

LEASE PURCHASE ARRANGEMENT

Between

SAYLOR FAMILY TRUST, LLC,

A New Mexico Limited Liability corporation,
as LESSOR

and

NORTH VALLEY ACADEMY

A New Mexico State-Chartered Charter School
as LESSEE

THIS LEASE PURCHASE ARRANGEMENT (referred to herein as “this Agreement”), is made this 8th day of May, 2018, between Saylor Family Trust, LLC, a New Mexico limited liability corporation (“Lessor”), and North Valley Academy, a New Mexico State-Chartered charter school (“Lessee”).

Recitals

- A. Lessee is a New Mexico State-Chartered charter school as defined in Section 22-8B-2(A) NMSA 1978, authorized to enter into a “lease purchase arrangement” in accordance with the Public School Lease Purchase Act, Chapter 22, Article 26A NMSA 1978 (the “Public School Lease Purchase Act”).
- B. Lessee’s governing body has determined that it is necessary, desirable, and in the best interest of Lessee to lease, and subject to certain contingencies as set forth in this Agreement, and to the separate statutory approval of the Department and the Public School Facilities Authority (“PSFA”) to purchase from Lessor the Land and Improvements (collectively the “School Site”) at 7939 4th St. NW in Albuquerque, New Mexico 87114 as shown in Exhibit A hereto.
- C. Lessee’s governing body has not formally promised or undertaken to provide as security for the debt or financial obligations of either a private nonprofit entity specifically organized under Section 22-8B-4.2(D)(2)(b)(2) NMSA 1978, or a private nonprofit corporation, domestic or foreign, as defined in the Nonprofit Corporation Act, any public education funds, or other state or federal funds, received, or to be received, from or through the State of New Mexico, relative to this Agreement.

Agreement

ARTICLE I DEFINITIONS AND EXHIBITS

Section 1.1. Definitions. Unless context otherwise requires, the terms defined in this Section shall, for all purposes of this Agreement, and all appertaining exhibits and documents have the meanings herein specified.

“Agreement” has the same legal meaning and effect as either the term “lease purchase arrangement” or “financing agreement,” as these latter two terms are defined in Section 22-26A-3(A) NMSA 1978, whether capitalized herein or not.

“Capital Outlay Act” means the Public School Capital Outlay Act, Chapter 22, Article 24 NMSA 1978.

“Charter Schools Act” means the Charter Schools Act, Chapter 22, Article 8B NMSA 1978.

“Commencement Date” means, per statute, no sooner than thirty (30) days from the date of execution of the Lease Purchase Arrangement by the parties after approval by the New Mexico Public Education Department and the Public Schools Facilities Authority, after which date the

payment obligations under the Lease Purchase Arrangement will continue for a period not exceeding thirty years after the date of execution as prescribed by NMSA 1978, Section 22-26A-5(C).

“Department” is the Public Education Department.

“Improvements” means any building(s), capital improvements and other facilities on the School Site.

“Land” means the tract containing 6.4293 acres more or less, as shown and described on TR 1 Plat of Tract 1&2 Horizon Academy being a replat of Tract 1 Alamo Acres Mobile Home Park cont 6.4293 Acres. Parcel # 1 015 063 136 524 21221 (See Exhibit A).

“Lease Purchase Act” means the Public School Lease Purchase Act, Chapter 22, Article 26A NMSA 1978.

“Lessee Representative” means the designated person delegated the authority to act on behalf of Lessee under or with respect to this Agreement as evidenced by a document conferring such authority executed by Lessee’s governing body and delivered to Lessor or Lessor’s Representative. The default Lessee Representative shall be the Governing Council President.

“Lessor Representative” means the person acting with proper authority to administer and transfer property with respect to this Agreement as evidenced by a document conferring such authority executed by an officer of Lessor, given to Lessee or a Lessee Representative.

“Net Proceeds” means any insurance proceeds or condemnation award paid with respect to the School Site, remaining after payment therefrom of all costs and expenses incurred in the collection thereof.

“PSCOC ” means the Public School Capital Outlay Council.

“Option to Purchase” means the right of Lessee to purchase the School Site in accordance with the terms of Article VI of this Agreement and the provisions of the Public School Lease Purchase Act.

“PSFA” means the Public School Facilities Authority.

“School Site” means the certain parcels of Land as described on Exhibit “A” and any Improvements thereon.

“Statewide Adequacy Standards” means the standards set forth in 6.27.30 NMAC (09/01/2002, as amended through 08/31/2005), and any subsequent amendments thereto promulgated by the Public School Capital Outlay Council, applicable to the School Site, and any variances from those standards granted to Lessee by the Public School Capital Outlay Council in accordance with Section 22-8B-4.2(F)(2) NMSA 1978.

“Term” means the term of this Agreement.

Section 1.2 Exhibits.

The following Exhibits are attached to and by reference made a part of this Agreement:

Exhibit A - Legal Description of Land

Exhibit B - Description of Improvements

Exhibit C – Appraisal

Exhibit D - Base Rent Payment Schedule

Exhibit E – Planned Funding Sources and Budget to make Base Rent

Exhibit F – Copy of the New Mexico Public Education Department’s approval of this Agreement

**ARTICLE II
REPRESENTATIONS, COVENANTS AND WARRANTIES**

Section 2.1. Representations, Covenants and Warranties of Lessee. Lessee represents, covenants and warrants as follows:

- (a) Lessee is a duly authorized and existing State-Chartered charter school in accordance with the provisions of the Charter Schools Act.
- (b) Lessee has full power and authority to lease, operate, maintain, and acquire the School Site under an option to purchase, to execute and deliver this Agreement, and perform the related transactions in accordance with the provisions of the Public School Lease Purchase Act and other applicable New Mexico statutes, and to carry out its obligations under this Agreement, subject to the limitations and conditions stated herein and the availability of sufficient appropriations and revenues therefor.
- (c) Lessee’s representatives executing this Agreement have been duly authorized to execute and deliver this Agreement in accordance with the terms and provisions of a resolution duly passed and adopted by Lessee’s governing body.
- (d) Lessee’s governing body has complied fully with all the provisions in Section 22-26A-6 NMSA 1978 and those in the Open Meetings Act, Chapter 10, Article 15 NMSA 1978 applicable to its actions with regard to this Agreement and the acquisition of the School Site through a lease purchase arrangement.
- (e) Lessee shall not transfer, lease, assign, mortgage or encumber all or any portion of its interest under this Agreement, or the School Site itself, except in accordance with the terms and conditions hereunder and as provided by law, including Section 22-26A-5(K) NMSA 1978 with respect to assignment of the lease purchase arrangement to any third party.
- (f) Lessee will use and occupy the School Site for the primary purpose of a public school and related activities thereto and for such other public purposes as may be

authorized by state or federal law or as may be lawfully authorized or lawfully permitted by Lessee.

(g) Lessee will conform and comply with all applicable municipal, state and federal ordinances, laws, rules and regulations in using the School Site and will not use or suffer to be used the School Site in any manner which contravenes any applicable municipal, state or federal ordinance, law, rule or regulation, or so as to create or cause to exist a nuisance or hazardous condition under the law.

(h) In no event shall this Agreement have a final payment date exceeding thirty (30) years after the date of its execution by the parties.

Section 2.2. Representations, Covenants and Warranties of Lessor.

Lessor represents, covenants and warrants as follows:

(a) Lessor is a Limited Liability Corporation duly organized, existing and in good standing under the laws of the State of New Mexico and has full power and authority to enter into this Agreement and to enter into and carry out the transactions contemplated hereby, and to carry out its obligations under this Agreement; and is possessed of full power to own and hold real and personal property, and to lease and sell the same to the Lessee.

(b) Neither the execution and delivery of this Agreement, nor the fulfillment of or compliance with the terms and conditions thereof, nor the consummation of the transactions contemplated hereby and thereby, conflicts with or will result in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which Lessor is now a party or by which Lessor is bound.

(c) Lessor warrants that it is in good standing pursuant to the terms of any mortgage or other financial obligation under which either the Land or School Site, or both, has been given as security for the payment of the underlying debt or financial obligation.

(d) To the best of Lessor's knowledge, Lessor has not received any notice that the School Site and/or the present use and condition of the School Site violates any applicable deed restrictions or other covenants, restrictions or agreements, mortgages or conditions of title or ownership, site plan approval, zoning or subdivision regulations, urban development plans, the laws statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions or requirements of any authorities governing or regulating the use and operation, or otherwise applicable to the School Site and therefore represents that it conveys clean title to Lessee.

(e) To the best of Lessor's knowledge, there are no underground storage tanks at the School Site and, to the best of Lessor's knowledge, Lessor has not used the School Site to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process pollutants, dangerous substances, toxic substances, hazardous wastes, hazardous materials or hazardous substances as defined in or pursuant to the Resource Conservation and Recovery Act (42 U.S.C.A. §§6901 *et seq.*) as amended, the comprehensive Environmental Response Compensation and Liability Act (42 U.S.C.A. §§9601 *et seq.*) as amended, or any other related Legal Requirement, and to the best of Lessor's knowledge, Lessor has not caused, and has no knowledge of, the leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing or dumping of any hazardous substances on or off the School Site on adjacent properties.

**ARTICLE III
AUTHORIZATION OF AGREEMENT**

Section 3.1. Agreement. Lessor hereby leases the School Site to Lessee, and Lessee hereby leases the School Site from Lessor, upon the terms and conditions set forth in this Agreement, provided that the terms and conditions herein are not in contravention of any applicable laws. This Agreement, once fully executed, supersedes any prior Lease Agreement for the School Site.

Section 3.2. Possession and Enjoyment. Lessor hereby covenants with respect to the School Site, to provide Lessee during the Term with quiet use and enjoyment of the School Site, and Lessee shall during the Term peaceably and quietly have and hold and enjoy the School Site, without suit, trouble or hindrance from Lessor, except as expressly set forth in this Agreement.

Section 3.3. Lessor Access to School Site. Lessee agrees that during the term of this Agreement following the Commencement Date of this Agreement, Lessor shall have the right during Lessee's normal working hours on Lessee's normal working days, upon compliance with any security requirements imposed by Lessee and upon forty eight (48) hours' notice, to enter on and examine and inspect the School Site for the purpose of assuring that the School Site is being properly maintained, preserved and kept in good repair and condition. Lessee further agrees that Lessor shall have such rights of access to the School Site as may be reasonably necessary to cause the proper maintenance of the School Site in the event of failure by Lessee to perform its obligations hereunder, provided that at no time shall Lessor be compelled or required to make any improvements, alterations or additions to the School Site, except as expressly provided in Section 7.1.

"Failure by the Lessee" for the purposes of this Section shall mean that no contractor or staff has been engaged by Lessee to perform the proper maintenance within 90 days of the maintenance issue being brought to the attention of the Lessee. Should Lessor be compelled or required to make any improvements, alterations, or additions to the School Site under this Section Lessor shall award this work only after receipt of no less than three (3) bids given by qualified persons to perform the maintenance. Cost must be a factor in the Lessor's decision of to whom to award this work.

Section 3.4. School Site. The School Site is the real property described on Exhibit A and any Improvements.

**ARTICLE IV
TERM OF AGREEMENT**

Section 4.1. Term. The Term shall commence thirty (30) days from the date of execution of this Agreement by the parties after approval by the Public Education Department and the Public School Facilities Authority and continue for no longer than thirty (30) years ("Term").

Section 4.2. Termination of Agreement. The Agreement will terminate upon the occurrence of the first of the following events:

- (a) the purchase of the School Site by the Lessee pursuant to Article VI of this Agreement;
- (b) a default by Lessee and Lessor's election to terminate this Agreement pursuant to Article XI;
- (c) a default by Lessor and Lessee's election to terminate this Agreement pursuant to Article XI; or
- (d) if sufficient money is not available to meet any current lease payment.

Section 4.3. Effect of Termination of Term. Upon termination of the Agreement:

- (a) All unaccrued obligations of Lessee hereunder shall terminate, but all obligations of Lessee that have accrued hereunder prior to such termination shall continue until they are discharged in full, subject to the provisions of Section 22-8B-12.1(C) NMSA 1978, under which the Department may assume control and management of Lessee's assets and finances, and over powers and duties of Lessee's governing body designated as a board of finance under Section 22-8B-6(L)(4) NMSA 1978; and
- (b) If the termination occurs because of the occurrence of a non-appropriation as described in Section 4.2(d) herein, or because of an Event of Default, (i) Lessee's right to possession of the School Site hereunder shall terminate; (ii) Lessee shall, within one hundred and eighty (180) days thereafter, vacate the School Site; and (iii) if and to the extent Lessee has appropriated funds for payment of Base Rent payable during, or with respect to Lessee's use of the School Site during, the period between termination of the Term and the date the School Site is vacated, Lessee shall pay such Base Rent to Lessor or, in the case of Operational Expenses, the other Person entitled thereto, subject to Section 22-2-2(C) NMSA 1978, and to the authority of the Department under the provisions of Section 22-2-2(C) NMSA 1978, as set forth hereinabove.
- (c) If the Agreement is terminated prior to the final payment and the release of the security interest or the transfer of title, the current value of all improvements at the time of termination in excess of the outstanding principal due and attributable to capital improvements that were made by Lessee during the term of the Agreement and that were not a term or condition of the Agreement shall be paid in accordance with Section 22-26A-1 et seq., as amended NMSA 1978, to Lessee.
- (d) Lien on Improvements by Lessee. If State or Lessee's funds, above those required for lease payments, are used to construct or acquire improvements after the Commencement Date, the cost of such Improvements shall constitute a lien on the School Site in favor of Lessee and then, if this Agreement is terminated prior to the final payment and the release of the security interest or the transfer of title at the option of the Lessee: (1) Lessee may foreclose the lien on the School Site; or (2) the current market value of the School Site or other real property at the time of termination, as determined by an independent appraisal certified by the New Mexico Taxation and Revenue Department, in excess of the outstanding principal due under the Agreement shall be paid to Lessee. The priority of any such lien shall be determined according to New Mexico law.

Section 4.4 Continuation. Pursuant to Section 22-26A-5(I) (2015) the parties agree that there is no legal obligation for the Lessee to continue this Agreement from year to year or to purchase the School Site, in accordance with Section 22-26A-5(I) NMSA 1978.

ARTICLE V LEASE PAYMENTS

Section 5.1. Payments.

- (a) Lessee agrees to pay Lessor and Lessor agrees to accept as full lease payment for the premises a sum equal to the amounts provided in the “Base Rent Schedule” attached as Exhibit D (“Base Rent”), payable monthly on or before the tenth day of the month of the first month following the Commencement Date and each succeeding month throughout the term of the Agreement. Lessor shall deliver to Lessee a monthly invoice no later than the first of each month. Any partial month will be calculated on a pro rata basis.
- (b) A portion of each payment of Base Rent is paid as, and represents payment of, interest as shown on Exhibit D hereto, which sets forth the interest component of each payment of Base Rent. Upon receipt by Lessor of each payment of Base Rent, Lessor shall apply the amount of each Base Rent payment to principal and interest as shown on Exhibit D.
- (c) Except to the extent required by law, Lessee and Lessor agree that the Base Rent payments, as used in this Section 5.1 hereof, do not include payments for repair, maintenance, operating expenses and the like which are otherwise obligations of Lessee as Operating Expenses under the terms of Section 7.1 of this Agreement.
- (d) The Base Rent and other obligations payable by Lessee under this Agreement shall constitute currently appropriated expenditures of Lessee and shall not constitute a debt or multiple fiscal year direct or indirect obligation whatsoever of Lessee or a mandatory charge or requirement against Lessee in any fiscal year (July 1 to June 30) beyond the fiscal year for which such payments have been approved.

Section 5.2. Notwithstanding any other provisions in this Agreement, the parties agree that Lessee’s governing body has not pledged, transferred, or granted a security interest in, or assigned to any private third party, public funds, monies, grants, or other distributions received, or to be received, by Lessee from or through the State of New Mexico, for the purpose of securing payment of a third-party debt or full performance on a monetary obligation relative to the acquisition of the School Site through the issuance and sale of educational facility revenue bonds (or conduit bonds) or any other funding mechanism.

ARTICLE VI CONTINGENT OBLIGATION TO PURCHASE

Section 6.1. Option to purchase. In consideration of the agreements, promises, and covenants made in this Agreement, and other good and valuable consideration received, Lessor grants to Lessee the option to purchase the School Site upon the terms and conditions set forth in this Agreement.

Section 6.2. Notice of sale and transfer. Lessee’s election to proceed to sale and transfer of the property must be evidenced by a written notice addressed to Lessor, sent by registered or

certified mail to Lessor's office or to any other place designated by Lessor by written notice to Lessee.

Section 6.3. Purchase Price on Exercise of Option: The Purchase Price for the School Site shall be \$5,750,000.00 (five million seven hundred fifty thousand dollars and zero cents) of principal upon which interest shall accrue at an annual rate of 6% per annum and in accordance with the schedules attached as Exhibit D. Said interest rate does not exceed the maximum permitted by the Public Securities Act, Section 6-14-1 through 6-14-3 NMSA 1978. The price to be paid by Lessee to Lessor for the School Site on an Option Date shall be the principal balance of the unpaid purchase price as of that Option Date, as set forth in the Base Rent Schedule attached hereto at Exhibit D plus any accrued and unpaid interest, plus expenses described in Section 6.4 below.

Section 6.4. Expenses, mortgage. The Purchase Price to be paid to Lessor, as provided above, shall be a net amount to Lessor, and all expenses in connection with the transfer of the School Site, including, but not limited to, title insurance, recording fees, documentary stamps, and all other closing costs, shall be divided evenly by Lessor and Lessee.

Section 6.5. Transfer of title. Except as provided below, at closing Lessor shall convey the School Site to Lessee free and clear of any mortgage, indenture or other encumbrance.

Section 6.6. Performance of lease. The right to exercise this option is conditioned upon the faithful performance by Lessee of all its covenants, conditions, and agreements under this lease, and the payment by Lessee of all Base Rent, and other special payments as provided in this lease to the date of the completion of the purchase of the School Site by Lessee.

Section 6.7. Adjustments. Adjustments and proration of taxes, water rents, insurance premiums, and similar items shall be made as of the date of the closing of title, in accordance with the practice approved by the parties.

Section 6.8. Security deposit. The parties stipulate that no security deposit was paid by Lessee as part of this agreement and none is required.

Section 6.9. Assignment of option, binding effect. Lessee may not assign this Agreement to another charter school, school district, the state or one of its institutions, instrumentalities or other political subdivisions without the prior written consent of Lessor, which shall not be unreasonably withheld. Assignment shall inure to the benefit of Lessee's respective successors and assigns. Any assignment of this Agreement shall be without cost to the Lessee and is subject to Section 22-26A-5(K) (2015).

Section 6.10. Prepayment. The amounts due under this Agreement are subject to prepayment at the option of Lessee at such time or times and upon such terms and conditions, with or without the payment of such premium or premiums as determined by Lessee's Governing Council.

ARTICLE VII

MAINTENANCE AND INSURANCE

Section 7.1. Construction. Lessor will cause to be built on the School Site Lessor's Improvements in accordance with the plans and specifications attached hereto as Exhibit B and which will meet Statewide Adequacy Standards.

Section 7.2. Maintenance and Facility Costs. Lessee shall at all times during the Term maintain, preserve and keep the School Site in good repair, working order and condition, and shall from time to time make all repairs, replacements and improvements necessary to keep the School Site in such condition. This Agreement is intended to be and shall be construed consistently with it being an absolute net lease with Lessee paying all expenses related to the School Site, including without limitation, (i) the cost of insurance premiums for insurance required by law; (ii) the cost of taxes, utility charges, maintenance, upkeep, and repair costs including routine repair and replacement of roof, structural components, HVAC, and carpet and/or tile; and (iii) all other costs associated with operation, repair and maintenance of the School Site (collectively, "Operating Expenses").

Section 7.3. Lessee's Insurance Obligations.

(a) **Liability Insurance.** Beginning upon the Commencement Date, Lessee shall procure and maintain or cause to be carried and maintained in full force and effect during the term of this Agreement and any extension thereof at Lessee's sole cost and expense and as additional rent above the Base Rent hereunder, such public liability insurance covering bodily injury, disease, illness or death and property damage liability, as is available from and provided by the New Mexico Public Schools Insurance Authority ("NMPSIA") or its successor with limits of coverage in compliance with law. Lessor shall be named as an additional-named insured on such policy of insurance, and Lessee shall deliver a copy thereof to Lessor upon the commencement of the term of this Agreement. Lessee shall adjust such minimum coverage limits annually or as necessary to conform to the minimum coverage limits required for local public bodies pursuant to Sections 41-4-19 and 41-4-20 NMSA 1978, and Sections 22-29-1 through 22-29-11 NMSA 1978, as amended.

(b) **Property Insurance.** Subject to the availability of such coverage from NMPSIA, Lessee shall also carry and maintain or cause to be carried and maintained in full force and effect during the term of this Agreement and any renewal thereof, at Lessee's sole cost and expense, fire and extended coverage insurance upon the School Site, including all buildings, alterations, additions and improvements in an amount equal to their replacement values. Lessor and lending institution(s) of record shall be named as additional insureds and loss payees on the Property Insurance Policy and shall be provided with a copy of this policy annually on the anniversary date of the Policy. In the event that the School Site should be destroyed or substantially damaged in whole or in part, and such loss is covered by fire and extended coverage insurance, Lessee shall have the option to either continue this Agreement and use the insurance proceeds to replace or repair the School Site and on Lessor's behalf, or terminate this Agreement and tender to the Lessor all such insurance proceeds attributable to the loss or damage to the School Site. If for any reason Lessee is prohibited by law or regulation from carrying such

insurance, Lessor may obtain such insurance, and Lessee shall pay the premiums of such insurance out of any funds allowable by law.

Section 7.4. Worker's Compensation Insurance. If required by state law, as of the Commencement Date, Lessee shall carry worker's compensation insurance covering all of its respective employees on, in, near or about the School Site and upon request, shall furnish certificates to the Lessor evidencing such coverage.

Section 7.5. Liens. Except as provided in Section 4.3, neither Lessee or Lessor shall directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Improvements, other than the respective rights of Lessor and Lessee as herein provided. Except as otherwise expressly provided in this Article, Lessor and Lessee shall promptly, at its own expense, take such action as may be necessary duly to discharge or remove any such mortgage, other than existing mortgages or subsequent mortgages as agreed to by the parties in writing, pledge, lien, charge, encumbrance or claim if the same shall arise at any time, during the respective party's control of the School Site and each party shall reimburse the other for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim which arose during the control of the School Site.

ARTICLE VIII CONDEMNATION; USE OF NET PROCEEDS

Section 8.1. Condemnation. In the event that all or any portion of the School Site or Improvements are condemned by any governmental body or agency under power of eminent domain or is sold under threat of condemnation to any public body other than Lessee prior to purchase of the School Site by Lessee, Lessor shall be entitled to all compensation awarded, less an amount equal to Lessee's principal payments made to date in accordance with Article VI, plus the value of any improvements placed on the School Site by Lessee pursuant to Section 9 herein, which portions of the compensation awarded shall be paid to Lessee.

Section 8.2. Condemnation of Other Property Owned by Lessee. Lessee shall be entitled to the Net Proceeds of any condemnation award or portion thereof made for destruction of, damage to or taking of its property not included in the School Site. Lessor agrees that Lessee shall have the option, upon written notice to Lessor, to enter an appearance and defend in any condemnation action as to both the School Site and the Improvements, and upon such election, Lessor shall not be obligated to provide a defense as to the Improvements, but may do so at Lessor's sole expense. In consideration for such option granted in this paragraph, Lessee agrees not to enter into any settlement agreement as to the condemnation award to be paid for the taking or partial taking of the Improvements without Lessor's prior consent, which consent shall not be unreasonably withheld.

**ARTICLE IX
LESSEE'S IMPROVEMENTS, EQUIPMENT AND WARRANTIES**

Section 9.1. Improvements to School Site. Lessee, at its own expense, may remodel, or make additions, modifications or improvements to, the School Site, provided that (i) such remodeling, modifications and additions (A) shall not in any way damage the School Site as it existed prior thereto and (B) shall become part of the School Site, subject to the provisions of Section 4.3; (ii) the value of the School Site after such remodeling, modifications and additions shall be at least as great as the value of the School Site prior thereto; and (iii) the School Site, after such remodeling, modifications and additions, shall continue to be used as provided in and shall otherwise be subject to the terms of this Agreement. If Lessee makes and pays for improvements to the School Site, there shall be no additional financial obligations under this Agreement to Lessee without written approval by the Department, in accordance with Section 22-26A-5(L) NMSA 1978.

Section 9.2. Installation of Lessee's Equipment. Lessee may at any time and from time to time in its sole discretion and at its own expense, install items of movable machinery, standard office partitions, railings, doors, gates, counters, cabinets, lighting fixtures, signs and such other furnishings and equipment as may in Lessee's judgment be necessary for its purposes in or upon the School Site. All such items shall remain the sole property of Lessee, in which Lessor shall have no interest, and may be modified or removed by Lessee at any time provided that Lessee shall repair and restore any and all damage to the School Site resulting from the installation, modification or removal of any such items upon termination of this Agreement for any reason other than purchase of the School Site by Lessee. Nothing in this Agreement shall prevent Lessee from purchasing items to be installed pursuant to this Section under a conditional sale or lease purchase contract, or subject to a vendor's lien or security agreement, as security for the unpaid portion of the purchase price thereof, provided that no such lien or security interest shall attach to any part of the School Site.

Section 9.3. Warranties. Upon acceptance and purchase of the School Site by Lessee pursuant to Article VI hereof, Lessor will assign to Lessee, all of its interest, if any in all warranties and guarantees or other contract rights against architects, builders, contractors, subcontractors, suppliers, materialmen or manufacturers for the School Site, express or implied, issued on or applicable to the School Site, and Lessor hereby authorizes Lessee to obtain the customary services furnished in connection with such warranties and guarantees at Lessee's expense.

**ARTICLE X
ASSIGNMENT, SUBLEASING, MORTGAGING AND SELLING**

Section 10.1. Assignment. Neither party shall assign its interests in this Agreement without the prior written consent of the other party which consent shall not be unreasonably withheld or delayed. Any consent by a party to any assignment shall not operate as consent to any further assignment, and any further assignment shall be subject to the prior written consent of the other

party in accordance with the provisions of this Section 10.1. Unless otherwise agreed, no assignment permitted hereunder shall relieve a party from liability for the performance of its obligations under this Agreement for the remainder of the then current term. A change in the name only of either party does not constitute an assignment to another entity.

Notwithstanding any other provision in this Agreement, with the prior approval of Lessor, which shall not unreasonably be withheld, the Lease Purchase Arrangement is assignable, without cost to the charter school and with all of the rights and benefits of its predecessor in interest in being transferred to the assignee, to: (1) a school district or charter school; or (2) the state or one of its institutions, instrumentalities or other political subdivisions, all in accordance with Section 22-26A-5(K) NMSA 1978.

Nothing in Section 10.1 herein shall be deemed to prohibit, limit or restrict Lessee's ability to enter into joint powers agreements for shared use of the School Site, provided that each party to such agreement is a "public agency" as defined in the Joint Powers Agreement Act, Sections 11-1-1 through 11-1-7 NMSA 1978, and that both public agencies are authorized by their legislative or other governing bodies to jointly exercise any power common to the contracting parties as provided by law.

Section 10.2. Restriction on Mortgage or Sale of School Site by Lessee. Prior to closing on purchase of the School Site, Lessee will not mortgage, sell, assign, transfer or convey the School Site or any portion thereof without the written consent of Lessor, which consent shall not be unreasonably withheld or delayed.

Section 10.3. Title. Upon the purchase of the School Site by Lessee pursuant to Article VI. of this Agreement, Lessor shall transfer its interest in the School Site to Lessee by standard form general warranty deed free and clear of any encumbrances, except those specifically accepted by Lessee.

ARTICLE XI EVENTS OF DEFAULT AND REMEDIES

Section 11.1. Events of Default Defined. The following shall be "Events of Default" under this Agreement and the terms "Event of Default" and "Default" shall mean, whenever they are used in this Agreement, with respect to the School Site, any one or more of the following events:

- (a) Failure by Lessee to make any payments under this Agreement as and when due, except where sufficient money is not available to meet any current lease payment;
- (b) Failure by Lessor or Lessee to observe and perform any covenant, condition or agreement (other than as described in Section 11.1(a)) on its part to be observed or performed, for a period of thirty days after written notice specifying such failure and requesting that it be remedied has been given by the nondefaulting party unless the nondefaulting party shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the nondefaulting party will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the defaulting party within the applicable period and diligently pursued until the default is corrected.

(c) The filing by Lessor or Lessee of a voluntary petition in bankruptcy, or failure by Lessor or Lessee promptly to lift any execution, garnishment or attachment of such consequence as would impair the ability of Lessor or Lessee to carry on its operations at the School Site, or adjudication of Lessor or Lessee as a bankrupt, or assignment by Lessee for the benefit of creditors, or the entry by Lessee into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to Lessor or Lessee in any proceedings instituted under the provisions of the federal Bankruptcy Act, as amended, or under any similar acts which may hereafter be enacted.

Section 11.2. Remedies on Default. Whenever any Event of Default shall have happened and be continuing, Lessor may, without any further demand or notice, take one or any combination of the following remedial steps:

- (a) Terminate and give notice to Lessee to vacate the School Site within one-hundred eighty days (180) days from the date of such notice.
- (b) Lease all or any portion of the School Site.
- (c) Recover from Lessee: (i) to the extent the recovery thereof is permitted by law, the fair rental value of the use of the School Site during any period beyond the thirtieth (30th) day following the occurrence of the Event of Default; and (ii) Base Rent, to the extent amounts for such Base Rent has been specifically appropriated in accordance with the provisions hereof, which would otherwise have been payable by Lessee hereunder during the remainder, after Lessee vacates the School Site, of the Fiscal Year in which such Event of Default occurs.
- (d) Take whatever action allowed under law to enforce its rights in and to the School Site under this Lease.

Section 11.3. Force Majeure. The provisions of Sections 11.1 and 11.2 are subject to the following limitations: if by reason of *force majeure* Lessee or Lessor is unable in whole or in part to carry out its obligations under this Agreement, Lessor or Lessee shall not be deemed in default during the continuance of such inability or during any other delays which are a direct consequence of the *force majeure* inability. The term "*force majeure*" as used herein shall mean, without limitation, the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America or any of its departments, agencies or officials, or any civil or military authority other than the Lessee or Lessor; insurrections; riots; earthquakes; fires; storms; drought; floods; explosions; breakage or accident to machinery, transmission pipes or canals; or any other cause or event not reasonably within the control of Lessor or Lessee and not resulting from the negligence of the party claiming a force majeure event. Lessor and Lessee agree, however, to remedy with all reasonable dispatch the cause or causes preventing them from carrying out their respective obligation under this Agreement; provided that the settlement of strikes, lockouts and other industrial disturbances shall not be required if in the judgment of the party raising the defense of *force majeure*, acceding to the demands of the person or persons creating the strike, lockout or industrial disturbance, would be injurious to such party.

Section 11.4. Remedies Cumulative. The above-provided rights and remedies to which either party is entitled hereunder are cumulative, and not exclusive, of all other rights and

remedies to which a party may be entitled in the event of breach or threatened breach by a party in default of any of the terms, conditions and provisions contained herein.

Section 11.5. No Additional Waiver Implied by One Waiver. The failure, neglect or omission of a non-defaulting party to terminate this Agreement for any breach or default shall not be deemed a consent by the non-defaulting party of such breach or default and shall not stop, bar or prevent the non-defaulting party from thereafter terminating this Agreement, either for such violation of for prior or subsequent violation of any covenant hereof. In the event any agreement contained in this Agreement 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.

Section 11.6. Dispute Resolution. The parties shall endeavor to resolve all disputes arising as to this Agreement by mediation or arbitration before a mutually agreed mediator or arbitrator the cost of which shall be equally shared by the parties. Whether to use mediation or arbitration is at the sole discretion of the Lessee. In the event the Lessee choses arbitration in accordance with the terms of this Section shall be used to resolve any and all claims, disputes or disagreements arising under this Agreement, except for (i) matters requiring immediate exigent relief, including without limitation unlawful detainer; and (ii) all claims by either party which (a) seek anything other than enforcement of rights under this Agreement, or (b) are primarily founded upon matters of fraud, willful misconduct or any other allegations of tortious action, and seek the award of punitive or exemplary damages, which disputes shall be resolved by suit filed in the Second Judicial District Court, Bernalillo County, New Mexico, the decision of which court shall be subject to appeal pursuant to applicable law. The parties hereby agree to conduct themselves in strict, full, complete and timely accordance with the terms of this Section.

(a) Any dispute to be arbitrated pursuant to the provisions of this Section shall be determined by binding arbitration before a single arbitrator (the "Arbitrator") under the auspices of the Commercial Arbitration Rules of the American Arbitration Association ("AAA"). Such arbitration shall be initiated by either party, within thirty days after either party sends written notice (the "Arbitration Notice") of a demand to arbitrate by registered or certified mail to the other party and to AAA. The Arbitration Notice shall contain a description of the subject matter of the arbitration, the dispute with respect thereto, the amount involved, if any, and the remedy or determination sought. The parties may agree on the selection of an Arbitrator.

(b) The arbitration shall be conducted in Bernalillo County metropolitan area and, unless otherwise agreed by the parties must be completed within 180 days. Any party may be represented by counsel or other authorized representative. In rendering a decision, the Arbitrator shall determine the rights and obligations of the parties according to the substantive and procedural laws of New Mexico and the terms and provisions of this Agreement. The decision shall be conclusive and binding, and it may thereafter be confirmed as a judgment by the Second Judicial District Court, Bernalillo County, New Mexico in accordance with the New Mexico Uniform Arbitration Act. The Arbitrator may award injunctive relief. The Arbitrator may award costs, including without limitation, attorneys' fees, and expert and witness costs, to the prevailing party, if any as determined by the Arbitrator in his or her discretion. A party shall be determined by the

Arbitrator to be the prevailing party if its proposal for the resolution of the dispute in the discretion of the Arbitrator was closest to that adopted by the Arbitrator.

ARTICLE XII TITLE

Section 12.1. Title to School Site. During the Term, legal title to the School Site shall be in Lessor.

Section 12.2. Public Property. Upon approval of this Agreement by the Department and execution of this Agreement by the parties pursuant to the Public School Lease Purchase Act, the School Site shall be considered to be a public property pursuant to Section 22-26A-5.1(B) NMSA 1978.

ARTICLE XIII HAZARDOUS MATERIALS LAWS

Section 13.1. Compliance with all Hazardous Materials Laws. As of the Commencement Date, Lessee, shall at all times keep and maintain the School Site in compliance with and shall not cause or permit the School Site or any activities conducted thereon to be in violation of any federal, state or local law, ordinance or regulation relating to commercial or industrial hygiene, environmental safety or the environmental conditions on, under or about the School Site, including, but not limited to, air, soil, subsurface and ground water conditions. Neither party shall permit any subtenant or other occupant of the School Site, except in accordance with applicable Hazardous Materials laws as hereinafter defined, to use, generate, manufacture, store, produce, release, discharge, dispose of or otherwise permit the presence of, on, under or about the premises or transport to or from the School Site any explosives (flammable or otherwise), radioactive materials, pollutants, contaminants, hazardous wastes, hazardous air pollutants, toxic substances or related materials, including, without limitation, any substances defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “hazardous pollutants” or “toxic substances” under any applicable federal or state laws or regulations (collectively referred to hereinafter as “Hazardous Materials”). Hazardous materials shall include petroleum products. Upon request of either party, the other party will prepare and provide such reports as will evidence compliance by the party with Hazardous Materials laws, and which will evidence that the School Site and the uses thereon are in compliance with Hazardous Materials Laws. Either party shall immediately advise the other party in writing of its discovery of or receipt of notice of (i) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened pursuant to any applicable federal, state or local laws, ordinances, regulations, orders or publications relating to any Hazardous Materials affecting the School Site (“Hazardous Materials Laws”); (ii) any use, generation, manufacture, production, release, discharge, storage or disposal of Hazardous Materials, or substantial threat of any of the foregoing, on, under or about the School Site; (iii) all claims made or threatened by any third party against a party or the School Site relating to damage, contribution, cost recovery compensation, loss or injury resulting from any Hazardous Materials (the matters set forth in clauses (i) and (iii) above are hereinafter referred to as “Hazardous Materials Claims”); and (iv) any occurrence or condition on any property adjoining

or in the vicinity of the School Site that could cause the School Site to be subject to any restrictions on the ownership, Completion, transferability or use of the premises under any Hazardous Materials Law. Lessor warrants that, to the best of his knowledge, all hazardous materials laws were complied with during the time of his ownership of the property prior to executive of this Agreement.

Section 13.2. Lessee's Responsibility. Barring fraud by the Lessor upon and after issuance of the Certificate of Occupancy and acceptance of the School Site by the Lessee, Lessee shall be solely responsible to pay or otherwise satisfy any claim, written notice or demand, penalty, fine, settlement, loss, damage, cost, expense or liability made against Lessor or Lessee directly or indirectly arising out of or attributable to the violation by Lessee of any Hazardous Materials Law, orders, written notice or demand of governmental authorities, or the use, generation, manufacture, storage, release, threatened release, discharge, disposal, production, abatement or presence of Hazardous Materials on, under or about the premises including, without limitation: the costs of any required or necessary investigation, repair, cleanup or detoxification of the School Site, and the preparation and implementation of any closure, abatement, containment, remedial or other required plan and shall to the extent allowable by law applicable to public schools, indemnify Lessor and hold Lessor harmless from any such claim, demand, penalty, fine, settlement, loss, damage, cost, expense or liability subject to the limitations and waivers contained in the New Mexico Tort Claims Act and any insurance coverage issued pursuant thereto.

Section 13.3. Remedial Action Required. Without the other party's prior written consent, which shall not be unreasonably withheld, a party shall not take any remedial action in response to the presence of any Hazardous Materials on, under, or about the School Site, nor enter into any settlement agreement, consent decree, or other compromise in response to any Hazardous Materials claim, which remedial action, settlement, consent or compromise might, in the other party's reasonable judgment, impair the value of party's fee interest in the School Site; provided, however, that prior consent shall not be necessary in the event that: (i)(A) the presence of Hazardous Materials on, under, or about the School Site either poses an immediate threat or is of such a nature that an immediate remedial response is necessary; or (B) any delay in taking such remedial action would result in the imposition of periodic or daily fines; and (C) such action is required by government order; and (ii) it is not possible to obtain the other party's consent before taking such action; provided that in such event notice shall be given as soon as practicable of any action so taken. Each party agrees not to withhold its consent, where such consent is required hereunder, if either (i) a particular remedial action is ordered by a court of competent jurisdiction, or (ii) the party establishes to the reasonable satisfaction of the other party that there is no reasonable alternative to such remedial action that would result in less impairment to the value of the party's interest in the School Site.

Section 13.4. Survival of Lessee's Obligations and Liabilities. Lessee's obligations and liabilities hereunder with respect to Hazardous Materials Claims arising from Lessee's actions shall survive the expiration or other termination of this Agreement.

**ARTICLE XIV
ADMINISTRATION PROVISIONS**

Section 14.1 Notices. All notices required under this Agreement shall be in writing, signed by the party or agent sending them, and (i) delivered personally, (ii) sent by registered or certified mail, (iii) sent by a recognized overnight express mail carrier, or (iv) sent by facsimile, if a copy is sent by one of methods (i), (ii) or (iii) as soon as practicable thereafter, addressed to Lessor or Lessee, as the case may be, at the following addresses (or such other addresses as either party may give by notice conforming with this Section 14.1), and such notices shall be effective on the date of receipt thereof.

Lessor:
Saylor Family Trust, LLC
5565 Eakes Rd. NW
Los Ranchos de Albuquerque
Telephone No.: (505)343-9651
Facsimile No.: (505)343-9306

Lessee:
North Valley Academy
c/o School Director
7939 4th St. NW
Los Ranchos de Albuquerque, NM 87114
Telephone No.: (505) 998-0501
Facsimile No.: (505) 998-0505

Section 14.2. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon Lessor and Lessee and their respective administrators, successors and assigns.

Section 14.3. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 14.4. Amendments, Changes and Modifications. This Agreement may be amended or any of its terms modified only by a written amendment authorized and executed by both Lessee and Lessor. Amendments to this Agreement, except amendments that would improve the building or other real property without additional financial obligations to the Lessee, shall be approved by the Department pursuant to 22-26A-5(L) NMSA 1978.

Section 14.5. Further Assurances and Corrective Instruments. Lessor and Lessee agree that they will, if necessary, 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 carrying out the expressed intention of this Agreement.

Section 14.6. Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 14.7. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico, with regard to conflicts of laws rules.

Section 14.8. Lessor and Lessee Representatives. Whenever under the provisions of this Agreement the approval of Lessor or Lessee is required, or Lessor or Lessee is required to take some action at the request of the other, such approval of such request may be given for Lessor by a Lessor Representative and for Lessee by a Lessee Representative, and any party hereto shall be authorized to rely upon any such approval or request.

Section 14.9. Integration. This Agreement contains all of the agreements of Lessee and Lessor respecting the subject matters hereof, and all prior negotiations are merged herein.

Section 14.10. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this Agreement.

Section 14.11. Business Days. If the day upon which any action required by the Agreement shall fall on a Saturday, Sunday or banking holiday, then such actions shall be deemed timely if made or taken on the next succeeding business day.

Section 14.12. Administrative Approval. Pursuant to Section 22-26A-4 NMSA 1978, the parties to this acknowledge that they have obtained prior written consent from the Public Education Department prior to executing this Agreement. A copy of said approval is attached to this Agreement as Exhibit "F".

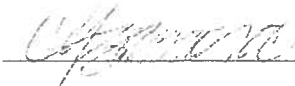
IN WITNESS WHEREOF, Lessor has caused this Agreement to be executed in its corporate name by its duly authorized officers; and Lessee has caused this Agreement to be executed in its name by its duly authorized officers, as of the date first above.

LESSOR:
SAYLOR FAMILY TRUST, LLC

By: 

Its: , Authorized Member

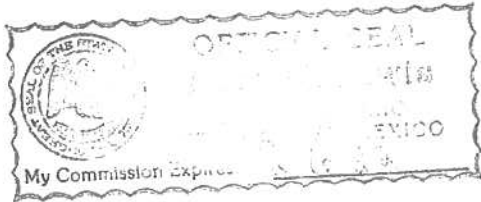
LESSEE:
NORTH VALLEY ACADEMY

By: 

Its: Governing Council President

STATE OF NEW MEXICO)
) ss.
COUNTY OF BERNALILLO)

This instrument was acknowledged before me on 01/19/16 by Rick Saylor as the authorized officer of The Saylor Family Trust, LLC a New Mexico limited liability corporation.

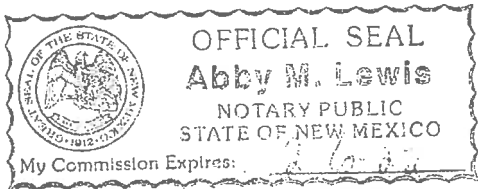


[Signature]
Notary Public

My commission expires: 1-19-17

STATE OF NEW MEXICO)
) ss.
COUNTY OF BERNALILLO)

This instrument was acknowledged before me on May 5, 2016 by Claudia Zucchi as President of North Valley Academy, Governing Council.



[Signature]
Notary Public

My commission expires: 2-6-17