
**LEASE AND OPTION TO
PURCHASE AGREEMENT**

Dated as of August 1, 2023

Between

FIRST NATIONAL BANK OF GILLETTE
as Lessor

and

CAMPBELL COUNTY SCHOOL DISTRICT NO. 1
as Lessee

\$197,409.00
CAMPBELL COUNTY SCHOOL DISTRICT NO. 1
LEASE AND OPTION TO PURCHASE
DATED AUGUST 1, 2023

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LEASE AND OPTION TO PURCHASE AGREEMENT

This LEASE AND OPTION TO PURCHASE AGREEMENT (the "Agreement"), made and entered into on August 1, 2023, between FIRST NATIONAL BANK OF GILLETTE (together with its successors and assigns), as Lessor, and CAMPBELL COUNTY SCHOOL DISTRICT NO. 1, a unified school district duly organized and existing under the laws of the State of Wyoming (together with its successors and assigns), as Lessee.

WITNESSETH:

WHEREAS, Lessor desires to lease the Equipment, as hereinafter defined, to Lessee and Lessee desires to lease the Equipment from Lessor, subject to the terms and conditions of and for the purposes set forth in this Agreement; and

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

WHEREAS, Lessor has determined that this Agreement constitutes an obligation of a political subdivision within the meaning of Section 103 of the Internal Revenue Code of 1986, as amended;

NOW, THEREFORE, for and in consideration of the financing of the Equipment provided by Lessor, the payment of the rentals by Lessee hereunder, the mutual covenants and agreements of the parties hereto, and other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, Lessor and Lessee, intending to be legally bound, do hereby agree as follows:

* * * * *

ARTICLE I
DEFINITIONS

SECTION 1.1 **Definitions.** As used in this Agreement, unless a different meaning clearly appears from the context:

"Agreement" means this Lease and Option to Purchase Agreement, including the Exhibits attached hereto, as supplemented or amended from time to time in accordance with the terms hereof.

"Authorized Official" means the appropriate officer or officers of Lessee.

"Budget" means the budget of Lessee for any Fiscal Year during the Initial Term or any Renewal Term of this Agreement.

"Business Day" means any day other than a Saturday, a Sunday or a legal holiday or a day on which banking institutions are authorized to close in the State.

"Certificate of Acceptance" means the Certificate of Acceptance of Equipment attached hereto as Exhibit C, whereby Lessee acknowledges receipt of the Equipment in good condition pursuant to the Purchase Agreement.

"Code" means the Internal Revenue Code of 1986, the regulations (whether proposed, temporary or final) under that Code or the statutory predecessor of that Code, and any amendments of, or successor provisions to, the foregoing and any official rulings, announcements, notices, procedures and judicial determinations regarding any of the foregoing, all as and to the extent applicable. Unless otherwise indicated, reference to a Section means that Section of the Code, including such applicable regulations and rulings.

"Commencement Date" means the date when the Initial Term of this Agreement begins and Lessee's obligation to make Rental Payments accrues, which date shall be August 1, 2023.

"Default" means an Event of Default as set forth in Article VI which has not been cured or waived.

"Due Date" for the Initial Term of this Agreement means the 30th day of June, 2024, and for all Renewal Terms means the (30th) day of each June continuing through June 30, 2027.

"Equipment" means the personal property set forth in Exhibit D attached hereto which is the subject of this Agreement.

"Fiscal Year" means the fiscal year of Lessee, which on the date of the original execution of this Agreement is the period commencing on July 1 and ending on June 30 of the succeeding calendar year.

"Force Majeure" means acts of God, strikes, lockouts or other industrial disturbances, acts of public enemies, orders of any kind of the government of the United States of America or the State or any civil or military authority, insurrections, riots, acts of terrorists, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, droughts, civil disturbances, explosions and other unanticipated causes or events not reasonably within the control of Lessee.

"Financing and Continuation Statements" means the U.C.C. financing and continuation statements perfecting the security interests granted by and including, but not limited to, this Agreement.

"Full Insurable Value" means, with respect to the Equipment and at any particular time during the Lease Term, the full replacement value of the Equipment.

"Initial Term" or "Initial Term of this Agreement" means the period commencing on the Commencement Date and ending June 30, 2024.

"Lease Term" or "Term of this Agreement" means the Initial Term and all Renewal Terms.

"Optional Purchase Price" means the amount at any particular time during the Term of this Agreement which Lessee may, at its option, pay to Lessor in order to purchase the Equipment as set forth in Exhibit E attached hereto.

"Purchase Agreements" means the agreements dated as of the dates listed in Exhibit D hereto, between the vendors listed thereon and Lessee.

"Proceeds" means the amount of proceeds of any insurance claim or condemnation award with respect to the Equipment as provided in Section 5.3 of this Agreement.

"Renewal Term" or "Renewal Term of this Agreement" means any Fiscal Year for which Lessee shall renew the Term of this Agreement as provided in Section 4.1 of this Agreement, the last such Fiscal Year being the Fiscal Year in which the last Rental Payment listed in the Schedule of Rental Payments and Optional Purchase Prices attached hereto as Exhibit E occurs.

"Rental Payments" means the rentals payable by Lessee pursuant to this Agreement during the Lease Term, payable in consideration of the right of Lessee to use the Equipment during the then Initial or Renewal Term. The Rental Payments shall be payable by Lessee to First National Bank of Gillette, 319 S. Gillette Avenue, P.O. Box 3002, Gillette, Wyoming 82717, Attention: Sam Saunders, President, or Lessor's assignee in the amounts and on the dates as set forth in Exhibit E attached hereto.

"Security Documents" means the Financing and Continuation Statements and any other instruments or documents securing the obligations hereunder.

"State" means the State of Wyoming.

"Vendor" means the manufacturer or manufacturers of each item of the Equipment as well as the agents or dealers of the manufacturer from whom Lessor purchased or is purchasing the Equipment.

Except where the context otherwise requires, words importing the singular number shall include the plural number and vice versa and the words "hereof" and "herein" shall be construed to refer to the entirety of this Agreement and shall not be restricted to the particular Article, Section, subsection, or paragraph in which they appear.

* * * * *

ARTICLE II
REPRESENTATIONS, WARRANTIES AND COVENANTS

SECTION 2.1 Of Lessee. Lessee makes the following representations, warranties and covenants:

A. Lessee is a unified school district duly organized and validly existing under the Constitution and laws of the State of Wyoming, with full power and legal right to enter into this Agreement and perform its obligations hereunder. Lessee's actions in making and performing this Agreement have been duly authorized by resolution of its governing body or other appropriate official approval (a copy of such authorization being attached hereto as Exhibit A) and will not violate or conflict with any law or governmental rule or regulation, or any mortgage, agreement, instrument or other document by which Lessee or its properties are bound. Lessee further represents, covenants and warrants that all requirements have been met and procedures have occurred in order to ensure the enforceability of the Agreement and Lessee has complied with all public bidding and other statutory requirements as may be applicable to Lessee in the authorization, execution, delivery and performance of this Agreement. Lessee has caused to be executed and delivered an opinion of its counsel, a copy of which is attached hereto as Exhibit B;

B. Lessee has obtained all necessary licenses, permits and approvals, if any, required by all governing bodies or agencies having jurisdiction over the acquisition, installation and operation of the Equipment;

C. During the Term of this Agreement, Lessee will do or cause to be done all things necessary to preserve and keep in full force and effect its legal existence;

D. During the Term of this Agreement, the Equipment will be used by Lessee only for the purpose of performing one or more essential governmental or proprietary functions of Lessee consistent with the permissible scope of Lessee's authority and will not be used in a trade or business of any person or entity other than the Lessee;

E. The Equipment will have a useful life in the hands of the Lessee that is substantially in excess of the Initial Term and all Renewal Terms;

F. The Equipment is, and during the Initial Term and all Renewal Terms will remain personal property and when subjected to use by the Lessee under this Agreement, will not be or become a fixture;

G. By all proper action Lessee has appropriated moneys sufficient to pay all Rental Payments payable during the Initial Term. During the Initial Term and any Renewal Terms, Lessee will annually provide Lessor with current financial statements, budgets, proof of appropriation for the ensuing Fiscal Year, and such other financial information relating to the ability of Lessee to continue this Agreement as may be reasonably required by Lessor or its assignee;

H. The execution and delivery of this Agreement, and compliance with the provisions hereof, will not conflict with or constitute on the part of Lessee a violation of, breach of, or default under any constitutional provision, statute, resolution, bond indenture or other financing agreement or any other agreement or instrument to which Lessee is a party or by which Lessee is bound, or any order, rule or regulation of any court or governmental agency or body having jurisdiction over Lessee or any of its activities or properties;

I. There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body pending or threatened against or affecting Lessee, wherein an unfavorable decision, ruling or finding would materially and adversely affect the transactions contemplated hereunder or which in any way would adversely affect the validity or enforceability of this Agreement;

J. Lessee has, by resolution, designated the lease obligation contemplated by this Agreement as a "qualified tax-exempt obligation," as such term is used in Section 265(b)(3) of the Code;

K. During the Term of this Agreement, Lessee will do or cause to be done all things necessary so as not to affect the exclusion of the interest component of the Rental Payments (shown in Exhibit E) from the gross income of the recipients thereof from federal income taxation.

* * * * *

**ARTICLE III
ACQUISITION AND LEASE OF EQUIPMENT**

SECTION 3.1 **Equipment Acquisition.** Lessee agrees that it has been and will continue to be responsible for the preparation of the specifications for, the initiation of the bidding procedures with respect to and the letting of contracts for the purchase of the Equipment and for the acceptance of the Equipment pursuant to the provisions of the Purchase Agreements, copies of which are attached to this Agreement as Exhibit D. As of the date of this Agreement, Lessor shall pay the amount of One Hundred Ninety Seven Thousand Four Hundred Nine Dollars (\$197,409.00) to the Acquisition Fund described below, which amount Lessee shall use to (i) pay the cost of the purchase of the Equipment to the Vendor in accordance with the terms of the Purchase Agreements, or (ii) obtain reimbursement when the Lessee has previously paid the Vendor directly for the purchase of Equipment. Upon making final payment under the Purchase Agreements, Lessee shall present to Lessor a Certificate of Acceptance signed by an Authorized Official of Lessee. Failure by the Vendor to perform under the Purchase Agreements shall not affect Lessee's obligation to make Rental Payments under this Agreement.

LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, ADEQUACY, MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE OR FITNESS FOR USE OF THE EQUIPMENT, OR WARRANTY WITH RESPECT THERETO. Lessee acknowledges that Lessor is not the Vendor or a manufacturer or dealer of the Equipment and that Lessee leases the Equipment hereunder "as is," it being acknowledged and agreed that no risk as to the value, condition, usefulness or fitness of the Equipment shall be borne by Lessor nor shall Lessor be liable for any incidental, indirect, special or consequential damage in connection with or arising out of this Agreement or the existence, furnishing, functioning or Lessee's use of any item product or service provided for in this Agreement.

SECTION 3.2 **Acquisition Fund.** A special fund is hereby created and established with the First National Bank of Gillette, 319 South Gillette Avenue, Gillette, Wyoming (the "Bank"), to be designated as the "Campbell County School District No. 1 Bus Acquisition and Capitalized Interest Fund, Series 2023 Lease Purchase" (the "Acquisition Fund"), and within such fund the Acquisition Account and the Capitalized Interest Account. Upon commencement of this Agreement, the Lessor shall deposit the sum of \$197,409.00 into the Acquisition Account. The funds in the accounts within the Acquisition Fund shall be deposited in a money market fund which shall pay interest consistent with the rate that the Bank pays other political subdivisions for public funds invested at said Bank. The Lessee shall be entitled to draw funds from the Acquisition Account for equipment which has been paid for directly by the Lessee to the Vendor, if any, pursuant to Purchase Agreements. Future draws from the Acquisition Account up to the amount in said account may be made by the Lessee at the time of each purchase of Equipment under this Lease. At the time of each draw request, the Lessee shall provide the Bank with a copy of the Purchase Agreement and the invoice for the respective Equipment which is the subject of the draw request. Upon receipt of an appropriate draw request and supporting documentation for all Equipment acquired after the commencement of this Agreement, including documents necessary to perfect the Lessor's security interest set forth in Section 3.5 hereof, the Bank shall make payment from the Acquisition Account directly to the Vendor or to the Lessee if the Lessee has already paid

the Vendor directly. In no event shall any draw, or the aggregate amount of all draws from the Acquisition Account exceed the amount of \$197,409.00. Any funds remaining in the Acquisition Account after the purchase of all Equipment under this Agreement shall be transferred and delivered to the Lessor for application toward the Rental Payments due for the Initial Term of this Agreement.

SECTION 3.3 Lease of Equipment. Lessor hereby demises, leases, and lets to Lessee, and Lessee rents, leases and hires from Lessor, the Equipment, in accordance with the provisions of this Agreement, to have and to hold for the Initial Term and any Renewal Term entered into at the option and in the sole discretion of Lessee pursuant to Section 4.1 of this Agreement. Lessor hereby covenants to provide Lessee during the Lease Term with quiet use and enjoyment of the Equipment and Lessee shall during the Lease Term peaceably and quietly have, hold and enjoy the Equipment, except as set forth in this Agreement. Lessor and its agents, employees, servants and representatives shall have the right at all reasonable times during business hours to enter into and upon the property of Lessee for the purpose of inspecting the Equipment.

SECTION 3.4 Title. Lessee shall hold title to the Equipment during the Lease Term, subject to Lessee's security interest granted in Section 3.5 hereof. The Equipment shall become the property of Lessee upon Lessee's exercise of the purchase option granted in Section 4.7 hereof and the payment by Lessee of the Optional Purchase Price of the Equipment and performance by Lessee of all of its other obligations under this Agreement during the Lease Term. In such event, Lessor agrees to execute and deliver all such instruments and take such other actions as Lessee reasonably requests in order to effectuate ownership to the Equipment in Lessee. Upon the occurrence and continuance of an Event of Default as provided in Section 6.1 hereof, title to the Equipment shall revert to Lessor.

SECTION 3.5 Security Interest. To secure the payment of all of Lessee's obligations under this Agreement, Lessee grants to Lessor a first and prior security interest in the Equipment, whether presently owned or hereafter acquired, and in all substitutions therefor and any proceeds thereof and therefrom. With respect to after-acquired property only, the security interest granted by this Section 3.5 shall be junior to any purchase money security interest in the after-acquired property, provided that such purchase money security interest is perfected as required by law. Lessee agrees to take such additional actions and execute such additional documents, including financing statements, affidavits, notices, and similar instruments, in form satisfactory to Lessor, which Lessor deems necessary or appropriate to establish and maintain its security interest, and upon assignment, the security interest of any assignee of Lessor, in the Equipment.

SECTION 3.6 Vendor's Warranties. Lessor and Lessee agree that Lessee, during the Lease Term so long as Lessee shall not be in Default hereunder, may assert from time to time whatever claims and rights including warranties of the Equipment which Lessor may have against the Vendor, and not against Lessor, and no breach of any such warranty shall have any effect whatsoever on the right and obligations of Lessor or Lessee under this Agreement, including the obligations of Lessee to make full and timely payment of the Rental Payments due hereunder. Lessee expressly acknowledges that Lessor makes, and has made, no representations or warranties

whatsoever as to the existence or the availability of such warranties of the Vendor of the Equipment.

SECTION 3.7 Liens. During the Term of this Agreement Lessee shall not, directly or indirectly, create, incur, assume, suffer to exist or acquiesce in the creation of any mortgage, security interest, pledge, lien, charge, encumbrance or other claim on or with respect to the Equipment, other than the respective rights of Lessee and Lessor as herein provided, and except as set forth in the Purchase Agreement.

SECTION 3.8 Property. Lessor and Lessee agree that the Equipment is and shall at all times during the Term of this Agreement remain personal property notwithstanding the fact that the Equipment or any part thereof may be or become, in any manner affixed or attached to, embedded in or permanently resting upon real property or any improvement thereon.

SECTION 3.9 Assignment by Lessor. Subject to the provisions of the second paragraph of this Section, this Agreement, and the obligations of Lessee to make payments hereunder, may be assigned and reassigned in whole or in part to one or more assignees or subassignees by Lessor at any time subsequent to this execution, without the necessity of obtaining the consent of Lessee; provided, however, that no such assignment or reassignment shall be effective unless and until (i) Lessee shall have received notice of the assignment or reassignment disclosing the name and address of the assignee or subassignee, and (ii) in the event that such assignment or reassignment is made to a bank or trust company as trustee for holders of certificates representing interests in this Agreement, such bank or trust company agrees to maintain, or cause to be maintained, a book-entry system by which a record of the names and addresses of such holders as of any particular time is kept and agrees, upon request of Lessee, to furnish such information to Lessee. Upon receipt of notice of assignment, Lessee agrees to reflect in a book entry the assignee designated in such notice of assignment, and subject to any claim, defense, set-off or counterclaim that Lessee may from time to time have against Lessor, or the assignee, arising from a breach of this Agreement only (not including the Purchase Agreement), to make all payments to the assignee designated in the notice of assignment. Lessee agrees to execute all documents, including notices of assignment and chattel mortgages or Financing and Continuation Statements which may be reasonably requested by Lessor or its assignee to protect its interests in the Equipment and in this Agreement.

This Agreement may be assigned and reassigned only to banks, savings and loan and other thrift associations and insurance companies, corporations having assets in excess of \$10 million, investment companies, and accredited investors as defined in the Securities Act of 1933, as amended from time to time.

SECTION 3.10 No Sale, Assignment or Subleasing by Lessee. This Agreement and the interest of Lessee in the Equipment may not be sold, assigned or encumbered by Lessee without the prior written consent of Lessor.

SECTION 3.11 Agreement as to Payments. Lessee agrees not to withhold or abate any portion of the payments required pursuant to this Agreement by reason of any defects, malfunctions, breakdowns or infirmities of the Equipment.

ARTICLE IV
TERM; RENT; NONAPPROPRIATION; PURCHASE OPTION

SECTION 4.1 **Initial Term; Renewal Term.** The Initial Term of this Agreement shall commence on August 1, 2023 and shall terminate the last day of Lessee's current Fiscal Year. The Lease Term may be continued, solely at the option of Lessee at the end of the Initial Term or any Renewal Term for an additional one year, up to a Maximum Lease Term of five (5) years (the "Maximum Lease Term"). At the end of the Initial Term and at the end of each Renewal Term, unless Lessee has terminated this Agreement pursuant to Section 4.5, Lessee shall be deemed to have exercised its option to continue this Agreement for the next Renewal Term until the Maximum Lease Term has been completed. The terms and conditions during any Renewal Term shall be the same as the terms and conditions during the Initial Term, except that the Rental Payments shall be as provided in Exhibit E to this Agreement.

SECTION 4.2 **Rental Payments to be Unconditional.** The obligations of Lessee to make payment of the Rental Payments, and to perform and observe the covenants and agreements contained herein, shall be absolute and unconditional in all events, except as expressly provided under this Agreement. Notwithstanding any dispute between Lessee, any Vendor or any other person, Lessee shall make all payments of Rental Payments when due and shall not withhold any Rental Payments pending final resolution of such dispute, nor shall Lessee assert any right of set-off or counterclaim against its obligation to make such payments required under this Agreement. Lessee's obligation to make Rental Payments during the Initial Term or the then current Renewal Term shall not be abated through accident or unforeseen circumstances.

SECTION 4.3 **Continuation of Lease Term by Lessee.** Lessee intends, subject to Section 4.4, to continue the Lease Term through the Initial Term and all Renewal Terms and to pay the Rental Payments hereunder. The Lessee reasonably believes that legally available funds in an amount sufficient to make all Rental Payments during the Initial Term and each of the Renewal Terms can be obtained. Lessee further intends to do all things lawfully within its power to obtain and maintain funds from which the Rental Payments may be made, including making provision for such payments to the extent necessary in each Budget or appropriation request submitted to Lessee's governing body for adoption in accordance with applicable provisions of law, and to cause its budget officer to use his best efforts to have such portion of the Budget or appropriation request approved by Lessee's governing body.

SECTION 4.4 **Nonappropriation.** Lessee is obligated only to pay periodic payments under this Agreement as may lawfully be made from funds budgeted and appropriated for the purpose during Lessee's then current Fiscal Year. Should Lessee fail to budget, appropriate or otherwise make available funds to pay Rental Payments following the then current Initial or Renewal Term, this Agreement shall be deemed terminated at the end of the then current Initial or Renewal Term. Lessee shall give notice to Lessor of any such failure not less than thirty (30) days prior to the termination of the then current Initial or Renewal Term, but failure to give such notice shall not extend the term beyond such Initial Term or Renewal Term. If this Agreement is terminated in accordance with this Section, Lessee agrees peaceably to deliver the Equipment to Lessor at a location to be mutually agreed upon by the Lessor and the Lessee.

SECTION 4.5 Termination of Lease Term. The Lease Term will terminate upon the earliest of any of the following events:

A. The expiration of the Initial Term or any Renewal Term (other than the final Renewal Term) of this Agreement without the authorization of a subsequent Renewal Term as provided in Section 4.1 of this Agreement and the payment by Lessee of all Rental Payments payable by Lessee during such Initial Term or Renewal Term, as the case may be;

B. The expiration of the final Renewal Term and the payment by Lessee of all Rental Payments required and the non-exercise by Lessee of its option to purchase the Equipment under Section 4.7 of this Agreement;

C. The expiration of the final Renewal Term and the payment by Lessee of all Rental Payments required and the exercise by Lessee of its option to purchase the Equipment under Section 4.7 of this Agreement; or

D. A Default by Lessee and the exercise by Lessor of its election to terminate this Agreement under Section 6.2 of this Agreement.

In the event of the termination of the Lease Term as described in (A), (B), or (D) above, Lessee, at Lessee's expense, shall immediately return the Equipment to Lessor at the location mutually agreed upon by the Lessor and the Lessee, in a state of good repair and working order to the reasonable satisfaction of Lessor, which satisfaction shall not be unreasonably withheld and shall be indicated by letter to the Lessee. Lessee shall be liable for the payment of any damages to the Equipment not occurring in the ordinary course of business and not constituting normal wear and tear for equipment and machinery of such type and design for the use to which Lessee has covenanted and agreed the Equipment will be put. If Lessee has not delivered possession of the Equipment to Lessor, the termination of the Term of this Agreement shall nevertheless be effective, but Lessee shall be responsible for the payment of damages in an amount equal to the amount of the Rental Payments which, calculated on a daily basis, have accrued during the period in which Lessee has failed to deliver possession of the Equipment to Lessor in accordance with the terms hereof plus any actual damages resulting from any damages to the Equipment that may occur prior to delivery of possession of the Equipment to Lessor or resulting from the failure of Lessee to deliver the Equipment to Lessor in accordance with the terms hereof.

SECTION 4.6 Rent. Lessee agrees to pay directly to Lessor Rental Payments during the Initial Term and any Renewal Term in the amounts and on the dates as set forth in Exhibit E attached hereto. Any payments received later than the tenth (10th) day following the Due Date shall bear interest from the Due Date at the rate of 6.00% per annum until paid. Lessor and Lessee acknowledge and agree that the obligation of Lessee to pay the Rental Payments shall constitute a current expense of Lessee payable by Lessee from funds budgeted and appropriated in accordance with law for the then current Fiscal Year, and that such obligation shall not in any manner be construed to be a debt of Lessee in contravention of any constitutional or statutory limitations or requirements concerning indebtedness of Lessee and nothing contained herein shall constitute a pledge or encumbrance upon any tax or other revenues of Lessee. Notwithstanding any loss of use resulting from any defect in the Equipment or dispute between

Lessee and Vendor or any other person, Lessee shall make all payments of Rental Payments when due and shall not assert against Lessor any right of setoff or counterclaim arising from that loss of use against its obligation to make such payments.

SECTION 4.7 Purchase Option. Provided Lessee is not in Default hereunder, Lessee shall have the right to terminate this Agreement and purchase all the Equipment on any Due Date as set forth in Exhibit E upon payment directly to Lessor of all Rental Payments coming due on or before said Due Date plus the then applicable Optional Purchase Price as set forth in Exhibit E. In order to exercise such option, Lessee shall give at least sixty (60) days' prior written notice to Lessor of Lessee's intent to exercise its option to purchase the Equipment pursuant to this Section.

In the event that Lessee has made all of the rental payments required to be made pursuant to the terms of this Agreement and has failed to exercise its option as provided for herein, then Lessor shall notify Lessee of intent to take possession of the Equipment as a result of Lessee's failure to exercise its option and Lessee shall thereafter have five (5) additional days in which to exercise its option.

* * * * *

ARTICLE V
CERTAIN COVENANTS OF LESSEE

SECTION 5.1 **Use of the Equipment.** Lessee has represented and hereby covenants and affirms the Equipment is essential to the functioning of Lessee, that Lessee has an immediate need for and expects to make immediate use of the Equipment and that the Equipment will be used only in the performance of one or more of the governmental or proprietary functions of Lessee. Lessee will use, operate and maintain the Equipment only in accordance with methods prescribed by the Vendor and only for the purpose intended by the Vendor. Lessee will not use, operate or maintain the Equipment improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Agreement. Lessee shall provide all permits and licenses, if any, necessary for the installation and operation of the Equipment. In addition, Lessee agrees to comply in all respects with all laws, regulations, rules, orders and decrees of the State, and any legislative, executive, administrative or judicial body exercising any power or jurisdiction over Lessee or the operation of the Equipment; provided, however, that Lessee may contest in good faith the validity or application of any such law, regulation, rule, order, or decree if Lessee shall first give prior written notice of any such proposed contest to Lessor and provide any assurances as may be reasonably required by Lessor that such contest will not adversely affect the interest of Lessor in the Equipment or the rights of Lessor under this Agreement.

SECTION 5.2 **Maintenance of Equipment by Lessee.** Lessee agrees that at all times during the Lease Term, Lessee will, at Lessee's own cost and expense, maintain, preserve and keep the Equipment in good repair and working order in full and complete accordance with the Vendor's specifications. Lessor shall have no responsibility to maintain, repair or make improvements or additions to the Equipment. Lessor and its agents, employees, servants and representatives shall have the right at all reasonable times during business hours to enter into and upon the property of Lessee for the purpose of inspecting the Equipment to ensure compliance by Lessee with the provisions of this Section 5.2.

SECTION 5.3 **Insurance.** At its own expense, Lessee shall cause property insurance on the Equipment to be carried and maintained with an insurer(s) of recognized responsibility, licensed or otherwise authorized to write such insurance under the laws of the State, in an amount equal to the Full Insurable Value of the Equipment. Within thirty (30) days of commencement of any Lease Term, Lessee shall furnish to Lessor certificates evidencing such insurance coverage. Lessee may insure the Equipment under a blanket insurance policy or policies which cover not only the Equipment but other equipment and properties of Lessee as well, as well as a program of self-insurance, the terms and conditions of which are satisfactory to Lessor. Any casualty insurance policy shall be so written or endorsed as to make losses with respect to the Equipment payable to Lessee and Lessor as their respective interests may appear. Each such policy shall contain a provision to the effect that the insurance company providing coverage shall not cancel the policy or modify it materially and adversely to the interest of Lessor without first giving written notice thereof to Lessor at least ten (10) days in advance of such cancellation or modification.

If prior to the termination of this Agreement (a) the Equipment is stolen, destroyed, in whole or in part, or is damaged by fire or other casualty, or (b) title to, or the temporary use of,

the Equipment or any part thereof shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting pursuant to governmental authority, Lessee and Lessor will cause the Proceeds of any property insurance claim or condemnation award to be deposited in a special trust account to be held by Lessor and applied to the prompt replacement, restoration or repair of the Equipment.

If the Proceeds are insufficient to pay in full the cost of any replacement, restoration or repair of the Equipment, Lessee shall at its option either (a) promptly complete such replacement, restoration or repair of the Equipment to a good state of condition and pay any costs thereof in excess of the amount of the Proceeds and continue the then current Term of this Agreement, it being recognized that in such event Lessee will not be entitled to any reduction of Rental Payments, or (b) pay to Lessor the amount of the then applicable Optional Purchase Price for the Equipment and upon such payment, the Term of this Agreement shall terminate and the amount of the Proceeds in excess of the then applicable Optional Purchase Price, if any, shall be paid to Lessee.

Lessee shall carry worker's compensation insurance and any similar liability insurance as Lessee shall be authorized at any time and from time to time during the Lease Term covering all employees working on, in, near or about the Equipment, and shall carry general accident and public liability insurance in amounts typical for entities engaged in a business similar to Lessee with assets and liability comparable to those of lessee, or demonstrate to the satisfaction of Lessor, that self-insurance is provided, and shall require any other person or entity working on, in, near or about the Equipment to carry such coverage. Within thirty (30) days of commencement of any Lease Term, Lessee shall furnish Lessor certificates evidencing such insurance coverage.

SECTION 5.4 Annual Budget. Lessee covenants and agrees that, if requested, it shall file with Lessor a copy of its Budget certified by its Authorized Official (or an excerpt or extract from its Budget similarly certified) for any Fiscal Year during the Initial Term or any Renewal Term of this Agreement together with a certificate signed by an Authorized Official stating that Lessee has made provision in its Budget for the payment to Lessor of the Rental Payments payable by Lessee during such Fiscal Year. Lessee covenants and agrees that it shall present in its draft or proposed Budget for the Fiscal Year next succeeding the then current Term of this Agreement the provision in such Budget for the payment of Rental Payments for the lease of the Equipment for such Fiscal Year. Lessee also covenants and agrees that it shall file with Lessor such other financial information relating to the ability of Lessee to continue to meet its obligations to pay Rental Payments during the then current Term of this Agreement as reasonably may be required by Lessor.

SECTION 5.5 Records. Lessee will keep proper records with respect to the Equipment which shall at all reasonable times be subject to inspection by Lessor, and its agents, employees, servants and representatives.

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**ARTICLE VI
DEFAULT AND REMEDIES**

SECTION 6.1 **Events of Default.** The term "Event of Default," as used herein, means the occurrence of any one or more of the following events:

A. Failure by Lessee to make any Rental Payment as it becomes due in accordance with the terms of this Agreement, and any such failure continues for thirty (30) days after written notice thereof;

B. Failure by Lessee to perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder and such failure is not cured within thirty (30) days after written notice thereof unless Lessor shall agree in writing to an extension of such time; provided, however, if the failure stated in such notice cannot be corrected within the applicable period, Lessor will not unreasonably withhold its consent to an extension of time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the failure is corrected;

C. The discovery by Lessor that any material statement, representation or warranty made by Lessee in this Agreement is false, misleading or erroneous in any material respect; or

D. Lessee files a voluntary petition in bankruptcy, or Lessee fails to promptly lift any execution, garnishment or attachment of such consequence as would impair the ability of Lessee to perform its obligations hereunder or to carry on its operations, or adjudication of 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 Lessee in any proceedings instituted under any bankruptcy, insolvency, debt moratorium or similar law or any other event or circumstance that renders Lessee incapable of fulfilling its obligations hereunder.

The foregoing provisions of (B) above are subject to the proviso that if, by reason of Force Majeure, Lessee is unable in whole or in part to carry out its covenants and agreements, Lessee shall not be deemed in Default during the continuance of such inability.

SECTION 6.2 **Remedies.** Whenever any Event of Default shall have happened and be continuing Lessor shall have the right, at its sole option without further demand or notice, subject to the provisions of Section 6.1 hereof, to take any one or any combination of the following remedial steps:

A. By written notice to Lessee, declare an amount equal to all Rental Payments then due during the then current Initial Term or Renewal Term, plus all other amounts then due under this Agreement, to be immediately due and payable, whereupon the same shall become immediately due and payable;

B. With or without terminating this Agreement, by written notice to Lessee, require Lessee to, at Lessee's expense, immediately return the Equipment in a good state of condition to Lessor at a location mutually agreed upon by Lessor and Lessee, or Lessor may enter the location at which the Equipment is then situated and take immediate possession of and remove the Equipment, and sell or release the Equipment or, for the account of Lessee, sublease the Equipment, continuing to hold Lessee liable for the difference between (i) the Rental Payments and other amounts payable by Lessee hereunder to the end of the then current Initial Term or Renewal Term and (ii) the net proceeds of any such sale, leasing or subleasing; and

C. Exercise any other right, remedy or privilege which may be available to Lessor under applicable laws of the State or proceed by appropriate court action to enforce the terms of this Agreement or to rescind this Agreement.

The proceeds of the exercise of any or all rights and remedies hereunder shall be applied: first, to the payment of court costs and the reasonable expenses of retaking, holding, securing, transporting, preparing for sale or lease, selling, leasing and other expenses related to the recovery and disposition of the Equipment including the reasonable fees and expenses incurred by Lessor and its legal counsel, advisors and other agents, employees, servants and representatives; second, to the payment of the Rental Payments and all other amounts then due; and lastly, to the payment of any damages to the Equipment caused by the negligence of Lessee and not occurring in the ordinary course of business and not constituting normal wear and tear for equipment of such type and design for the use to which Lessee has covenanted and agreed the Equipment will be put.

No remedy herein conferred upon or reserved to Lessor is intended to be exclusive and every such remedy shall be cumulative and in addition to every other remedy under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient.

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**ARTICLE VII
MISCELLANEOUS**

SECTION 7.1 Entire Agreement. This Agreement constitutes the entire agreement between Lessor and Lessee. No waiver, consent, modification or change of terms of this Agreement or course of dealing shall bind either party unless pursuant to an instrument in writing signed by Lessor and Lessee and then effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, representations or warranties, express or implied, not specified herein.

SECTION 7.2 Amendments. The terms of this Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever except by written instrument signed by Lessor and Lessee, nor shall any such amendment that affects the rights of Lessor's assignee be effective without such assignee's consent.

SECTION 7.3 Execution of Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 7.4 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 7.5 Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage prepaid, to the parties at their respective places of business.

SECTION 7.6 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Wyoming.

SECTION 7.7 Section Headings Not Controlling. The headings of the several Articles and Sections of this Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of, or be taken as an interpretation of any provisions of this Agreement.

SECTION 7.8 Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon Lessor and Lessee and their respective successors and assigns.

* * * * *

IN WITNESS WHEREOF, Lessor and Lessee have caused these presents to be signed by their respective officers hereunto duly authorized and have caused their seals to be hereunto affixed, and Lessor and Lessee have caused this Agreement to be dated as of the day and year first above written.

LESSOR: **FIRST NATIONAL BANK OF GILLETTE**

By: _____

ATTESTED:

By: _____

Title: _____

STATE OF WYOMING)
)ss.
COUNTY OF CAMPBELL)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023 by _____ as _____ on behalf of Lessor.

Notary Public

My Commission Expires: _____

LESSEE: **CAMPBELL COUNTY
SCHOOL DISTRICT NO. 1**

By: _____

ATTESTED:

By: _____

Title: _____

STATE OF WYOMING)
)ss.
COUNTY OF CAMPBELL)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023, by _____ as Chairman of the Board of Trustees, and by _____ as Clerk of the Board of Trustees, on behalf of Lessee.

Notary Public

My Commission Expires: _____