of _____, 20__ by and among _____, as Lessor, the New Jersey Educational Facilities Authority, as Lessee, and _____, as Sub-Lessee (the "Master Lease") and Schedule of Property No. __ thereto (collectively, the "Lease")

In accordance with the terms of the Acquisition Fund and Account Control Agreement, dated as of _____, 20__ (the "Acquisition Fund and Account Control Agreement") by and among _____ ("Lessor"), the New Jersey Educational Facilities Authority ("Lessee"), _____ ("Sub-Lessee") and _____ (the "Acquisition Fund Custodian"), the undersigned hereby requests the Acquisition Fund Custodian pay the following persons the following amounts from the [Acquisition Fund] [Expense Fund] created under the Acquisition Fund and Account Control Agreement [(the "Acquisition Fund")] [(the "Expense Fund")] for the following purposes.

Payee's Name and Address	Invoice Number	Dollar Amount	Purpose

The undersigned hereby certifies as follows:

(i) An obligation in the stated amount has been incurred by Sub-Lessee, and the same is a proper charge against the [Acquisition Fund] [Expense Fund] for costs relating to the Equipment identified in the Lease, and has not been paid. Attached hereto is the original invoice with respect to such obligation.

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

(iii) This requisition contains no item representing payment on account, or any retained percentages which Sub-Lessee is, at the date hereof, entitled to retain.

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

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

(vi) The disbursement has occurred or shall occur during the Acquisition Period set forth in the Schedule applicable to such Equipment.]

Dated: _____, 20__

_____,
as Sub-Lessee under the Lease

By: _____
Authorized Representative

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

_____,
as Lessor under the Lease

By: _____
Name: _____
Title: _____