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**TRANSCRIPT OF PROCEEDINGS**

**AUTHORIZING THE DELIVERY**

**OF**

**\$16,600,000**

**LEASE WITH OPTION TO PURCHASE**

**SERIES 2015L**

**BY AND BETWEEN**

**KANSAS DEVELOPMENT FINANCE AUTHORITY**

**AND**

**STATE OF KANSAS – DEPARTMENT OF ADMINISTRATION**

**DATED: DECEMBER 29, 2015**

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**CLOSING MEMORANDUM**

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**\$16,600,000**  
**LEASE WITH OPTION TO PURCHASE**  
**SERIES 2015L**  
**BY AND BETWEEN**  
**KANSAS DEVELOPMENT FINANCE AUTHORITY**  
**AND**  
**STATE OF KANSAS – DEPARTMENT OF ADMINISTRATION**

**DATED DECEMBER 29, 2015**

This memorandum sets forth the actions to be taken in connection with the delivery of the Lease with Option to Purchase, Series 2015L, dated as of December 29, 2015 (the “Lease”) by and between Kansas Development Finance Authority and State of Kansas – Department of Administration.

The documents and actions described herein and in the Closing List attached hereto are to be delivered and taken as a condition precedent to the delivery of the Lease. Such delivery of documents and actions shall be deemed to have taken place simultaneously at the closing, and no delivery of documents, payments of moneys or other actions with respect to the foregoing transaction will be considered to have been completed until all such deliveries, payments or other actions have been made or taken.

The pre-closing and closing will take place by telephone conference as necessary, and all execution documents shall be in place by pre-closing. The items set forth on the Closing List will be examined, assembled and incorporated in the transcripts evidencing the authorization and issuance of the Bonds. Copies of the transcript will be prepared and distributed as follows:

1. Kansas Development Finance Authority (“Authority”)
2. Kansas Department of Administration (“Tenant”)
3. Banc of America Public Capital Corp (“Assignee”)
4. Bryan Cave LLP (“Special Tax Counsel”)
5. Chapman & Cutler LLP (“Counsel to Assignee”)

**\$16,600,000**  
**LEASE WITH OPTION TO PURCHASE**  
**SERIES 2015L**  
**BY AND BETWEEN**  
**KANSAS DEVELOPMENT FINANCE AUTHORITY**  
**AND**  
**STATE OF KANSAS – DEPARTMENT OF ADMINISTRATION**  
  
**DATED DECEMBER 29, 2015**

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**CLOSING LIST**  

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Document  
No.

**BASIC DOCUMENTS**

1. Requests by the Secretary of Administration of the State for financing of the Energy Center Project.
2. Excerpt of Minutes of the Board of Directors of the Authority held October 1, 2015 approving Resolution No. 337.
3. Resolution No. 337 adopted October 1, 2015 and Amended Resolution No. 337 adopted January 7, 2016 of the Authority approving the form of Site Lease Agreement between the Department of Administration and the Authority, the Lease with Option to Purchase, Series 2015L, between the Authority and the Department of Administration and the Assignment by the Authority to the Assignee.
4. Site Lease Agreement.
5. Lease with Option to Purchase, Series 2015L.
6. Assignment.

**STATE’S CLOSING DOCUMENTS**

7. Closing Certificate, including Approval of Site Lease and Lease.
8. Insurance Certificate(s).

**AUTHORITY’S CLOSING DOCUMENT**

9. Closing Certificate.

ASSIGNEE'S CLOSING DOCUMENTS

- 10. Investor Letter.
- 11. Receipt and Representation.

MISCELLANEOUS DOCUMENTS

- 12. Federal Tax Certificate.
- 13. Evidence of Insurance as required by Section 7.1 of the Lease.
- 14. Receipt.
- 15. IRS Form 8038-G.
- 16. Memorandum Regarding Distribution of Funds.
- 17. Title Commitment and Title Insurance Policy.
- 18. Recording Memorandum.

LEGAL OPINIONS

- 19. Opinion of Counsel to Authority.
- 20. Opinion of Counsel to Department of Administration.
- 21. Approving Legal Opinion of Special Tax Counsel.

Office of the Secretary  
1000 SW Jackson, Suite 500  
Topeka, KS 66612



Phone: 785-296-3011  
Fax: 785-296-2702  
[www.admin.ks.gov](http://www.admin.ks.gov)

Sarah L. Shipman, Acting Secretary

Sam Brownback, Governor

October 1, 2015

Rebecca Floyd, Executive Vice President  
Kansas Development Finance Authority  
534 South Kansas Avenue – Suite 800  
Topeka, Kansas 66603

RE: Proposed Kansas Development Finance Authority ("KDFA") Lease, State of Kansas –  
Department of Administration Energy Center Facility Lease, Series 2015L (the "Lease")

Dear Ms. Floyd:

Pursuant to K.S.A. 74-8901, *et seq.*, as amended and supplemented, please consider this letter an official request for Kansas Development Finance Authority to facilitate a lease transaction in an amount not to exceed \$16.37 million, plus related costs of issuance, for the purpose of financing a capital improvement project to acquire, construct and install a new energy service center for certain of the State's office and administrative buildings and the State Capitol Building (the "Capitol Complex") to be located in Topeka, Kansas (the "Project").

In conformity with applicable legislative directives, I hereby request KDFA to enter into to the Lease to finance the State of Kansas – Department of Administration Energy Center Facility.

Sincerely,

Sarah Shipman  
Acting Secretary of Administration

Office of the Secretary  
1000 SW Jackson, Suite 500  
Topeka, KS 66612

Sarah L. Shipman, Acting Secretary



Phone: 785-296-3011  
Fax: 785-296-2702  
[www.admin.ks.gov](http://www.admin.ks.gov)

Sam Brownback, Governor

December 28, 2015

Rebecca Floyd, Executive Vice President  
Kansas Development Finance Authority  
534 South Kansas Avenue – Suite 800  
Topeka, Kansas 66603

RE: Proposed Kansas Development Finance Authority ("KDFA") Lease, State of Kansas –  
Department of Administration Energy Center Facility Lease, Series 2015L (the "Lease")

Dear Ms. Floyd:

Pursuant to K.S.A. 74-8901, *et seq.*, as amended and supplemented, please consider this letter an official request for Kansas Development Finance Authority to facilitate a lease transaction in an approximate amount of \$16,432,166, plus related costs of issuance, for the purpose of financing a capital improvement project to acquire, construct and install a new energy service center for certain of the State's office and administrative buildings and the State Capitol Building (the "Capitol Complex") to be located in Topeka, Kansas (the "Project").

In conformity with applicable legislative directives, I hereby request KDFA to enter into to the Lease to finance the State of Kansas – Department of Administration Energy Center Facility.

Sincerely,

Sarah Shipman  
Acting Secretary of Administration

**Meeting of the  
Kansas Development Finance Authority  
Board of Directors  
October 1, 2015**

The October 1, 2015 Kansas Development Finance Authority ("KDFA" or the "Authority") Board of Directors telephonic meeting was called to order at 9:03 a.m. in the KDFA Conference Room at 534 South Kansas Avenue, Topeka, Kansas by Chairman Don Linville.

BY TELEPHONE	AT KDFA
<b>Board Members</b>	<b>Board Member:</b>
Chairman Don Linville	Chris Donnelly
Vice Chairman Suchitra Padmanabhan	
Jim Cusser	
Joel VanderVeen – Kutak Rock	Executive VP/General Counsel Rebecca Floyd
Kim Wells – Gilmore & Bell	Senior Vice President of Finance Jim MacMurray
Lisa Russell – Gilmore & Bell	Chief Financial Officer Linda Clark
Dennis Lloyd – Columbia Capital Management	Bond Accountant Anne Pruneda
Khalen Dwyer – Columbia Capital Management	Operations Accountant Melissa Fuhrman
	Director of IT Jeff Kater
	Executive Secretary Terri Kirby

Among other business, the Board considered adoption of *Resolution No. 337*.

A RESOLUTION AUTHORIZING THE KANSAS DEVELOPMENT FINANCE AUTHORITY TO ENTER INTO A LEASE TRANSACTION ON BEHALF OF THE STATE OF KANSAS DEPARTMENT OF ADMINISTRATION FOR THE PURPOSE OF FINANCING THE COSTS OF A STATE ENERGY CENTER PROJECT; AUTHORIZING THE AUTHORITY TO ENTER INTO LEASE AGREEMENTS WITH THE DEPARTMENT OF ADMINISTRATION AND TO ASSIGN ITS RIGHTS UNDER SUCH AGREEMENTS TO SECURE PAYMENT OF SUCH LEASE.

Vice Chairman Padmanabhan moved that the Board – At the recommendation of KDFA Staff, and subject to such further revision and modifications as counsel and officers authorized to sign the documents shall approve, and subject to the delivery of appropriate and customary legal opinions prior to closing: 1) Authorize execution by the President and/or Executive Vice President and Secretary or Assistant Secretary of the *Lease Agreements* and all necessary transaction documents; and 2) Adopt *Resolution No. 337* for the (Series 2015L) State of Kansas – Department of Administration Energy Center Lease transaction. The motion was seconded by Mr. Cusser and passed unanimously.

Rebecca Floyd  
Rebecca Floyd, Secretary

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**KANSAS DEVELOPMENT FINANCE AUTHORITY**

**LEASE RESOLUTION NO. 337**

**Adopted October 1, 2015**

**\$16,370,000**  
**KANSAS DEVELOPMENT FINANCE AUTHORITY**  
**LEASE**  
**SERIES 2015-L**  
**(STATE OF KANSAS ENERGY CENTER)**

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## RESOLUTION NO. 337

**A RESOLUTION AUTHORIZING THE KANSAS DEVELOPMENT FINANCE AUTHORITY TO ENTER INTO A LEASE TRANSACTION ON BEHALF OF THE STATE OF KANSAS DEPARTMENT OF ADMINISTRATION FOR THE PURPOSE OF FINANCING THE COSTS OF A STATE ENERGY CENTER PROJECT; AUTHORIZING THE AUTHORITY TO ENTER INTO LEASE AGREEMENTS WITH THE DEPARTMENT OF ADMINISTRATION AND TO ASSIGN ITS RIGHTS UNDER SUCH AGREEMENTS TO SECURE PAYMENT OF SUCH LEASE.**

**WHEREAS**, pursuant to K.S.A. 74-8901 *et seq.* (the “**Act**”) the Authority is authorized and empowered to issue bonds and other debt obligations, and enter into leases, contracts and other agreements for activities and projects of State agencies as requested by the Secretary of Administration (the “**Secretary**”) of the State of Kansas Department of Administration (“**DOA**”), providing such activities or projects have been approved by an appropriation or other act of the legislature or approved by the State Finance Council; and

**WHEREAS**, K.S.A. 75-3651(a)(2), (4) and (8) authorize the Secretary to make contracts of every nature necessary or convenient for the orderly accomplishment of the acquisition, development and management of the property and to enter into leases on behalf of executive branch state agencies and to do all things and acts necessary or convenient to carry out the powers granted to the Secretary, except that the Secretary shall have no power to pledge the taxing power or credit of the State except as may be authorized; and

**WHEREAS**, the Secretary has requested the Authority to facilitate the financing of the Project described herein and enter into certain lease agreements to provide funds to acquire, construct, install and equip a state energy center as further described on Exhibit A hereto (the “**Project**”); and

**WHEREAS**, the Authority does hereby find and determine that it is desirable to facilitate the 2015L Lease on behalf of the Department of Administration for the purpose of providing funds to finance the Project, as set forth herein and to this end, the Authority, on behalf of DOA has distributed a Request for Quotation (the “**RFQ**”) for the placement of the Lease on the terms described on Exhibit B hereto; and

**WHEREAS**, the Authority further finds and determines that it is necessary and desirable in connection with the financing of the Project to enter into a Site Lease and the Lease with Option to Purchase with DOA (the “**Lease**”) pursuant to which DOA agrees to make payments of Rental Payments from the Revenues (as defined herein) as provided in the Lease, and the Authority, in turn, will assign its rights under the Lease to the Rental Payments composed of a principal component and interest component sufficient to finance the Project to the assignee named in the Agreement for Direct Purchase and the Assignment (as described herein) and determined on the basis of the proposal accepted pursuant to the RFQ (the “**Accepted Proposal**”).

**NOW, THEREFORE, BE IT RESOLVED BY THE KANSAS DEVELOPMENT FINANCE AUTHORITY, AS FOLLOWS:**

**Section 1.**     Approval of Project and Lease Financing. The Authority hereby approves the acquisition, construction and installation of the Project and the financing thereof pursuant to the terms of the Site Lease (as described herein) and the Lease at an aggregate cost of \$16,370,000, plus all amounts required for costs of issuance, costs of interest on obligations issued for the Project, any credit

enhancement costs and required reserves. Rental Payments (comprised of a principal component and an interest component) shall be payable by the DOA, as tenant, under the Lease on the dates in the years and in the amounts and in the manner set forth in the Lease as determined by the Accepted Proposal. The Rental Payments as set forth in the Lease shall be payable as described in the RFQ and determined in the Accepted Proposal in amounts representing the principal components substantially as set forth below with interest at the respective rates per annum as determined by the Accepted Proposal:

Stated Maturity (March 15)	Principal Amount	Stated Maturity (March 15)	Principal Amount
2017	\$ 930,000	2025	\$1,135,000
2018	955,000	2026	1,165,000
2019	980,000	2027	1,190,000
2020	1,005,000	2028	1,220,000
2021	1,030,000	2029	1,255,000
2022	1,055,000	2030	1,285,000
2023	1,080,000	2031	1,315,000
2024	1,105,000		

The Rental Payments shall be subject to prepayment from time to time as provided in the Lease.

Section 2. Limited Obligations. The Lease and the Rental Payments payable thereunder shall be limited obligations of the DOA payable out of current operating expenditures subject to annual appropriation by the State Legislature of the State of Kansas (the "Revenues"). Neither the Lease nor any portion of the Rental Payments payable thereunder shall constitute a debt or liability of the State or any political subdivision of the State of Kansas or an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. The payment of the respective principal premium, and interest components of the Rental Payments under the Lease shall be secured as provided in the Site Lease and the Lease.

Section 3. Authorization of Documents. The Authority is hereby authorized to enter into the following documents, in substantially the forms presented to and reviewed by the members of the Authority at this meeting and attached to this Resolution (a copy of which shall be filed in the records of the Authority), with such changes therein as shall be approved by the officers of the Authority executing such documents, such approval to be conclusively evidenced by the execution of such documents by such officers:

(a) the Site Lease dated as of the date of delivery thereof (the "Site Lease"), between the DOA and Authority, under which the DOA shall lease the site for the Project and improvements thereon ("Project Site") to the Authority for a period ending on March 15, 2041 (attached hereto as Exhibit C);

(b) the Lease Agreement dated as of the delivery thereof (the "Lease"), between the Authority and the DOA, under which the Authority will cause DOA to construct, improve, extend, repair, remodel and renovate the Project and shall lease the Project to DOA upon the terms and conditions as set forth therein (attached hereto as Exhibit D); and

(c) the Assignment dated as of the delivery thereof (the "Assignment") between the Authority and party submitting the Accepted Proposal and named therein as assignee of the Lease (the "Assignee") pursuant to which the Authority will assign its rights under the Site Lease and the Lease to the Assignee upon the terms and conditions as set forth therein (attached hereto as Exhibit E).

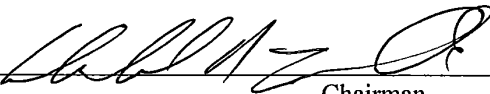
Section 4.      Execution of Documents. The Authority is hereby authorized to enter into, and the President or the Executive Vice President of the Authority are hereby authorized and directed to enter into an agreement for Bank Direct Purchase as described in the Authority's Request for Quotation distributed on September 26, 2015, and to execute and deliver, for and on behalf of and as the act and deed of the Authority, the Site Lease, the Lease, the Assignment and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

Section 5.      Further Authority. The Authority shall, and the officers, agents and employees of the Authority are hereby authorized and directed to, take such further action, and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution, and to carry out, comply with and perform the duties of the Authority with respect to the Site Lease, the Lease and the Assignment.

Section 6.      Effective Date. This Resolution shall take effect and be in full force immediately after its adoption by the members of the Authority.

IN WITNESS WHEREOF, the Authority has caused this Resolution to be signed in its name and behalf by its Chairman and its corporate seal to be hereunto affixed and attested by its \_\_\_\_\_ Secretary all as of the date first above written.

**KANSAS DEVELOPMENT FINANCE  
AUTHORITY**

By: , Chairman

Attest:

By: Rebecca E. Floyd  
Rebecca E. Floyd, \_\_\_\_\_

## EXHIBIT A

### The Project

EXHIBIT B

Request for Bank Direct Purchase

**EXHIBIT C**

**The Site Lease**

EXHIBIT D

The Lease

EXHIBIT E  
The Assignment



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**KANSAS DEVELOPMENT FINANCE AUTHORITY**

**AMENDED  
LEASE RESOLUTION NO. 337**

**Adopted January 7, 2016**

**\$16,600,000  
KANSAS DEVELOPMENT FINANCE AUTHORITY  
LEASE  
SERIES 2015-L  
(STATE OF KANSAS ENERGY CENTER)**

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## AMENDED RESOLUTION NO. 337

**A RESOLUTION AUTHORIZING THE KANSAS DEVELOPMENT FINANCE AUTHORITY TO ENTER INTO A LEASE TRANSACTION ON BEHALF OF THE STATE OF KANSAS DEPARTMENT OF ADMINISTRATION FOR THE PURPOSE OF FINANCING THE COSTS OF A STATE ENERGY CENTER PROJECT; AUTHORIZING THE AUTHORITY TO ENTER INTO LEASE AGREEMENTS WITH THE DEPARTMENT OF ADMINISTRATION AND TO ASSIGN ITS RIGHTS UNDER SUCH AGREEMENTS TO SECURE PAYMENT OF SUCH LEASE.**

**WHEREAS**, pursuant to K.S.A. 74-8901 *et seq.* (the “**Act**”) the Authority is authorized and empowered to issue bonds and other debt obligations, and enter into leases, contracts and other agreements for activities and projects of State agencies as requested by the Secretary of Administration (the “**Secretary**”) of the State of Kansas Department of Administration (“DOA”), providing such activities or projects have been approved by an appropriation or other act of the legislature or approved by the State Finance Council; and

**WHEREAS**, K.S.A. 75-3651(a)(2), (4) and (8) authorize the Secretary to make contracts of every nature necessary or convenient for the orderly accomplishment of the acquisition, development and management of the property and to enter into leases on behalf of executive branch state agencies and to do all things and acts necessary or convenient to carry out the powers granted to the Secretary, except that the Secretary shall have no power to pledge the taxing power or credit of the State except as may be authorized; and

**WHEREAS**, the Secretary has requested the Authority to facilitate the financing of the Energy Center Project described herein and enter into certain lease agreements to provide funds to acquire, construct, install and equip a new energy service center for certain of the State’s offices and administrative buildings including the Landon State Office Building (the “Landon Facilities”) and the State Capitol Building (the “Capitol Complex”) in Topeka, Kansas, as further described on Exhibit A hereto (the “Energy Center Project”); and

**WHEREAS**, the Authority does hereby find and determine that it is desirable to facilitate the 2015L Lease on behalf of the Department of Administration for the purpose of providing funds to finance the Energy Center Project, as set forth herein and to this end, the Authority, on behalf of DOA distributed a Request for Quotation (the “RFQ”) for the placement of the Lease on the terms described on Exhibit B hereto; and

**WHEREAS**, the Authority further finds and determines that it is necessary and desirable in connection with the financing of the Energy Center Project to enter into a Site Lease and the Lease with Option to Purchase with DOA (the “Lease”) pursuant to which DOA agrees to make payments of Rental Payments from the Revenues (as defined herein) as provided in the Lease, and the Authority, in turn, will assign its rights under the Lease to the Rental Payments composed of a principal component and interest component sufficient to finance the Energy Center Project to the assignee named herein and in the Agreement for Direct Purchase and the Assignment (as described herein) and determined on the basis of the proposal accepted pursuant to the RFQ (the “Accepted Proposal”).

**NOW, THEREFORE, BE IT RESOLVED BY THE KANSAS DEVELOPMENT FINANCE AUTHORITY, AS FOLLOWS:**

Section 1. Approval of Energy Center Project and Lease Financing. The Authority hereby approves the acquisition, construction and installation of the Energy Center Project and the financing

thereof pursuant to the terms of the Site Lease (as described herein) and the Lease in the aggregate principal amount of \$16,600,000. Rental Payments (comprised of a principal component and an interest component) shall be payable by the DOA, as tenant, under the Lease on the dates in the years and in the amounts and in the manner set forth in the Lease as determined by the Accepted Proposal. The Rental Payments as set forth in the Lease shall be payable as described in the RFQ and determined in the Accepted Proposal in amounts representing the principal components substantially as set forth below with interest at the rate of 2.32% per annum as determined by the Accepted Proposal:

<u>Stated Maturity (March 15)</u>	<u>Principal Amount</u>	<u>Stated Maturity (March 15)</u>	<u>Principal Amount</u>
2017	\$ 937,914	2025	\$1,126,801
2018	959,674	2026	1,152,943
2019	981,938	2027	1,179,691
2020	1,004,719	2028	1,207,060
2021	1,028,029	2029	1,235,064
2022	1,051,879	2030	1,263,717
2023	1,076,283	2031	1,293,036
2024	1,101,252		

The Rental Payments shall be subject to prepayment from time to time as provided in the Lease.

**Section 2. Limited Obligations.** The Lease and the Rental Payments payable thereunder shall be limited obligations of the DOA payable out of current operating expenditures, subject to annual appropriation by the State Legislature of the State of Kansas (the "Revenues"). Neither the Lease nor any portion of the Rental Payments payable thereunder shall constitute a debt or liability of the State or any political subdivision of the State of Kansas or an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. The payment of the respective principal, premium, and interest components of the Rental Payments under the Lease shall be secured as provided in the Site Lease and the Lease.

**Section 3. Authorization of Documents.** The Authority is hereby authorized to enter into the following documents, in substantially the forms presented to and reviewed by the members of the Authority at this meeting and attached to this Resolution (a copy of which shall be filed in the records of the Authority), with such changes therein as shall be approved by the officers of the Authority executing such documents, such approval to be conclusively evidenced by the execution of such documents by such officers:

(a) the Site Lease dated as of the date of delivery thereof (the "Site Lease"), between the DOA and Authority, under which the DOA shall lease the Landon Facilities to the Authority for a period ending on March 15, 2041 (attached hereto as Exhibit C);

(b) the Lease Agreement dated as of the delivery thereof (the "Lease"), between the Authority and the DOA, under which the Authority will cause DOA to construct, improve, extend, repair, remodel and renovate the Energy Center Project and shall lease the Landon Facilities to DOA upon the terms and conditions as set forth therein (attached hereto as Exhibit D); and

(c) the Assignment dated as of the delivery thereof (the "Assignment") between the Authority and Banc of America Public Capital Corp, the party submitting the Accepted Proposal and named therein as assignee of the Lease (the "Assignee") pursuant to which the Authority will assign its rights (but not its obligations) under the Site Lease and the Lease to the Assignee upon the terms and conditions as set forth therein (attached hereto as Exhibit E).

Section 4. Execution of Documents. The Authority is hereby authorized to enter into, and the President or the Executive Vice President of the Authority are hereby authorized and directed to enter into an agreement for Bank Direct Purchase as described in the Authority's Request for Quotation distributed on September 26, 2015, and to execute and deliver, for and on behalf of and as the act and deed of the Authority, the Site Lease, the Lease, the Assignment and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

Section 5. Further Authority. The Authority shall, and the officers, agents and employees of the Authority are hereby authorized and directed to, take such further action, and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution, and to carry out, comply with and perform the duties of the Authority with respect to the Site Lease, the Lease and the Assignment.

Section 6. Effective Date. This Resolution amends Resolution No. 337 adopted on October 1, 2015 and ratifies the subsequent amendments made thereto, and shall take effect and be in full force immediately after its adoption by the members of the Authority.

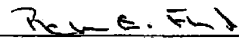
IN WITNESS WHEREOF, the Authority has caused this Resolution to be signed in its name and behalf by its Chairman and its corporate seal to be hereunto affixed and attested by its \_\_\_\_\_ Secretary all as of the date first above written.



Attest:

**KANSAS DEVELOPMENT FINANCE  
AUTHORITY**

By:   
Don Linville Chairman

By:   
Rebecca E. Floyd, Secretary

**EXHIBIT A**  
**The Energy Center Project**

**EXHIBIT B**

**Request for Bank Direct Purchase**

**EXHIBIT C**

**The Site Lease**

**EXHIBIT D**

**The Lease**



**EXHIBIT E**  
**The Assignment**

1208664

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**SITE LEASE AGREEMENT**

**BY AND BETWEEN**

**STATE OF KANSAS - DEPARTMENT OF ADMINISTRATION**

**AND**

**KANSAS DEVELOPMENT FINANCE AUTHORITY**

**DATED DECEMBER 29, 2015**

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SITE LEASE AGREEMENT

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## SITE LEASE AGREEMENT

**THIS SITE LEASE AGREEMENT** (the “**Site Lease**”) is dated and effective as of December 29, 2015, by and between the State of Kansas (the “**State**”), acting by and through the Department of Administration (the “**DOA**”), as lessor (the “**Lessor**”), and the Kansas Development Finance Authority, a public body politic and corporate, with corporate succession, an independent instrumentality of the State duly organized under the laws of the State of Kansas, as lessee (the “**Authority**”):

### WITNESSETH

**WHEREAS**, the Lessor has an immediate need to replace its existing power plant and related facilities serving the State’s capitol complex in Topeka, Kansas including the Landon State Office Building described herein; and

**WHEREAS**, it is proposed that the Authority and Lessor provide for the acquisition, construction and installation of a new building and related improvements and equipment to serve as a new energy service center for the State capitol complex (the “**Energy Center Project**”) to accommodate its governmental functions and in furtherance of its public purposes as established by law; and

**WHEREAS**, the Authority proposes to lease the real property known as the Landon State Office Building located at 900 S.W. Jackson Street, Topeka, Kansas (the “**Landon Site**”) and the building, structure and improvements thereon (collectively with the Landon Site, the “**Landon Facilities**” or the “**Leased Premises**”), all as described on **Schedule I** attached hereto, from the State of Kansas, acting by and through the DOA, and has agreed to lease back simultaneously the Landon Facilities to the DOA pursuant to a Lease with Option to Purchase, Series 2015L, dated as of the date hereof (the “**Lease**”) by and between the Authority and the DOA; and

**WHEREAS**, in order to provide funds to pay the cost of the Energy Center Project, the Authority desires to assign its right, title and interest in, to and under (but not delegate any of its duties or obligations under) the Site Lease and the Lease, including the Basic Rent payable thereunder, pursuant to that certain Assignment dated as of the date hereof (the “**Assignment**”) between the Authority and the assignee named therein (the “**Assignee**”), in consideration of the deposit of monies to the funds and accounts and other considerations described herein; and

**WHEREAS**, the Authority further finds and determines that it is necessary and desirable to enter into this Site Lease and the Lease, pursuant to which the Authority shall cause the Lessor to cause the Energy Center Project to be acquired, constructed and installed with the funds described herein and pursuant to which the Authority shall lease back the Authority’s interest in the Landon Facilities to the DOA, in consideration of rentals subject to annual appropriation of funds by the State Legislature to make such Basic Rent payments and other fees, charges and expenses provided for in the Lease.

**NOW, THEREFORE**, in consideration of the covenants and agreements by the Authority herein set forth, the Lessor hereby leases to the Authority, and the Authority leases from the Lessor, the Landon Facilities to have and to hold the same, with all the appurtenances thereto, for the term set forth herein.

**FURTHER**, in consideration of the mutual covenants, agreements and representations between the Lessor and the Authority, the Lessor and the Authority do hereby represent, covenant and agree as follows:

**Section 1. Representations by the Department of Administration.** The Lessor represents, covenants and agrees as follows:

(a) The Lessor is the fee simple owner of and has merchantable title to the Landon Site including all existing buildings, structures and improvements thereon; said existing buildings, structures and improvements are located wholly within the boundaries of the real property described in **Schedule I** attached hereto; and there exists no mortgage, pledge, lien, security interest, charge or other encumbrance of any nature whatsoever on or with respect to the Landon Site that would prohibit or materially interfere with its intended use, as contemplated by this Site Lease and the Lease;

(b) The Landon Facilities are constructed and installed on the Landon Site, and in, on and to public right-of-way and dedicated easements accessing other State facilities;

(c) The Landon Site is not subject to any dedication, easement, right-of-way, reservation in patent, covenant, condition, restriction, lien or encumbrance which would prohibit or materially interfere with its intended use, as contemplated by this Site Lease and the Lease;

(d) There are no unpaid taxes, assessments or impositions of any kind with respect to the Landon Facilities, and the Landon Site is properly zoned for its intended use;

(e) The lease of the Landon Site to the Authority and the lease of the Landon Facilities by the Authority to the DOA, as provided in the Lease, are necessary, desirable and in the public interest, and the Lessor hereby declares its current need for, and the essentiality to the DOA and the State of, the Landon Facilities and the Energy Center Project;

(f) DOA, acting by and through the Secretary of Administration, has full power and authority under the Constitution and laws of the State of Kansas to enter into the transactions contemplated by this Site Lease and the Lease and to carry out its obligations hereunder and thereunder, and has been duly authorized to execute and deliver this Site Lease and the Lease and by proper action has duly authorized the execution and delivery of this Site Lease and agrees to enter into the Lease simultaneously with the delivery of this Site Lease;

(g) Neither the execution and delivery of this Site Lease or the Lease, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Lessor is now a party or by which the Lessor is bound; and

(h) The Lessor has not made, done, executed or suffered, and warrants that it will not make, do, execute or suffer, any act or thing whereby the Lessor's interests in the Landon Facilities shall be or may be impaired, changed or encumbered in any manner whatsoever except as permitted by this Site Lease and the Lease.

**Section 2. Representations and Covenants by the Authority.** The Authority represents, covenants and agrees as follows:

(a) To enter into the Lease simultaneously with the delivery of this Site Lease;

(b) To provide funds by the assignment of this Site Lease and the Lease pursuant to the Assignment to provide funds to pay the costs of the Energy Center Project as described in the Lease;

(c) The Authority has full power and authority under K.S.A. 74-8901 et seq., to enter into the transactions contemplated by this Site Lease and the Lease and to carry out its obligations hereunder and thereunder, and has duly authorized the execution and delivery of this Site Lease and the Lease pursuant to action duly authorized by the Authority;

(d) Neither the execution and delivery of this Site Lease or the Lease, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Authority is now a party or by which the Authority is bound; and

(e) To surrender and deliver the Landon Facilities to the Lessor upon the termination of this Site Lease, as provided in **Section 3** hereof.

**Section 3. Lease of the Landon Facilities.** The Lessor hereby demises and leases to the Authority and the Authority hereby leases from the Lessor the Leased Premises for a Site Lease Term commencing as of the date of delivery hereof and ending on the date on which all Basic Rent and other amounts payable under the Lease are paid in full or provision for the payment thereof has been made as provided in the Lease, but under any circumstances not later than March 15, 2041, for the rentals and other consideration set forth in Section 4 hereof and in accordance with the provisions of this Site Lease.

The Authority and the Lessor further agree to cause the acquisition, construction and installation of the Energy Center Project upon and subject to the terms of the Lease.

The Authority and the Lessor agree that if during the Site Lease Term the Authority or Lessor shall cause any additions or improvements to be acquired, constructed or installed on or to the Landon Facilities, each and every portion of such additions and improvements at, on or in the Landon Site shall become part of the Landon Facilities leased hereunder, without further action on the part of either party.

**Section 4. Rent and Other Considerations.** As Site Lease Rent and in consideration for the leasing of the Landon Facilities to the Authority hereunder, the Authority shall:

- (a) sell, assign and deliver its right, title and interest in, to and under this Site Lease and the Lease to the Assignee pursuant to the Assignment;
- (b) cause the Assignee to deposit the proceeds of such sale and assignment of this Site Lease and the Lease in the Project Account and Costs of Issuance Account established under the Lease; and
- (c) cause the Lessor (in its capacity as Tenant under the Lease) to use and apply the funds on deposit in the Project Account and Costs of Issuance Account as provided in the Lease as described therein.

The Lessor hereby finds and determines that the foregoing consideration constitutes the fair value of the leasehold estate granted hereunder.

**Section 5. Disbursements from Project Account.** The Authority will cause the Lessor (in its capacity as Tenant under the Lease), and the Lessor (in such capacity) by its acceptance hereof and of the Lease, covenants and agrees to use and apply the money in the Project Account to pay, or to reimburse the Lessor for payment of, the Project Costs upon the terms and subject to the conditions specified in the Lease.

**Section 6. Assignments.** The Authority may enter into the Assignment with the Assignee and the Assignee may further assign and transfer its rights and interests under this Site Lease without the consent of the Lessor or the Authority (i) if the Lease is terminated for an "Event of Non-Appropriation" as defined in the Lease or (ii) if an "Event of Default" as defined in the Lease has occurred. Assignment of this Site Lease by Assignee shall be subject to the restrictions and limitations set forth in the Assignment.

**Section 7. Termination.** If an "Event of Default" or "Event of Non-Appropriation" occurs under the Lease (as said terms are defined in the Lease) the Authority shall have the right to possession of the Landon Facilities for the remainder of the term of this Site Lease and shall have the right to sublease the Landon Facilities or sell its interest in this Site Lease upon whatever terms and conditions it deems prudent subject to any applicable provisions of the Lease. The Lessor shall have no right to terminate this Site Lease upon the failure of performance by the Authority of any obligation on its part undertaken hereunder, but Lessor shall have the right to proceed separately against the Authority as provided in Section 3.4 of the Lease to compel such performance. Except as set forth in Section 3 above, this Site Lease shall

terminate only on the date on which all Basic Rent and other amounts payable under the Lease are paid in full or provision for the payment thereof has been made as provided therein.

**Section 8. Taxes and Assessments.** The Lessor covenants and agrees to pay any and all assessments of any kind or character and all taxes levied or assessed upon the Landon Facilities.

**Section 9. Lease; Title to Landon Site.** Contemporaneously herewith, the Authority and the DOA will execute the Lease whereby the Authority leases back to the DOA and the DOA leases from the Authority, the Landon Facilities, in accordance therewith. Fee simple title to the Landon Facilities shall remain in the Lessor at all times, subject to the separate leasehold estates created under the Site Lease and the Lease. No union of interests of the Lessor, DOA or the Authority, or any third party, whether by purchase or otherwise, shall result in a merger of this Site Lease and the Lease or of this Site Lease and the fee title to the Landon Facilities.

DOA, for itself and on behalf of the State, hereby covenants and agrees, to the extent it may lawfully do so, that so long as the Lease shall be in force and effect, it will not exercise any power of condemnation with respect to the Landon Facilities. DOA further covenants and agrees, to the extent it may lawfully do so, that if for any reason the foregoing covenant is determined to be unenforceable or if DOA or the State should fail or refuse to abide by such covenant and condemns all or any part of the Landon Facilities, the appraised value of the property so condemned shall not be less than the greater of the principal and interest components of the Base Rentals payable through the earlier of the date of their redemption or stated maturity, as the case may be

**Section 10. Severability.** If any one or more of the terms, provisions, covenants or conditions of this Site Lease shall be declared, to any extent, invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Site Lease shall be affected thereby, and each provision of this Site Lease shall be valid and enforceable to the fullest extent permitted by law.

**Section 11. Amendments, Changes and Modifications.** This Site Lease may not be effectively amended, changed, modified, altered or supplemented except with the written consent of both the Authority and the Lessor. Any waiver of any provision of this Site Lease or any right or remedy hereunder must be affirmatively and expressly made in writing and shall not be implied from inaction, course of dealing or otherwise.

**Section 12. Applicable Law.** This Site Lease shall be governed by and construed in accordance with the laws of the State of Kansas.

**Section 13. Execution.** This Site Lease may be executed in any number of counterparts, each of which shall be deemed to be an original but all together shall constitute but one and the same Site Lease. It is also agreed that separate counterparts of this Site Lease may be executed by the Authority and the Lessor all with the same force and effect as though the same counterpart had been executed by both the Authority and the Lessor.



**Section 14. Successors.** This Site Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

**Section 15. Complete Agreement.** This written agreement is a final expression of the agreement between the parties hereto and such agreement may not be contradicted by evidence of any prior oral agreement or of a contemporaneous oral agreement between the parties. No unwritten oral agreement between the parties exists.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Kansas Development Finance Authority and the State of Kansas acting by and through the Department of Administration have caused this Site Lease to be executed by their respective officers thereunto duly authorized, all as of the day and year first above written.

STATE OF KANSAS DEPARTMENT OF  
ADMINISTRATION  
"Lessor"

(SEAL)

By: Sarah L. Shipman  
Name: Sarah L Shipman  
Title: Acting Secretary of Administration

ACKNOWLEDGMENT

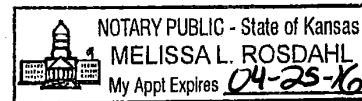
STATE OF KANSAS       )  
                                  ) ss:  
COUNTY OF SHAWNEE    )

BE IT REMEMBERED that on this 23<sup>rd</sup> day of December, 2015, before me, a notary public in and for said County and State, came Sarah L Shipman, Acting Secretary of Administration - State of Kansas, who is personally known to me to be the same person who executed, as such officer, the within instrument on behalf of said State agency.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

Melissa L Rosdahl  
Notary Public in and for said County and State

My Appointment Expires: 04-25-16



(SEAL)



**KANSAS DEVELOPMENT FINANCE  
AUTHORITY**

By: Rebecca E. Floyd  
Name: Rebecca E. Floyd  
Title: Executive Vice President

ATTEST:

James C. MacMurray  
Name: James C. MacMurray  
Title: Assistant Secretary

ACKNOWLEDGMENT

STATE OF KANSAS           )  
  ) ss:  
COUNTY OF SHAWNEE    )

**BE IT REMEMBERED** that on this 29<sup>th</sup> day of December, 2015, before me, a notary public in and for said County and State, came Rebecca E. Floyd, Executive Vice President of the Kansas Development Finance Authority and James C. MacMurray, Assistant Secretary of said Kansas Development Finance Authority, who are personally known to me to be the same persons who executed, as such officers, the within instrument on behalf of said Kansas Development Finance Authority, and such persons duly acknowledged the execution of the same to be the act and deed of said Kansas Development Finance Authority.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my official seal, the day and year last above written.

Terri H. Kirby  
Notary Public in and for said County and State

My Appointment Expires: April 20, 2016



## **SCHEDULE I**

### **Landon Facilities**

(a) The following described real estate located in Shawnee, County, Kansas, to-wit (collectively, the **"Landon Site"**):

A tract of land in the Southeast Quarter of Section 31, Township 11 South, Range 16 East of the 6<sup>th</sup> P.M., in the City of Topeka, Shawnee County, Kansas, and described as follows: All of Lots 290, 292, 294, 296, 298, 300, 302, 304, 306, 308, 310, and 312, on Jackson Street, (Original Town) in the City of Topeka, Shawnee County, Kansas; and the Northerly one-half of alley lying Southerly of and adjacent to Lot 312 as vacated by Ordinance No. 3009 dated October 6, 1909, and pursuant to Ordinance 3021, dated November 19, 1909, and A.T.&S.F. Contract No. 25487 filed with Register of Deeds, Shawnee County, March 15, 1982, at 1:48 p.m. in Book 2160, Page 172.

(b) All buildings, structures, improvements, furnishings and equipment now or hereafter acquired, constructed, located or installed on the aforescribed real property.

The property described in paragraphs (a) and (b) of this Schedule I together constituting the **"Landon Facilities"** as referred to in said Site Lease, Lease and Assignment.

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**LEASE WITH OPTION TO PURCHASE  
SERIES 2015L**

**BY AND BETWEEN**

**KANSAS DEVELOPMENT FINANCE AUTHORITY**

**AND**

**STATE OF KANSAS - DEPARTMENT OF ADMINISTRATION**

**DATED DECEMBER 29, 2015**

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LEASE WITH OPTION TO PURCHASE

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**LEASE WITH OPTION TO PURCHASE  
SERIES 2015L**

**THIS LEASE WITH OPTION TO PURCHASE, SERIES 2015L** (the “**Lease**”), is made and entered into as of the 29<sup>th</sup> day of December, 2015 by and between the Kansas Development Finance Authority, a public body politic and corporate, with corporate succession and an independent instrumentality of the State of Kansas exercising essential public functions (the “**Authority**”) and the State of Kansas - Department of Administration (the “**Tenant**”).

**WITNESSETH:**

**WHEREAS**, pursuant to K.S.A. 74-8901 *et seq.* (the “**Act**”) the Authority is authorized and empowered to enter into leases and to acquire, construct, sell and otherwise deal in and contract and provide for activities and projects of State agencies as requested by the Secretary of Administration of the State of Kansas (the “**Secretary**”) provided such activities or projects have been approved by an appropriation or other act of the State Legislature or approved by the State Finance Council; and

**WHEREAS**, the Secretary is authorized pursuant to K.S.A. 75-3651 to make contracts and enter into leases on behalf of executive branch state agencies and to do all things necessary or convenient to carry out the powers granted to the Secretary; and

**WHEREAS**, the Authority has received a request by the Secretary of Administration to finance the cost of expenditures for capital improvements to provide a new energy service center for certain of the State’s offices and administrative buildings including the Landon State Office Building at 900 S.W. Jackson Street and for the State Capitol Building (collectively, the “**Capitol Complex**”) in Topeka, Kansas (the “**Energy Center Project**”); and

**WHEREAS**, in order to finance the costs of the Energy Center Project, the Authority will enter into this Lease with respect to the Landon Facilities (herein defined) and by assignment of its rights and interests hereunder and in particular to payments of Basic Rent hereunder to the assignee named herein (the “**Assignee**”) provide funds to pay the cost of acquisition, construction, installation and equipping of the Energy Center Project; provided, however, no revenues derived from the leasing of space in the Landon Facilities shall be used in a manner inconsistent with applicable provisions of K.S.A. 75-3650, and related authorities; and

**WHEREAS**, the Authority further finds and determines that it is necessary and desirable, in connection with the financing of the Energy Center Project, to enter into a Site Lease Agreement dated December 29, 2015 (the “**Site Lease**”) and this Lease, pursuant to which the Authority shall cause the Energy Center Project to be acquired, constructed and installed and paid for with proceeds of the assignment of the Authority’s rights and interests hereunder to the Assignee and pursuant to which the Authority shall lease the Authority’s rights and interests in the real property described on **Schedule I** hereto (the “**Landon Site**”) and the existing buildings, structures and improvements thereon acquired under the Site Lease (collectively with the Landon Site, the “**Landon Facilities**”) to the Tenant, in consideration of rental payments which, subject

to annual appropriation of funds to make such rental payments and other charges provided for in the Lease, are intended to be sufficient to provide for the payment of the Rental Payments (as herein defined) hereunder, including Basic Rent composed of a principal component and an interest component, and any other fees and expenses of the Tenant and the Authority as the same become due.

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants and agreements herein set forth, Authority and Tenant do hereby covenant and agree as follows:

## **ARTICLE I**

### **DEFINITIONS, REPRESENTATIONS AND COVENANTS**

**Section 1.1. Definitions.** In addition to the words, terms and phrases elsewhere defined in this Lease, the following words, terms and phrases as used herein shall have the following meanings unless the context or use indicates another or different meaning or intent:

**“Additional Rent”** means all fees, charges and expenses of the Authority, all Impositions and all other expenses of whatever nature which Tenant has agreed to pay or assume, subject to annual appropriation by the Legislature of the State, under the provisions of this Lease and all expenses and costs incurred by the Authority in connection with the enforcement of any rights under this Lease. The fees, charges and expenses of the Authority shall include, without limitation, all costs incurred in connection with the execution and delivery of and performance of its obligations under the Site Lease, the Lease and the Assignment and any amount to provide for the payment of all required rebate amounts to the United States in accordance with the Code.

**“Additional Term”** shall mean any extended term of this Lease commencing on the last day of the Basic Term and terminating not later than the payment or provision for the payment of all of the Rental Payments.

**“Annual Depreciation and Maintenance Requirement”** means \$161,000.00 annually as described in Section 3.2.

**“Annual Revenue Requirement”** means for any Fiscal Year an amount equal to (i) the Principal Component of Basic Rent due and payable for the Fiscal Year, plus (ii) the Interest Component of Basic Rent due and payable for the Fiscal Year, plus (iii) the amount, if any, needed to be deposited into the Rebate Account to make up any deficiencies therein during such Fiscal Year, as projected by the Authority, plus (iv) the amount to be deposited into the Depreciation and Maintenance Account, as projected by the Authority, plus (v) the Authority’s fees and expenses for such Fiscal Year as projected by the Authority, plus (vi) the amount of administrative expenses, if any, for such Fiscal Year as projected by the Authority, less (vii) any amounts on deposit in the Principal and Interest Account.

**“Assigned Rights”** shall have the meaning set forth in the Assignment.

**“Assignee”** means Banc of America Public Capital Corp, its successors and permitted assigns.

**“Assignment”** means the Assignment dated December 29, 2015 between the Authority and the Assignee with respect to the assignment and transfer of the Assigned Rights.

**“Authorized Tenant Representative”** means the Secretary of Administration of the State of Kansas, or such other person at the time designated to act on behalf of the Tenant as evidenced by written certificate furnished to the Authority containing the specimen signature of such person and signed on behalf of the Tenant by the Secretary. Such certificates may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized Tenant Representative.

**“Basic Rent”** means the amount, when added to Basic Rent Credits, which is sufficient to pay, on each Basic Rent Payment Date, amounts representing the Principal Component and the Interest Component, which is due and payable on such Basic Rent Payment Date, subject to annual appropriation by the Legislature of the State, as set forth on **Schedule III** attached hereto.

**“Basic Rent Credits”** means all funds on deposit in the Principal and Interest Account and available for the payment of Basic Rent hereunder on any Basic Rent Payment Date.

**“Basic Rent Payment Date”** means each date specified on **Schedule III** attached hereto for the payment of Basic Rent.

**“Basic Term”** means that term commencing as of the date of this Lease and ending on March 15, 2031, subject to prior termination as specified in this Lease, but to continue thereafter until all of the Rental Payments shall have been paid in full or provision made therefor in accordance with the provisions of this Lease.

**“Blanket Insurance Policy”** means the insurance coverage maintained on certain assets of the Tenant, including the Landon Facilities, which shall be maintained in an amount of not less than \$200,000,000 with a deductible of not more than \$5,000,000.

**“CERCLA”** means the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, *et seq.*

**“Change of Circumstances”** means that (i) as a result of changes in the Constitution, or legislation adopted or imposed by the State or any political subdivision thereof, or by the United States, or any action instituted in any court, this Lease shall become void, unenforceable or impossible of performance without unreasonable delay, or in any other way, by reason of such changes of circumstances imposing unreasonable burdens or excessive liabilities upon the Tenant or (ii) Tenant shall determine it is not practicable or desirable to acquire or construct substitute improvements under the circumstances described in Sections 20.1(c) or (e) or 20.2(c) hereof.

**“Code”** means the Internal Revenue Code of 1986, as amended, including when appropriate, the statutory predecessor of the Code, and all applicable regulations (whether proposed, temporary or final) under the Code and the statutory predecessor of the Code, and any successor provisions to the provisions of the Code and those regulations and any official rulings,

announcements, notices, procedures and judicial determinations under the foregoing applicable to the Lease.

**“Completion Certificate”** shall mean the certificate of the Tenant described in **Section 6.4(e)** of this Lease.

**“Completion Date”** means the date of completion of the Energy Center Project established as such pursuant to **Section 6.4(e)** of this Lease.

**“Contract Rate”** means 2.32% per annum.

**“Costs of Issuance”** means any and all expenses of whatever nature incurred in connection with the placement, execution and delivery of the Lease, the Site Lease and the Assignment.

**“Costs of Issuance Account”** means the account referred to by such name authorized and established pursuant to **Section 5.1** hereof.

**“Depreciation and Maintenance Account”** means the account referred to by such name authorized and established pursuant to **Section 5.1** hereof.

**“Environmental Law”** means any federal, State or local law (including common law), statute, regulation, ordinance, order, decree, restriction or requirement relating to health, safety or the environment (including natural resources) presently in effect or coming into effect during the term of this Lease.

**“Event of Default”** with respect to this Lease means any one of the following events:

(a) Failure of Tenant to make any payment of Basic Rent at the times and in the amounts required hereunder; or

(b) Failure of Tenant to make any payment of Additional Rent at the times and in the amounts required hereunder; or

(c) Failure to observe or perform any other covenant, agreement, obligation or provision of this Lease on the Tenant’s part to be observed or performed, and the same is not remedied within thirty (30) days or such longer period as the Authority may grant to correct such default, after the Authority has given the Tenant written notice specifying such failure; provided that (i) Tenant has commenced such correction within said 30-day, or longer, period, and (ii) Tenant diligently prosecutes such correction to completion; or

(d) Any statement, representation or warranty made by Tenant in or pursuant to this Lease or its execution, delivery or performance shall prove to have been false, incorrect, misleading or breached in any material respect on the date when made; or

(e) Any bankruptcy, insolvency, moratorium or similar proceeding of any character shall be instituted by the Authority or the Tenant.

**“Event of Non-Appropriation”** means that not later than the first day of any Fiscal Year, the State Legislature has not appropriated sufficient funds for the Tenant’s Rental Payments as required pursuant to the terms and conditions of this Lease, and the lack of any other legally available funds of the Tenant to meet its obligations under this Lease.

**“Event of Taxability”** means the circumstance of the Interest Component paid or payable pursuant to this Lease becoming includible for federal income tax purposes in an owner’s gross income as a consequence of any act, omission or event whatsoever, including but not limited to the matters described in the immediately succeeding sentence, and regardless of whether the same was within or beyond the control of the Tenant. An Event of Taxability shall be presumed to have occurred upon (a) the receipt by the Authority, the Tenant or the Assignee of an original or a copy of an Internal Revenue Service Technical Advice Memorandum or Statutory Notice of Deficiency or other written correspondence which legally holds that the Interest Component is includable in the gross income of the owner thereof; (b) the issuance of any public or private ruling of the Internal Revenue Service that the Interest Component is includable in the gross income of the owner thereof; or (c) receipt by the Authority, the Tenant or the Assignee of a written opinion of a nationally recognized firm of attorneys experienced in matters pertaining to the tax-exempt status of interest on obligations issued by states and their political subdivisions, selected by the Tenant and acceptable to the Authority, to the effect that the Interest Component has become includable in the gross income of the owner thereof for federal income tax purposes. For all purposes of this Lease, an Event of Taxability shall be deemed to occur on the date as of which the Interest Component is deemed includable in the gross income of the owner thereof for federal income tax purposes.

**“Fiscal Year”** means the period commencing July 1 of any year and ending on June 30 of the following year, and numbered for the year in which it ends.

**“Government Obligations”** means obligations of, or obligations guaranteed as to principal and interest by, the United States of America or any agency or instrumentality thereof, when such obligations are backed by the full faith and credit of the United States of America.

**“Governmental Unit”** means a state or political subdivision or agency or instrumentality thereof.

**“Hazardous Substances”** means all materials, wastes, products and substances regulated as hazardous, toxic, harmful or as a pollutant under any Environmental Law, including asbestos, lead, natural gas, petroleum (including crude oil and any fraction thereof) and all substances defined as “hazardous” under CERCLA.

**“Impositions”** means all taxes and assessments, general and special, which may be lawfully taxed, charged, levied, assessed or imposed upon or against or payable for or in respect of the Landon Facilities or any part thereof, or upon the Authority’s or the Tenant’s interest therein, including any new lawful taxes and assessments not of the kind enumerated above to the extent that the same are lawfully made, levied or assessed in lieu of or in addition to taxes or assessments now customarily levied against real or personal property, and further including all water and sewer charges, assessments and other governmental charges and impositions

whatsoever, foreseen or unforeseen, which if not paid when due would encumber the Authority's or the Tenant's interest in the Landon Facilities.

**"Interest Component"** means the portions of the Basic Rent identified as such on **Schedule III** attached hereto.

**"Net Proceeds"** means, when used with respect to any insurance or condemnation award with respect to the Landon Facilities, the proceeds from the insurance or condemnation award remaining after the payment of all expenses of whatever nature incurred in the collection of such proceeds.

**"Notice Address"** shall mean:

- (1) With respect to the Tenant:

STATE OF KANSAS  
Department of Administration  
State Capitol Building, Second Floor  
Topeka, Kansas 66612  
Attn: Secretary of Administration

with a copy to:

Department of Administration  
Legal Section  
900 S.W. Jackson, Room 107  
Topeka, Kansas 66612  
Attn: Chief Attorney

- (2) With respect to the Authority:

KANSAS DEVELOPMENT FINANCE AUTHORITY  
345 S. Kansas Avenue, Suite 800  
Topeka, Kansas 66603  
Attn: General Counsel

- (3) With respect to the Assignee:

BANC OF AMERICA PUBLIC CAPITAL CORP  
11333 McCormick Road  
Mail Road: MD5-03-07-05  
Hunt Valley, Maryland 21031  
Attn: Terri Preston, Vice President

**"Notice Representative"** means:

- (1) With respect to the Tenant, Secretary of Administration.

(2) With respect to the Authority, the President thereof.

(3) With respect to the Assignee, Terri Preston, Vice President.

**“Principal Component”** means the portions of the Basic Rent identified as such on **Schedule III** attached hereto.

**“Principal and Interest Account”** means the account referred to by such name authorized and established pursuant to **Section 5.1** hereof.

**“Project”** or **“Energy Center Project”** means the acquisition, construction and installation of the Energy Center Facilities as described in the recitals hereto and as further identified in the legal description of the Project Site.

**“Project Account”** means the account referred to by such name authorized and established pursuant to **Section 5.1** hereof.

**“Project Costs”** means those costs incurred in connection with the Project, including:

(a) all costs and expenses necessary or incident to the acquisition, construction and installation of the Energy Center Project, including any interest expense incurred during the period of construction of the Energy Center Project;

(b) all administration costs and expenses of the Project, and all costs and expenses of every nature incurred in the completion of the Energy Center Project under the Lease; and

(c) Costs of Issuance.

**“Project Site”** means the real property described in **Schedule II** hereto.

**“Rebate Account”** means the account referred to by such name authorized and established pursuant to **Section 5.1** hereof.

**“Rental Payments”** means the aggregate of the Basic Rent and Additional Rent payments provided for pursuant to **Article III** of this Lease.

**“Resolution”** means the resolution adopted by the Authority authorizing the Authority to execute, enter into and deliver the Site Lease, this Lease and the Assignment, as amended and supplemented and any supplemental resolutions.

**“SARA”** means the Superfund Amendments and Reauthorization Act of 1986, as now in effect and as hereafter amended.

**“Site Lease”** means the Site Lease Agreement dated as of December 29, 2015, by and between DOA, as lessor, and the Authority, as lessee.

**“State”** means the state of Kansas.

“**State Legislature**” means the Kansas State Legislature.

“**Taxable Rate**” means 3.62% per annum.

**Section 1.2. Rules of Interpretation.**

(a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine gender. Unless the context shall otherwise indicate, the words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

(b) Wherever in this Lease it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation.

(c) All references in this instrument to designated “Articles,” “Sections” and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and subdivisions of this instrument as originally executed. The words “herein,” “hereof,” “hereunder” and other words of similar import refer to this Lease as a whole and not to any particular Article, Section or subdivision.

(d) The Table of Contents and the Article and Section headings of this Lease shall not be treated as a part of this Lease or as affecting the true meaning of the provisions hereof.

**Section 1.3. Representations and Covenants by Tenant.** Tenant makes the following covenants and representations as the basis for the undertakings on its part herein contained:

(a) Tenant will not make, or cause or permit to be made, any use of the proceeds of the Assignment or the Landon Facilities or the Energy Center Facilities which would cause the Lease to be an “arbitrage bond” within the meaning of the Code. Tenant will comply with, and will take all action reasonably required to insure that the Authority complies with, all applicable requirements of the Code until all Basic Rent has been paid.

(b) Subject to the provisions of **Article IV** hereof, Tenant has the right, power and authority, to enter into this Lease, and to perform its obligations hereunder.

(c) Neither the execution or delivery of this Lease, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the terms and conditions of this Lease contravenes any provisions or conflicts with or results in a breach of the terms, conditions or provisions of any mortgage, debt, agreement, indenture or instrument to which the Tenant is a party or by which it is bound, or to which it or any of its properties is subject, or would constitute a default (without regard to any required notice or the passage of any period of time) under any of the foregoing, or would result in the creation or imposition of any



lien, charge or encumbrance whatsoever upon any of the property or assets of the Tenant under the terms of any mortgage, debt, agreement, indenture or instrument, or violates any existing law, administrative regulation or court order or consent decree to which the Tenant is subject.

(d) This Lease constitutes a legal, valid and binding obligation of the Tenant enforceable in accordance with its terms.

(e) Tenant will request of the Governor and the Legislature of the State annual appropriations necessary for the purpose of providing funds to make the Rental Payments and to fulfill any other obligations of the Tenant under the Lease.

(f) Tenant will furnish to the Authority prior to delivery of the Assignment, all information requested by the Authority necessary for Authority to comply with the Code, including any required information to complete Internal Revenue Service Form 8038-G with respect to the Lease.

(g) Tenant will pay all required rebate amounts to the United States in accordance with Code Section 148(f) and the Arbitrage Instructions.

(h) Not more than 10% of the proceeds of the Assignment will be used directly or indirectly in a trade or business carried on by any person other than a Governmental Unit. Tenant understands that use of the Landon Facilities or the Energy Center Facilities financed with Assignment proceeds may be treated as use of such proceeds.

(i) Not more than 5% of the Assignment proceeds will be used (a) for any private business not related to a governmental use of such proceeds, or (b) in an amount disproportionate to a related governmental use of such proceeds.

(j) The Tenant hereby agrees to provide to the Authority all information of the Tenant necessary for compliance with the provisions of any rules or regulations of federal or state securities laws which may be or become applicable to this Lease or the Assignment. The Authority, upon receipt of any such information from the Tenant, will disseminate said information in accordance with the applicable rule or regulation.

(k) No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default exists at the date hereof.

(l) No lease, rental agreement, lease-purchase agreement, payment agreement or contract for purchase to which the Tenant has been a party at any time has been terminated by the Tenant as a result of insufficient funds being appropriated in any fiscal year. No event has occurred which would constitute an event of default under any debt, revenue bond or obligation which the Tenant has issued during the past ten (10) years.

**Section 1.4. Representations and Covenants by Authority.** Authority makes the following representations and covenants as the basis for the undertakings on its part herein contained:

(a) Authority is public body politic and corporate and an independent instrumentality of the State of Kansas. Under the provisions of the Act, Authority has the power to enter into and perform the transactions contemplated by this Lease and the Resolution and to carry out its obligations hereunder.

(b) Authority has not, in whole or in part, assigned, leased, hypothecated or otherwise created any other interest in, or disposed of, or caused or permitted any lien, claim or encumbrance to be placed against the Landon Facilities, except as is provided for in this Lease and the Assignment.

(c) Authority, during the Basic Term or any Additional Term, will not in whole or in part, assign, lease, hypothecate or otherwise create any other interest in, or dispose of, or cause or permit any lien, claim or encumbrance to be placed against the Energy Center Project (to the extent the same would adversely affect the tax-exempt status of the Interest Component) or the Landon Facilities, except as is provided for in this Lease and the Assignment.

(d) Authority has duly authorized the execution and delivery of this Lease and the Site Lease and the execution and delivery of the Assignment.

(e) Authority will not make, or cause or permit to be made, any use of the proceeds of the Assignment which would cause this Lease to be an "arbitrage bond" within the meaning of the Code. Authority will comply with, and will take all actions reasonably required to insure that the Tenant complies with, all applicable requirements of the Code until all Basic Rent shall have been paid.

(f) Authority will file (upon receipt from Tenant of all information necessary) a completed Internal Revenue Service Form 8038-G with respect to the Lease.

(g) The Authority will comply with all the limitations and requirements of the Code with respect to the Lease and the proceeds of the Assignment.

(h) Not more than 10% of the proceeds of the Assignment will be used directly or indirectly in the trade or business carried on by any person other than a Governmental Unit. Authority understands that use of the Landon Facilities or the Energy Center Facilities financed with Assignment proceeds may be treated as use of such proceeds.

(i) Not more than 5% of the Assignment proceeds will be used (a) for any private business not related to a governmental use of such proceeds, or (b) in an amount disproportionate to a related governmental use of such proceeds.

## **ARTICLE II**

**Section 2.1. Granting of Leasehold.** The Authority by these presents hereby rents, leases and lets unto Tenant and Tenant hereby rents, leases and hires from Authority, for the rentals and upon and subject to the terms and conditions hereinafter set forth, the Landon Facilities for the Basic Term and any Additional Term.

**Section 2.2. Termination of Lease.** The Lease will terminate upon the occurrence of the following:

(a) The Tenant shall have paid to the Authority all amounts which the Tenant is obligated under the terms of the Lease to pay and the Tenant shall have made arrangements which, in the opinion of the Authority, are adequate to comply with the Tenant's obligations to make any rebates to the United States of America; or

(b) The Tenant shall exercise its option to purchase in accordance with **Article XIX** hereof.

### **ARTICLE III**

**Section 3.1. Basic Rent.** Authority reserves and Tenant covenants and agrees to pay or cause to be paid to the Authority, during the Basic Term, on each Basic Rent Payment Date, Basic Rent in immediately available funds, subject, however, to annual appropriation of funds by the Kansas Legislature for said Basic Rent, provided, however, the Authority and Tenant acknowledge and agree that no revenues derived from the leasing of space in the Landon Facilities shall be used in a manner inconsistent with applicable provisions of K.S.A. 75-3650, and related authorities; provided further, however, that the Authority and Tenant agree that neither funds appropriated by the State pursuant to the terms hereof, nor amounts received by the Authority pursuant to the terms hereof, including in the exercise by the Authority of its remedies hereunder, constitute "revenues derived from the leasing of space in the Landon Facilities" and, further, that the provisions hereof and the transactions contemplated hereby to not conflict with or contravene the provisions of K.S.A. 75-3650 and related authorities. Authority and Tenant acknowledge and agree that, as set forth on **Schedule III**, a portion of each Basic Rent payment is paid as, and represents payment of, interest, and the balance of each such Basic Rent payment is paid as, and represents principal. Upon the occurrence of an Event of Taxability, the Interest Component shall have accrued and be payable thereafter at the Taxable Rate retroactive to the date as of which the Interest Component is determined to be includible in the gross income of the owner or owners thereof for federal income tax purposes, and the Tenant shall pay such additional amount (including additions to tax, interest and penalties) as will result in the owner receiving the Interest Component at the Taxable Rate.

The Tenant shall pay the Authority a charge on any Basic Rent not paid within ten (10) days after the date such payment is due at a rate equal to the Contract Rate (or the Taxable Rate if then in effect) *plus* 5% per annum or the maximum amount permitted by law, whichever is less, from such date until paid.

**Section 3.2. Additional Rent; Annual Payment to Depreciation and Maintenance Account.** In addition to Basic Rent, Tenant shall pay any Additional Rent required to be paid pursuant to this Lease, within fourteen (14) days after receipt of written notice and demand therefor.

Tenant further covenants and agrees to make annual deposits to the Depreciation and Maintenance Account on or prior to March 15 of each year, commencing on March 15, 2017, in

the amount of not less than the Annual Depreciation and Maintenance Requirement. Funds on deposit in the Depreciation and Maintenance Account shall be used solely by Tenant to pay costs of usual and unusual or extraordinary repairs and replacements to the Energy Center Facilities. Funds on deposit in the Depreciation and Maintenance account shall not be available to pay Basic Rent in the event that funds on deposit in the Principal and Interest Account shall be insufficient for the payment of Basic Rent and shall not be pledged or otherwise serve to secure the payment of Basic Rent payable hereunder. Upon the occurrence of an Event of Default or Event of Non-Appropriation, funds on deposit in the Depreciation and Maintenance Account shall remain the property of the Tenant to be used for the aforementioned purposes and shall not be available for the payment of Basic Rent.

Tenant shall include the amount of the Annual Depreciation and Maintenance Requirement in its budget request to the State Legislature each year during the term of this Lease.

**Section 3.3. Agreement for Payment of Administrative Fees as Additional Rent.**

The parties to this Lease acknowledge that the Authority will incur administrative fees and expenses in the administration of the Lease as long as the Lease remains in effect. To reimburse the Authority for such fees and expenses, Tenant shall pay as Additional Rent an annual administrative fee pursuant to an "Administrative Service Fee Agreement" by and between the Authority and the Tenant.

**Section 3.4. Rental Payments Payable Without Abatement or Setoff.**

Tenant covenants and agrees with and for the express benefit of the Authority and the Assignee that all Rental Payments shall be made by Tenant as the same become due, and that Tenant shall perform all of its obligations, covenants and agreements hereunder without notice or demand and without abatement, deduction, setoff, counterclaim, recoupment or defense or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising and irrespective of whether the Energy Center Project shall have been acquired, started or completed, or whether Authority's interest in the Landon Facilities or any part thereof is defective or non-existent, and notwithstanding any failure of consideration or commercial frustration of purpose, the eviction or constructive eviction of Tenant, any Change of Circumstances, any change in the tax or other laws of the United States of America, the State, or any municipal corporation of either, any change in Authority's legal organization or status, or any default of Authority hereunder, and regardless of the invalidity of any action of Authority or any other event or condition whatsoever, and regardless of the invalidity of any portion of this Lease. Tenant shall not have the right to terminate this Lease upon the failure of performance by the Authority of any obligation on its part undertaken hereunder. Nothing in this Lease shall be construed as a waiver by Tenant of any rights or claims Tenant may have against Authority under this Lease or otherwise, but any recovery upon such rights and claims shall be had from Authority separately, it being the intent of this Lease that Tenant, subject to annual appropriation by the State Legislature and other applicable law, shall be unconditionally and absolutely obligated to perform fully all of its obligations, agreements and covenants under this Lease for the benefit of the Assignee.

**Section 3.5. Rental Payments Constitute a Current Expense of Tenant.** Authority and Tenant understand and intend that the obligation of Tenant to make Rental Payments and other obligations under this Lease are subject to annual appropriation of funds by the State Legislature and shall constitute a current expense of Tenant; and that such obligation shall not in any way be construed to be a debt of the Tenant, the State, or any municipal corporation or political subdivision thereof, in contravention of any applicable constitutional or statutory limitation or requirements concerning the creation of indebtedness by the Tenant, the State, or any municipal corporation or political subdivision thereof, nor shall anything contained herein constitute a pledge of general tax revenues, funds or moneys of the Tenant, the State, or any municipal corporation or political subdivision thereof.

**Section 3.6. Prepayment of Rental Payments.** (a) Upon notice as herein provided, Tenant shall, upon the concurrence of the Authority, prepay, in whole but not in part, the remaining Principal Component of the Basic Rent then outstanding on any date upon the occurrence of a Change of Circumstances at a prepayment price of 101.00% of the Principal Component of Basic Rent then outstanding plus interest on said portion of the Principal Component then outstanding to the date of payment thereof. Notice of the intent of prepayment shall be given by Tenant to the Authority and the Assignee in writing not less than thirty (30) days prior to the proposed date for such prepayment, which notice shall be accompanied by an explanatory written statement of Authorized Tenant Representative.

(b) Upon notice as herein provided, Tenant may prepay, in whole but not in part, the remaining Principal Component of the Basic Rent then outstanding on any Basic Rent Payment Date on or after March 15, 2023, at a prepayment price of 101.00% of the Principal Component of Basic Rent then outstanding plus interest on said portion of the Principal Component then outstanding to the date of payment thereof. Notice of the intent of prepayment shall be given by Tenant to the Authority and the Assignee in writing not less than thirty (30) days prior to the proposed date for such prepayment, which notice shall be accompanied by an explanatory written statement of Authorized Tenant Representative.

Notwithstanding any other provision in this Lease, the Tenant may on any date secure the payment of the Basic Rent in whole but not in part by depositing with a trustee, escrow agent or other fiduciary selected by the Tenant and acceptable to the Authority an amount of cash, which shall be held in a segregated trust or escrow fund under a trust or escrow agreement that is in form and content acceptable to the Authority, which cash so held is either (a) sufficient to pay such Basic Rent, including the Principal Component and Interest Component thereof, in accordance with the Schedule of Basic Rent payments set forth in Schedule III or (b) invested in whole or in part in non-callable Government Obligations in such amount as will, in the opinion of an independent certified public accountant (which opinion must be in form and substance, and with such an accountant, acceptable to the Authority and addressed and delivered to the Authority), together with interest to accrue thereon and together with any cash which is so deposited, be fully sufficient to pay such Basic Rent when due under Section 3.1 as the Tenant instructs at the time of said deposit; provided, however, that at or prior to the date on which any such security deposit is established, the Tenant shall deliver to the Authority an opinion of Special Tax Counsel (in form and substance acceptable to the Authority) to the effect that any

such security deposit will not adversely affect the excludability of the Interest Component of Basic Rent payments from gross income of the owners thereof for federal income tax purposes.

If the Tenant posts a deposit under this Section with respect to all unpaid Basic Rent payments, and notwithstanding the provisions of Section 2.2, (a) the Basic Term or Additional Term, as applicable, of this Lease will continue, (b) all obligations of the Tenant under this Lease, and all security provided by this Lease for said obligations, will thereupon cease and terminate, excepting only the obligation of the Tenant to make, or cause to be made, all of the payments of Basic Rent from such deposit and its obligation provided in the next succeeding paragraph, and (c) the Authority's leasehold interest in the Landon Facilities will terminate on the date of said deposit automatically and without further action by the Tenant. Said deposit constitutes a special fund for the payment of Basic Rent in accordance with the provisions of this Lease.

Notwithstanding anything in this Section 3.6 or otherwise in this Lease to the contrary, if the amount held as such deposit shall at any time be insufficient (for whatever reason) to pay Basic Rent payments when due in full as provided in this Section 3.6, the Tenant shall immediately pay to the Authority on the applicable due date or due dates the amount of any such shortfall from funds legally available for such purpose.

**Section 3.7. Deposit of Rental Payments by Authority.** The Authority shall cause to be deposited, used, directed and applied all Rental Payments in accordance with the provisions of this Lease.

**Section 3.8. Annual Revenue Requirement.** The Authority shall provide to the Tenant a statement setting forth Tenant's Annual Revenue Requirement for the succeeding Fiscal Year by October 1 of the preceding Fiscal Year.

#### **ARTICLE IV**

**Section 4.1. Non-Appropriation.** Notwithstanding anything in this Lease to the contrary, the cost and expense of the performance by the Tenant of its obligations, including, but not limited to, indemnification under the Lease and incurrence of any liabilities of Tenant under the Lease including, without limitation, the payment of all Rental Payments and all other amounts required to be paid by Tenant under the Lease, shall be subject to and dependent upon appropriations being made from time to time by the State Legislature for such purposes. If an Event of Non-Appropriation has occurred and is continuing, the Authorized Tenant Representative shall deliver written notice thereof to the Authority within ten (10) calendar days of such Event of Non-Appropriation. Upon the receipt of such notice, the Authority may proceed to exercise any of the remedies available upon an Event of Default under this Lease; provided, however, if at the time of such notice, the Authorized Tenant Representative delivers to the Authority a written statement to the effect that the Tenant reasonably expects sufficient funds for the then current Fiscal Year to be appropriated by the State Legislature, then in such event the Authority shall not exercise any of such remedies until the earlier of (i) 30 days after receipt of such notice, if such Event of Non-Appropriation is continuing, or (ii) such time as an Event of Default occurs by reason of such Event of Non-Appropriation.

## ARTICLE V

### **Section 5.1. Establishment of Accounts Proceeds.**

(a) There is hereby created and ordered established on the books and records of the State Treasurer, the following separate funds and accounts:

(1) Project Account for Kansas Development Finance Authority Lease (State of Kansas – Department of Administration Energy Center Project) (the “**Project Account**”);

(2) Costs of Issuance Account for Kansas Development Finance Authority Lease (State of Kansas – Department of Administration Energy Center Project) (the “**Costs of Issuance Account**”);

(3) Principal and Interest Account for Kansas Development Finance Authority Lease (State of Kansas – Department of Administration Energy Center Project) (the “**Principal and Interest Account**”);

(4) Depreciation and Maintenance Account for Kansas Development Finance Authority Lease (State of Kansas – Department of Administration Energy Center Project) (the “**Depreciation and Maintenance Account**”); and

(5) Rebate Account for Kansas Development Finance Authority Lease (State of Kansas – Department of Administration Energy Center Project) (the “**Rebate Account**”).

The Depreciation and Maintenance Account shall be established in the name of DOA as a separate bank account in a bank which is a member of and whose deposits are insured by the Federal Deposit Insurance Corporation for the use and purposes provided herein.

The Rebate Account shall be established in the name of the Authority as a separate bank account as provided herein and in the Arbitrage Agreement.

**Section 5.2. Disposition of Assignment Proceeds.** Proceeds from the assignment of the Lease in the amount of \$167,834.00 shall be deposited to the Costs of Issuance Account and used and applied to pay Costs of Issuance related to the Assignment. The balance of the proceeds (\$16,432,166.00) from the assignment of this Lease by the Authority to the Assignee pursuant to the Assignment shall be deposited to the Project Account as provided in the Site Lease to be used and applied as provided in and pursuant to this Lease.

**Section 5.3. Investment of Funds.** Moneys held for the credit of funds and accounts created or referred to herein shall, pursuant to the written approval of the Authorized Tenant Representative, be invested and reinvested by the Authority in eligible investments for State funds (including in conformity with any applicable statute through the Pooled Money Investment Board or other instrumentalities of the State) which shall mature, or which shall be subject to

redemption by the owner thereof at the option of such owner, not later than the dates when the moneys held for the credit of said funds or accounts will be required for the purposes intended; provided, however, such moneys shall not be invested directly or indirectly or used in any manner that would cause the Lease to be an "arbitrage bond" within the meaning of Section 148(a) of the Code.

Obligations so purchased as an investment of money in any such funds or account shall be deemed at all times to be a part of such fund or account, and earnings on all funds and accounts (except amounts required to be deposited into the Rebate Account in accordance with the Arbitrage Instructions) shall be credited to such fund or account and any loss resulting from such investment shall be charged to such fund or account.

## **ARTICLE VI**

**Section 6.1. Construction of Energy Center Project.** The Authority and Tenant shall cause the construction of the Energy Center Project in accordance with **Section 6.2** hereof.

**Section 6.2. Construction of Energy Center Project.** The Authority and Tenant mutually agree that as of the date of this Lease there exist no differences in each of their interpretations of the various agreements, including this Lease, relating to the Authority's duty to construct the Energy Center Project for the Tenant and the Tenant's duty to supervise acquiring, constructing, installing and equipping and maintenance of the Project and to pay Rental Payments required by this Lease. The Authority agrees to cooperate fully with the Tenant or any of those parties contracting with the Tenant for the acquisition, construction and installation of the Project.

**Section 6.3. Project Contracts.** The Tenant, on behalf of the Authority, shall immediately proceed to prepare, or cause to be prepared, as required, detailed plans and specifications for the Energy Center Project which shall be approved in writing by the Authorized Tenant Representative, and to award a contract or contracts for the construction of the Energy Center Project, as required, which contract or contracts shall also be approved in writing by the Authorized Tenant Representative.

**Section 6.4. Payment of Project Costs.**

(a) The Authority hereby agrees to pay for the costs of construction of the Energy Center Project, but solely and only to the extent that there are funds in the Project Account, and hereby authorizes and directs the payment of the same, but solely from the Project Account.

(b) The Tenant agrees to cause the Energy Center Project to be diligently and continuously prosecuted and to be completed with reasonable dispatch, and to provide, from other funds lawfully available to the Tenant, if required, all moneys necessary to complete the Energy Center Project substantially in accordance with the contracts therefor.

(c) In the event the moneys on deposit in the Project Account and available for payment of Project Costs, together with other Tenant funds, if any, for the Project Costs, are at



any time insufficient to pay for the completion of the Energy Center Project, the Tenant agrees to pay the amount of such deficiency, from other lawfully available funds, forthwith for deposit in the appropriate subaccount of the Project Account, subject to appropriation by the Legislature of the State.

(d) The moneys in the Project Account shall be disbursed for the payment of Project Costs in accordance with the provisions of this Lease, and the Authority hereby covenants and agrees that it will direct the State Treasurer to disburse such moneys in accordance with such provisions and such procedures established by the State for payment of costs of State projects as prescribed by statute and regulation for which payment is being requested. Attached hereto as **Exhibits A and B** are forms of certificates to be used by Tenant in making requisitions of Costs of Issuance and Costs of the Project. In making such payments and determinations pursuant to this Section, the Authority may rely upon the documentation referred to in this paragraph (d) and shall not be required to make any independent investigation in connection therewith. The Tenant shall keep and maintain adequate records pertaining to the Project Account and all disbursements therefrom, and shall make available statements of activity regarding the Project Account to the Authority at the end of each Fiscal Year and within 90 days after the Completion Date. Such records shall be maintained by the Tenant until all Rental Payments due under the Lease are paid plus three additional years.

(e) The completion of the Project and payment of all costs and expenses incident thereto shall be evidenced by the filing with the Authority of a Certificate of Completion and the Authority shall require the Tenant to deliver and the Tenant agrees to deliver to the Authority within 30 days after the Completion Date of the Energy Center Project a Certificate of Completion signed by the Authorized Tenant Representative stating that:

(1) the Energy Center Project has been fully completed substantially in accordance with the contracts for such Project, as then amended, as of the Completion Date; and

(2) an investigation has been made of such sources of information as are deemed by the Authorized Tenant Representative to be necessary, including pertinent records of the Tenant, and it is the opinion of the Authorized Tenant Representative that the Project Costs have been fully paid.

(f) If after receipt of the Certificate of Completion described in (e) above, there shall remain any moneys in the Project Account, such moneys shall be deposited in the Principal and Interest Account.

(g) Any commitment of other funds necessary to complete the Project shall be subject to the Tenant attaining necessary State approval for expenditure of such funds. Such funds shall be distinguished from Assignment proceeds, and shall be separately maintained and accounted for.

(h) If this Lease is terminated following an Event of Non-Appropriation while any amounts remain in the Project Account, the Tenant shall immediately transfer to the Authority all

moneys and investments then held in the Project Account for application to the Basic Rents that were scheduled to be paid pursuant to this Lease.

**Section 6.5. Project Documents.** The Tenant shall make available to the Authority on request the following Project documents:

(a) Plans and Specifications. All available preliminary, amended, and final plans and specifications for the Project.

(b) Construction Contracts. All architect's and general contractor's contracts for the Project and all prime subcontractor's contracts and purchase orders deemed necessary by the Authority for any machinery and equipment included in the Project.

(c) Performance and Public Works Bonds. Performance bonds as required by the director of procurement and contracts pursuant to Kansas statutes and regulations and Public Works Bonds as required by Kansas statutes and regulations, naming the Authority as dual obligees.

The Tenant covenants and agrees to obtain and thereafter make available to the Authority all remaining construction contracts, purchase orders, approvals, licenses and permits required or necessary for the Project.

**Section 6.6. Changes or Amendments to Project Documents.** The Tenant may make, authorize or permit such changes or amendments in the documents for the Project as it may reasonably determine to be necessary or desirable; provided, however, that no such change or amendment shall be made to the documents for the Project that would cause a material change in the cost, scope, nature, or function of such Project, unless the Tenant shall file with the Authority a certificate of the Authorized Tenant Representative to the effect that such Project will, after such change or amendment, continue to comply with the Act, and such change or amendment will not result in the Project being used for any purpose prohibited by this Lease or otherwise result in the Tenant failing to comply with any provisions of this Lease (including its covenants in Section 1.3(a) hereof regarding the establishment and maintenance of the excludability of the Interest Component from gross income of the owners thereof for federal income tax purposes), or materially adversely affect the Basic Rent available for payment of the Principal Component and Interest Component thereof, or violate or conflict with the terms of any applicable approvals of the State.

**Section 6.7. Enforcement of Contracts and Surety Bonds.** In the event of a material default of any contractor or subcontractor under any contract made in connection with the Energy Center Project or in the event of a material breach of warranty with respect to any materials, workmanship or performance, the Tenant will promptly proceed, either separately or in conjunction with others to pursue diligently the remedies of the Tenant against the contractor or subcontractor in default and against any surety on a bond securing the performance of such contract. Any amounts recovered by way of damages, refunds, adjustments or otherwise in connection with the foregoing, after deduction of expenses incurred in such recovery and after reimbursement to the Tenant of any amounts theretofore paid by the Tenant and not previously

reimbursed to the Tenant for correcting or remedying of the default which gave rise to the proceedings against the contractor, subcontractor or surety, shall be paid into the appropriate subaccount of the Project Account if received before the Completion Date, and otherwise shall be deposited in the Principal and Interest Account and applied to payment of the Principal Component of the Basic Rent.

**Section 6.8. Warranty of Purpose.** Tenant warrants that the Energy Center Project is necessary for use by Tenant for its governmental purposes. Authority and Tenant agree that Tenant will proceed diligently to construct the Project. Upon completion of the Energy Center Project as acceptable to Tenant, the Authorized Tenant Representative shall deliver a Certificate of Completion to the Authority and the date of such delivery shall be the Completion Date.

**Section 6.9. Surplus in Project Account.** Any amount remaining in the Project Account after the Certificate of Completion for the Project has been delivered to the Authority, shall be transferred to the Principal and Interest Account and applied to payment of the Principal Component of the Basic Rent.

**Section 6.10. Right of Entry by Authority.** The duly authorized agents of the Authority and the Authorized Tenant Representative shall have the right at any reasonable time to have access to the Project or any parts thereof for the purpose of inspecting and supervising the construction thereof.

**Section 6.11. Machinery and Equipment Purchased by Tenant.** If no part of the purchase price of an item of machinery, equipment or personal property has been paid from funds or proceeds of the Assignment, then such item of machinery, equipment or personal property shall not be deemed a part of the Project.

**Section 6.12. Energy Center Project Property of Tenant.** All improvements and work constituting a part of the Energy Center Project, all work and materials on the Energy Center Project as such work progresses, and the Energy Center Project as fully completed, anything under this Lease which becomes, is deemed to be, or constitutes a part of the Energy Center Facilities, and the Energy Center Facilities as repaired, rebuilt, rearranged, restored or replaced by Tenant under the provisions of this Lease, except as otherwise specifically provided herein, shall immediately be and become the absolute property of Tenant, not in any manner or respect subject to the provisions of the Site Lease.

## **ARTICLE VII**

**Section 7.1. Insurance as a Condition to Disbursement of Project Funds.** As a condition precedent to disbursement of funds from the Project Account pursuant to **Article VI** hereunder, the Tenant shall provide and covenants and agrees that it will, at its sole cost and expense, keep both the Energy Center Facilities and the Landon Facilities constantly insured against loss or damage by fire, lightning and all other risks covered by the Blanket Insurance Policy or other insurance acceptable to the Authority which Tenant shall deliver to the Assignee prior to or contemporaneously with the execution and delivery of this Lease, the Site Lease and

the Assignment, and from time to time thereafter as required by Assignee, evidence of all such insurance satisfactory to Assignee.

**Section 7.2. General Insurance Provisions with Respect to the Landon Facilities.**

The Tenant shall be obligated and hereby covenants and agrees to maintain policies of insurance with respect to the Landon Facilities subject to the following requirements:

(a) All policies of such insurance and all renewals thereof shall name the Authority and the Tenant as insureds as their respective interests may appear, shall contain a provision that such insurance may not be canceled or amended by the provider thereof without at least thirty (30) days written notice to the Authority and the Tenant and shall be jointly payable to the Authority, and the Tenant. The Authority and the Tenant each hereby agree to do anything necessary, be it the endorsement of checks or otherwise, to cause any payment to be made to the Authority, as long as such payment is required by this Lease to be made to the Authority.

(b) Each policy of insurance hereinabove referred to shall be issued by an insurance company licensed to do business in the State and rated "A" or better by S&P or A.M. Best.

(c) The initial premium on the policies of insurance herein required shall be paid by or on behalf of the Tenant prior to or concurrently with the assignment of this Lease, or, if sufficient policies are presently in effect, the Tenant shall file evidence of such insurance with the Authority concurrently with the execution and delivery of the Assignment.

(d) Each policy of insurance required herein may be provided through a Blanket Insurance Policy maintained by the Tenant.

**Section 7.3. Evidence of Title.** The Tenant shall furnish the Authority with an opinion of counsel, who shall be Chief Attorney for the Department of Administration for the State of Kansas, that as of the date of the Lease, fee simple title to the Landon Site is vested in the State, and that such title is subject to no liens or encumbrances that would interfere with the Lease. Said opinion shall speak as of the date of delivery of the Assignment. The Tenant shall, at its expense, cause the Site Lease, the Assignment and this Lease to be recorded in the office of the Recorder of Deeds of Shawnee County, Kansas, on or before the date of deposit of the Assignment proceeds as provided in Section 5.2 hereof. Concurrent with such recordation, the Authority shall obtain a title insurance policy (in form and content, and with a title insurer, acceptable to the Assignee) insuring the Authority's leasehold estate in the Landon Site under the Site Lease for the benefit of the Assignee, in an amount at least equal to the aggregate original Principal Component. All Net Proceeds received under such title insurance policy shall be applied to the payment of the Principal Component of the Basic Rent which remains unpaid.

## **ARTICLE VIII**

**Section 8.1. Impositions.** Tenant shall, during the life of this Lease bear, pay and discharge, before the delinquency thereof, any and all Impositions. In the event any Impositions may be lawfully paid in installments, Tenant shall be required to pay only such installments thereof as become due and payable during the life of this Lease as and when the same become due and payable. Authority covenants that without Tenant's written consent it will not, unless required by law, take any action which may reasonably be construed as tending to cause or induce the levying or assessment of any Imposition which Tenant would be required to pay under this Article and that should any such levy or assessment be threatened or occur, Authority shall, at Tenant's request, fully cooperate with Tenant in all reasonable ways to prevent any such levy or assessment.

**Section 8.2. Authority May Not Sell.** Authority covenants that, unless Tenant is in default under this Lease or this Lease has been terminated following an Event of Non-Appropriation, it will not, without Tenant's written consent, unless required by law, sell, assign or otherwise part with or encumber its interest in the Landon Facilities at any time during the life of this Lease; provided, however, the Authority may sell and assign its interest in this Lease and the Site Lease to Assignee pursuant to the Assignment. Subsequent assignment by Assignee and its assigns will be subject to the restrictions, limitation and terms set forth in the Assignment.

**Section 8.3. Contest of Impositions.** Tenant shall have the right, in its own or Authority's name or both, to contest the validity or amount of any Imposition by appropriate legal proceeding; instituted at least ten (10) days before the Imposition complained of becomes delinquent if, and provided, Tenant (i) before instituting any such contest, shall give Authority written notice of its intention to do so and, if requested in writing by Authority, shall deposit with the Authority a surety bond of a surety company acceptable to Authority as surety, in favor of Authority, or cash, in a sum of at least the amount of the Imposition so contested, assuring the payment of such contested Imposition together with all interest and penalties to accrue thereon and estimated costs of suit, and (ii) shall diligently prosecute any such contest and at all times effectively stay or prevent any official or judicial sale therefor, under execution or otherwise, and (iii) promptly pays or otherwise satisfies any final judgment enforcing the Imposition so contested and thereafter promptly procures a recorded release or satisfaction thereof. Tenant shall hold Authority whole and harmless from any costs and expenses Authority may incur related to any such contest.

## **ARTICLE IX**

**Section 9.1. Use of Project.** Subject to the provisions of this Lease, Tenant has the right to use the Landon Facilities and the Energy Center Facilities for any and all purposes allowed by law and contemplated by the Constitution of the State, the Act and applicable provisions of the Code. Tenant shall comply with all statutes, laws, resolutions, orders, judgments, decrees, regulations, directions and requirements of all federal, state, local and other governments or governmental authorities, including (without limitation) all anti-money laundering laws and regulations, now or hereafter applicable to the Landon Facilities and the Energy Center Facilities or to any adjoining public ways, as to the manner of use or the

condition of the Landon Facilities and the Energy Center Facilities or to any adjoining public ways. Tenant shall comply with the mandatory requirements, rules and regulations of all insurers under the policies required to be carried under the provisions of the Lease. Tenant shall pay all costs, expenses, claims, fines, penalties and damages that may in any manner arise out of, or be imposed as a result of, the failure of Tenant to comply with the provisions of this Lease.

**Section 9.2. Limitations on Use of Project.** The Tenant must not use the Landon Facilities or the Energy Center Facilities, or allow or cause the Landon Facilities or the Energy Center Facilities to be used, for any commercial or private use or purpose except such use as may be incidental and directly related to the Tenant's individual governmental use hereunder. No use of the Landon Facilities or the Energy Center Facilities shall be made by the Tenant, or shall be permitted to be made, which would violate the covenants set forth in **Section 1.3** hereof.

## **ARTICLE X**

**Section 10.1. Sublease by Tenant.** Tenant may sublease all or portions of the Landon Facilities and the Energy Center Facilities to Governmental Units. Tenant may sublease the Landon Facilities and the Energy Center Facilities to non-Governmental Units with the prior written consent of Authority, provided such sublease does not adversely affect the exclusion from gross income for federal income tax purposes of the Interest Component of the Basic Rent and that such sublessee shall not encumber or dispose of the Landon Facilities or the Energy Center Facilities and such sublessee is an agency or instrumentality of the State. In the event of any such subleasing, Tenant shall remain fully liable for the performance of its duties and obligations hereunder, and no such subleasing and no dealings or transactions between Authority and any such subtenant shall relieve Tenant of any of its duties and obligations hereunder. Any such sublease shall be subject and subordinate in all respects to the provisions of this Lease.

**Section 10.2. Assignment by Tenant.** Tenant may assign its interest in this Lease in accordance with or in furtherance of the purposes set forth in the Act and insofar as permitted by law, with the prior written consent of Authority, provided such assignment does not affect the tax-exempt status of the Interest Component of the Basic Rent payable hereunder, that such assignee shall not encumber or dispose of the Landon Facilities or the Energy Center Facilities, and such assignee is an agency or instrumentality of the State. In the event of any such assignment, Tenant shall remain fully liable for the performance of its duties and obligations hereunder, except to the extent hereinafter provided, and no such assignment and no dealings or transactions between Authority and any such assignee shall relieve Tenant of any of its duties and obligations hereunder, except as may be otherwise provided in the following section.

**Section 10.3. Release of Tenant.** If, in connection with an assignment by Tenant of its interests in this Lease, (1) the assignee thereof shall file with the Authority and the Assignee its prior written consent to such assignment, which consent the Assignee may grant, withhold or condition in its sole discretion, and (2) the proposed assignee is an agency or instrumentality of the State which shall expressly assume and agree to perform all of the obligations of Tenant under this Lease and execute a tax compliance agreement; then and in such event Tenant shall be fully released from all obligations accruing hereunder after the date of such assignment.

**Section 10.4. Covenant Against Other Assignments.** Tenant will not assign or in any manner transfer its interests under this Lease, nor will it suffer or permit any assignment thereof by operation of law, except in accordance with the limitations, conditions and requirements herein set forth.

## **ARTICLE XI**

**Section 11.1. Repairs and Maintenance.** Tenant covenants and agrees that it will, during the Term of this Lease, keep and maintain the Landon Facilities and the Energy Center Facilities and all parts thereof in good condition and repair, including but not limited to the furnishing of all parts, mechanisms and devices required to keep the machinery, equipment and personal property constituting a part of the Landon Facilities and the Energy Center Facilities in good mechanical and working order, and that during said period of time it will keep the Landon Facilities and the Energy Center Facilities and all parts thereof free from filth, nuisance or conditions unreasonably increasing the danger of fire.

**Section 11.2. Operating Costs.** The Tenant covenants and agrees that it will, during the term of this Lease, pay all of the costs incurred by it in operating and using the Landon Facilities and the Energy Center Facilities.

## **ARTICLE XII**

**Section 12.1. Alteration of Landon Facilities and Energy Center Facilities.** Tenant shall have and is hereby given the right, at its sole cost and expense, to make such additions, changes and alterations in and to any part of the Landon Facilities and the Energy Center Facilities as Tenant from time to time may deem necessary or advisable; provided, however, Tenant shall not make any major addition, change or alteration which will adversely affect the intended use or structural strength of any part of the Landon Facilities and the Energy Center Facilities. All additions, changes and alterations made by Tenant to the Landon Facilities and the Energy Center Facilities pursuant to the authority of this Article shall (a) be made in a workmanlike manner and in strict compliance with all laws and regulations applicable thereto, (b) when commenced, be prosecuted to completion with due diligence, and, (c) when completed, shall be deemed a part of the Landon Facilities or the Energy Center Facilities, as the case may be; provided, however, that additions of machinery, equipment and/or personal property of Tenant, not purchased or acquired with Assignment proceeds shall remain the separate property of Tenant and may be removed by Tenant prior to expiration of the Basic Term and any Additional Term of this Lease, provided such removal from the Landon Facilities or the Energy Center Facilities can be accomplished without material damage to the Landon Facilities or the Energy Center Facilities, as the case may be; provided further, however, that all such additional machinery, equipment and/or personal property which remains in the Landon Facilities or the Energy Center Facilities after the termination of this Lease for any cause other than the purchase of the Landon Facilities pursuant to **Article XIX** hereof, shall, upon and in the event of such termination, become the separate and absolute property of Authority, subject to the Site Lease in the case of the Landon Facilities.

### **ARTICLE XIII**

**Section 13.1. Additional Improvements.** Tenant shall have and is hereby given the right, at its sole cost and expense, to construct within areas occupied by the Landon Facilities or the Energy Center Facilities, or in airspace above the Landon Facilities or the Energy Center Facilities, such additional buildings and improvements as Tenant from time to time may deem necessary or advisable. All such buildings and improvements constructed by Tenant pursuant to the authority of this Article shall, during the Basic Term and any Additional Term, remain the property of Tenant and may be added to, altered or razed and removed by Tenant at any time during the Term hereof. Tenant covenants and agrees (a) to make all repairs and restorations, if any, required to be made to the Landon Facilities or the Energy Center Facilities because of the construction of, addition to, alteration or removal of, said additional improvements, (b) to keep and maintain said additional improvements in good condition and repair, ordinary wear and tear excepted, (c) to promptly and with due diligence either raze and remove from the Landon Site or the Energy Center Site in a good, workmanlike manner, or repair, replace or restore such of said additional improvements as may from time to time be damaged by fire or other casualty, and (d) that all additional improvements constructed by Tenant pursuant to this Article which remain in place after termination of this Lease for any cause other than the purchase of the Landon Facilities pursuant to **Article XIX** hereof shall, upon and in the event of such termination, become the separate and absolute property of the Authority, subject to the Site Lease.

### **ARTICLE XIV**

**Section 14.1. Securing of Permits and Authorizations.** Tenant shall not do or permit others under its control to do any work in or in connection with the Landon Facilities or the Energy Center Facilities or related to any repair, rebuilding, restoration, replacement, alteration of or addition to the Energy Center Facilities, or any part thereof, unless all applicable governmental permits and authorizations shall have first been procured and paid for. All such work shall be done in a good and workmanlike manner and in compliance with all applicable building, zoning and other laws, resolutions, governmental regulations and requirements.

**Section 14.2. Mechanics' Liens.** Pursuant to K.S.A. 60-723, no part of the Landon Facilities may be encumbered by any mechanics' or other similar lien. Notice is hereby given that Authority does not authorize or consent to and shall not be liable for any labor or materials furnished to Tenant or anyone claiming by, through or under Tenant upon credit, by contract or otherwise, and that neither a demand or claim nor mechanics, or similar lien for any such labor, services or materials shall attach to or affect the reversionary or other estate of Authority in and to the Landon Facilities, this Lease or any part thereof.

**Section 14.3. Contest of Liens.** The Tenant, notwithstanding the above, shall have the right to contest any such mechanics', or other similar lien if within a thirty (30) day period it (i) notifies the Authority in writing of its intention so to do, and if requested by the Authority, deposits with the Authority a surety bond issued by a surety company acceptable to the Authority as surety, in favor of the Authority or cash, in the amount of the lien claim so contested, indemnifying and protecting the Authority from and against any liability, loss, damage, cost and expense of whatever kind or nature growing out of or in any way connected with said asserted



lien and the contest thereof, and (ii) diligently pursues such contest, at all times effectively staying or preventing any official or sale of the Landon Facilities or any part thereof or interest therein, under execution or otherwise, and (iii) promptly pays or otherwise satisfies any final judgment adjudging or enforcing such contested lien claim and thereafter promptly procures a recorded release or satisfaction thereof.

**Section 14.4. Utilities.** All utilities and utility services used by the Tenant in, on or about the Landon Facilities shall be contracted for by the Tenant in the Tenant's own name; and the Tenant shall, at its sole cost and expense, procure any and all permits, licenses or authorizations necessary in connection therewith.

## **ARTICLE XV**

**Section 15.1. Indemnity.** Subject to the provisions of K.S.A. 75-6101 *et seq.* and other applicable law, Tenant covenants and agrees, at its expense, to pay, and to indemnify and save the Authority and Assignee and all agents, members, directors, officers and employees (for the purpose of only this **Article XV**, such parties are collectively referred to hereafter as "**Indemnified Parties**") thereof harmless against and from, any and all claims by or on behalf of any person, firm, corporation, or governmental authority, arising from the acquisition, construction, equipping, occupation, use, operation, maintenance, possession, conduct or management of, or from any work done in or about the Landon Facilities, or from the subletting of any part thereof, including any liability for violation of conditions, agreements, restrictions, laws, ordinances, or regulations affecting the Energy Center Project or the Energy Center Facilities or the occupancy or use thereof except for matters involving the Authority's or Assignee's own negligence. Subject to the provisions of K.S.A. 75-6101 *et seq.* and other applicable law, Tenant also covenants and agrees, at its expense, to pay and to indemnify and save the Indemnified Parties harmless against and from, any and all claims arising from (i) any condition of the Landon Facilities or the Energy Center Project and the adjoining sidewalks and passageways, (ii) any breach or default on the part of Tenant in the performance of any covenant or agreement to be performed by Tenant pursuant to this Lease, (iii) any act or negligence of Tenant or any of its agents, contractors, servants, employees or licensees in connection with their use, occupancy or operation the Landon Facilities or (iv) any accident, injury or damage whatsoever caused to any person, firm or corporation, in or about the Landon Facilities or the Energy Center Project or upon or under the sidewalks and from and against all costs, reasonable counsel fees, expenses and liabilities incurred in any action or proceeding brought by reason of any claim referred to in this **Section 15.1**. In the event that any action or proceeding is brought against the Indemnified Parties by reason of any such claim, Tenant, upon notice from any of the Indemnified Parties, covenants to resist or defend such action or proceeding by counsel reasonably satisfactory to the Indemnified Parties.

Notwithstanding the fact that it is the intention of the parties that the Indemnified Parties shall not incur any pecuniary liability whatsoever by reason of the terms of this Lease, or the undertakings required of the Authority hereunder, this Lease, by reason of the performance, or nonperformance, of any act required of the Authority by this Lease, or by reason of the performance, or nonperformance, of any act requested of it by Tenant, including all claims, liabilities or losses arising in connection with the violation of any statutes or regulations

pertaining to the foregoing; nevertheless, if the Indemnified Parties should incur any such pecuniary liability then in such event Tenant, subject to the provisions of K.S.A. 75-6101 *et seq.* and other applicable law, shall indemnify and hold harmless the Indemnified Parties against all claims, fees, including attorney fees, and expenses by or on behalf of any person, firm, corporation, or governmental authority, arising out of the same, and all costs fees and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon, and upon notice from any of the Indemnified Parties, Tenant shall defend and hold harmless the Indemnified Parties in any such action or proceeding. This **Section 15.1** shall survive the termination of this Lease for any claim, proceeding or action arising from any event or omission occurring during the Basic Term and any Additional Term and after the termination, due to an Event of Default or Event of Non-Appropriation, for any period Tenant, sublessee or assignee occupies the Energy Center Facilities.

The provisions of this Article shall not require Tenant to indemnify, hold harmless or defend matters involving Authority's or Assignee's own negligence, intentional tort or breach of contract.

**Section 15.2. Liability.** Subject to **Article IV** hereof, the provisions of K.S.A. 75-6101 *et seq.* and other applicable law, Tenant hereby accepts all responsibility relating to the operation, construction, maintenance and repair of the Landon Facilities and the Energy Center Facilities during the Basic Term or any Additional Term and agrees that the Authority and Assignee shall not have any liability therefor.

## **ARTICLE XVI**

**Section 16.1. Access to Landon Facilities and Energy Center Facilities.** Authority, for itself and its duly authorized representatives and agents, reserves the right to enter the Landon Facilities (including specifically such reserved right for the Assignee with respect to the Landon Facilities) and the Energy Center Facilities at all reasonable times during usual business hours throughout the Basic Term and the Additional Term for the purpose of (a) examining and inspecting the same, (b) performing such work made necessary by reason of Tenant's default under any of the provisions of this Lease, and (c) while an Event of Default is continuing hereunder or after the occurrence of an Event of Non-Appropriation, for the purpose of exhibiting the Landon Facilities to prospective purchasers, lessees or mortgagees. Authority may, subject to Tenant's prior written approval, which approval shall not be unreasonably withheld, and supervision, during the progress of said work mentioned in (b) above, keep and store on the Landon Facilities all necessary materials, supplies and equipment, and Authority shall not cause any unnecessary inconvenience, annoyances, disturbances, loss of business or other damages to Tenant by reason of the performance of any such work or the storage of such materials, supplies and equipment.

## **ARTICLE XVII**

**Section 17.1. Environmental Covenants.** The Tenant, at its sole cost and expense, shall (i) maintain the Landon Facilities and the Energy Center Facilities and conduct all activities thereon in compliance with applicable Environmental Laws; (ii) conduct any assessment,

investigation, remediation or other activity necessary to identify, remove, remediate, clean up, prevent, abate or otherwise fully address any release or threatened release of Hazardous Substances or migration or continuation thereof to the extent required by applicable governmental authorities or Environmental Laws or as is otherwise necessary to preserve the use and value of such properties; and (iii) promptly notify the Authority and the Assignee (but only with respect to the Landon Facilities) of any release or discovery of Hazardous Substances in, at, under or from the Landon Facilities or Energy Center Facilities in violation of applicable Environmental Laws or in any manner that could reasonably be expected to materially and adversely affect such properties. In the event that the Tenant does not expeditiously proceed as required by this Section 17.1, the Authority or the Assignee, immediately after notice to the Tenant, may elect to undertake any action required of the Tenant pursuant to this Section. Any moneys expended by the Authority in connection therewith (including, without limitation, the cost of hiring consultants, undertaking sampling and testing, performing any cleanup necessary or useful in the compliance process and attorneys' fees) shall be due and payable as Additional Rent under the Lease, subject to the availability of appropriated funds, with interest thereon at the average rate of interest per annum of the Interest Component of the Base Rent from the date such cost is incurred.

Subject to annual appropriation by the State Legislature, to the extent the Tenant may lawfully do so, the Tenant has agreed to indemnify the Authority and the Assignee and defend and hold them harmless from and against all loss, cost, damage, fine, penalty and expense including, without limitation, attorneys' fees and costs associated with or incurred in the investigation, defense and settlement of claims that they may incur, directly or indirectly, as a result of or in connection with the assertion against them of, or any claim relating to, the investigation, remediation, presence, release, escape, migration or removal of, or exposure to, any Hazardous Substance, or compliance with any applicable Environmental Law, whether before, during or after the term of the Lease, including claims relating to personal injury or damage to property.

## **ARTICLE XVIII**

**Section 18.1. Automatic Option to Extend Term.** Authority shall have an automatic extension of the Basic Term of this Lease for an additional ten (10) years if an Event of Default has occurred and this Lease is not discharged.

## **ARTICLE XIX**

**Section 19.1. Option to Purchase Landon Facilities.** Subject to the provisions of this Article and Section 3.6 hereof, Tenant shall have the right and option to reacquire the Landon Facilities at any time during the Basic Term and any Additional Term hereof. Tenant shall exercise its aforesaid option by exercising the prepayment option in **Section 3.6(b)** hereof and by giving Authority and Assignee written notice of Tenant's election to exercise its option and specifying the date, time and place of closing, which date (the "**Closing Date**") shall neither be earlier than thirty (30) days nor later than one hundred eighty (180) days after the notice is given. Tenant may not, however, exercise said option if Tenant is in default hereunder on such Closing Date.

Exercise of the Tenant's prepayment option pursuant to **Section 3.6** at the prepayment price therein provided shall constitute exercise of Tenant's right and option to purchase the Landon Facilities as herein provided without regard to notice.

**Section 19.2. Quality of Title and Purchase Price.** If said notice of election to purchase be given as aforesaid or if payment of all amounts payable as Basic Rent shall have been paid as provided in **Section 19.1** above, Authority and Assignee as the case may be shall sell and convey and release their respective interests in and to the Landon Facilities to Tenant on the Closing Date free and clear of all liens and encumbrances created by or through the Authority or the Assignee, as the case may be, except (a) those to which the title was subject on the date of the Site Lease, or to which title became subject with Tenant's written consent, or which resulted from any failure of Tenant to perform any of its covenants or obligations under this Lease, (b) taxes and assessments, general and special, if any, and (c) the rights, titles and interests of any party having condemned or who is attempting to condemn title to, or the use for a limited period of, all or any part of the Landon Facilities, for the price and sum as follows (which Tenant shall and covenants and agrees to pay in cash at the time of delivery of Authority's and Assignee's deed or other instrument or instruments of transfer or release of interest in and to the Landon Facilities to Tenant as hereinafter provided):

(i) The full amount which is required to provide funds which are sufficient, in accordance with the provisions of this Lease, to pay amounts necessary to provide for payment of the Principal Component of the Basic Rent and the Interest Component and amounts required as payment of Additional Rent hereunder through the date of payment thereof and all costs, expenses and premiums incident to the payment of said Rental Payments in full, plus

(ii) \$100.00.

Nothing in this Article shall release or discharge Tenant from its duty or obligation under this Lease to make any payment of Basic Rent or Additional Rent which, in accordance with the terms of this Lease, becomes due and payable prior to the Closing Date, or its duty and obligation to fully perform and observe all covenants and conditions herein stated to be performed and observed by Tenant prior to the Closing Date.

**Section 19.3. Closing of Purchase.** On the Closing Date, Authority and Assignee shall deliver to Tenant its appropriate instrument or instruments of conveyance, assignment or release, properly executed and conveying the Landon Facilities to Tenant free and clear of all liens and encumbrances created by or through the Authority or the Assignee, as the case may be, except as set forth in **Section 19.2** hereof, or conveying such other title to the Landon Facilities as may be acceptable to Tenant, and then and there Tenant shall pay the full purchase price for the Landon Facilities as follows: (a) the Basic Rent amount specified in clause (i) of **Section 19.2** shall be paid to the Assignee and any interest thereon, and (b) the Additional Rent amount specified in clause (i) of **Section 19.2** plus the amount specified in clause (ii) of said **Section 19.2** shall be paid to Authority; provided, however, nothing herein shall require Authority or Assignee to deliver any instrument or instruments of assignment, conveyance or release to Tenant until and after all duties and obligations of Tenant under this Lease to the date of such

delivery have been fully performed and satisfied. Upon the delivery to Tenant of Authority's and Assignee's appropriate instrument or instruments of assignment, conveyance or release and payment of the purchase price by Tenant, this Lease shall, ipso facto, terminate.

**Section 19.4. Effect of Failure to Complete Purchase.** If, for any reason whatsoever, the purchase of the Landon Facilities by Tenant pursuant to valid notice of election to purchase given as aforesaid is not effected on the Closing Date, this Lease shall be and remain in full force and effect according to its terms the same as though no notice of election to purchase had been given.

**Section 19.5. Application of Condemnation Awards if Tenant Purchases Landon Facilities.** The right of Tenant to exercise its option to purchase the Landon Facilities under the provisions of this Article shall remain unimpaired notwithstanding any condemnation of title to, or the use for a limited period of, all or any part of the Landon Facilities. If Tenant shall exercise said option and pay the purchase price as provided in this Article, all of the condemnation awards received by Authority or Assignee after the payment of said purchase price, less all attorneys' fees and other expenses and costs incurred by Authority or Assignee in connection with such condemnation, shall belong to and be paid to the Tenant.

## **ARTICLE XX**

### **Section 20.1. Damage and Destruction.**

(a) If, during the Basic Term, or any Additional Term, the Landon Facilities are damaged or destroyed, in whole or in part, by fire or other casualty, the Tenant shall promptly notify the Authority in writing as to the nature and extent of such damage or loss and whether it is practicable and desirable to rebuild, repair, restore or replace the Landon Facilities.

(b) If the Tenant shall determine that such rebuilding, repairing, restoring or replacing is practicable and desirable, the Tenant shall forthwith proceed with and complete with reasonable dispatch such rebuilding, repairing, restoring or replacing. In such case, the Net Proceeds, if any, of any applicable casualty insurance received with respect to any such damage or loss to the Landon Facilities shall be paid to the Authority and deposited in the Project Account and shall be used and applied for the purpose of paying the cost of such rebuilding, repairing, restoring or replacing. Any amount remaining in the Project Account, with respect to such damage or loss, after such rebuilding, repairing, restoring or replacing shall be applied to the payment of the Principal Component of the Basic Rent then unpaid.

(c) If the Tenant shall determine that rebuilding, repairing, restoring or replacing the Landon Facilities is not practicable and desirable, and upon obtaining the written consent of the Authority, the Net Proceeds, if any, of any applicable casualty insurance received with respect to any such damage or loss to the Landon Facilities shall be paid to the Authority to be applied to the mandatory prepayment of the Principal Component of the Basic Rent then unpaid pursuant to **Section 3.6(a)** hereof, including at the prepayment price specified therein. The Tenant agrees that it shall be reasonable in exercising its judgment pursuant to this subsection (c).

(d) If, prior to completion of the Energy Center Project, the Energy Center Project is damaged or destroyed in whole or in part, by fire or other casualty, the Tenant shall notify the Authority and the Assignee in writing as to the nature and extent of such damage or loss and whether it is practicable and desirable to rebuild, repair, restore or replace the Energy Center Project.

(e) If the Tenant shall determine that such rebuilding, repairing, restoring or replacing of the Energy Center Project so damaged or destroyed is practicable and desirable, the Tenant shall proceed as provided in (b) above, and if Tenant shall determine rebuilding, repairing, restoring or replacing the Energy Center Project is not practicable or desirable, the Tenant shall proceed as provided in (c) above.

(f) The Tenant shall not, by reason of its inability to use all or any part of the Landon Facilities, the Energy Center Project or the Energy Center Facilities during any period in which the Landon Facilities or the Energy Center Facilities are damaged or destroyed, or is being repaired, rebuilt, restored or replaced nor by reason of the payment of the costs of such rebuilding, repairing, restoring or replacing, fail to comply with the provisions of this Lease.

#### **Section 20.2. Condemnation.**

(a) If, during the Basic Term, or any Additional Term, title to, or the temporary use of, all or any part of the Landon Facilities shall be condemned by an authority exercising the power of eminent domain, the Tenant shall, within 90 days after the date of entry of a final order in any eminent domain proceedings granting condemnation, notify the Authority in writing as to the nature and extent of such condemnation and whether it is practicable and desirable to acquire or construct substitute improvements. Any such substitution of improvements shall be subject to the approval of the Authority in its sole and absolute discretion.

(b) If the Tenant shall determine that such substitution is practicable and desirable, upon obtaining the approval of the Authority as required by paragraph (a) of this **Section 20.2**, the Tenant shall forthwith proceed with and complete with reasonable dispatch the acquisition or construction of such substitute improvements. In such case, any Net Proceeds received from any award or awards with respect to the Landon Facilities or any part thereof made in such condemnation or eminent domain proceedings shall be paid to the Authority and shall be deposited in the Project Account and shall be used and applied for the purpose of paying the cost of such substitution. Any amount remaining in the Project Account, with respect to such condemnation or eminent domain proceedings, after such acquisition or construction shall be applied to the payment of the Principal Component of the Basic Rent which remains unpaid.

(c) If the Tenant shall determine that it is not practicable and desirable, to acquire or construct substitute improvements, and upon obtaining the written consent of the Authority, any Net Proceeds of condemnation awards received by the Tenant shall be paid to the Authority to be applied to the mandatory prepayment of the Principal Component of the Basic Rent which remains unpaid pursuant to **Section 3.6(a)** hereof, including at the prepayment price specified therein. The Tenant agrees that it shall be reasonable in exercising its judgment pursuant to this subsection (c).

(d) The Tenant shall not, by reason of its inability to use all or any part of the Landon Facilities or the Energy Center Facilities during any such period of acquisition or construction of substitute land and improvements nor by reason of the payment of the costs of such acquisition or construction of substitute land and improvements, fail to comply with the provisions of this Lease.

(e) The Authority shall cooperate fully with the Tenant in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Landon Facilities or any part thereof. In no event will the Authority voluntarily settle or consent to the settlement of any prospective or pending condemnation proceedings with respect to the Landon Facilities or any part thereof without the written consent of the Tenant.

## **ARTICLE XXI**

**Section 21.1. Notice of Default.** If an Event of Default shall have occurred and be continuing, the Authority shall promptly notify the Assignee and Tenant of such default.

**Section 21.2. Remedies on Default.** Whenever any Event of Default shall have happened and be continuing, the Authority may take any one or more of the following remedial actions:

(a) By written notice to the Tenant, declare the aggregate amount of all unpaid Rental Payments then or thereafter scheduled to be paid under this Lease by the Tenant to be immediately due and payable as liquidated damages from the Tenant, whereupon the same shall become immediately due and payable by the Tenant; or

(b) Give Tenant written notice of intention to terminate this Lease on a date specified therein, which date shall not be earlier than ten (10) days after such notice is given and, if all defaults have not then been cured on the date so specified, Tenant's rights to possession of the Landon Facilities shall cease, and this Lease shall thereupon be terminated, and the Authority may re-enter and take possession of the Landon Facilities, as of the Authority's former estate; or

(c) Without terminating the term hereof, re-enter the Landon Facilities or take possession thereof, where practical to do so, pursuant to legal proceedings or pursuant to any notice provided for by law, and having elected to re-enter or take possession of the Landon Facilities without terminating the term of this Lease, Authority if it deems it practical and economical, shall use reasonable diligence to relet the Landon Facilities, or parts thereof, for such term or terms and at such rental and upon such other terms and conditions as Authority may deem advisable, with the right to make alterations and repairs to the Landon Facilities, and no such re-entry or taking of possession of the Landon Facilities by Authority shall be construed as an election on Authority's part to terminate this Lease and no such re-entry or taking of possession by Authority shall relieve Tenant of its obligation, subject to an annual appropriation by the State Legislature and other applicable laws, to pay Rental Payments, at the time or times provided herein, or of any of its other obligations under this Lease, all of which shall survive such re-entry or taking of possession, and Tenant shall continue to pay the Rental Payments provided for in this Lease until the end of the Term, whether or not the Landon Facilities shall

have been relet, less the net proceeds, if any, of any reletting of the Landon Facilities after deducting all of Authority's expenses incurred in connection with such reletting, including, without limitation, all repossession costs, brokerage commissions, legal expenses, expenses of employees, alteration costs and expenses of preparation of the Landon Facilities for reletting.

Net proceeds of any reletting shall be applied to the payment of Basic Rent due and payable hereunder. Having elected to re-enter or take possession of the Landon Facilities pursuant to subsection (c) hereunder, Authority may by notice to Tenant given at any time thereafter while Tenant is in default in the payment of any Rental Payments or in the performance of any other obligation under this Lease, elect to terminate this Lease in accordance with subsection (b) hereunder. If, in accordance with any of the foregoing provisions of this Article, Authority shall have the right to elect to re-enter and take possession of the Landon Facilities, Authority may enter and Tenant shall deliver to the Authority the Landon Facilities or cause such delivery of the Landon Facilities to be made to the Authority and thereafter the Authority may remove the property and effects of both or either without being guilty or in any manner of trespass and without prejudice to any remedies for arrears of any Rental Payments or preceding breach of covenant.

(d) If such Event of Default occurs while any amounts remain in the Project Account, the Tenant shall immediately transfer to the Authority all moneys and investments then held in the Project Account for application to the Basic Rents that were scheduled to be paid pursuant to this Lease.

(d) Authority shall pursue and exercise any available remedy at law or in equity by suit, action, mandamus or other proceeding, or exercise such one or more of the rights and powers conferred by this Article as the Authority may require, which the Authority, being advised by counsel, shall deem most expedient in the interests of the the Authority, including sale of its interest in the Landon Facilities after termination as provided in subsection (b) hereof.

Any suit or proceeding instituted by the Authority shall be brought in its name as Authority without necessity of joining as plaintiffs or defendants and any recovery of judgment shall be for the benefit of the Authority.

**Section 21.3. Survival of Obligations.** Subject to an annual appropriation by the State Legislature and other applicable law, Tenant covenants and agrees with Authority that until the Tenant's payment in full of its Rental Payments due by Tenant throughout the entire term of this Lease are paid in full or provision made for the payment thereof in accordance with this Lease, its obligations under this Lease shall survive the cancellation and termination of this Lease, for any cause, and that Tenant shall, subject to an annual appropriation by the State Legislature and other applicable law, continue to pay Rental Payments and perform all other obligations provided for in this Lease, all at the time or times provided in this Lease.

**Section 21.4. No Remedy Exclusive.** No remedy herein conferred upon or reserved to the Authority is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease or now or hereafter existing at law or in equity or by statute. No delay or



omission to exercise any right or power accruing upon any Event of 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 as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than notice required herein.

**Section 21.5. Assignee to Exercise Rights.** Such rights and remedies as are given to the Authority under this Article XXI have been assigned by the Authority to the Assignee under the Assignment, to which assignment the Tenant hereby consents. Such rights and remedies shall be exercised solely by the Assignee (including subsequent assignees to the extent permitted under the Assignment).

## **ARTICLE XXII**

**Section 22.1. Performance of Tenant's Obligations by Authority.** If Tenant shall fail to keep or perform any of its obligations as provided in this Lease, then Authority may upon the continuance of such failure on Tenant's part for thirty (30) days after notice of such failure is given to Tenant by Authority, and without waiving or releasing Tenant from any obligation hereunder, as an additional but not exclusive remedy, make any such payment or perform any such obligation, and Tenant shall reimburse Authority for all sums so paid by Authority and all necessary or incidental costs and expenses incurred by Authority in performing such obligations through payment of Additional Rent. If such Additional Rent is not so paid by Tenant within ten (10) days of demand, Authority shall have the same rights and remedies provided for in **Article XXI** in the case of default by Tenant in the payment of Basic Rent.

## **ARTICLE XXIII**

**Section 23.1. Financial Information.** The Tenant has kept, and throughout the term of this Lease shall keep or cause to be kept, its books and records in accordance with generally accepted accounting principles and practices consistently applied, and shall deliver to the Authority (a) the comprehensive annual financial report of the State of Kansas, which includes the annual audited financial statements of the State, within 270 days after its fiscal year end, (b) such other financial statements and information as the Authority may reasonably request, and (c) its annual budget for the following fiscal year when approved but not later than 30 days prior to its current fiscal year end. The financial statements described in subsection (a) shall be accompanied by an unqualified opinion of independent certified public accountants selected by the State. Credit information relating to the Tenant may be disseminated among the Assignee and any of its affiliates and any of their respective successors and assigns.

## **ARTICLE XXIV**

**Section 24.1. Surrender of Possession.** Upon accrual of Authority's right of re-entry as the result of Tenant's default hereunder or upon the cancellation or termination of this Lease by lapse of time or otherwise, Tenant shall peacefully surrender possession of the Landon Facilities to Authority in good condition and repair, ordinary wear and tear excepted; provided, however, Tenant shall have the right, prior to or within sixty (60) days after the termination of

this Lease, to remove from or about the Landon Facilities the machinery, equipment, personal property, furniture and fixtures which Tenant owns under the provisions of this Lease and not constituting a part of the Landon Facilities. All repairs to and restorations of the Landon Facilities required to be made because of such removal shall be made, by and at the sole cost and expense of Tenant. All machinery, equipment, personal property, furniture and fixtures owned by Tenant and which are not so removed from or about the Landon Facilities prior to or within sixty (60) days after the termination of this Lease shall become the separate and absolute property of the Authority.

#### **ARTICLE XXV**

**Section 25.1. Notices.** All notices required or desired to be given hereunder shall be in writing and shall be delivered in person to the Notice Representative or mailed by registered or certified mail, postage prepaid, return receipt requested, to the Notice Representative at the Notice Address. All notices given by certified or registered mail as aforesaid shall be deemed duly given as of the date they are so mailed.

**Section 25.2. Suspension of Mail Service.** If, because of the temporary or permanent suspension of regular mail service or for any other reason, it is impossible or impractical to mail any notice in the manner herein provided, then such other form of notice as shall be made with the approval of the Authority or the Assignee, as the case may be, shall constitute a sufficient notice.

#### **ARTICLE XXVI**

**Section 26.1. Net Lease.** The parties hereto agree (a) that this Lease is intended to be a net lease, (b) that the payments of Rental Payments are designed to provide Authority with funds adequate in amount to pay all of Tenant's Rental Payments due hereunder throughout the entire term of this Lease and to pay and discharge all of the other duties and requirements set forth herein, and (c) that to the extent that the payments of Rental Payments are not adequate to provide the Authority with funds sufficient for the purposes aforesaid, Tenant shall, subject to an annual appropriation therefor by the State Legislature, be obligated to pay, and it does hereby covenant and agree to pay, upon demand therefor, as Additional Rent, such further sums of money as may from time to time be required for such purposes.

**Section 26.2. Funds Remaining After Payment of all Basic Rent.** If, after the Principal Component and Interest Component of the Basic Rent and all costs incident to the payment thereof have been paid in full, any unexpended funds received in accordance with the terms hereof, shall, except as otherwise provided in this Lease and after payment therefrom to Authority of any sums of money then due and owing by Tenant under the terms of this Lease, be the absolute property of and be paid over forthwith to the Tenant.

#### **ARTICLE XXVII**

**Section 27.1. Rights and Remedies.** The rights and remedies reserved by Authority and Tenant hereunder and those provided by law shall be construed as cumulative and continuing

rights. No one of them shall be exhausted by the exercise thereof on one or more occasions. In addition thereto, the Authority and the Tenant shall each be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Lease, notwithstanding the availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity.

**Section 27.2. Waiver of Breach.** No waiver of any breach of any covenant or agreement herein contained shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by either party of any covenant, agreement or undertaking, the nondefaulting party may nevertheless accept from the other any payment or payments or performance hereunder without in any way waiving its right to exercise any of its rights and remedies provided for herein or otherwise with respect to any such default or defaults which were in existence at the time such payment or payments or performance were accepted by it.

**Section 27.3. Authority Shall Not Unreasonably Withhold Consents and Approvals.** Wherever in this Lease it is provided that Authority or its Assignee shall, may or must give its approval or consent, or execute supplemental agreements, exhibits or schedules, Authority and Assignee, as the case may be, shall not unreasonably, arbitrarily or unnecessarily withhold or refuse to give such approvals or consents or refuse to execute such supplemental agreements, exhibits or schedules.

## **ARTICLE XXVIII**

**Section 28.1. Quiet Enjoyment and Possession.** So long as Tenant shall not be in default under this Lease, Tenant shall and may peaceably and quietly have, hold and enjoy the Landon Facilities and the Energy Center Facilities. The Authority denounces any title or real property interest in the Energy Center Facilities but retains certain rights hereunder for the sole purpose of protecting the tax-exempt status of the Interest Component of the Basic Rent.

## **ARTICLE XXIX**

**Section 29.1. Amendments.** This Lease may be amended, changed or modified in the following manner:

(a) With respect to any amendment, change or modification which will materially adversely affect the security or rights of the Assignee by an agreement in writing executed by the Authority and Tenant and consented to in advance in writing by Assignee.

(b) With respect to any amendment, change or modification which reduces or modifies in any respect any of the Rental Payments by an agreement in writing executed by the Authority and Tenant and consented to in advance in writing by the Assignee; and

(c) With respect to all other amendments, changes, or modifications, by an agreement in writing executed by Authority and Tenant.

At least thirty (30) days prior to the execution of any agreement pursuant to this Article, the Authority and Tenant shall furnish the Assignee with a copy of the amendment, change or modification proposed to be made.

**Section 29.2. Granting of Easements.** If no Event of Default or Event of Non-Appropriation under this Lease shall have happened and be continuing, Tenant may, at any time and from time to time (a) grant easements, licenses and other rights or privileges in the nature of easements with respect to any property included in the Landon Facilities, free from any rights of Authority or the Assignee, or (b) release existing easements, licenses, rights-of-way and other rights or privileges, all with or without consideration and upon such terms and conditions as Tenant shall determine, and Authority and Assignee agree, to the extent that it may legally do so, that each of them will execute and deliver any instrument necessary or appropriate to confirm and grant or, release any such easement, license, right-of-way or other right or privilege or any such agreement or other arrangement, upon receipt by Authority and Assignee of: (i) a copy of the instrument of grant or release or of the agreement or other arrangement, (ii) a written application signed by the Authorized Tenant Representative requesting such instrument and (iii) a certificate executed by Tenant stating (aa) that such grant or release is not detrimental to the proper conduct of the business of Tenant, and (bb) that such grant or release will not impair the effective use or interfere with the efficient and economical operation of the Landon Facilities and will not materially adversely affect the security of the Assignee. If the instrument of grant shall so provide, any such easement or right and the rights of such other parties thereunder shall be superior to the rights of Authority and the Assignee and shall not be affected by any termination of this Lease or default on the part of Tenant hereunder. If no Event of Default or Event of Non-Appropriation shall have happened and be continuing, any payments or other consideration received by Tenant for any such grant or with respect to or under any such agreement or other arrangement shall be and remain the property of Tenant, but in the event of the termination of this Lease as the result of an Event of Default or an Event of Non-Appropriation or default of Tenant, all rights then existing of Tenant with respect to or under such grant shall inure to the benefit of and be exercisable by Authority or Assignee, as the case may be.

**Section 29.3. Security Interests.** Authority, its Assignee and Tenant agree to execute and deliver all instruments, including financing statements and statements of continuation thereof necessary for perfection of and continuance of the security interest of Authority and Assignee in and to the Landon Facilities and the accounts established hereunder. The Authority shall file or cause to be filed all such instruments required to be filed and shall continue or cause to be continued the liens of such instruments for so long as the Principal Component and Interest Component of the Basic Rent shall be outstanding.

**Section 29.4. Construction and Enforcement.** This Lease shall be construed and enforced in accordance with the laws of the State. Wherever in this Lease it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform or not to perform, as the case may be, such act or obligation.

**Section 29.5. Severability.** If any provision of this Lease shall be held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

**Section 29.6. Covenants Binding on Successors and Assigns.** The covenants, agreements and conditions herein contained shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

**Section 29.7. Execution of Counterparts.** This Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

**Section 29.8 Rights of Assignee.** The Authority and the Tenant acknowledge that the Authority has assigned and transferred the Assigned Rights to Assignee pursuant to the Assignment, and as such the Assignee is a third party beneficiary of this Lease. The Tenant hereby consents to such assignment and transfer and agrees to maintain the register of assignments and acknowledge assignments when requested as provided in paragraph 10 of the Assignment. The Authority has not, however, delegated its duties or obligations hereunder to Assignee, and Assignee has not assumed any duties or obligations of the Authority imposed upon or undertaken by the Authority hereunder. Accordingly, all rights and interests expressed herein as running to the Authority by the terms hereof shall, from and after the execution and delivery hereof and so long as the obligations for the payment of Basic Rent hereunder remains outstanding and unpaid, run to the Assignee and shall remain enforceable by Assignee against Tenant without any action on the part of the Authority, and all duties and obligations expressed herein as running against the Authority shall be considered enforceable by Tenant against the Authority and not the Assignee. The Authority hereby directs the Tenant, and the Tenant hereby agrees, to pay to the Assignee all Basic Rent payable by the Tenant under Section 3.1, all prepayments pursuant to Section 3.6, all moneys from the Project Account pursuant to Section 6.4(h) and all amounts payable by the City under Article XXI. Whenever in this Lease any reference is made to the Authority and such reference concerns any Assigned Rights, such reference shall be deemed to refer to the Assignee.

**[The balance of this page is intentionally left blank.]**

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year first above written.

KANSAS DEVELOPMENT FINANCE  
AUTHORITY

(SEAL)



By: Rebecca Floyd  
Name: Rebecca Floyd  
Title: Executive Vice President

ATTEST:

James C. MacPherson  
Name: James C. MacPherson  
Title: Assistant Secretary

ACKNOWLEDGMENT

STATE OF KANSAS            )  
  ) ss:  
COUNTY OF SHAWNEE    )

BE IT REMEMBERED that on this 22<sup>nd</sup> day of December, 2015, before me, a notary public in and for said County and State, came Rebecca E. Floyd, Executive Vice President of the Kansas Development Finance Authority and James C. MacPherson Assistant Secretary of said Kansas Development Finance Authority, who are personally known to me to be the same persons who executed, as such officers, the within instrument on behalf of said Kansas Development Finance Authority, and such persons duly acknowledged the execution of the same to be the act and deed of said Kansas Development Finance Authority.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

Terrri H. Kirby  
Notary Public in and for said County and State

My Appointment Expires: April 20, 2016



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KDFA/ENERGY CENTER  
LEASE WITH OPTION TO PURCHASE

STATE OF KANSAS -  
DEPARTMENT OF ADMINISTRATION

By: *Sarah L. Shipman*  
Name: Sarah L. Shipman  
Title: Acting Secretary of Administration

(SEAL)

ACKNOWLEDGMENT

STATE OF KANSAS       )  
                                  ) ss:  
COUNTY OF SHAWNEE   )

**BE IT REMEMBERED** that on this 23<sup>rd</sup> day of December, 2015, before me, a notary public in and for said County and State, came Sarah L. Shipman, Acting Secretary of Administration of the State of Kansas, who is personally known to me to be the same person who executed, as such officer, the within instrument on behalf of said State agency.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my official seal, the day and year last above written.

*Melissa L. Rosdahl*  
Notary Public in and for said County and State

My Appointment Expires: 04-25-16



APPROVED BY THE SECRETARY OF ADMINISTRATION, STATE OF KANSAS  
PURSUANT TO K.S.A. 75-3739(I).

STATE OF KANSAS -  
DEPARTMENT OF ADMINISTRATION

By: Sarah L. Shipman  
Sarah L. Shipman  
Acting Secretary of Administration

(SEAL)

ACKNOWLEDGMENT

STATE OF KANSAS           )  
  ) ss:  
COUNTY OF SHAWNEE    )

**BE IT REMEMBERED** that on this 23<sup>rd</sup> day of December, 2015, before me, a notary public in and for said County and State, came Sarah L. Shipman, Acting Secretary of Administration - State of Kansas, who is personally known to me to be the same person who executed, as such officer, the within instrument on behalf of said State agency.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my official seal, the day and year last above written.

Melissa L. Rosdahl  
Notary Public in and for said County and State

My Appointment Expires: 04-25-16





## SCHEDULE I

### **SCHEDULE I TO THE LEASE DATED AS OF DECEMBER 29, 2015 BY AND BETWEEN SAID KANSAS DEVELOPMENT FINANCE AUTHORITY AND THE STATE OF KANSAS - DEPARTMENT OF ADMINISTRATION.**

(a) The following described real estate located in Shawnee, County, Kansas, to-wit (collectively, the **"Landon Site"**):

A tract of land in the Southeast Quarter of Section 31, Township 11 South, Range 16 East of the 6<sup>th</sup> P.M., in the City of Topeka, Shawnee County, Kansas, and described as follows: All of Lots 290, 292, 294, 296, 298, 300, 302, 304, 306, 308, 310, and 312, on Jackson Street, (Original Town) in the City of Topeka, Shawnee County, Kansas; and the Northerly one-half of alley lying Southerly of and adjacent to Lot 312 as vacated by Ordinance No. 3009 dated October 6, 1909, and pursuant to Ordinance 3021, dated November 19, 1909, and A.T.&S.F. Contract No. 25487 filed with Register of Deeds, Shawnee County, March 15, 1982, at 1:48 p.m. in Book 2160, Page 172.

(b) All buildings, structures, improvements, furnishings and equipment now or hereafter acquired, constructed, located or installed on the aforescribed real property.

The property described in paragraphs (a) and (b) of this Schedule I together constituting the **"Landon Facilities"** as referred to in said Site Lease, Lease and Assignment.

**SCHEDULE II**

**SCHEDULE II TO THE LEASE DATED AS OF  
DECEMBER 29, 2015 BY AND BETWEEN SAID KANSAS  
DEVELOPMENT FINANCE AUTHORITY AND THE  
STATE OF KANSAS - DEPARTMENT OF  
ADMINISTRATION.**

**ENERGY CENTER PROJECT SITE**

The following described real estate located in Shawnee, County, Kansas, to-wit (the  
“**Project Site**”):

Lots 218, 220, 222, 224, 226, 228, 230, 232, 234, 236, 238 and 240, Van Buren Street, in  
the City of Topeka, Shawnee County, Kansas.

**SCHEDULE III**

**SCHEDULE III TO THE LEASE DATED AS OF  
DECEMBER 29, 2015, BY AND BETWEEN SAID KANSAS  
DEVELOPMENT FINANCE AUTHORITY AND THE  
STATE OF KANSAS - DEPARTMENT OF  
ADMINISTRATION.**

<b><u>Basic Rent</u></b> <b><u>Payment Date</u></b>	<b><u>Principal</u></b> <b><u>Component</u></b>	<b><u>Interest</u></b> <b><u>Component</u></b>	<b><u>Total</u></b> <b><u>Basic Rent</u></b>
March 15, 2016	\$ 0	\$ 81,303.11	\$ 81,303.11
September 15, 2016	0	192,560.00	192,560.00
March 15, 2017	937,914	192,560.00	1,130,474.00
September 15, 2017	0	181,680.20	181,680.20
March 15, 2018	959,674	181,680.20	1,141,354.20
September 15, 2018	0	170,547.98	170,547.98
March 15, 2019	981,938	170,547.98	1,152,485.98
September 15, 2019	0	159,157.50	159,157.50
March 15, 2020	1,004,719	159,157.50	1,163,876.50
September 15, 2020	0	147,502.76	147,502.76
March 15, 2021	1,028,029	147,502.76	1,175,531.76
September 15, 2021	0	135,577.62	135,577.62
March 15, 2022	1,051,879	135,577.62	1,187,456.62
September 15, 2022	0	123,375.83	123,375.83
March 15, 2023	1,076,283	123,375.83	1,199,658.83
September 15, 2023	0	110,890.94	110,890.94
March 15, 2024	1,101,252	110,890.94	1,212,142.94
September 15, 2024	0	98,116.42	98,116.42
March 15, 2025	1,126,801	98,116.42	1,224,917.42
September 15, 2025	0	85,045.53	85,045.53
March 15, 2026	1,152,943	85,045.53	1,237,988.53
September 15, 2026	0	71,671.39	71,671.39
March 15, 2027	1,179,691	71,671.39	1,251,362.39
September 15, 2027	0	57,986.97	57,986.97
March 15, 2028	1,207,060	57,986.97	1,265,046.97
September 15, 2028	0	43,985.08	43,985.08
March 15, 2029	1,235,064	43,985.08	1,279,049.08
September 15, 2029	0	29,658.33	29,658.33
March 15, 2030	1,263,717	29,658.33	1,293,375.33
September 15, 2030	0	14,999.22	14,999.22
March 15, 2031	1,293,036	14,999.22	1,308,035.22

**EXHIBIT A**

(Form of Requisition for Costs of Issuance)

\_\_\_\_\_, 20\_\_\_\_

Requisition No. \_\_\_\_\_

To: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_  
Attention: \_\_\_\_\_

The undersigned hereby requests that the amount listed below be paid from the Costs of Issuance Account to the following payee for Project Costs as described in subparagraph (d) of the definition thereof in the Lease. The amount indicated is justly due and owing and has not been the subject of another requisition which was paid and is a proper expense payable from the Costs of Issuance Account.

Accordingly, you are hereby instructed to disburse the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) by check payable to \_\_\_\_\_ in payment of Invoice No. \_\_\_\_\_. Please deliver the check to: \_\_\_\_\_.

The above is in payment for \_\_\_\_\_.

By: \_\_\_\_\_  
Authorized District Representative

Attachment (invoice(s))

[Approved for Payment:

\_\_\_\_\_, Assignee

By: \_\_\_\_\_  
Authorized Signature]

**EXHIBIT B**

(Form of Energy Center Project Requisition Certificate - General)

\_\_\_\_\_, 20\_\_\_\_

Requisition No. \_\_\_\_\_

To: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_, \_\_\_\_\_

Attention: \_\_\_\_\_

I hereby state and certify that: (i) the amounts requested are or were necessary and appropriate in connection with the acquisition, construction, furnishing and equipping of the Project, have been properly incurred and are a proper charge against the Construction Fund, and have been paid by or are justly due to the persons whose names and addresses are stated below, have not been the basis of any previous requisition from the Project Account, and that such amounts are subject to capitalization for Federal income tax purposes to the extent required under Rev. Proc. 82 26; and (ii) as of this date, except for the amounts specified above, there are no outstanding statements which are due and payable for labor, wages, materials, supplies or services in connection with the acquisition, construction, furnishing and equipping of the Project which, if unpaid, might become the basis of a vendors', mechanics', laborers' or materialmen's statutory or similar lien upon the Project or any part thereof.

Accordingly, you are hereby instructed to disburse the amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) by check payable to \_\_\_\_\_ in payment of Invoice No. \_\_\_\_\_. Please deliver the check to: \_\_\_\_\_.

The above is in payment for \_\_\_\_\_.

By: \_\_\_\_\_  
Authorized Tenant Representative

Attachment (invoice(s)/cancelled checks)

[Approved for Payment:

\_\_\_\_\_, Assignee

By: \_\_\_\_\_  
Authorized Signature]

---

(space above reserved for Recorder of Deeds certification)

**ASSIGNMENT**

**between**

**KANSAS DEVELOPMENT FINANCE AUTHORITY**  
**Grantor's mailing address being: 534 South Kansas Avenue, Suite 800,**  
**Topeka, Kansas 66603**  
**("Grantor" and "Assignor")**

**and**

**BANC OF AMERICA PUBLIC CAPITAL CORP**  
**Grantee's mailing address being: 11333 McCormick Road,**  
**Mail Code: MD5-03-07-05, Hunt Valley II, Hunt Valley, Maryland 21031**  
**("Grantee" and "Assignee")**

**Legal Description at Exhibit A**

**DATED AS OF DECEMBER 29, 2015**

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## ASSIGNMENT

This Assignment (the “**Assignment**”) is made as of December 29, 2015 by the **KANSAS DEVELOPMENT FINANCE AUTHORITY**, a public body politic and corporate and an instrumentality of the State of Kansas, with its principal offices located at 534 South Kansas Avenue, Suite 800, Topeka, Kansas 66603 (the “**Authority**”), to Banc of America Public Capital Corp, a Kansas corporation, with an administrative office located at 11333, McCormick Road, Hunt Valley, Maryland 21031 (“**Assignee**”).

### WITNESSETH

**WHEREAS**, the Authority has entered into that certain Site Lease Agreement (the “**Site Lease**”) dated as of December 29, 2015 with the State of Kansas – Department of Administration (the “**Tenant**” or “**DOA**”) pursuant to which Tenant, as lessor thereunder has granted a leasehold interest to the Authority in certain real property described in **Exhibit A** hereto (the “**Landon Site**”) and the existing buildings, structures and improvements thereon (collectively with the Landon Site, the “**Landon Facilities**”) to secure the payment and performance of the Tenant’s obligations under that certain Lease with Option to Purchase, Series 2015L (the “**Lease**”) dated as of December 29, 2015 with the Tenant, pursuant to which the Authority has leased back to the Lessee the Landon Facilities in consideration of the payment by the Lessee of certain rental payments payable thereunder (the “**Basic Rent**”) and acquisition, construction and installation of the Energy Center Project as identified and provided in and on the terms and conditions set forth in the Lease; and

**WHEREAS**, pursuant to the Site Lease, the Authority will cause the proceeds of sale and assignment of its right, title and interest in the Site Lease and the Lease to be deposited into that certain Project Account in the name of the Tenant described therein to be applied to the purposes provided in the Lease including the acquisition, construction, installation and equipping of the Energy Center Facilities; and

**WHEREAS**, the Authority desires to sell, assign and transfer, as set forth herein, to Assignee its right, title and interest in the Site Lease and the Lease upon the terms and conditions stated below;

**WHEREAS**, the Authority is authorized pursuant to the provisions of **Section 6** of the Site Lease and **Section 8.2** of the Lease to assign the Site Lease and the Lease, including in particular the right to receive the Basic Rent payments and certain other amounts payable by the Lessee thereunder, and its interests in and to such funds, in whole or in part to Assignee as herein provided; and

**WHEREAS**, the Authority desires to sell, assign and transfer to Assignee, and Assignee desires to acquire and purchase, all of the Authority’s right, title and interest in, to and under the Site Lease and the Lease (including the right to receive such Basic Rent payments), upon and subject to the terms and conditions stated below;

**NOW, THEREFORE**, in consideration of the premises, the covenants contained herein and other good and valuable consideration the receipt and sufficiency of which are hereby

acknowledged, the Authority hereby covenants and agrees with Assignee in connection herewith that:

**1. Assignment; Payment of Purchase Price.**

(a) The Authority hereby sells, transfers, delivers and assigns to Assignee, its successors and permitted assigns, forever, all of Authority's right, title, interest, estate, claims and demands as lessee under the Site Lease and as lessor in, to and under the Lease, including any and all extensions or renewals of the term thereof, together with the Exhibits, Schedules and Riders attached thereto and any amendments, supplements, documents and other instruments relating thereto and all rights, powers, privileges, options and other benefits of Authority as lessee under the Site Lease and as lessor under the Lease, including (without limitation) the immediate and continuing right to receive and collect all payments of Basic Rent, insurance proceeds, condemnation awards and all other payments and amounts due and payable thereunder (collectively, the "**Assigned Payments**"); the right to make all waivers and agreements and to enter into any amendments relating to the Site Lease and the Lease or any provision thereof; the Authority's security interest granted in the funds pursuant to **Section 29.3** of the Lease; and the right to take such action upon the occurrence of an event of default or an event of nonappropriation with respect to the Lease or an event which, with the lapse of time or the giving of notice or both, would constitute an event of default or an event of nonappropriation with respect to the Lease; *excepting, however*, only the Authority's rights under Sections 3.3, 6.5(c), 6.6, 6.8, 6.10, 10.3, 15.1, 15.2, 16.1, 17.1, 19.1, 19.2 and 25.2 of this Lease and its rights to receive notice under the Site Lease and the Lease in addition to the delivery of such notices to the Assignee. The Assigned Payments and all other right, title, interest, estate, claims and demands of the Authority hereby sold, transferred, delivered and assigned are herein referred to collectively as the "**Assigned Rights.**" Notwithstanding any provision in this Assignment, the Site Lease or the Lease to the contrary, the assignment by the Authority to the Assignee hereunder shall not constitute a delegation by the Authority, or an assumption by the Assignee, of any of the Authority's duties, obligations, responsibilities or liabilities as lessee under the Site Lease or as lessor under the Lease.

(b) In consideration of the sale, transfer and assignment provided in subparagraph (a) of this paragraph 1, Assignee has paid to the Authority in immediately available funds for deposit in the Costs of Issuance Account and the Project Account in accordance with Section 5.2 of the Lease, the total amount of \$16,600,000.00, receipt of which the Authority hereby acknowledges.

**2. Power of Attorney.** The Authority irrevocably constitutes and appoints Assignee and any present or future officer or agent of Assignee, or the successors or permitted assigns of Assignee, as its lawful attorney with full power of substitution and resubstitution, and in the name of the Authority or otherwise, to collect the Assigned Payments and to sue in any court for such Assigned Payments, or any part thereof, to withdraw or settle any claims, suits or proceedings pertaining to or arising out of the Lease or the Site Lease upon any terms as Assignee in its discretion may deem to be in its best interest, and to enforce the security interest granted and/or retained pursuant to the Lease, all without notice to or assent of the Authority, and



further, to take possession of and to endorse in the name of the Authority any instrument for the payment of money received on account of the Assigned Payments.

**3. Payments.** The Authority has authorized and directed and does hereby authorize and direct the Tenant to pay to Assignee, its successors and assigns, all payments due or to become due under the Lease from and after the date of this Assignment by forwarding such payments by wire to Bank of America, ABA # 026009593, Beneficiary: Bank of America Leasing & Capital, LLC, Account # 12334-01992, Reference: Acct# 30244 State of Kansas.

**4. Warranties and Covenants.** The Authority hereby represents, warrants and covenants to and with Assignee that:

(a) The Authority is a public body politic and corporate and an instrumentality of the State of Kansas duly organized, validly existing and in good standing under the laws of the State of Kansas, with the corporate powers and authority to own its properties and carry on its business as now being conducted.

(b) The Authority has full power, authority and legal right to enter into and perform its obligations under the Site Lease, the Lease and this Assignment. The execution, delivery and performance of the Site Lease, the Lease and this Assignment have been duly authorized by all necessary corporate action on the part of the Authority, do not require the approval or consent of any trustee or holder of any indebtedness or obligation of the Authority or any such required approvals and consents have heretofore been duly obtained, and the foregoing do not contravene any law, governmental rule, regulation, order or ordinance of any governmental entity having jurisdiction or the Constitution, the laws of the State of Kansas and do not and will not result in any breach of or constitute a default under any indenture, mortgage, contract, agreement or instrument to which the Authority is a party or by which it or its property is bound.

(c) There are no pending or threatened actions or proceedings before any court or administrative agency that will materially adversely affect the condition, business or operation of the Authority or the ability of the Authority to perform its obligations under the Site Lease, the Lease or this Assignment.

(d) This Assignment vests in Assignee full right, title and interest of the Authority under the Site Lease and the Lease (but expressly excluding legal title to the Landon Facilities) and the right to receive the Assigned Payments, in each instance free and clear of all claims, liens, security interests and encumbrances of any kind or character, except the rights of the Tenant under the Lease and the same shall be and remain free of all claims, liens, security interests and encumbrances arising through any act or omission of the Authority or any person claiming by, through or under it.

(e) The Authority has complied and will comply with, and duly and promptly perform, all the obligations of the Authority under the Site Lease, the Lease and all related documents and instruments.

(f) The Lease delivered to Assignee herewith is an original and constitutes the entire writing, obligation and agreement between the Authority and the Lessee respecting

the acquisition, construction and installation of the Energy Center Project (as described therein), the lease of the Landon Facilities, the payment thereunder by the Lessee and the Authority's interest therein. The Site Lease delivered to Assignee herewith is an original and constitutes the entire writing, obligation and agreement between the Authority and the Lessee.

(g) The Authority has not assigned, sold, transferred, pledged or otherwise granted an interest, and hereby covenants that it will not assign, sell, transfer, pledge or otherwise grant an interest, in or to the whole or any part of the rights, title, interest, estate, claims or demands sold, transferred, delivered and assigned pursuant to this Assignment to anyone other than Assignee, including (without limitation) the Site Lease, the Lease and the Assigned Payments. The Authority will make appropriate notations on its books and records with entries regarding the Site Lease and the Lease indicating the entering into of this Assignment.

(h) No event of default or event of nonappropriation has occurred and is continuing under the Lease, and no event has occurred which, with the lapse of time or the giving of notice or both, would constitute an event of default or an event of nonappropriation under the Lease. No payment of Basic Rent payable under the Lease has been paid more than 10 days after its scheduled payment date, except as heretofore disclosed in writing to Assignee.

(i) The Authority will indemnify and hold Assignee harmless from and against all claims, losses, costs and expenses arising from or growing out of the failure of the Authority to keep or perform any of its warranties, covenants or agreements contained in this Assignment or any of its obligations under the Site Lease and the Lease.

(j) The Authority has not claimed and does not expect to claim any exclusions, deductions, credits or other benefits (such as depreciation) under the federal tax laws as "owner" of the Landon Facilities for federal tax purposes.

**5. Further Assurances.** The Authority, from time to time, at the request of Assignee, shall execute and deliver such further acknowledgments, agreements and instruments of assignment, transfer and assurance, and do all such further acts and things as may be necessary or appropriate in the opinion of Assignee to give effect to the provisions hereof and to more perfectly confirm the rights, titles and interests hereby sold, assigned and transferred to Assignee.

**6. Severability; Rights Cumulative.** If any part of this Assignment shall be contrary to any law which Assignee might seek to apply or enforce or should otherwise be defective, the other provisions hereof shall not be affected thereby but shall continue in full force and effect, to which end they are hereby declared severable. All rights, remedies and powers of Assignee hereunder are irrevocable and cumulative, and not alternative or exclusive, and shall be in addition to all rights, remedies and powers given hereunder, or in or by any other instrument or any other law now existing or hereafter enacted.

7. **Notices.** Any notice required or permitted to be given by the Authority or Assignee to the other shall be deemed to have been given upon the actual receipt thereof or on the third day after it is deposited in the United States mail, certified mail, return receipt requested, with proper postage prepaid, whichever is the earlier, and addressed to the party at such address as shown at the beginning of this Assignment or at such other address as one party shall hereafter furnish to the other in writing.

8. **Headings.** The headings of the paragraphs of this Assignment are for convenience only and shall not be used to interpret or construe this Assignment.

9. **Entirety; Amendments.** This Assignment contains the entire agreement between the Authority and Assignee with respect to the subject matter hereof and supersedes all prior agreements and understandings relating thereto. No other agreements will be effective to change, modify or terminate this Assignment in whole or in part unless such agreement is in writing and duly executed by the Authority and Assignee. No representations, inducements, promises or agreements, oral or otherwise, that are not embodied herein (or any other written instrument or document delivered pursuant hereto or in connection herewith) will be of any force or effect.

10. **Parties Bound; Assignment.** This Assignment shall be binding on the Authority and its successors and assigns, and shall inure to the benefit of Assignee and its successors and permitted assigns.

Subject to the rights of Assignee to assign and transfer the Assigned Rights as provided in the other paragraphs of this Section 10 and to Assignee's exercise of any and all remedies under the Lease, Assignee shall not (a) pledge, hypothecate or grant any security interest in, or otherwise dispose of, the Site Lease or the Lease or any interest in the Site Lease or the Lease or the Landon Facilities or (b) sublet or permit either the Landon Facilities or the Energy Center Facilities to be used by anyone other than Tenant or Tenant's employees unless Assignee obtains the prior written consent of the Authority and an opinion of nationally recognized counsel in the area of tax-exempt municipal obligations satisfactory to the Authority that such action will not adversely affect the exclusion of the interest portions of the Basic Rent payments from gross income for federal income tax purposes.

Notwithstanding the provisions of the preceding paragraph or any other provision contained herein or in the Site Lease or the Lease, the Assigned Rights, and all proceeds therefrom, may be further assigned and reassigned in whole or in part to one or more assignees or subassignees by the Assignee (including, but not limited to, in connection with the creation of certificates of participation, custodial receipts or other forms of participation certificates evidencing fractional interests), without the necessity of obtaining the consent of the Authority; *provided*, that any such assignment, transfer or conveyance (a) shall be made only to investors each of whom the transferor Assignee reasonably believes is a "*qualified institutional buyer*" as defined in Rule 144A(a)(1) promulgated under the Securities Act of 1933, as amended (the "*Securities Act*") or an "*accredited investor*" as defined in Sections 501(a)(1), (2), (3) and (7) of Regulation D promulgated under the Securities Act and is purchasing the Assigned Rights (or any interest therein) for its own account with no present intention to resell or distribute the Assigned Rights (or interest therein), subject to each investor's right at any time to dispose of the

Assigned Rights or any interest therein as it determines to be in its best interests, (b) shall not result in more than 35 owners of the Assigned Rights or the creation of any interest in the Assigned Rights in an aggregate principal component that is less than \$100,000 and (c) shall not require the Tenant to pay Basic Rent, send notices or otherwise deal with respect to matters arising under the Site Lease or the Lease with or to more than one trustee, owner, servicer or other fiduciary or agent or entity (herein referred to as the "*Lease Servicer*") and any trust agreement, participation agreement or custodial agreement under which multiple ownership interests in the Assigned Rights are created shall provide the method by which the owners of such interests shall establish the rights and duties of a single Lease Servicer to act on their behalf with respect to the Assigned Rights, including with respect to the exercise of rights and remedies on behalf of such owners upon the occurrence of an Event of Default or Event of Non-Appropriation under the Lease. The Authority (including the initial Assignee pursuant to this Assignment) acknowledge and agree that the restrictions and limitations on transfer as provided in this paragraph shall apply to the first and subsequent assignees and sub-assignees of any of the Assigned Rights (or any interest therein).

No assignment, transfer or conveyance permitted by this paragraph 10 that changes the Lease Servicer or its payment instructions or mailing address shall be effective until the Tenant shall have received a written notice of assignment that discloses the name, payment instructions and address of each such assignee; *provided*, that if such assignment is made to a bank or trust company as trustee or paying agent for owners of certificates of participation, trust certificates or partnership interests evidencing interests in the Assigned Rights, it shall thereafter be sufficient that the Tenant receives notice of the name, payment instructions and address of such bank or trust company that acts as the Lease Servicer. During the term of the Lease (as therein provided), the Tenant shall keep, or cause to be kept, a complete and accurate record of all such assignments in form necessary to comply with Section 149 of the Internal Revenue Code of 1986, as amended. The Tenant shall retain all such notices as a register of all Assignees and shall make all payments to the Assignee or Lease Servicer designated in such register, as provided in Section 29.8 of the Lease. The Tenant shall not have the right to, and shall not, assert against the initial Assignee or any subsequent Assignee any claim, counterclaim or other right that the Tenant may have against the Authority. If the Assignee notifies the Tenant of its intent to assign the Assigned Rights (or any interest therein) to a different Lease Servicer, the Tenant agrees in Section 29.8 of the Lease that it shall execute and deliver to the requesting Assignee a notice and acknowledgment of assignment in form reasonably required by such Assignee within five (5) business days after its receipt of such request.

Assignee and not the Authority or the Lessee shall be responsible for and agrees to comply with all applicable federal and state securities laws applicable to any such assignment and all costs with respect thereto.

**11. Governing Law.** The substantive laws of the State of Kansas shall govern the validity, construction, enforcement and interpretation of this Assignment and the rights of the parties hereunder.

IN WITNESS WHEREOF, the Authority has executed this Assignment by one of its officers thereunto duly authorized, as of the date first above written.

(SEAL)



**KANSAS DEVELOPMENT FINANCE  
AUTHORITY**

By: Rebecca E. Floyd  
Name: Rebecca E. Floyd  
Title: Executive Vice President

ATTEST:

James C. MacKinnon  
Name: James C. MacKinnon  
Title: Assistant Secretary

ACKNOWLEDGMENT

STATE OF KANSAS            )  
  ) ss:  
COUNTY OF SHAWNEE    )

**BE IT REMEMBERED** that on this 22<sup>nd</sup> day of December, 2015, before me, a notary public in and for said County and State, came Rebecca E. Floyd, Executive Vice President of the Kansas Development Finance Authority and James C. MacKinnon Assistant Secretary of said Kansas Development Finance Authority, who are personally known to me to be the same persons who executed, as such officers, the within instrument on behalf of said Kansas Development Finance Authority, and such persons duly acknowledged the execution of the same to be the act and deed of said Kansas Development Finance Authority.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

Terr H Kirby  
Notary Public in and for said County and State

My Appointment Expires: April 20, 2016



Banc of America Public Capital Corp, as Assignee under the foregoing Assignment, hereby accepts the assignment therein provided and agrees to perform the obligations of the Assignee provided in paragraph 10 of this Assignment and in Sections 19.1 and 19.2 of the Lease, anything in the Assignment to the contrary notwithstanding.

Dated: December 23, 2015.

**BANC OF AMERICA PUBLIC CAPITAL  
CORP, as Assignee**

By: [Signature]  
Name: Terr J. Preston  
Title: Authorized Agent

**ACKNOWLEDGMENT**

STATE OF Maryland)  
COUNTY OF Baltimore) ss.

On this 23rd day of December, 2015, before me, the undersigned, a Notary Public, appeared Terr J. Preston, to me personally known, who, being by me duly sworn, did say that he/she is the Authorized Agent of Banc of America Public Capital Corp, a corporation organized under the laws of the State of Kansas, and that said instrument was signed in behalf of the company by authority of its Board of Directors, and said officer acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of the company.

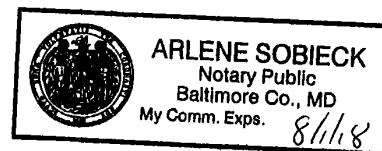
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

[Signature]  
Notary Public-State of Maryland  
Print Name: Arlene Sobieck  
Commissioned in Baltimore County

(SEAL)

My Commission Expires:

8/1/18



## **EXHIBIT A**

### **Landon Site**

A tract of land in the Southeast Quarter of Section 31, Township 11 South, Range 16 East of the 6<sup>th</sup> P.M., in the City of Topeka, Shawnee County, Kansas, and described as follows: All of Lots 290, 292, 294, 296, 298, 300, 302, 304, 306, 308, 310, and 312, on Jackson Street, (Original Town) in the City of Topeka, Shawnee County, Kansas; and the Northerly one-half of alley lying Southerly of and adjacent to Lot 312 as vacated by Ordinance No. 3009 dated October 6, 1909, and pursuant to Ordinance 3021, dated November 19, 1909, and A.T.&S.F. Contract No. 25487 filed with Register of Deeds, Shawnee County, March 15, 1982, at 1:48 p.m. in Book 2160, Page 172.

## STATE'S CLOSING CERTIFICATE

STATE OF KANSAS       )  
                                  ) SS  
COUNTY OF SHAWNEE   )

I, the undersigned, Secretary of Administration of the State of Kansas (the "State"), in connection with the delivery of the Site Lease Agreement dated as of December 29, 2015 (the "Site Lease"), the Lease with Option to Purchase, Series 2015L, dated December 29, 2015 (the "Lease") by and between the Kansas Development Finance Authority (the "Authority") and the State of Kansas – Department of Administration and the Assignment dated as of December 29, 2015 by the Authority to the Assignee named therein for the purpose of providing funds to pay the cost of a new energy service center for certain of the State's offices and administrative buildings including the Landon State Office Building (the "Landon Facilities") and the State Capitol Building in Topeka, Kansas (the "Energy Center Project"), hereby certify as of the date hereof, as follows:

(1) **Transcript of Proceedings.** The transcript of proceedings (the "Transcript") relating to the authorization and delivery of the Lease is to the best of our knowledge, information and belief full, correct and complete. None of such proceedings have been modified, amended or repealed and such facts as are stated in the Transcript still exist.

(2) **Incumbency of Officers.** The following named persons were and are the duly qualified and acting agents and representatives of the State at all times during the proceedings leading up to the delivery of the Lease:

<u>Name</u>	<u>Title</u>
Sarah L. Shipman	Acting Secretary of Administration
John L. Yearly	Chief Counsel

(3) **Financial Matters.** As of this date, there has been no material adverse change in the financial condition or financial affairs of the State since June 30, 2015.

(4) **Execution of Documents.** The Site Lease Agreement and the Lease (the "Lease Documents") have been executed and delivered in the name and on behalf of the State by its duly authorized agents and representatives. Copies of the Lease Documents contained in the Transcript are true, complete and correct copies or a counterpart of said documents as executed and delivered by the State, and are in substantially the same form and text as the copies of such documents which were approved by said agents and representatives; and said documents have not been amended, modified or rescinded and are in full force and effect as of the date hereof.

(5) **Non-Litigation.** To the best knowledge of the undersigned, after due inquiry, there is no litigation, action, suit or proceeding pending or before any court, administrative agency, arbitrator or governmental body which challenges the legality of any official act shown



to have been done in the Transcript, or the constitutionality or validity of the Site Lease relating to the Landon Facilities, the Lease or the Assignment, or the Energy Center Project or any of the proceedings in relation to the authorization or delivery of the Lease Documents, the Assignment or the Energy Center Project.

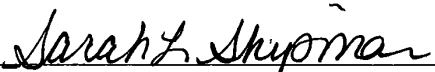
To the best knowledge of the undersigned, after due inquiry, there is no litigation or other proceeding pending, or to our knowledge, threatened in any court or before any public board or body to restrain or enjoin the delivery of the Lease Documents or the Assignment, or the collection of rents, receipts and revenues pledged or to be pledged to pay the Rental Payments under the Lease or in any way contesting or affecting the validity or enforceability of the Lease Documents or the Assignment, or the collection of said rents, receipts and revenues or the pledge thereof, or contesting the powers of the State, or any authority of the State regarding the Lease Documents; and no authority or proceedings for the execution of the Lease Documents has been repealed, revoked or rescinded.

(6) **No Breach or Default.** Neither the execution and delivery of the Lease Documents nor the Assignment nor any other documents contemplated thereby or the compliance by the State with the provisions thereof will conflict with or constitute on the part of the State a breach of or a default under any existing law, court order or administrative regulation, decree or order or any agreement, indenture, mortgage, loan or other instrument to which the State is subject or by which it is bound.

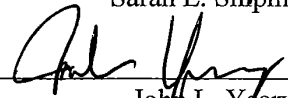
WITNESS my hand and the seal of the Department of Administration this 29<sup>th</sup> day of December, 2015.

Signature

Official Title

  
\_\_\_\_\_  
Sarah L. Shipman

Acting Secretary of Administration

  
\_\_\_\_\_  
John L. Yeary

Chief Counsel

(SEAL)

**THE TRAVELERS INSURANCE COMPANIES**

One Tower Square  
Hartford, CT 06183

**DECLARATIONS****Policy Number:** KTXK-CMB-1803B25-2-15**Issue Date:** 08/28/2015**NAMED INSURED AND MAILING ADDRESS:**

STATE OF KANSAS  
KANSAS DEPARTMENT OF ADMINISTRATION  
DIVISION OF PURCHASING  
900 SW JACKSON, SUITE 451 SOUTH  
TOPEKA, KS 66612

**POLICY PERIOD:** **FROM:** 07/01/2015 **TO:** 07/01/2016

Effective 12:01 a.m. at description and location of property covered.

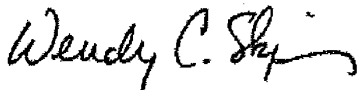
**COVERAGE FORMS AND ENDORSEMENTS FORMING A PART OF THIS POLICY.**

The complete policy consists of this Declarations and the Supplemental Coverage Declarations and the forms listed on MS C0 02 07 99.

**PREMIUM:** \$771,500**INSURING COMPANIES:**

In return for payment of the premium, the Company agrees with the Named Insured to provide the insurance afforded by this policy. That insurance will be provided by the Company designated by an "X" below.

The Travelers Indemnity Company ( a Stock Company) – Other Than Texas Locations



Secretary



President

The company listed above has executed this policy, but it is valid only if countersigned by our authorized representative.

**PRODUCER NAME AND ADDRESS**

IMA, INC  
51 CORPORATE WOODS  
9393 W 110TH ST, STE 600  
OVERLAND PARK, KS 66210

**Countersigned by:** \_\_\_\_\_  
(Authorized Representative)**Date:** \_\_\_\_\_

## INDEX OF FORMS

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Important Notice Regarding Independent Agent and Broker Compensation	PN T4 54 01 08
Terrorism Exclusion Disclosure	TR IA 02 01 15
Terrorism Exclusion Endorsement	TR IA 05 01 15

## Supplemental Coverage Declarations

READ THE ENTIRE POLICY CAREFULLY TO DETERMINE RIGHTS, DUTIES AND WHAT IS AND IS NOT COVERED.

- A. POLICY LIMIT:** In no event shall liability under this policy exceed \$200,000,000 arising out of one occurrence.

Subject to the Policy Limit above, liability for loss or damage arising out of one occurrence shall not exceed:

1. \$100,000,000 at all Insured's Premises other than the State Capital Complex. As used in this policy, the State Capital Complex means the following buildings as described in the latest Statement of Values on file with the Company; Capital Building, 300 SW 10<sup>th</sup> Street, Topeka, KS 66612; Landon State Office Building, 900 Jackson Street, Topeka, KS 66612; Memorial Hall, 120 SW 10<sup>th</sup> Street, Topeka, KS 66612; and Dwight D. Eisenhower State Office Building, 700 Harrison Street, Topeka, KS 66603;
2. Any specific Limit of Insurance applying to any insured loss, coverage or location(s)

- B. LIMITS OF INSURANCE** – For application of Limits of Insurance refer to Section O. Limits of Insurance in the General Conditions:

1.	Building, in any one occurrence: Included means included in the Policy Limit.	Included
2.	Business Personal Property, in any one occurrence: Included means included in the Policy Limit.	Included
3.	Accounts Receivable, in any one occurrence:	\$ 250,000
4.	Valuable Papers, in any one occurrence:	\$ 250,000
5.	Fine Arts, in any one occurrence:	\$ 100,000
6.	Newly Constructed or Acquired Property, at any one building, In any one occurrence: Number of days 120.	\$ 3,000,000
7.	Outdoor Property including Debris Removal, in any one occurrence:	\$ 100,000
8.	Personal Effects of Officers and Employees of the Insured, in any one occurrence:	\$ 100,000
9.	Covered Property in Transit, in any one occurrence:	\$ 100,000
10.	Debris Removal (additional), in any one occurrence:	\$ 250,000
11.	Pollutant Cleanup and Removal, aggregate in any one policy year:	\$ 100,000
12.	Claim Data Expense, in any one occurrence:	\$ 25,000
13.	Ordinance or Law Loss to the Undamaged Portion, in any one occurrence: Demolition, in any one occurrence:	\$ 20,000,000 Included

Increased Cost of Construction, in any one occurrence:

Included

Included means, included in the Limit shown for Loss to the Undamaged Portion.

14. Extra Expense, in any one occurrence: \$ 10,000

Civil Authority 30 days.

15. Flood – aggregate in any one policy year, for all losses covered under this policy, commencing with the inception date of this policy:

- a. Occurring at Insured Premises resulting from Flood to buildings, structures or property in the open within Flood Zone A or Zones prefixed A as classified under the National Flood Insurance Program or property in or on buildings or structures located within such Flood Zones: Not Covered

- b. Occurring at Insured Premises resulting from Flood to buildings, structures or property in the open within Flood Zone B, Zone X (shaded) or Zone X-500 as classified under the National Flood Insurance Program or property in or on buildings located within such Flood Zones: Not Covered

- c. Occurring at Insured Premises resulting from Flood to buildings, structures or property in the open within Flood Zone V or Zones prefixed V as classified under the National Flood Insurance Program or property in or on buildings or structures located within such Flood Zones: Not Covered

- d. Occurring at all other Insured Premises: \$ 50,000,000

Any loss resulting from Flood to a building, structure or property in the open which is, at the time of loss, within more than one Flood Zone will be subject to the insurance and Annual Aggregate, if any, that would apply under this policy if that building, structure or property in the open was wholly located within the most hazardous of the Flood Zones, as identified in MS C2 06, in which it is located. The Flood Zone that applies to a building or structure will also apply to any property in or on such building or structure.

If more than one Annual Aggregate Limit applies in any one occurrence, the most the Company will pay is the highest involved Aggregate Limit. The most the Company will pay during each annual period is the largest of the Annual Aggregate Limits shown.

16. Expediting Expenses, in any one occurrence: \$ 25,000

17. Limited "Fungus," Wet Rot, and Dry Rot Coverage

- a. Direct Damage  
Aggregate in any one policy year: \$ 25,000
- b. Extra Expense  
Number of days: 30 days

**C. DEDUCTIBLES:** For application of Deductibles refer to Section B. Application of Deductibles in

## the General Conditions

1. By Flood, in any one occurrence: \$ 5,000,000

As respects Extra Expense, the deductible is included in the occurrence deductible.

2. By Windstorm, meaning wind, wind driven rain or hail, at each affected location, in any one occurrence: 2%

Percentage applies per Unit

Minimum in any one occurrence: \$5,000,000

As respects Extra Expense, the deductible is Included in the occurrence deductible.

3. To any other covered loss, in any one occurrence:

a. At the State Capital Complex defined in Section A. above, in any one occurrence: \$ 2,000,000

b. To any other covered loss, in any one occurrence: \$ 5,000,000

**D. COINSURANCE: Direct Damage:**

No coinsurance applies.

**Time Element:**

No coinsurance applies.

**E. VALUATION PROVISION:**

Replacement Cost applies as per MS C5 05.

- F. SOLE AGENT PROVISION:** For any insurance afforded by this policy, State of Kansas shall act on behalf of all insureds with respect to the giving and receiving of notice of cancellation or nonrenewal, the payment of premiums and the receiving of return premiums, and accepting of any endorsement issued to form a part of this policy.

- G. CANCELLATION PROVISION:** All references to 60 days or greater notice of cancellation in the General Conditions or in any State changes – Cancellation and Nonrenewal endorsement, other than for nonpayment of premium, is amended to read 90 days.

- H. PREMIUM ADJUSTMENT:** This policy will be adjusted as needed for any changes in values and premiums.

- I. ISSUING COMPANY:** The Travelers Indemnity Company (A Stock Company)

## AUTHORITY'S CLOSING CERTIFICATE

STATE OF KANSAS            )  
  ) SS  
COUNTY OF SHAWNEE    )

The undersigned, Executive Vice President and Assistant Secretary, respectively, of the Kansas Development Finance Authority (the "Authority"), do hereby make this Certificate for inclusion in the transcript of and as a part of the proceedings authorizing and delivering the Site Lease Agreement between the State of Kansas acting by and through the Department of Administration and the Authority, the Lease with Option to Purchase, Series 2015L, by and between the Authority and the State of Kansas – Department of Administration and the assignment thereof by the Authority pursuant to the Assignment (each as identified more particularly below) for the purpose of providing funds to pay the costs of a new energy service center for certain of the State's offices and administrative buildings including the Landon State Office Building (the "Landon Facilities") and the State Capitol Building in Topeka, Kansas (the "Energy Center Project"), as authorized by Resolution No. 337 of the Authority adopted October 1, 2015 (the "Resolution"), hereby certify as of the date hereof, as follows:

(1)    **Organization.** The Authority is a public body, politic and corporate, and an independent instrumentality of the State of Kansas, created by K.S.A. 74-8901 *et seq.*

(2)    **Incumbency of Officers.** The persons named below were on the date or dates of the execution of the documents listed in Section 4, and are on this date, the duly appointed, qualified and acting members of the Authority's Board of Directors, holding the respective offices set opposite their names;

<b><u>Name</u></b>	<b><u>Title</u></b>	<b><u>Terms</u></b>
Don Linville	Chairman and Member	to January 1, 2019
Suchitra Padmanabhan	Vice-Chairman and Member	to January 1, 2017
James Cusser	Member	to January 1, 2017
Chris Donnelly	Member	to January 1, 2017
	Member	
Tim Shallenburger	President	at all times
Rebecca Floyd	Executive Vice President and Secretary	at all times
James MacMurray	Vice President, Finance and Assistant Secretary	at all times

(3)    **Transcript of Proceedings.** The transcript of proceedings (the "Transcript"), including in particular the Resolution, relating to the authorization and delivery of the Lease Documents (as defined below), is to the best of our knowledge, information and belief full, correct and complete; none of such proceedings have been modified, amended or repealed, except as might be shown in the Transcript, and the facts stated in the Transcript still exist. In each and every instance where copies appear in the Transcript, such copies are true and correct duplicates of the original instruments now on file with the Secretary.



(4) **Execution of Lease Documents.** The following documents (collectively, the "Lease Documents") have been executed and delivered in the name and on behalf of the Authority by its duly authorized officers, pursuant to and in full compliance with the Resolution. The copies of said Lease Documents contained in the Transcript are true, complete and correct copies or counterparts of said Lease Documents as executed and delivered by the Authority, and are in substantially the same form and text as the copies of such documents which were before the Board of Directors of the Authority and approved by said Board; and said documents have not been amended, modified or rescinded and are in full force and effect as of the date hereof.

- (a) Resolution No. 337, adopted by the Authority on October 1, 2015; and
- (b) Site Lease Agreement dated as of December 29, 2015, by and between the State of Kansas - Department of Administration and the Authority relating to the Landon Facilities (the "Site Lease");
- (c) Lease with Option to Purchase, Series 2015L, dated as of December 29, 2015, by and between the Authority and the State of Kansas - Department of Administration, relating to the Landon Facilities and the Energy Center Project (the "Lease"); and
- (d) Assignment dated as of December 29, 2015, by the Authority to Banc of America Public Capital Corp, as assignee (the "Assignment").

(5) **Non-Litigation.** To the best knowledge of the undersigned, after due inquiry, there is no litigation, action, suit or proceeding pending or before any court, administrative agency, arbitrator or governmental body which challenges the legality of any official act shown to have been done in the Transcript, or the constitutionality or validity of the Lease Documents, or any of the proceedings in relation to the authorization or delivery of the Lease Documents.

To the best knowledge of the undersigned, after due inquiry, there is no litigation or other proceeding pending, or to our knowledge, threatened in any court or before any public board or body to restrain or enjoin the delivery of the Lease Documents, or in any way contesting or affecting the validity or enforceability of the Lease Documents, or contesting the powers of the Authority, or any authority of the Authority regarding the Lease Documents; and no authority or proceedings for the execution of the Lease Documents has been repealed, revoked or rescinded.

(6) **No Breach or Default.** Neither the execution and delivery of the Lease Documents nor any other documents contemplated thereby or the compliance by the Authority with the provisions thereof will conflict with or constitute on the part of the Authority a breach of or a default under any existing law, court order or administrative regulation, decree or order or any agreement, indenture, mortgage, loan or other instrument to which the Authority is subject or by which it is bound.

29<sup>th</sup> WITNESS our true and genuine manual signatures and the seal of the Authority as of the  
day of December 2015.

(SEAL)



Rebecca E. Floyd

Rebecca E. Floyd, Executive Vice President

James MacMurray  
James MacMurray, Assistant Secretary

December 29, 2015

Department of Administration  
State of Kansas  
Landon State Office Building  
900 SW Jackson  
Topeka, Kansas 66612

Kansas Development Finance Authority  
534 South Kansas Avenue, Suite 800  
Topeka, Kansas 66603

Re: \$16,600,000 Lease with Option to Purchase, Series 2015L, between the Kansas Development Finance Authority (the "**Authority**") and the State of Kansas – Department of Administration (the "**State**" or "**DOA**"), dated as of December 29, 2015

Ladies and Gentlemen:

The undersigned (the "**Original Purchaser**"), proposes to purchase and accept assignment of all right, title and interest of the Authority in, to and under the referenced lease agreement (the "**Lease**") and in that certain Site Lease Agreement (the "**Site Lease**") dated as of December 29, 2015 between the Authority and the State pursuant to an Assignment dated as of December 29, 2015 between the Authority and the Original Purchaser (the "**Assignment**"). Such right, title and interest, as further defined and described in the Assignment, is referred to as the "**Assigned Rights**".

The Authority is making the assignment of the Assigned Rights pursuant to the Assignment for the purpose of financing the cost of a new energy service center for certain of the State's offices and administration buildings including the Landon State Office Building (the "**Landon Facilities**") and the State Capitol Building in Topeka, Kansas (the "**Energy Center Project**"). Proceeds of the assignment of the Assigned Rights pursuant to the Assignment will be deposited with the State for the sole purpose of providing funds for DOA to pay the costs of the Energy Center Project.

Pursuant to the Lease, Rental Payments are to be made by DOA semi-annually during the term of the Lease including amounts sufficient to pay the Principal Component and Interest Component of the Basic Rent as identified in the Lease. The Principal Component and the Interest Component of the Basic Rent payable under the Lease shall be a special, limited

obligation of the State payable from legally available funds for such purpose. The availability of funds to make Rental Payments is subject to annual appropriation of funds by the Kansas Legislature for such purpose. The Lease is not a debt or general obligation of DOA, the State or any municipal corporation or political subdivision thereof within the meaning of State constitutional provision or statutory limitation.

In connection with the delivery and the purchase and acceptance of the Lease, the Original Purchaser hereby makes the following representations upon which you may rely:

1. The Original Purchaser is familiar with Rule 144A promulgated under the Securities Act of 1933, as amended (the "**Securities Act**:") and is a "qualified institutional buyer" as defined in Rule 144A. The Original Purchaser has sufficient knowledge and experience in financial business matters, including the purchase of tax-exempt obligations, to be able to evaluate the risks and merit of the extension of credit represented by the purchase of the Assigned Rights, to make an informed credit decision with respect thereto and to bear the risks of the investment in the Assigned Rights.

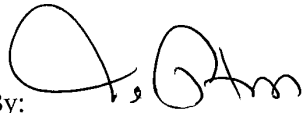
2. The Assigned Rights are being acquired by the Original Purchaser for its own account and not with a present view to, or for resale in connection with, any distribution thereof. Notwithstanding the foregoing, the Original Purchaser retains the right to transfer or participate its interest in the Assigned Rights in such circumstances and manner as may be permitted by law and the terms of the Lease, the Site Lease and the Assignment. The Original Purchaser understands that the Assigned Rights have not been registered under the Securities Act. We further acknowledge that any current exemption from registration of the Lease does not affect or diminish compliance with any applicable disclosure requirements under Federal and State securities laws.

3. The Original Purchaser has made its own independent review of the credit and related matters applicable to the Lease. The Original Purchaser has made its decision to extend credit by acquiring the Assigned Rights based on its review of the Site Lease, the Lease and the Assignment and on other information it has reviewed and it deems relevant to such purchase. To the extent deemed appropriate in making its investment decision, the Original Purchaser or its representatives have discussed the financial conditions of the State and its current and proposed business activities with the Authority and representatives of DOA. The State and DOA have furnished us or our representatives such information as we deem necessary to make a decision to acquire the Lease, including the definitive forms of the Site Lease, the Lease and the Assignment in the preparation of which we have participated. The Original Purchaser has made such inquiry as we have believed to be desirable for purposes of this investment. The Lease is an investment of the kind the Original Purchaser wishes to acquire and hold for investment, and the nature and amount of the Lease is consistent with the Original Purchaser's investment program. The Original Purchaser is not acting as a broker, dealer, municipal advisor or municipal securities underwriter in connection with its purchase of the Assigned Rights.

4. We are not now and have never been controlled by, or under common control with the Authority. The Authority has never been and is not now controlled by us.

5. In consideration of the assignment by the Authority of the Assigned Rights to the Original Purchaser pursuant to Section 1(b) of the Assignment, the Original Purchaser has deposited with the Authority the purchase price payable under the Assignment in the amount of \$16,600,000.00.

Banc of America Public Capital Corp

By:   
Title: Authorized Agent

**EXHIBIT C**  
**RECEIPT AND REPRESENTATION**  
**\$16,600,000**  
**ASSIGNMENT**  
**OF**  
**LEASE WITH OPTION TO PURCHASE, SERIES 2015L**  
**BETWEEN**  
**KANSAS DEVELOPMENT FINANCE AUTHORITY**  
**AND**  
**DEPARTMENT OF ADMINISTRATION**  
**(ENERGY SERVICE CENTER PROJECT)**

**DATED DECEMBER 29, 2015**

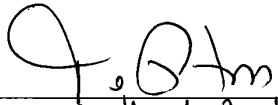
The undersigned representative of Banc of America Public Capital Corp (the "Assignee"), as original assignee and purchaser of the Assigned Rights as defined in that certain above-described lease (the "Lease") pursuant to the Assignment, being delivered on the date hereof by the Kansas Development Finance Authority (the "Authority"), does hereby certify and represent as follows:

1. **Receipt for the Lease.** The Assignee acknowledges receipt on the date hereof of the Assignment and the Lease in a form acceptable to the Assignee.
2. **Public Offering.** The Assigned Rights have not been the subject of any offering to the public. The undersigned is the first buyer of the Assigned Rights and has purchased the Assigned Rights at the purchase price of \$16,600,000, there being no interest accrued to the date hereof.

This certificate may be relied upon by the Authority and the State in executing and delivering its Federal Tax Certificate, and by Bryan Cave LLP, Special Tax Counsel, in rendering its opinion relating to the exclusion from federal gross income of the Interest Component of the Basic Rent payable under the Lease.

Dated: December 29, 2015.

Banc of America Public Capital Corp

By:   
Title: Authorized Agent

## FEDERAL TAX CERTIFICATE

STATE OF KANSAS            )  
                                      ) SS  
COUNTY OF SHAWNEE    )

We, the undersigned, Executive Vice President of the Kansas Development Finance Authority (“the Authority”) and the Secretary of Administration for the State of Kansas (the “State”), do hereby make this Federal Tax Certificate for inclusion in the Transcript of and as a part of the proceedings authorizing and providing for the execution and delivery of that certain Lease with Option to Purchase, Series 2015L, dated as of December 29, 2015 (the “Lease”) by and between the Authority, as lessor, and the State acting by and through the Secretary of Administration, as lessee, and the assignment of the Authority’s rights in (but not obligations under) the Lease pursuant to an Assignment dated as of December 29, 2015 (the “Assignment”) between the Authority, as assignor, and Banc of America Public Capital Corp, as assignee thereunder (the “Assignee”), and do hereby certify pursuant to Treasury regulation § 1.148-2(b) as of the date hereof, as follows:

### **1. EXECUTION AND DELIVERY OF THE LEASE AND THE ASSIGNMENT; USE OF PROCEEDS**

**1.1. Definitions.** This Certificate is being executed and delivered pursuant to Section 148 of the Internal Revenue Code of 1986, as amended (the “Code”) and applicable United States Treasury Regulations (the “Treasury Regulations”) including particularly Treasury Regulations issued under Sections 141, 148 and 150 of the Code, for the purpose of setting forth facts, estimates and expectations of the Issuer on the date of this Certificate regarding the amount and use of the proceeds of the Bonds.

Capitalized terms used herein, to the extent not otherwise defined herein, are intended to have the respective meanings as set forth in the Lease and the Assignment (unless the context clearly indicates otherwise) or the Treasury Regulations. For purposes of the representations and certifications set forth herein, the Authority is electing to apply the final Regulations issued under Section 141 of the Code on January 16, 1997, as permitted by Treasury Regulation Section 1.141-15.

**1.2. Responsible Officials.** The undersigned are the duly appointed, qualified and acting agents and representatives of the Authority and the State, and, as such, together with other officials of the Authority and the State, are charged with the responsibility for execution and delivery of the Lease and the Assignment, and are duly authorized to execute and deliver this Certificate on behalf of the Authority and the State.

The undersigned have been informed of, or have discussed with Special Tax Counsel, Bryan Cave LLP, the purpose and scope of Sections 103 and 141 through 150 of the Code and the corresponding provisions of the Treasury Regulations. The undersigned intends and acknowledges that the following statements and representations can and will be relied upon by Bryan Cave LLP, in its capacity as Special Tax Counsel, in determining whether the Interest

Components of the Basic Rent payable under the Lease is excludable from gross income for federal income tax purposes.

**1.3. Reasonable Expectations.** To the best of the knowledge, information and belief of the undersigned, the facts and estimates set forth in this Certificate are accurate and the expectations of the Authority and the State set forth in this Certificate are reasonable. The Authority and the State are not aware of any facts or circumstances that would cause them to question the accuracy of the representations made by the Assignee as purchaser of the Assigned Rights.

**1.4. The Resolution.** The Authority and the State are delivering the Lease simultaneously with the delivery of this Certificate, pursuant to and in full compliance with the Constitution and statutes of the State of Kansas, including specifically K.S.A. 74-8901 *et seq.* (the "Act") and Resolution No. 337 adopted by the members of the Authority on October 1, 2015 (the "Resolution").

**1.5. Purpose of the Lease and the Assignment.** The Lease and the Assignment are being executed and delivered for the purpose of providing funds to finance the cost of a new energy service center for the State's Capitol Complex including the Landon State Office Building (the "Landon Facilities") and the State Capitol Building in Topeka, Kansas (the "Energy Center Project").

**1.6. Use of Proceeds.** The net proceeds to be received by the Authority from the assignment of the Lease pursuant to the Assignment will be as set forth on *Exhibit B* attached hereto. The proceeds of the Assignment do not exceed the amounts expected to be necessary for the governmental purposes of the Lease as described above and are expected to be needed, deposited to the accounts designated, and fully expended by the Authority as follows:

(a) In the Costs of Issuance Account, an amount equal to \$167,834.00 which will be used to pay the Costs of Issuance of the Lease.

(b) In the Project Account the balance of the proceeds of the Assignment in the amount of \$16,432,166.00 to be used and applied to pay Costs of the Energy Center Project.

**1.7. Source and Use of Other Moneys.** The Authority and the State do not expect to require other funds to pay the Costs of the Energy Center Project.

**1.8. No Hedge Bonds.** As of the date of delivery of the Lease and the Assignment, the Authority reasonably expects to expend at least eighty five percent (85%) of the spendable proceeds of the Assignment to finance a governmental project within three (3) years of the date of issuance of such obligations. Less than fifty percent (50%) of the proceeds of the Assignment to be invested in Nonpurpose Investments (i.e., any security or obligation other than an obligation the interest on which is excluded from gross income under Section 103 of the Code, any annuity contract or any other investment-type property in which Gross Proceeds as used in Treasury



Regulation 1.148-1(b) were invested) with a substantially guaranteed yield for four (4) years or longer.

## **2. FUNDS AND ACCOUNTS UNDER THE RESOLUTIONS**

**2.1. Funds and Accounts Established or Ratified under the Lease.** The following funds and accounts are established pursuant to the Lease:

Project Account  
Costs of Issuance Account  
Principal and Interest Account  
Depreciation and Maintenance Account  
Rebate Account

**2.2. Security for the Lease.** The State and the Authority will enter into a Site Lease Agreement dated as of December 29, 2015, pursuant to which the State will lease the Landon Facilities to the Authority, and the Authority will lease the Landon Facilities back to the State pursuant to the Lease. The Principal Component, redemption premium, if any, and the Interest Component of the Basic Rent as identified in the Lease shall be special limited obligations of the State, subject to annual appropriation by the State Legislature. The rents, revenues and receipts from the leasing of the Landon Facilities to the State as provided in the Lease including, without limitation, all Basic Rent payments derived by the Authority under and pursuant to are payable subject to the provisions of the Lease.

**2.3. Payments of the Lease.** The obligations of the State represented by the Lease will be repaid through the payments of Basic Rent made from the Principal and Interest Account. Basic Rent payable under the will be paid on the dates specified therein.

## **3. OVER-ISSUANCE; TEMPORARY PERIOD CALCULATIONS**

**3.1. No Over-issuance.** The total proceeds derived by the Authority from the assignment of the Lease pursuant to the Assignment, together with investment earnings thereon, do not exceed the amounts expected to be necessary for the governmental purposes of the Lease.

**3.2. Completion of Project.** The acquisition, construction and installation of the Energy Center Project and the expenditure of the proceeds of the Assignment will proceed with due diligence toward completion, which is expected to occur not later than December 1, 2018. The State will enter into within 6 months after the date hereof, substantial binding obligations to third parties to expend at least 5% of the net sale proceeds of the Assignment. At least 85% of the net sale proceeds of the Assignment will be expended on the costs of the Energy Center Project in any event within 3 years after this date.

**3.3. Reimbursement.** None of the proceeds of the Assignment will be used to reimburse the Authority or the State for expenditures made in violation of the provisions of § 1.150-2 of the Regulations.

#### 4. **YIELD**

**4.1. Yield.** On *Exhibit C* the Assignee has certified that: (a) the assignment of the Lease pursuant to the Assignment has not been the subject of an initial offering to the “public”. Accordingly, the aggregate initial issue price of the Lease is \$16,600,000.00 plus accrued interest, the price to the first buyer.

Based on such issue price, the yield on the Lease (as set forth on *Schedule I* attached hereto) is 2.3202%. Costs of Issuance were not taken into account in this computation.

#### 5. **ARBITRAGE RESTRICTIONS ON INVESTMENTS.** The following represents the expectations of the Authority and the State, in accordance with applicable Treasury Regulations, with respect to the investment of the moneys on deposit in the aforementioned funds:

(a) Moneys deposited in the Principal and Interest Account may be invested at an unrestricted yield for a period of thirteen months from the date of deposit of such moneys to such accounts. Earnings on such amounts may be invested at an unrestricted yield for a period of one year from the date of receipt of the amount earned;

(b) Moneys deposited in the Costs of Issuance Account may be invested for a period of up to three (3) years at an unrestricted yield;

(c) Moneys deposited in the Project Account may be invested for a period of up to three (3) years at an unrestricted yield;

(d) Any amounts described in subparagraphs (a) through (c), together with investment earnings thereon, not invested at an unrestricted yield pursuant to such subparagraphs, may be invested at a yield not in excess of the yield on the Lease.

#### 6. **SINKING FUNDS**

Moneys deposited in the Principal and Interest Account will be used to pay the Principal Component and Interest Component of the Basic Rent payable under the Lease. The Principal and Interest Account is an account that is used primarily to achieve a proper matching of revenues and debt service within each lease year. Except for the Principal and Interest Account, the Authority and the State have not created or established, and does not expect to create or establish, any sinking fund or other similar fund which is reasonably expected to be used to pay the Principal Component or Interest Component of the Basic Rent payable under the Lease.

#### 7. **RESERVE, REPLACEMENT AND PLEDGED FUNDS**

**7.1. Reserve Account.** There is no reserve fund established with respect to the Lease.

**7.2. Replacement Funds.** None of the proceeds of the Assignment will be used as a substitute for other funds that were intended or earmarked to pay the costs of the facilities financed therewith, and that have been or will be used to acquire higher yielding investments.

**7.3. Other Funds.** Moneys deposited in the Depreciation and Maintenance Account shall be used by the State to pay costs of usual and unusual and extraordinary repairs and replacements to the Energy Center Facilities. Funds on deposit in the Depreciation and Maintenance Account are not available to pay Basic Rent in the event that funds on deposit in the Principal and Interest Account shall be insufficient for the payment of Basic Rent and are not pledged or otherwise serve to secure the payment of Basic Rent payable. Moneys on deposit in the Depreciation and Maintenance Account may be invested without yield restriction.

**7.4. Pledged Funds.** Except for the Principal and Interest Account, there are no other pledged funds of the Authority for which a reasonable assurance exists that such funds would be available for payment of the Principal Component or Interest Component of Basic Rent payable under the Lease in the event the State encountered financial difficulty.

## **8. ARBITRAGE REBATE**

**8.1. General.** The investment of proceeds of the Assignment is subject to certain restrictions under the Code and the Treasury Regulations thereunder, as described in the Arbitrage Instructions attached hereto as *Exhibit A*. Pursuant to the Arbitrage Instructions, the Authority shall engage a Rebate Analyst as defined in the Arbitrage Instruction to compute rebatable arbitrage on the Lease and the Assignment, and to pay rebatable arbitrage to the United States at least once every five years, and within 60 days after the retirement of the last payment of Basic Rent payable under the Lease, in accordance with Code § 148(f).

## **9. MISCELLANEOUS**

**9.1. Expected Use.** The Authority and the State expect that the State will use the Landon Facilities and the Energy Center Project financed with the proceeds of the Assignment of the Lease for its governmental purposes over the full term of the Lease.

**9.2. No Other Issues.** There are no other obligations of the Authority or the State which (1) are being sold within 15 days of the sale of the Assignment; (2) are being sold pursuant to the same plan of financing as the Lease and the Assignment; and (3) are expected to be paid from substantially the same source of funds (disregarding guarantees from unrelated parties, such as bond insurance).

**9.3. No Abusive Arbitrage Device.** The Lease and the Assignment are not and will not be part of a transaction or series of transactions that has the effect of (a) enabling the Authority or the State to exploit the difference between tax-exempt and taxable interest rates to gain a material financial advantage, and (b) overburdening the tax-exempt market.

**9.4. Informational Filing.** The Authority and the State will submit any required informational filing to the United States Treasury Department within the time prescribed by law.

**9.5. Compliance with Federal Law.** The Authority and the State will comply with all applicable federal laws with respect to the Lease.

On the basis of the foregoing facts, estimates and circumstances, it is not expected that the proceeds of the assignment of the Lease pursuant to the Assignment will be used in a manner that would cause the Lease or the Assignment to be "arbitrage bonds" within the meaning of § 148 of the Code and the Treasury Regulations.

**[The balance of this page is intentionally left blank.]**

WITNESS our hands this 29<sup>th</sup> day of December, 2015.

Signature

Official Title

Rebecca E. Floyd

Rebecca E. Floyd

Executive Vice President,  
KANSAS DEVELOPMENT  
FINANCE AUTHORITY  
("THE AUTHORITY")

Signature

Sarah L. Shipman

Sarah L. Shipman

Official Title

Acting Secretary of Administration,  
THE STATE OF KANSAS –  
DEPARTMENT OF ADMINISTRATION  
("THE STATE")

***SCHEDULE I***

**CALCULATION OF YIELD ON THE ASSIGNMENT OF THE LEASE**

**DoA Energy & Facility Lease**

\$16,432,166 Net Proceeds --- Final Maturity 3/15/2031

BAML Bid @ 2.32% --- Closing 12/29/15

\$16,600,000.00

**Debt Service Schedule**

Part 1 of 2

Date	Principal	Coupon	Interest	Total P+I
03/15/2016	-	-	81,303.11	81,303.11
09/15/2016	-	-	192,560.00	192,560.00
03/15/2017	937,914.00	2.320%	192,560.00	1,130,474.00
09/15/2017	-	-	181,680.20	181,680.20
03/15/2018	959,674.00	2.320%	181,680.20	1,141,354.20
09/15/2018	-	-	170,547.98	170,547.98
03/15/2019	981,938.00	2.320%	170,547.98	1,152,485.98
09/15/2019	-	-	159,157.50	159,157.50
03/15/2020	1,004,719.00	2.320%	159,157.50	1,163,876.50
09/15/2020	-	-	147,502.76	147,502.76
03/15/2021	1,028,029.00	2.320%	147,502.76	1,175,531.76
09/15/2021	-	-	135,577.62	135,577.62
03/15/2022	1,051,879.00	2.320%	135,577.62	1,187,456.62
09/15/2022	-	-	123,375.83	123,375.83
03/15/2023	1,076,283.00	2.320%	123,375.83	1,199,658.83
09/15/2023	-	-	110,890.94	110,890.94
03/15/2024	1,101,252.00	2.320%	110,890.94	1,212,142.94
09/15/2024	-	-	98,116.42	98,116.42
03/15/2025	1,126,801.00	2.320%	98,116.42	1,224,917.42
09/15/2025	-	-	85,045.53	85,045.53
03/15/2026	1,152,943.00	2.320%	85,045.53	1,237,988.53
09/15/2026	-	-	71,671.39	71,671.39
03/15/2027	1,179,691.00	2.320%	71,671.39	1,251,362.39
09/15/2027	-	-	57,986.97	57,986.97
03/15/2028	1,207,060.00	2.320%	57,986.97	1,265,046.97
09/15/2028	-	-	43,985.08	43,985.08
03/15/2029	1,235,064.00	2.320%	43,985.08	1,279,049.08
09/15/2029	-	-	29,658.33	29,658.33
03/15/2030	1,263,717.00	2.320%	29,658.33	1,293,375.33
09/15/2030	-	-	14,999.22	14,999.22
03/15/2031	1,293,036.00	2.320%	14,999.22	1,308,035.22
<b>Total</b>	<b>\$16,600,000.00</b>	<b>-</b>	<b>\$3,326,814.65</b>	<b>\$19,926,814.65</b>



## DoA Energy & Facility Lease

\$16,432,166 Net Proceeds --- Final Maturity 3/15/2031

BAML Bid @ 2.32% --- Closing 12/29/15

\$16,600,000.00

## Debt Service Schedule

Part 2 of 2

### Yield Statistics

Bond Year Dollars	\$143,397.18
Average Life	8.638 Years
Average Coupon	2.3200000%
Net Interest Cost (NIC)	2.3200000%
True Interest Cost (TIC)	2.3202133%
Bond Yield for Arbitrage Purposes	2.3202133%
All Inclusive Cost (AIC)	2.4539924%

### IRS Form 8038

Net Interest Cost	2.3200000%
Weighted Average Maturity	8.638 Years

**EXHIBIT A**  
**ARBITRAGE INSTRUCTIONS**  
**\$16,600,000**  
**ASSIGNMENT**  
**OF**  
**LEASE WITH OPTION TO PURCHASE, SERIES 2015L**  
**BETWEEN**  
**KANSAS DEVELOPMENT FINANCE AUTHORITY**  
**AND**  
**DEPARTMENT OF ADMINISTRATION**  
**(ENERGY SERVICE CENTER PROJECT)**

**DATED DECEMBER 29, 2015**

These Arbitrage Instructions provide procedures for complying with § 148 of the Internal Revenue Code of 1986, as amended (the “Code”), in order to preserve the exclusion from federal gross income of the Interest Component of Basic Rent payable on the above-referenced Assignment and the Lease (the “Assignment” and the “Lease”, respectively) authorized by Bond Resolution No. 337 of the Authority (the “Resolution”).

**1. Definitions.** Unless the context otherwise requires, in addition to the terms defined in the Lease and in the Regulations, the following capitalized terms have the following meanings:

“**Available Construction Proceeds**” means when used in connection with the Lease, the proceeds of the assignment of the Lease pursuant to the Assignment, which are allocable to a “**Construction Issue**” (as such term is defined in Treasury Regulation 1.148-7(f)), increased by all investment earnings thereon which are reasonably expected to accrue by the date the amount of Available Construction Proceeds is to be determined and reduced by amounts used to pay Costs of Issuance of that portion of the Assignment proceeds which are allocable to the Construction Issue. In this case the amount of proceeds of the Assignment allocable to the Construction Issue shall be determined in accordance with Tax Regulation 1.148-9 and shall include all of the Proceeds of the Assignment (except for amounts used to pay accrued interest thereon).

“**Bona Fide Debt Service Fund**” means a fund, which may include Assignment proceeds, that –

(1) is used primarily to achieve a proper matching of revenues with Principal Component and Interest Component of the Basic Rent payments under the Lease within each Lease Year; and

(2) is depleted at least once each Lease Year, except for a reasonable carryover amount not to exceed the greater of (A) the earnings on the fund for the immediately preceding Lease Year, or (B) one-twelfth of the Principal Component and Interest Component payments on the Lease for the immediately preceding Lease Year.

**“Final Computation Date”** means the date the last Basic Rent payment under the Lease is discharged.

**“Gross Proceeds”** means: (a) sale proceeds, *i.e.*, all amounts actually or constructively received from the assignment of the Lease pursuant to the Assignment; (b) investment proceeds derived from the investment of sale proceeds; (c) amounts held in a sinking fund for the Lease; (d) amounts held in a pledged fund or reserve fund for Lease; and (e) any transferred proceeds. Specifically, Gross Proceeds include all amounts held in the following funds and accounts:

- (1) Project Account.
- (2) Principal and Interest Account.
- (3) Costs of Issuance Account.
- (4) Rebate Account.

**“Guaranteed Investment Contract”** means any Investment with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate. The term also includes any agreement to supply Investments on two or more future dates (*e.g.*, a forward supply contract).

**“Installment Computation Date”** means the last day of the fifth and each succeeding fifth Lease Year. The first Installment Computation Date is June 30, 2020.

**“Investment”** means any security, obligation, annuity contract or other investment-type property which is purchased directly with, or otherwise allocated to, Gross Proceeds. Such term does not include obligations the interest on which is excluded from federal gross income, except for “specified private activity bonds” as such term is defined in Code § 57(a)(5)(C).

**“IRS”** means the Internal Revenue Service of the United States.

**“Issue Date”** means December 29, 2015.

**“Lease Year”** means each one-year period (or shorter period from the Issue Date) that ends at the close of business on June 30 of each year.

**“Minor Portion”** means an amount equal to the lesser of \$100,000 or 5% of the sale proceeds of Assignment.

**“Reasonable Retainage”** means Gross Proceeds retained for reasonable business purposes, such as to ensure or promote compliance with a construction contract; provided that such amount may not exceed: (a) for the purposes of the 18-month expenditure test, 5% of net sales proceeds of the Assignment on the date 18 months after the Issue Date; or (b) for purposes

of the two year expenditure test, 5% of the Available Construction Proceeds as of the end of the two year spending period.

**“Rebate Analyst”** means Special Tax Counsel, an independent certified public accountant or such other person or firm selected by the Authority to compute arbitrage rebate.

**“Regulations”** means Treasury Regulations §§ 1.148-0 through 1.148-11, 1.149(d)-1, 1.149(g)-1, 1.150-1 and 1.150-2, as the same may hereafter be amended, and any other temporary, proposed or final regulations issued by the U.S. Treasury Department to implement the requirements of § 148(f) of the Code and applicable to the Lease.

**“Special Tax Counsel”** means Bryan Cave LLP, special tax counsel, or other attorney or firm of attorneys with a nationally recognized standing in the field of municipal bond financing selected by the Authority.

**2. Investments.** All Gross Proceeds must be invested in accordance with this Section.

**(a) Temporary Periods/Yield Restriction.** Except as described below, Gross Proceeds must not be invested at a yield greater than the yield on the Lease.

(1) *Project Account.* Proceeds of the assignment of the Lease pursuant to the Assignment deposited in the Project Account and investment earnings thereon may be invested without yield restriction for a period of three years after the Issue Date. If any unspent proceeds remain in the Project Account after three years, such amounts may continue to be invested without yield restriction so long as the Authority computes and pays to the IRS all yield reduction payments in accordance with Treas. Reg. § 1.148-5(c). These payments are required whether or not this fund or account is exempt from the arbitrage rebate requirements of Code § 148.

(2) *Costs of Issuance Account.* Proceeds of the assignment of the Lease pursuant to the Assignment deposited in the Costs of Issuance Account and investment earnings thereof may be invested without yield restriction for a period of three years after the Issue Date. If any unspent proceeds remain in the Costs of Issuance Account after three years, such amounts may continue to be invested without yield restriction so long as the Authority and the State compute and pay to the IRS all yield reduction payments in accordance with Treas. Reg. § 1.148-5(c). These payments are required whether or not this fund or account is exempt from the arbitrage rebate requirements of Code § 148.

(3) *Principal and Interest Account.* To the extent that the Principal and Interest Account qualifies as a Bona Fide Debt Service Fund, amounts deposited in the Principal and Interest Account may be invested without yield restriction for 13 months after the date of deposit. Earnings on such amounts may

be invested without yield restriction for one year after the date of receipt of such earnings.

(4) *Rebate Account.* Money deposited in the Rebate Account may be invested without yield restriction.

(5) *Minor Portion.* In addition to the amounts described above, the Minor Portion may be invested without yield restriction in accordance with Code § 148(e).

(6) *Other Funds.* Money deposited in any other funds or accounts established by the Lease may be invested without yield restriction.

**(b) *Fair Market Value.***

(1) *General.* No Investment may be acquired with Gross Proceeds for an amount (including transaction costs) in excess of the fair market value of such Investment, or sold or otherwise disposed of for an amount (including transaction costs) less than the fair market value of the Investment. The fair market value of any Investment is the price a willing buyer would pay to a willing seller to acquire the Investment in a bona fide, arm's length transaction. Fair market value shall be determined in accordance with § 1.148 5(d) of the Regulations.

(2) *Established Securities Market.* If an Investment is purchased or sold in an arm's-length transaction on an established securities market (within the meaning of Code § 1273), the purchase or sale price constitutes the fair market value. Where there is no established securities market for an investment, market value must be established using one of the paragraphs below.

(3) *Certificates of Deposit.* The purchase price of a certificate of deposit (a "CD") is treated as its fair market value on the purchase date if (i) the CD has a fixed interest rate, a fixed payment schedule and a substantial penalty for early withdrawal; (ii) the yield on the CD is not less than the yield on reasonably comparable direct obligations of the United States; and (iii) the yield on the CD is not less than the highest yield published or posted by the CD issuer to be currently available from such Issuer on reasonably comparable CDs offered to the public.

(4) *Guaranteed Investment Contracts.* The purchase price of a Guaranteed Investment Contract is treated as its fair market value on the purchase date if:

(i) The State or the Authority on its behalf makes a bona fide solicitation for a specified Guaranteed Investment Contract and receives at least three bona fide bids from providers that have no material financial interest in the Lease (*e.g.*, as underwriters or brokers);

(ii) The State or the Authority on its behalf purchases the highest yielding Guaranteed Investment Contract for which a qualifying bid was made (determined net of broker fees);

(iii) The yield on the Guaranteed Investment Contract (not of broker fees) is not less than the yield then available from the provider on reasonably comparable Guaranteed Investment Contracts, if any, offered to other persons from a source of funds other than gross proceeds of tax-exempt obligations;

(iv) A significant factor in determining the terms of the Guaranteed Investment Contract is the State's expected draw-down schedule for the amounts to be invested, excluding amounts to be deposited in the Principal and Interest Account.

(v) The terms of the Guaranteed Investment Contract, including collateral requirements, are reasonable; and

(vi) The provider certifies the administrative costs that it is paying (or expects to pay) to third parties in connection with the Guaranteed Investment Contract.

### **3. Spending Exceptions.**

(a) ***Six-Month Exception.*** The obligation to pay arbitrage rebate to the United States will be treated as satisfied if –

(1) the Gross Proceeds (as modified below) are allocated to expenditures for the governmental purpose of the Lease within six months after the Issue Date; and

(2) arbitrage rebate is paid in accordance with Code § 148 on all other Gross Proceeds.

For purposes of paragraph (1) above, Gross Proceeds do not include amounts in the Principal and Interest Account or amounts that become Gross Proceeds after the end of the six-month spending period, but were not expected to be Gross Proceeds as of the Issue Date. The proceeds of the assignment of the Lease pursuant to the Assignment meet with six-month expenditure test even if, at the end of the six-month period, Gross Proceeds not exceeding 5% of the sale proceeds of the Assignment remain unspent, so long as such Gross Proceeds are spent within one year after the Issue Date. The use of Gross Proceeds to pay any Principal Component of Basic Rent under the Lease will not be treated as an expenditure of Gross Proceeds.

(b) ***Eighteen-Month Exception.*** The obligation to pay arbitrage rebate to the United States will be treated as satisfied if –

(1) the Gross Proceeds (as modified below) are allocated to expenditures for the governmental purpose of the Lease in accordance with the following schedule:

<u>Time Period After the Issue Date</u>	<u>Minimum Percentage of Gross Proceeds Spent</u>
6 months	15%
12 months	60%
18 months	100%

and

(2) arbitrage rebate is paid in accordance with Code § 148 on all other Gross Proceeds.

For purposes of paragraph (1) above, Gross Proceeds do not include amounts in the Principal and Interest Account or amounts that become Gross Proceeds after the end of the 18-month period, but were not expected to be Gross Proceeds as of the Issue Date. The use of proceeds of the Assignment meets the 18-month expenditure test even if, at the end of the 18-month period, Gross Proceeds not exceeding a Reasonable Retainage remain unspent, so long as such proceeds are spent within 30 months after the Issue Date. In addition, the failure to satisfy the final spending requirement at the end of the 18-month period is disregarded if the Energy Center Project is completed with due diligence, and the amount of Gross Proceeds unspent does not exceed the lesser of 3% of the aggregate issue price of the Assignment or \$250,000. However, the use of Gross Proceeds to pay any Principal Component of Basic Rent under the Lease will not be treated as an expenditure of such Gross Proceeds.

**(c) *Two-Year Exception for Construction Issue.***

(1) Expenditure Test. The obligation to pay rebatable arbitrage to the United States will be treated as satisfied with respect to the Available Construction Proceeds of the assignment of the Lease pursuant to the Assignment if all of such Available Construction Proceeds are spent within 2 years after the Issue Date, in accordance with the following schedule:

<u>Time Period After the Issue Date</u>	<u>Minimum Percentage of Available Construction Proceeds Spent</u>
6 months	10%
1 year	45%
12 months	75%
2 years	100%

and

(2) Rebatable arbitrage is paid in accordance with Section 148 of the Code on all other Gross Proceeds.

The proceeds of the assignment of the Lease pursuant to the Assignment meet the 2-year expenditure test even if, at the end of the 2-year period, Available Construction Proceeds not exceeding 5% of the Available Construction Proceeds remain unspent, so long as such amount is spent within 3 years after the Issue Date. In addition, the failure to satisfy the final spending requirement at the end of the 2-year period is disregarded if the State uses due diligence to complete the Energy Center Project, and the amount of Gross Proceeds unspent does not exceed the lesser of 3% of the aggregate issue price of the Assignment or \$250,000. However, the use of Available Construction Proceeds to pay any Principal Component of the Basic Rent payable under the Lease will not be treated as an expenditure of Gross Proceeds.

#### **4. Computation and Payment of Arbitrage Rebate.**

(a) ***Rebate Account.*** A special fund designated the “Rebate Account” has been established under the Lease. The Authority shall keep the Rebate Account separate from all other funds and shall administer the Rebate Account pursuant to these Arbitrage Instructions. Any investment earnings or gain derived from the Rebate Account shall be credited to the Rebate Account, and any investment loss shall be charged to such Account.

(b) ***Computation of Arbitrage Rebate.*** Except as provided above, the Authority shall compute or shall engage a Rebate Analyst to compute arbitrage rebate within 45 days after each Installment Computation Date, and within 45 days after the Final Computation Date, in accordance with the Regulations. If the amount in the Rebate Account is less than the arbitrage rebate due, the Authority shall make up such deficiency using lawfully available funds held under the Lease or obtained from the State pursuant to the Lease. If the amount in the Rebate Account exceeds the arbitrage rebate due, the Authority may transfer such surplus to the Principal and Interest Account. After the Final Computation Date and all arbitrage rebate, if any, has been paid to the United States, the Authority may use amounts remaining in the Rebate Account for any purpose not prohibited by law as directed by the Department of Administration.

(c) ***Exception for Principal and Interest Account.*** To the extent that the Principal and Interest Account is a Bona Fide Debt Service Fund, investment earnings in the Principal and Interest Account shall not be taken into account in computing arbitrage rebate if: (1) the weighted average maturity of the Lease is at least five years and all of the Basic Rent payments bear interest at fixed rates; (2) at the option of the Authority and the State, if all of the proceeds of the Assignment satisfy the 6-month spending exception from rebate described above; (3) for the portion of a Bona Fide Debt Service Fund allocable to the Lease, at the option of the Authority and the State, if the proceeds of the Assignment satisfy the 18-month or 2-year spending exception from rebate described above; or (4) for a given Lease Year, if the gross earnings on the Principal and Interest Account for such Lease Year are less than \$100,000. If the average annual debt service on the Lease does not exceed \$2,500,000, the \$100,000 earnings test may be treated as satisfied.



(d) **Rebate Payments.** Within 60 days after each Installment Computation Date and within 60 days after the Final Computation Date, the Authority shall pay or cause the State to pay to the United States the amount of arbitrage rebate then payable to the United States, determined in accordance with the Regulations.

Each payment of arbitrage rebate shall be mailed or delivered to:

Internal Revenue Service Center  
Ogden, Utah 84201

and shall be accompanied by IRS Form 8038-T and such other forms, documents or certificates as may be required by the Regulations.

**5. Records.** The Authority and the State shall retain detailed records with respect to each computation of arbitrage rebate and each investment attributable to Gross Proceeds of the assignment of the Lease pursuant to the Assignment, including: (a) purchase date, (b) purchase price, (c) information establishing the fair market value on the date such Investment was allocated to the Assignment of the Lease, (d) any accrued interest paid, (e) face amount, (f) coupon rate, (g) frequency of interest payments, (h) disposition price, (i) any accrued interest received, and (j) disposition date. The Authority shall retain all such records until six years after the Final Computation Date.

**6. Filing Requirements.** The Authority or the State shall file or cause to be filed with the IRS such reports or other documents as are required by the Code in accordance with an opinion of Special Tax Counsel.

**7. Survival after Defeasance.** Notwithstanding anything in the Resolution, the Lease or the Assignment to the contrary, the obligation to pay arbitrage rebate to the United States and to comply with all other requirements contained in these Arbitrage Instructions and in the Regulations shall survive the payment or defeasance of the Lease.

**8. Opinion of Special Tax Counsel.** These Arbitrage Instructions may be modified or amended in whole or in part upon receipt of an opinion of Special Tax Counsel to the effect that such modifications and amendments will not adversely affect the exclusion from gross income of the Interest Component of the Basic Rent under Lease.

**EXHIBIT B**

**RECEIPT FOR PURCHASE PRICE**

**\$16,600,000  
ASSIGNMENT  
OF  
LEASE WITH OPTION TO PURCHASE, SERIES 2015L  
BETWEEN  
KANSAS DEVELOPMENT FINANCE AUTHORITY  
AND  
DEPARTMENT OF ADMINISTRATION  
(ENERGY SERVICE CENTER PROJECT)**

**DATED DECEMBER 29, 2015**

The Kansas Development Finance Authority (the "Authority") hereby acknowledges receipt from Banc of America Public Capital Corp, the Assignee of the Assigned Rights as defined in the above-described Lease, the full purchase price of the Assigned Rights, said purchase price and net amount received being calculated as follows:

Principal Amount	\$16,600,000.00
Less: Underwriter's Discount	(0.00)
Plus Accrued Interest	<u>0.00</u>
<b>TOTAL AMOUNT RECEIVED</b>	<b><u>\$16,600,000.00</u></b>

Dated: December 29, 2015

**KANSAS DEVELOPMENT FINANCE AUTHORITY**

By: Rebecca E. Floyd  
Rebecca E. Floyd, Executive Vice President

**EXHIBIT C**  
**RECEIPT AND REPRESENTATION**  
**\$16,600,000**  
**ASSIGNMENT**  
**OF**  
**LEASE WITH OPTION TO PURCHASE, SERIES 2015L**  
**BETWEEN**  
**KANSAS DEVELOPMENT FINANCE AUTHORITY**  
**AND**  
**DEPARTMENT OF ADMINISTRATION**  
**(ENERGY SERVICE CENTER PROJECT)**

**DATED DECEMBER 29, 2015**

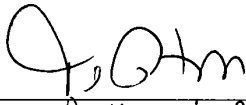
The undersigned representative of Banc of America Public Capital Corp (the "Assignee"), as original assignee and purchaser of the Assigned Rights as defined in that certain above-described lease (the "Lease") pursuant to the Assignment, being delivered on the date hereof by the Kansas Development Finance Authority (the "Authority"), does hereby certify and represent as follows:

1. **Receipt for the Lease.** The Assignee acknowledges receipt on the date hereof of the Assignment and the Lease in a form acceptable to the Assignee.
2. **Public Offering.** The Assigned Rights have not been the subject of any offering to the public. The undersigned is the first buyer of the Assigned Rights and has purchased the Assigned Rights at the purchase price of \$16,600,000, there being no interest accrued to the date hereof.

This certificate may be relied upon by the Authority and the State in executing and delivering its Federal Tax Certificate, and by Bryan Cave LLP, Special Tax Counsel, in rendering its opinion relating to the exclusion from federal gross income of the Interest Component of the Basic Rent payable under the Lease.

Dated: December 29, 2015.

Banc of America Public Capital Corp

By:   
Title: Authorized Agent

STATKAN

**ACORD**<sup>TM</sup>**EVIDENCE OF PROPERTY INSURANCE**DATE (MM/DD/YYYY)  
12/22/2015

THIS EVIDENCE OF PROPERTY INSURANCE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE ADDITIONAL INTEREST NAMED BELOW. THIS EVIDENCE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS EVIDENCE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE ADDITIONAL INTEREST.

<b>AGENCY</b> <b>IMA, Inc. - NE Kansas Division</b> <b>51 Corporate Woods</b> <b>9393 W 110th Street, Suite 600</b> <b>Overland Park, KS 66210</b>		<b>PHONE (A/C, No, Ext): 913 982-3650</b>		<b>COMPANY</b> <b>Travelers Indemnity Company</b> <b>P. O. Box 2992</b> <b>Wichita, KS 67201</b>	
<b>FAX (A/C, No): 9139823495</b>		<b>E-MAIL ADDRESS: tracey.nash@imacorp.com</b>			
<b>CODE:</b>		<b>SUB CODE:</b>			
<b>AGENCY CUSTOMER ID #: 40439</b>					
<b>INSURED</b> <b>State of Kansas</b> <b>and the Department of Administration</b> <b>900 S.W. Jackson Street, Room 451S</b> <b>Topeka, KS 66612</b>		<b>LOAN NUMBER</b>		<b>POLICY NUMBER</b> <b>KTXKCMB1803B25215</b>	
		<b>EFFECTIVE DATE</b> <b>07/01/15</b>		<b>EXPIRATION DATE</b> <b>07/01/16</b>	
				<input type="checkbox"/> <b>CONTINUED UNTIL TERMINATED IF CHECKED</b>	
<b>THIS REPLACES PRIOR EVIDENCE DATED:</b>					

**PROPERTY INFORMATION**

**LOCATION/DESCRIPTION**  
**900 SW Jackson Street**  
**Topeka, KS 66612**  
**Landon State Office Building**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS EVIDENCE OF PROPERTY INSURANCE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

**COVERAGE INFORMATION**

COVERAGE/PERILS/FORMS	AMOUNT OF INSURANCE	DEDUCTIBLE
<b>****Blanket Coverage Information****</b>  <b>Blanket #1 Combined Bldg &amp; Per Prop</b> <b>Cause of Loss: Special (Including Theft)</b> <b>Valuation: Replacement Cost</b> <b>Coinsurance%: 0</b>  <b>(See Attached Coverage Info.)</b>	<b>100,000,000</b>	<b>\$5,000,000</b>

**REMARKS (Including Special Conditions)**

--

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

**ADDITIONAL INTEREST**

<b>NAME AND ADDRESS</b> <b>Banc of America Public Capital Corp</b> <b>477 S. Third Street</b> <b>Geneva, IL 60134</b>	<input type="checkbox"/>	<b>MORTGAGEE</b>	<b>ADDITIONAL INSURED</b>
	<input checked="" type="checkbox"/>	<b>LOSS PAYEE</b>	
	<b>LOAN #</b>		
	<b>AUTHORIZED REPRESENTATIVE</b>		

COVERAGE INFORMATION (Continued from page 1.)		
COVERAGE/PERILS/FORMS	AMOUNT OF INSURANCE	DEDUCTIBLE
<b>Blanket #2 Combined Bldg &amp; Per Prop</b> Cause of Loss: Special (Including Theft) Valuation: Replacement Cost Coinsurance%: 0 Deductible Basis: Any One Occurrence	200,000,000	\$2,000,000
<b>Commercial Property Location Specific Coverages</b>  Location #: 2 900 SW Jackson Street Topeka, KS 66612		
Building #: 1 Landon State Office Building Coverage: Blanket Bldg & Pers Prop Blanket #: 2 Blanket Coverage: Combined Bldg & Per Prop Cause: Special (Including Theft)	Blk Limit 200,000,000	\$2,000,000

**RECEIPT**

**\$16,600,000**

**LEASE WITH OPTION TO PURCHASE, SERIES 2015L**

**BY AND BETWEEN**

**KANSAS DEVELOPMENT FINANCE AUTHORITY**

**AND**

**STATE OF KANSAS – DEPARTMENT OF ADMINISTRATION**

**DATED DECEMBER 29, 2015**

Kansas Development Finance Authority (the “**Authority**”) and the State of Kansas – Department of Administration hereby acknowledge receipt of \$16,600,000.00 (\$16,432,166.00 to be deposited into the Project Account and \$167,834.00 to be deposited into the Costs of Issuance Account) from Banc of America Public Capital Corp, as Assignee under an Assignment dated as of December 29, 2015 by the Authority to the Assignee with respect to the assignment of the Assigned Rights as defined under that certain Lease with Option to Purchase, Series 2015L, dated as of December 29, 2015 by and between the Authority and State of Kansas – Department of Administration.

Dated: December 29, 2015

**KANSAS DEVELOPMENT FINANCE AUTHORITY**

By: Rebecca E. Floyd  
Rebecca E. Floyd, Executive Vice President

**STATE OF KANSAS – DEPARTMENT OF  
ADMINISTRATION**

By: Sarah L. Shipman  
Sarah L. Shipman, Acting Secretary of Administration

**RECEIPT**

**\$16,600,000**

**LEASE WITH OPTION TO PURCHASE, SERIES 2015L**

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**AND**

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Dated: December 29, 2015

**KANSAS DEVELOPMENT FINANCE AUTHORITY**

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

Rebecca E. Floyd, Executive Vice President

**STATE OF KANSAS – DEPARTMENT OF  
ADMINISTRATION**

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

*Sarah L. Shipman*

Sarah L. Shipman, Acting Secretary of Administration

Form **8038-G**  
(Rev. September 2011)

Department of the Treasury  
Internal Revenue Service

## Information Return for Tax-Exempt Governmental Obligations

► Under Internal Revenue Code section 149(e)

► See separate instructions.

Caution: If the issue price is under \$100,000, use Form 8038-GC.

OMB No. 1545-0720

### Part I Reporting Authority

If Amended Return, check here ☐

1 Issuer's name Kansas Development Finance Authority		2 Issuer's employer identification number (EIN) 48-1066589
3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions)		3b Telephone number of other person shown on 3a
4 Number and street (or P.O. box if mail is not delivered to street address) 534 S. Kansas Avenue	Room/suite 800	5 Report number (For IRS Use Only) 3
6 City, town, or post office, state, and ZIP code Topeka, Kansas 66603		7 Date of Issue 12/29/2015
8 Name of issue Lease with Option to Purchase, Series 2015L		9 CUSIP number None
10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions) Rebecca E. Floyd, Executive Vice President		10b Telephone number of officer or other employee shown on 10a (785) 357-4445

### Part II Type of Issue (enter the issue price). See the instructions and attach schedule.

11 Education	11		
12 Health and hospital	12		
13 Transportation	13		
14 Public safety	14		
15 Environment (including sewage bonds)	15		
16 Housing	16		
17 Utilities	17		
18 Other. Describe ► Energy Center	18	16,600,000	00
19 If obligations are TANS or RANS, check only box 19a	►	<input type="checkbox"/>	
If obligations are BANS, check only box 19b	►	<input type="checkbox"/>	
20 If obligations are in the form of a lease or installment sale, check box	►	<input type="checkbox"/>	

### Part III Description of Obligations. Complete for the entire issue for which this form is being filed.

	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21	03/15/2031	\$ 16,600,000.00	\$ 16,600,000.00	8.638 years	2.3202 %

### Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)

22 Proceeds used for accrued interest	22	0	00
23 Issue price of entire issue (enter amount from line 21, column (b))	23	16,600,000	00
24 Proceeds used for bond issuance costs (including underwriters' discount)	24	167,834	00
25 Proceeds used for credit enhancement	25	0	00
26 Proceeds allocated to reasonably required reserve or replacement fund	26	0	00
27 Proceeds used to currently refund prior issues	27	0	00
28 Proceeds used to advance refund prior issues	28	0	00
29 Total (add lines 24 through 28)	29	167,834	00
30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)	30	16,432,166	00

### Part V Description of Refunded Bonds. Complete this part only for refunding bonds.

31 Enter the remaining weighted average maturity of the bonds to be currently refunded	►	years
32 Enter the remaining weighted average maturity of the bonds to be advance refunded	►	years
33 Enter the last date on which the refunded bonds will be called (MM/DD/YYYY)	►	
34 Enter the date(s) the refunded bonds were issued (MM/DD/YYYY)	►	

For Paperwork Reduction Act Notice, see separate instructions.

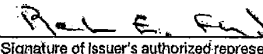
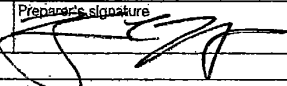
Cat. No. 63773S

Form **8038-G** (Rev. 9-2011)



**Part VI Miscellaneous**

35	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5) . . . . .	35	
36a	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC) (see instructions) . . . . .	36a	
b	Enter the final maturity date of the GIC ▶ _____		
c	Enter the name of the GIC provider ▶ _____		
37	Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units . . . . .	37	
38a	If this issue is a loan made from the proceeds of another tax-exempt issue, check box <input type="checkbox"/> and enter the following information:		
b	Enter the date of the master pool obligation ▶ _____		
c	Enter the EIN of the issuer of the master pool obligation ▶ _____		
d	Enter the name of the issuer of the master pool obligation ▶ _____		
39	If the issuer has designated the issue under section 265(b)(3)(B)(i)(II) (small issuer exception), check box . . . . .		<input type="checkbox"/>
40	If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box . . . . .		<input type="checkbox"/>
41a	If the issuer has identified a hedge, check here <input type="checkbox"/> and enter the following information:		
b	Name of hedge provider ▶ _____		
c	Type of hedge ▶ _____		
d	Term of hedge ▶ _____		
42	If the issuer has superintegrated the hedge, check box . . . . .		<input type="checkbox"/>
43	If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box . . . . .		<input type="checkbox"/>
44	If the issuer has established written procedures to monitor the requirements of section 148, check box . . . . .		<input type="checkbox"/>
45a	If some portion of the proceeds was used to reimburse expenditures, check here <input type="checkbox"/> and enter the amount of reimbursement . . . . . ▶ _____		
b	Enter the date the official intent was adopted ▶ _____		

<b>Signature and Consent</b>	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.			
	 Signature of issuer's authorized representative		12-29-15 Date	
<b>Paid Preparer Use Only</b>	Print/Type preparer's name Benjamin C. Thompson, Esq.		Preparer's signature 	
	Date 12/29/15		Type or print name and title Rebecca E. Floyd, Exec. V.P.	
	Firm's name ▶ Bryan Cave LLP		Check <input type="checkbox"/> if self-employed PTIN P01072565	
	Firm's address ▶ 1200 Main Street, Suite 3800, Kansas City, Missouri 64105		Firm's EIN ▶ 43-0602162 Phone no. (816) 374-3200	

## CLOSING MEMORANDUM - FINAL

\$16,600,000  
Kansas Development Finance Authority  
Lease With Option to Purchase  
(State of Kansas - Department of Administration)  
Series 2015L

Closing Date: Tuesday, December 29, 2015.

Assignee: Banc of America Public Capital Corp

Settlement: Pursuant to the purchase and delivery of the Lease on the above-referenced Closing Date, the Authority, as Issuer, shall confirm receipt by the Kansas State Treasurer of the wire described herein from Banc of America Public Capital Corp, as Assignee. Banc of America Public Capital Corp, and Chapman and Cutler LLP, as Assignee's Counsel, shall acknowledge receipt of the Lease in acceptable form.

### Working Group Contacts For Closing

<b>Kansas Development Finance Authority</b> (Issuer)	Jim MacMurray Rebecca Floyd Anne Pruneda	<a href="mailto:jmacmurray@kdfa.org">jmacmurray@kdfa.org</a> <a href="mailto:rfloyd@kdfa.org">rfloyd@kdfa.org</a> <a href="mailto:apruneda@kdfa.org">apruneda@kdfa.org</a>	785-357-4445 ext. 303 785-357-4445 ext. 304 785-357-4445 ext. 314
<b>State of Kansas</b> (Borrower)	Sarah Shipman John Yeary Mark McGivern David Stueve George Steele	<a href="mailto:sarah.shipman@da.ks.gov">sarah.shipman@da.ks.gov</a> <a href="mailto:john.yeary@da.ks.gov">john.yeary@da.ks.gov</a> <a href="mailto:mark.mcgivern@da.ks.gov">mark.mcgivern@da.ks.gov</a> <a href="mailto:david.stueve@da.ks.gov">david.stueve@da.ks.gov</a> <a href="mailto:george.steele@da.ks.gov">george.steele@da.ks.gov</a>	785-296-6000 785-296-2033 785-296-6060 785-296-0408 785-296-4693
<b>Columbia Capital Management, LLC</b> (Co-Financial Advisor)	Kelsi Spurgeon Dennis Lloyd Khalen Dwyer	<a href="mailto:kspurgeon@columbiacapital.com">kspurgeon@columbiacapital.com</a> <a href="mailto:dlloyd@columbiacapital.com">dlloyd@columbiacapital.com</a> <a href="mailto:kdwyer@columbiacapital.com">kdwyer@columbiacapital.com</a>	913-312-8055 913-312-8050 913-312-8068
<b>Bryan Cave LLP</b> (General Counsel)	William Hess Benjamin Thompson	<a href="mailto:wlhess@bryancave.com">wlhess@bryancave.com</a> <a href="mailto:ben.thompson@bryancave.com">ben.thompson@bryancave.com</a>	816-391-7672 816-374-3393
<b>Chapman &amp; Cutler LLP</b> (Assignee's Counsel)	Buzz Larsen	<a href="mailto:larsen@chapman.com">larsen@chapman.com</a>	312-845-3473
<b>Banc of America Public Capital Corp</b> (Assignee)	Lisa Tames Brad Koster	<a href="mailto:lisa.tames@baml.com">lisa.tames@baml.com</a> <a href="mailto:brad.koster@baml.com">brad.koster@baml.com</a>	646-855-4415
<b>Office of the Kansas State Treasurer</b> (Depository Institution)	Stan Jones Shauna Fearnow	<a href="mailto:stan@treasurer.ks.gov">stan@treasurer.ks.gov</a> <a href="mailto:shauna@treasurer.ks.gov">shauna@treasurer.ks.gov</a>	785-296-4148 785-296-4148

### Sources and Uses of Funds

#### Sources of Funds:

Principal Amount of the Bonds	\$ 16,600,000.00
<b>Total Sources of Funds</b>	<b>\$ 16,600,000.00</b>

#### Uses of Funds:

Project Fund	\$ 16,432,166.00
Costs of Issuance	167,834.00
<b>Total Uses of Funds</b>	<b>\$ 16,600,000.00</b>

### Calculation of Available Net Proceeds

<u>Maturity</u>	<u>Coupon</u>	<u>Yield</u>	<u>Price</u>	<u>Principal</u>	<u>Total Dollar Price</u>
3/15/31	2.320%	2.320%	100.000%	16,600,000.00	16,600,000.00
					<b>\$ 16,600,000.00</b>

Purchase Price and Net Wire Amount \$ 16,600,000.00



Columbia Capital Management, LLC

Page 1 of 2

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**Banc of America Public Capital Corp Wiring Instructions**

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No later than 9:00 a.m. central time on Tuesday, December 29, 2015, Banc of America Public Capital Corp shall wire funds to the State Treasurer pursuant to the directions below:

Amount:	\$ 16,600,000.00
Institution:	U.S. Bank
ABA Number	101000187
Account Number	145592399581
Account Name:	STO Operating Acct - KDFA 2015L

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**State Treasurer Deposit Instructions**

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On Tuesday, December 29, 2015, the State Treasurer shall apply the wire received from Banc of America Public Capital Corp pursuant to Article 5.2 of the Lease Agreement, and as summarized below:

Costs of Issuance Account	\$ 167,834.00
Project Account	<u>16,432,166.00</u>
	<u><u>\$ 16,600,000.00</u></u>

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**Invoices**

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Copies of all invoices related to the Series 2015L Bonds should be emailed promptly to Jim MacMurray ([jmacmurray@kdfa.org](mailto:jmacmurray@kdfa.org)).





File No. SN041677

Chicago Title Insurance Company

**COMMITMENT FOR TITLE INSURANCE**

**Issued By  
Chicago Title Insurance Company**

*Chicago Title Insurance Company, ("Company"), for a valuable consideration, commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the Proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest in the land described or referred to in Schedule A, upon payment of the premiums and charges and compliance with the Requirements; all subject to the provisions of Schedules A and B and to the Conditions of this Commitment.*

*This Commitment shall be effective only when the identity of the Proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A by the Company.*

*All liability and obligation under this Commitment shall cease and terminate 6 months after the Effective Date or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue such policy or policies is not the fault of the Company*

*IN WITNESS WHEREOF, Chicago Title Insurance Company has caused its corporate name and seal to be affixed by its duly authorized officers on the date shown in Schedule A.*

CHICAGO TITLE INSURANCE COMPANY



*[Signature]*

President

ATTEST

*[Signature]*

Secretary

72C10672

ALTA Commitment - 2006 with Kansas and Missouri Modifications

**Issued by Authorized Agent:  
Kansas Secured Title - Shawnee County  
901 N.E. River Road, Suite 200  
Topeka, Kansas 66616  
Phone: 785-232-9349  
FAX: 785-232-2149**

**COMMITMENT FOR TITLE INSURANCE**  
Issued by  
Chicago Title Insurance Company  
By its Agent:  
**Kansas Secured Title - Shawnee County**  
901 N.E. River Road, Suite 200, Topeka, Kansas 66616  
785-232-9349

Title Officer: Greg Haehl File No.: SN041677  
Telephone: 785-232-9349 Revision No.:  
Email: ghaehl@kstitle.com Customer File:  
Closing Office: 3501 SW Fairlawn, Lower Level, Topeka, KS 66614  
Phone 785-271-9352 Fax 785-272-4984  
Email Loan Documents to: docs@kstshawnee.com

**SCHEDULE A**

1. Effective Date: December 28, 2015, 8:00 am

Property Address: 900 SW Jackson Street  
Topeka, KS 66612

2. Policy (or Policies) to be issued:

a. ALTA Owner's Policy (6-17-06)

Amount: \$16,800,000.00  
Premium Amount: \$0.00

Proposed Insured: Banc of America Public Capital Corp (the "Bank"), in its capacity as Assignee under the Assignment dated December 29, 2015 (the "Assignment"), between the Kansas Development Finance Authority and the Bank, and the Bank's successors and assigns, recorded \_\_\_\_\_, 2015, as Document No. 2015R\_\_\_\_\_.

b. ALTA Loan Policy (6-17-06)

Amount:  
Premium Amount: \$14,195.00

Proposed Insured:

3. The estate or interest in the land described or referred to in this Commitment is:

Leasehold Estate created by the Site Lease, as defined in Exhibit A hereto.  
Subleasehold Estate created by the Lease, as defined in Exhibit A hereto.

4. Title to the Leasehold estate or interest in the land is at the Effective Date vested in:

To be vested in The Bank, in its capacity as Assignee under the Assignment after recording of documents as required in Schedule BI.

5. The land referred to herein is described as follows:

See Exhibit "A" attached hereto and by this reference made a part hereof

**EXHIBIT "A"**

**The land referred to herein is described as follows:**

**The Leasehold Estate created by the certain Site Lease (the "Site Lease") by and between the State of Kansas, Department of Administration as Lessor, and Kansas Development Finance Authority (the "Authority") as Lessee, notice of which is given by the Site Lease recorded December \_\_, 2015, as Document No. 2015R\_\_\_\_\_;**

**The Sub-Leasehold Estate created by the certain Lease with Option to Purchase Series 2015L (the "Lease") by and between the Authority as Lessor and State of Kansas, Department of Administration as Tenant, notice of which is given by the Lease recorded December \_\_, 2015, as Document No. 2015R\_\_\_\_\_;**

**All right, title and interest of the Authority in, to and under the Site Lease and the Lease having been assigned to the Bank (defined above) as set forth in the Assignment (defined above);**

**as to the following-described premises, to-wit:**

**A tract of land in the Southeast Quarter of Section 31, Township 11 South, Range 16 East of the 6th P. M., in the City of Topeka, Shawnee County, Kansas, and described as follows: All of Lots 290, 292, 294, 296, 298, 300, 302, 304, 306, 308, 310, and 312, on Jackson Street, (Original Town) in the City of Topeka, Shawnee County, Kansas; and the Northerly one-half of alley lying Southerly of and adjacent to Lot 312 as vacated by Ordinance No. 3009 dated October 6, 1909, and pursuant to Ordinance 3021, dated November 19, 1909, and A.T.&S.F. Contract No. 25487 filed with Register of Deeds, Shawnee County, March 15, 1982, at 1:48 p.m. in Book 2160, Page 172.**

## COMMITMENT FOR TITLE INSURANCE

Issued by

Chicago Title Insurance Company  
By Its Agent:  
**Kansas Secured Title - Shawnee County**  
901 N.E. River Road, Suite 200, Topeka, Kansas 66616  
785-232-9349

### SCHEDULE B

**Requirements:**

The following items need to be satisfied or released prior to closing. In the even these items are not satisfied or released they will show as exceptions on the policy(ies) when issued.

1. Instruments necessary to create the estate or interest to be insured must be properly executed, delivered and duly filed for record.
2. Payment to or for the account of the grantors or mortgagors of the full consideration for the estate or interest or mortgage to be insured.
3. We anticipate compliance with the following requirements:
  - a. **The County Treasurer's records for Tax ID 109-31-0-40-13-002-004 show:**  
2015 General Tax: \$0.00 Special Assessments: \$0.00; Total: \$0.00  
2015 taxes are exempt from taxes.
  - b. **Furnish for recording the Site Lease by and between State of Kansas, Department of Administration as Lessor and Kansas Development Finance Authority, as Lessee.**
  - c. **Furnish for recording the Lease Agreement by and between by and between the Kansas Development Finance Authority as Lessor and State of Kansas, Department of Administration as Lessee.**
  - d. **Record evidence of Assignment of Leases to Banc of America Public Capital Corp, in its capacity as Assignee under the Assignment dated December 29, 2015.**

**CLOSING:** *If this transaction is to close at Kansas Secured Title, please direct calls, including scheduling, to (785)-271-9352. Our closing office is located at 3501 SW Fairlawn Road - Lower Level, Topeka KS 66614.*

**LOAN POLICY ENDORSEMENTS** ALTA 4 Condominium, ALTA 5 P.U.D., ALTA 6, 6.1 or 6.2 Variable Rate, ALTA 8.1 Environmental and ALTA 9 Comprehensive, as applicable, are included at no additional charge. For other endorsements please contact our office.

**CLOSING FUNDS,** pursuant to KSA 40-1137(c), funds for closing in excess of \$1,500.00 must be in the form of a wire transfer or bank issued check (cashier's, tellers, money order).

**RECORDING FEES** are generally \$12.00 for the first page and \$8.00 for each additional page of each document. Recording fees for releases and assignments of a single mortgage are \$11.00 for the first page and \$4.00 for each additional page. Kansas Mortgage Registration Tax is payable at the rate of \$2.00 per \$1000 of indebtedness. Checks for these fees should accompany the documents.

**PLEASE NOTE:** *Recording fees will change after January 1, 2016, as follows: \$15.00 for the first page and*

***\$11.00 for each additional page of each document. Recording fees for releases and assignments of a single mortgage will be \$14.00 for the first page and \$4.00 for each additional page. Kansas Mortgage Registration Tax will be payable at the rate of \$1.50 per \$1000 of indebtedness.***

***ANY DEED to be recorded must be accompanied by a Kansas Real Estate Sales Validation Questionnaire (original form, single part acceptable, including instructions) unless a valid exemption is stated on the face of the deed pursuant to KSA 79-1437.***

***REAL ESTATE TAXES are billed on November 1 of the tax year and are due and payable at that time. The first half becomes delinquent on December 20 of the tax year; the second half becomes delinquent on May 10 of the following year.***



## COMMITMENT FOR TITLE INSURANCE

Issued by

Chicago Title Insurance Company  
By its Agent:  
Kansas Secured Title - Shawnee County  
901 N.E. River Road, Suite 200, Topeka, Kansas 66616  
785-232-9349

*Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company:*

- 1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the Effective Date but prior to the date the proposed Insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.*
- 2. Rights or claims of parties in possession not shown by the public records.*
- 3. Easements or claims of easements, not shown by the public records.*
- 4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the title that would be disclosed by an accurate and complete land survey of the Land.*
- 5. Any lien or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records.*
- 6. Taxes or special assessments which are not shown as existing liens by the public records.*
- 7. The lien of general and special taxes for 2015 and subsequent years.**
- 8. Easements, Building Setback Lines, Restrictions and Notes as shown on plat, recorded in Plat Book 2, Page 12.**
- 9. Terms and conditions for vacated alley, as set forth by A.T.&S.F. Contract No. 25487 filed March 15, 1982, recorded in Book 2160, Page 172.**
- 10. Terms and conditions as set forth in Corporation Deed (General Warranty), filed March 30, 2006, recorded in Book 4339, Page 177.**
- 11. Plat of Survey No. 02-0382, dated March 15, 1982, by Lyman E. Brown, Land Surveyor, as recorded in Survey Book 3, Page 1.**
- 12. Terms and provisions of Site Lease by and between the State of Kansas, Department of Administration as Lessor, and Kansas Development Finance Authority as Lessee, notice of which is given by the Site Lease recorded December \_\_, 2015, as Document No. 2015R\_\_\_\_\_.**

- 13. Terms and provisions of Lease with Option to Purchase Series 2015L made by the Kansas Development Finance Authority as Lessor, and State of Kansas Department of Administration as Tenant, notice of which is given the Lease recorded December \_\_\_\_, 2015, as Document No. 2015R\_\_\_\_\_.**

**Kansas Secured Title - Shawnee County/Title Midwest, Inc.**

**PRIVACY POLICY**

**We Are Committed to Safeguarding Customer Information**

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information - particularly any personal and/or financial information. We agree that you have a right to know how we will utilize the personal information you provide us. Therefore, we have adopted this Privacy Policy to govern the use and handling of your personal information.

**APPLICABILITY**

This Privacy Policy governs our use of the information that you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity.

**TYPES OF INFORMATION**

Depending upon which of our services you are utilizing, the type of nonpublic personal information that we may collect include:

Information we receive from you on applications, forms and in other communications to us, whether in writing, by telephone or any other means;  
Information about your transactions with us, our affiliated companies, or others; and;  
Information we receive from a consumer-reporting agent.

**USE OF INFORMATION**

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies, and escrow companies. Furthermore, we may also provide all the information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies, or to other financial institutions with whom our affiliated companies have joint marketing agreements.

**FORMER CUSTOMERS**

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

**CONFIDENTIALITY AND SECURITY**

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities that need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

This commitment is valid only if Schedule A, BI and BII are attached.

## CONDITIONS

1. The term mortgage, when used herein, shall include deed of trust, trust deed or other security instrument.
2. If the proposed Insured has or acquired actual knowledge of any defect, lien, encumbrance, adverse claim or other matter affecting the estate or interest or mortgage thereon covered by this Commitment other than those shown in Schedule B hereof, and shall fail to disclose such knowledge to the Company in writing, the Company shall be relieved from liability for any loss or damage resulting from any act of reliance hereon to the extent the Company is prejudiced by failure to so disclose such knowledge. If the proposed Insured shall disclose such knowledge to the Company, or if the Company otherwise acquires actual knowledge of any such defect, lien, encumbrance, adverse claim or other matter, the Company at its option may amend Schedule B of this Commitment accordingly, but such amendment shall not relieve the Company from liability previously incurred pursuant to paragraph 3 of these Conditions.
3. Liability of the Company under this Commitment shall be only to the named proposed Insured and such parties included under the definition of Insured in the form of policy or policies committed for and only for actual loss incurred in reliance hereon in undertaking in good faith (a) to comply with the requirements hereof, or (b) to eliminate exceptions shown in schedule B, or (c) to acquire or create the estate or interest or mortgage thereon covered by the Commitment. In no event shall such liability exceed the amount stated in Schedule A for the policy or policies committed for and such liability is subject to the insuring provisions and Conditions and the Exclusion from Coverage of the form of policy or policies committed for in favor of the proposed Insured which are hereby incorporated by reference and are made a part of this Commitment except as expressly modified herein.
4. This Commitment is a contract to issue one or more title insurance policies and is not an abstract of title or a report of the condition of title. Any action or actions or rights of action that the proposed Insured may have or may bring against the Company arising out of the status of the title to the estate or interest or the status of the mortgage thereon covered by this Commitment must be based on and are subject to the provisions of this Commitment.
5. *This paragraph is intentionally deleted.*

72C10672

ALTA Commitment – 2006 with Kansas and  
Missouri Modifications

This commitment is valid only if Schedule A, BI and BII are attached.



## Chicago Title Insurance Company

POLICY NO.: 4996-3-SN041677-2015.7230672-94961530

### OWNER'S POLICY OF TITLE INSURANCE

Issued by

**Chicago Title Insurance Company**

*Any notice of claim and any other notice or statement in writing required to be given the Company under this Policy must be given to the Company at the address shown in Section 18 of the Conditions.*

### COVERED RISKS

*SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B, AND THE CONDITIONS, CHICAGO TITLE INSURANCE COMPANY, a Nebraska corporation (the "Company") insures, as of Date of Policy and, to the extent stated in Covered Risks 9 and 10, after Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:*

1. Title being vested other than as stated in Schedule A.
2. Any defect in or lien or encumbrance on the Title. This Covered Risk includes but is not limited to insurance against loss from
  - (a) A defect in the Title caused by
    - (i) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
    - (ii) failure of any person or Entity to have authorized a transfer or conveyance;
    - (iii) a document affecting Title not properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;
    - (iv) failure to perform those acts necessary to create a document by electronic means authorized by law;
    - (v) a document executed under a falsified, expired, or otherwise invalid power of attorney;
    - (vi) a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or
    - (vii) a defective judicial or administrative proceeding.
  - (b) The lien of real estate taxes or assessments imposed on the Title by a governmental authority due or payable, but unpaid.
  - (c) Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.
3. Unmarketable Title.
4. No right of access to and from the Land.
5. The violation or enforcement of any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (a) the occupancy, use, or enjoyment of the Land;
  - (b) the character, dimensions, or location of any improvement erected on the Land;
  - (c) the subdivision of land; or
  - (d) environmental protection
 if a notice, describing any part of the Land, is recorded in the Public Records setting forth the violation or intention to enforce, but only to the extent of the violation or enforcement referred to in that notice.
6. An enforcement action based on the exercise of a governmental police power not covered by Covered Risk 5 if a notice of the enforcement action, describing any part of the Land, is recorded in the Public Records, but only to the extent of the enforcement referred to in that notice.
7. The exercise of the rights of eminent domain if a notice of the exercise, describing any part of the Land, is recorded in the Public Records.
8. Any taking by a governmental body that has occurred and is binding on the rights of a purchaser for value without Knowledge.
9. Title being vested other than as stated Schedule A or being defective
  - (a) as a result of the avoidance in whole or in part, or from a court order providing an alternative remedy, of a transfer of all or any part of the title to or any interest in the Land occurring prior to the transaction vesting Title as shown in Schedule A because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws; or
  - (b) because the instrument of transfer vesting Title as shown in Schedule A constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws by reason of the failure of its recording in the Public Records
    - (i) to be timely, or
    - (ii) to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.



10. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 9 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The Company will also pay the costs, attorneys' fees, and expenses incurred in defense of any matter insured against by this Policy, but only to the extent provided in the Conditions.

IN WITNESS WHEREOF, CHICAGO TITLE INSURANCE COMPANY has caused this policy to be signed and sealed by its duly authorized officers.

4996KS SN041677  
Kansas Secured Title and Abstract Co., Inc.  
901 N.E. River Road, Suite 200  
Topeka, KS 66616  
Tel: (785) 232-9349  
Fax: (785) 232-2149

Countersigned: **Greg Haehl**  
Authorized Signatory

Digitally signed by Greg Haehl  
DN: cn=Greg Haehl, o=Kansas Secured Title, ou,  
email=ghaehl@kstitle.com, c=US  
Date: 2015.12.29 12:53:49 -0600

CHICAGO TITLE INSURANCE COMPANY

By:



*(Signature)*  
ATTEST President  
*(Signature)* Secretary

#### EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (i) the occupancy, use, or enjoyment of the Land;
  - (ii) the character, dimensions or location of any improvement erected on the Land;
  - (iii) the subdivision of land; or
  - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters:
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
  - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
  - (a) a fraudulent conveyance or fraudulent transfer; or
  - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.



POLICY NO.: 7230672-94961530

## OWNER'S POLICY OF TITLE INSURANCE

Issued by

**Chicago Title Insurance Company**

By its Agent:

**Kansas Secured Title - Shawnee County**

901 N.E. River Road, Suite 200, Topeka, Kansas 66616  
785-232-9349

### SCHEDULE A

Name and Address of Title Insurance Company:

**CHICAGO TITLE INSURANCE COMPANY**

PO Box 95594

Chicago, Illinois 60694

File No.: **SN041677**

Policy No.: **7230672-94961530**

Address Reference: **900 SW Jackson Street, Topeka, KS 66612**

Amount of Insurance: **\$16,800,000.00** Premium: **\$14,195.00**

Date of Policy: **December 29, 2015 at 11:34:47 AM**

1. Name of Insured:

**Banc of America Public Capital Corp (the "Bank"), in its capacity as Assignee under the Assignment dated December 29, 2015 (the "Assignment"), between the Kansas Development Finance Authority and the Bank, and the Bank's successors and assigns, recorded December 29, 2015, as Document No. 2015R24736.**

2. The estate or interest in the Land that is insured by this policy is:

**Leasehold Estate created by the Site Lease, as defined in Exhibit A hereto.  
Subleasehold Estate created by the Lease, as defined in Exhibit A hereto.**

3. Title is vested in:

**The Bank, in its capacity as Assignee under the Assignment.**

4. The Land referred to in this policy is described as follows:

**See Exhibit "A" attached hereto and by this reference made a part hereof**

**EXHIBIT "A"**

**The Leasehold Estate created by the certain Site Lease (the "Site Lease") by and between the State of Kansas, Department of Administration as Lessor, and Kansas Development Finance Authority (the "Authority") as Lessee, notice of which is given by the Site Lease recorded December 29, 2015, as Document No. 2015R24734;**

**The Sub-Leasehold Estate created by the certain Lease with Option to Purchase Series 2015L (the "Lease") by and between the Authority as Lessor and State of Kansas, Department of Administration as Tenant, notice of which is given by the Lease recorded December 29, 2015, as Document No. 2015R24735;**

**All right, title and interest of the Authority in, to and under the Site Lease and the Lease having been assigned to the Bank (defined above) as set forth in the Assignment (defined above);**

**as to the following-described premises, to-wit:**

**A tract of land in the Southeast Quarter of Section 31, Township 11 South, Range 16 East of the 6th P. M., in the City of Topeka, Shawnee County, Kansas, and described as follows: All of Lots 290, 292, 294, 296, 298, 300, 302, 304, 306, 308, 310, and 312, on Jackson Street, (Original Town) in the City of Topeka, Shawnee County, Kansas; and the Northerly one-half of alley lying Southerly of and adjacent to Lot 312 as vacated by Ordinance No. 3009 dated October 6, 1909, and pursuant to Ordinance 3021, dated November 19, 1909, and A.T.&S.F. Contract No. 25487 filed with Register of Deeds, Shawnee County, March 15, 1982, at 1:48 p.m. in Book 2160, Page 172.**



## OWNER'S POLICY OF TITLE INSURANCE

Issued by  
*Chicago Title Insurance Company*

### SCHEDULE B

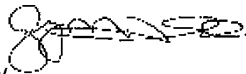
File No.: **SN041677**

Policy No.: **7230672-94961530**

### EXCEPTIONS FROM COVERAGE

1. The lien of general and special taxes for 2015 and subsequent years.
2. Easements, Building Setback Lines, Restrictions and Notes as shown on plat, recorded in Plat Book 2, Page 12.
3. Terms and conditions for vacated alley, as set forth by A.T.&S.F. Contract No. 25487 filed March 15, 1982, recorded in Book 2160, Page 172.
4. Terms and conditions as set forth in Corporation Deed (General Warranty), filed March 30, 2006, recorded in Book 4339, Page 177.
5. Plat of Survey No. 02-0382, dated March 15, 1982, by Lyman E. Brown, Land Surveyor, as recorded in Survey Book 3, Page 1.
6. Terms and provisions of Site Lease by and between the State of Kansas, Department of Administration as Lessor, and Kansas Development Finance Authority as Lessee, notice of which is given by the Site Lease recorded December 29, 2015, as Document No. 2015R24734.
7. Terms and provisions of Lease with Option to Purchase Series 2015L made by the Kansas Development Finance Authority as Lessor, and State of Kansas Department of Administration as Tenant, notice of which is given the Lease recorded December 29, 2015, as Document No. 2015R24735.

Countersigned  
**Kansas Secured Title - Shawnee County**

By 

## CONDITIONS

### 1. DEFINITION OF TERMS

The following terms when used in this policy mean:

(a) "Amount of Insurance": The amount stated in Schedule A, as may be increased or decreased by endorsement to this policy, increased by Section 8(b), or decreased by Sections 10 and 11 of these Conditions.

(b) "Date of Policy": The date designated as "Date of Policy" in Schedule A.

(c) "Entity": A corporation, partnership, trust, limited liability company, or other similar legal entity.

(d) "Insured": The Insured named in Schedule A.

(i) The term "Insured" also includes

(A) successors to the Title of the Insured by operation of law as distinguished from purchase, including heirs, devisees, survivors, personal representatives, or next of kin;

(B) successors to an Insured by dissolution, merger, consolidation, distribution, or reorganization;

(C) successors to an Insured by its conversion to another kind of Entity;

(D) a grantee of an Insured under a deed delivered without payment of actual valuable consideration conveying the Title

(1) if the stock, shares, memberships, or other equity interests of the grantee are wholly-owned by the named Insured,

(2) if the grantee wholly owns the named Insured,

(3) if the grantee is wholly-owned by an affiliated Entity of the named Insured, provided the affiliated Entity and the named Insured are both wholly-owned by the same person or Entity, or

(4) if the grantee is a trustee or beneficiary of a trust created by a written instrument established by the Insured named in Schedule A for estate planning purposes.

(ii) With regard to (A), (B), (C), and (D) reserving, however, all rights and defenses as to any successor that the Company would have had against any predecessor Insured.

(e) "Insured Claimant": An Insured claiming loss or damage.

(f) "Knowledge" or "Known": Actual knowledge, not constructive knowledge or notice that may be imputed to an Insured by reason of the Public Records or any other records that impart constructive notice of matters affecting the Title.

(g) "Land": The land described in Schedule A, and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is insured by this policy.

(h) "Mortgage": Mortgage, deed of trust, trust deed, or other security instrument, including one evidenced by electronic means authorized by law.

(i) "Public Records": Records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge. With respect to Covered Risk 5(d), "Public Records" shall also include environmental protection liens filed in the records of the clerk of the United States District Court for the district where the Land is located.

(j) "Title": The estate or interest described in Schedule A.

(k) "Unmarketable Title": Title affected by an alleged or apparent matter that would permit a prospective purchaser or lessee of the Title or lender on the Title to be released from the obligation to purchase,

lease, or lend if there is a contractual condition requiring the delivery of marketable title.

### 2. CONTINUATION OF INSURANCE

The coverage of this policy shall continue in force as of Date of Policy in favor of an Insured, but only so long as the Insured retains an estate or interest in the Land, or holds an obligation secured by a purchase money Mortgage given by a purchaser from the Insured, or only so long as the Insured shall have liability by reason of warranties in any transfer or conveyance of the Title. This policy shall not continue in force in favor of any purchaser from the Insured of either (i) an estate or interest in the Land, or (ii) an obligation secured by a purchase money Mortgage given to the Insured.

### 3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT

The Insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 5(a) of these Conditions, (ii) in case Knowledge shall come to an Insured hereunder of any claim of title or interest that is adverse to the Title, as insured, and that might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if the Title, as insured, is rejected as Unmarketable Title. If the Company is prejudiced by the failure of the Insured Claimant to provide prompt notice, the Company's liability to the Insured Claimant under the policy shall be reduced to the extent of the prejudice.

### 4. PROOF OF LOSS

In the event the Company is unable to determine the amount of loss or damage, the Company may, at its option, require as a condition of payment that the Insured Claimant furnish a signed proof of loss. The proof of loss must describe the defect, lien, encumbrance, or other matter insured against by this policy that constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage.

### 5. DEFENSE AND PROSECUTION OF ACTIONS

(a) Upon written request by the Insured, and subject to the options contained in Section 7 of these Conditions, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an Insured in litigation in which any third party asserts a claim covered by this policy adverse to the Insured. This obligation is limited to only those stated causes of action alleging matters insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the Insured to object for reasonable cause) to represent the Insured as to those stated causes of action. It shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs, or expenses incurred by the Insured in the defense of those causes of action that allege matters not insured against by this policy.

(b) The Company shall have the right, in addition to the options contained in Section 7 of these Conditions, at its own cost, to institute and prosecute any action or proceeding or to do any other act that in its opinion may be necessary or desirable to establish the Title, as insured, or to prevent or reduce loss or damage to the Insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable to the Insured. The exercise of these rights shall not be an admission of liability or waiver of any provision of this policy. If the Company exercises its rights under this subsection, it must do so diligently.

(c) Whenever the Company brings an action or asserts a defense as required or permitted by this policy, the Company may pursue the litigation to a final determination by a court of competent jurisdiction, and it expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.



## **6. DUTY OF INSURED CLAIMANT TO COOPERATE**

(a) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding and any appeals, the Insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, including the right to use, at its option, the name of the Insured for this purpose. Whenever requested by the Company, the Insured, at the Company's expense, shall give the Company all reasonable aid (i) in securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act that in the opinion of the Company may be necessary or desirable to establish the Title or any other matter as insured. If the Company is prejudiced by the failure of the Insured to furnish the required cooperation, the Company's obligations to the Insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

(b) The Company may reasonably require the Insured Claimant to submit to examination under oath by any authorized representative of the Company and to produce for examination, inspection, and copying, at such reasonable times and places as may be designated by the authorized representative of the Company, all records, in whatever medium maintained, including books, ledgers, checks, memoranda, correspondence, reports, e-mails, disks, tapes, and videos whether bearing a date before or after Date of Policy, that reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Insured Claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect, and copy all of these records in the custody or control of a third party that reasonably pertain to the loss or damage. All information designated as confidential by the Insured Claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Insured Claimant to submit for examination under oath, produce any reasonably requested information, or grant permission to secure reasonably necessary information from third parties as required in this subsection, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

## **7. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY**

In case of a claim under this policy, the Company shall have the following additional options:

(a) To Pay or Tender Payment of the Amount of Insurance.

To pay or tender payment of the Amount of Insurance under this policy together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay.

Upon the exercise by the Company of this option, all liability and obligations of the Company to the Insured under this policy, other than to make the payment required in this subsection, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

(b) To Pay or Otherwise Settle With Parties Other Than the Insured or With the Insured Claimant.

(i) To pay or otherwise settle with other parties for or in the name of an Insured Claimant any claim insured against under this policy. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the

Company up to the time of payment and that the Company is obligated to pay; or

(ii) To pay or otherwise settle with the Insured Claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in subsections (b)(i) or (ii), the Company's obligations to the Insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

## **8. DETERMINATION AND EXTENT OF LIABILITY**

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the Insured Claimant who has suffered loss or damage by reason of matters insured against by this policy.

(a) The extent of liability of the Company for loss or damage under this policy shall not exceed the lesser of

(i) the Amount of Insurance; or

(ii) the difference between the value of the Title as insured and the value of the Title subject to the risk insured against by this policy.

(b) If the Company pursues its rights under Section 5 of these Conditions and is unsuccessful in establishing the Title, as insured,

(i) the Amount of Insurance shall be increased by 10%, and

(ii) the Insured Claimant shall have the right to have the loss or damage determined either as of the date the claim was made by the Insured Claimant or as of the date it is settled and paid.

(c) In addition to the extent of liability under (a) and (b), the Company will also pay those costs, attorneys' fees, and expenses incurred in accordance with Sections 5 and 7 of these Conditions.

## **9. LIMITATION OF LIABILITY**

(a) If the Company establishes the Title, or removes the alleged defect, lien or encumbrance, or cures the lack of a right of access to or from the Land, or cures the claim of Unmarketable Title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused to the Insured.

(b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals, adverse to the Title, as insured.

(c) The Company shall not be liable for loss or damage to the Insured for liability voluntarily assumed by the Insured in settling any claim or suit without the prior written consent of the Company.

## **10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY**

All payments under this policy, except payments made for costs, attorneys' fees, and expenses, shall reduce the Amount of Insurance by the amount of the payment.

## **11. LIABILITY NONCUMULATIVE**

The Amount of Insurance shall be reduced by any amount the Company pays under any policy insuring a Mortgage to which exception is taken in Schedule B or to which the Insured has agreed, assumed, or taken subject, or which is executed by an Insured after Date of Policy and which is a charge or lien on the Title, and the amount so paid shall be deemed a payment to the Insured under this policy.



## 12. PAYMENT OF LOSS

When liability and the extent of loss or damage have been definitely fixed in accordance with these Conditions, the payment shall be made within 30 days.

## 13. RIGHTS OF RECOVERY UPON PAYMENT OR SETTLEMENT

(a) Whenever the Company shall have settled and paid a claim under this policy, it shall be subrogated and entitled to the rights of the Insured Claimant in the Title and all other rights and remedies in respect to the claim that the Insured Claimant has against any person or property, to the extent of the amount of any loss, costs, attorneys' fees, and expenses paid by the Company. If requested by the Company, the Insured Claimant shall execute documents to evidence the transfer to the Company of these rights and remedies. The Insured Claimant shall permit the Company to sue, compromise, or settle in the name of the Insured Claimant and to use the name of the Insured Claimant in any transaction or litigation involving these rights and remedies.

If a payment on account of a claim does not fully cover the loss of the Insured Claimant, the Company shall defer the exercise of its right to recover until after the Insured Claimant shall have recovered its loss.

(b) The Company's right of subrogation includes the rights of the Insured to indemnities, guaranties, other policies of insurance, or bonds, notwithstanding any terms or conditions contained in those instruments that address subrogation rights.

## 14. ARBITRATION (INAPPLICABLE IN KANSAS AND MISSOURI)

Either the Company or the Insured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy provision, or to any other controversy or claim arising out of the transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured. All arbitrable matters when the Amount of Insurance is in excess of \$2,000,000 shall be arbitrated only when agreed to by both the Company and the Insured. Arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction.

## 15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT

(a) This policy together with all endorsements, if any, attached to it by the Company is the entire policy and contract between the Insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage that arises out of the status of the Title or by any action asserting such claim shall be restricted to this policy.

(c) Any amendment of or endorsement to this policy must be in writing and authenticated by an authorized person, or expressly incorporated by Schedule A of this policy.

(d) Each endorsement to this policy issued at any time is made a part of this policy and is subject to all of its terms and provisions. Except as the endorsement expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsement, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance.

## 16. SEVERABILITY

In the event any provision of this policy, in whole or in part, is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision or such part held to be invalid, but all other provisions shall remain in full force and effect.

## 17. CHOICE OF LAW; FORUM

(a) Choice of Law: The Insured acknowledges the Company has underwritten the risks covered by this policy and determined the premium charged therefor in reliance upon the law affecting interests in real property and applicable to the interpretation, rights, remedies, or enforcement of policies of title insurance of the jurisdiction where the Land is located.

Therefore, the court or an arbitrator shall apply the law of the jurisdiction where the Land is located to determine the validity of claims against the Title that are adverse to the Insured and to interpret and enforce the terms of this policy. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law.

(b) Choice of Forum: Any litigation or other proceeding brought by the Insured against the Company must be filed only in a state or federal court within the United States of America or its territories having appropriate jurisdiction.

## 18. NOTICES, WHERE SENT

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at Chicago Title Insurance Company, Attn: Claims Department, P. O. Box 45023, Jacksonville, Florida 32232-5023.



## ENDORSEMENT

Attached to Policy No. 7230672-94961530

Issued by

**CHICAGO TITLE INSURANCE COMPANY**

1. As used in this endorsement, the following terms shall mean:
  - a. "Evicted" or "Eviction": (a) the lawful deprivation, in whole or in part, of the right of possession insured by this policy, contrary to the terms of the Lease or (b) the lawful prevention of the use of the Land or the Tenant Leasehold Improvements for the purposes permitted by the Lease, in either case as a result of a matter covered by this policy.
  - b. "Lease": the site lease and the lease each as described in Schedule A, as applicable.
  - c. "Leasehold Estate": the right of possession granted in the Lease for the Lease Term.
  - d. "Lease Term": the duration of the Leasehold Estate, as set forth in the Lease, including any renewal or extended term if a valid option to renew or extend is contained in the Lease.
  - e. "Personal Property": property located on the Land on or after Date of Policy that, because of its character and manner of attachment to the Land, can be severed from the Land without causing material damage to it or to the Land.
  - f. "Remaining Lease Term": the portion of the Lease Term remaining after the Insured has been Evicted as a result of a matter covered by this policy.
  - g. "Tenant Leasehold Improvements": Those improvements, including landscaping, required or permitted to be built on the Land by the Lease that have been built at the Insured's expense or in which the Insured has an interest greater than the right to possession during the Lease Term.

2. Valuation of Estate or Interest Insured:

If in computing loss or damage it becomes necessary to value the Title as the result of a covered matter that results in an Eviction of the Insured, then that value shall consist of the value for the Remaining Lease Term of the Leasehold Estate and any Tenant Leasehold Improvements existing on the date of the Eviction. The Insured Claimant shall have the right to have the Leasehold Estate and the Tenant Leasehold Improvements valued either as a whole or separately. In either event, this determination of value shall take into account rent no longer required to be paid for the Remaining Lease Term.

3. Additional items of loss covered by this endorsement:

If the Insured is Evicted, the following items of loss, if applicable, shall be included in computing loss or damage incurred by the Insured, but not to the extent that the same are included in the valuation of the Title:

- a. The reasonable cost of removing and relocating any Personal Property that the Insured has the right to remove and relocate, situated on the Land at the time of Eviction, the cost of

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**ALTA Endorsement 13-06 (Leasehold-Owner's)**  
**Revised 2-3-11**



Page 1 of 2

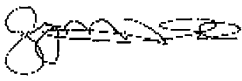
transportation of that Personal Property for the initial one hundred miles incurred in connection with the relocation, and the reasonable cost of repairing the Personal Property damaged by reason of the removal and relocation.

- b. Rent or damages for use and occupancy of the Land prior to the Eviction that the Insured as owner of the Leasehold Estate may be obligated to pay to any person having paramount title to that of the lessor in the Lease.
- c. The amount of rent that, by the terms of the Lease, the Insured must continue to pay to the lessor after Eviction with respect to the portion of the Leasehold Estate and Tenant Leasehold Improvements from which the Insured has been Evicted.
- d. The fair market value, at the time of the Eviction, of the estate or interest of the Insured in any lease or sublease permitted by the Lease and made by Insured as lessor of all or part of the Leasehold Estate or the Tenant Leasehold Improvements.
- e. Damages that the Insured is obligated to pay to lessees or sublessees on account of the breach of any lease or sublease permitted by the Lease and made by the Insured as lessor of all or part of the Leasehold Estate or the Tenant Leasehold Improvements caused by the Eviction.
- f. The reasonable cost to obtain land use, zoning, building and occupancy permits, architectural and engineering services and environmental testing and reviews for a leasehold reasonably equivalent to the Leasehold Estate.
- g. If Tenant Leasehold Improvements are not substantially completed at the time of Eviction, the actual cost incurred by the Insured, less the salvage value, for the Tenant Leasehold Improvements up to the time of Eviction. Those costs include costs incurred to obtain land use, zoning, building and occupancy permits, architectural and engineering fees, construction management fees, costs of environmental testing and reviews, and landscaping costs.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: December 29, 2015

Countersigned:

BY 

Authorized Signatory

ISSUED BY:  
**KANSAS SECURED TITLE - SHAWNEE COUNTY**  
901 N.E. River Road, Suite 200  
Topeka, KS 66616

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**ALTA Endorsement 13-06 (Leasehold-Owner's)**  
Revised 2-3-11



Page 2 of 2

SN041677

**ENDORSEMENT**

Attached to Policy No.

**7230672-94961530**

Issued by

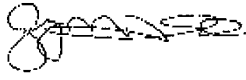
**CHICAGO TITLE INSURANCE COMPANY**

The Company insures against loss or damage sustained by the Insured if, at Date of Policy (i) the Land does not abut and have both actual vehicular and pedestrian access to and from **SW Jackson Street, West 9th Street, and adjacent public alleys** (the "Street"), (ii) the Street is not physically open and publicly maintained, or (iii) the Insured has no right to use existing curb cuts or entries along that portion of the Street abutting the Land.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: December 29, 2015

Countersigned:

BY 

Authorized Signatory

ISSUED BY:

**KANSAS SECURED TITLE - SHAWNEE COUNTY**

**901 N.E. River Road, Suite 200**

**Topeka, KS 66616**

SN041677

**ENDORSEMENT**

Attached to Policy No.

**7230672-94961530**

Issued by

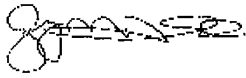
**CHICAGO TITLE INSURANCE COMPANY**

The Company insures against loss or damage sustained by the Insured by reason of the failure of a **Office Building**, known as **900 SW Jackson Street, Topeka, KS 66612**, to be located on the Land at Date of Policy.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: December 29, 2015

Countersigned:

BY 

Authorized Signatory

ISSUED BY:

**KANSAS SECURED TITLE - SHAWNEE COUNTY**

**901 N.E. River Road, Suite 200**

**Topeka, KS 66616**



**ENDORSEMENT**

**Attached to Policy No. 7230672-94961530**

**Issued by**

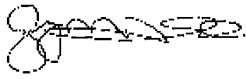
**CHICAGO TITLE INSURANCE COMPANY**

When the policy is issued by the Company with a policy number and Date of Policy, the Company will not deny liability under the policy or any endorsements issued with the policy solely on the grounds that the policy or endorsements were issued electronically or lack signatures in accordance with the Conditions.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: December 29, 2015

Countersigned:

BY 

Authorized Signatory

ISSUED BY:

**KANSAS SECURED TITLE - SHAWNEE COUNTY**

**901 N.E. River Road, Suite 200**

**Topeka, KS 66616**

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**ALTA Endorsement 39-06**  
**(Policy Authentication)**  
**Adopted 04-02-2013**



Page 1 of 1

SN041677

**ENDORSEMENT**

**Attached to Policy No.**

7230672-94961530

**Issued by**

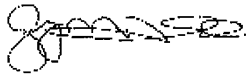
**Chicago Title Insurance Company**

The Company insures against loss or damage sustained by the Insured by reason of an environmental protection lien that, at Date of Policy, is recorded in the Public Records or filed in the records of the clerk of the United States district court for the district in which the Land is located, unless the environmental protection lien is set forth as an exception in Schedule B.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

Dated: December 29, 2015

Countersigned:

BY 

Authorized Signatory

ISSUED BY:  
**KANSAS SECURED TITLE - SHAWNEE  
COUNTY**  
901 N.E. River Road, Suite 200  
Topeka, KS 66616

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SN041677

**ENDORSEMENT**

Attached to Owner's Policy No.

**7230672-94961530**

Issued by

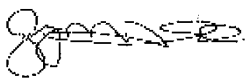
**CHICAGO TITLE INSURANCE COMPANY**

**Any provisions in the Conditions and Stipulations of this policy referring to Arbitration are hereby deleted.**

This endorsement, when countersigned by an authorized signatory, is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof.

Dated: December 29, 2015

Countersigned:

BY 

Authorized Signatory

ISSUED BY:

**KANSAS SECURED TITLE - SHAWNEE COUNTY**

**901 N.E. River Road, Suite 200**

**Topeka, KS 66616**

**\$16,600,000**  
**LEASE WITH OPTION TO PURCHASE, SERIES 2015L**  
**BY AND BETWEEN**  
**KANSAS DEVELOPMENT FINANCE AUTHORITY**  
**AND**  
**STATE OF KANSAS – DEPARTMENT OF ADMINISTRATION**  
**RECORDING MEMORANDUM**

**Real Estate Recordings**

The following documents were recorded in the Office of Recorder of Deeds of Shawnee County, Kansas, as follows:

	<u>Document</u>	<u>Date</u>	<u>Time</u>	<u>Instrument #</u>
1.	Site Lease Agreement	12/29/2015	11:34:45 a.m.	2015R24734
2.	Lease with Option to Purchase, Series 2015L	12/29/2015	11:34:46 a.m.	2015R24735
3.	Assignment	12/29/2015	11:34:47 a.m.	2015R24736

# Kansas Development Finance Authority

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December 29, 2015

Department of Administration – State of Kansas  
Topeka, Kansas

Banc of America Public Capital Corp  
And its successors and assigns  
Hunt Valley, Maryland

Bryan Cave LLP  
Kansas City, Missouri

Re: \$16,600,000 Lease with Option to Purchase, Series 2015L, dated as of December 29, 2015 by and between Kansas Development Finance Authority and State of Kansas – Department of Administration (the “Lease”)

Ladies and Gentlemen:

I have acted as General Counsel to Kansas Development Finance Authority (the “Authority”) in connection with the above-referenced Lease, and acting as such I have advised the Authority in connection with the Lease and certain other instruments, certificates and proceedings of the Authority relating thereto. The Lease is being executed and delivered for the purpose of providing funds to finance a new energy service center for certain of the State’s offices and administrative buildings including the Landon State Office Building (the “Landon Facilities”) and the State Capitol Building in Topeka, Kansas (the “Energy Center Project”) as identified in the Lease. Capitalized terms contained herein shall have the meanings ascribed thereto in the Lease.

In such capacity and in preparation for the delivery of the opinions set forth herein, I have examined the following:

- (a) Excerpts of Minutes of the meetings of the Authority;
- (b) Resolution No. 337 adopted by the Authority on October 1, 2015 (the “Resolution”);
- (c) Site Lease Agreement dated as of December 29, 2015 (the “Site Lease”) between the Authority and Tenant;
- (d) Lease Agreement with Option to Purchase, Series 2015L, dated as of December 29, 2015 (the “Lease”) entered into by and between the Tenant and the Authority;
- (e) Assignment dated as of December 29, 2015 (the “Assignment”) by the Authority to Banc of America Public Capital Corp, as Assignee;
- (f) Such other documents, instruments, certificates and records of the Authority, as I have considered necessary or appropriate to render the opinions set forth herein.

The documents listed in subparagraphs (c) through (e) are hereinafter referred to as the “Lease Documents.”

Based upon such examination, I am of the opinion, as of the date hereof, as follows:

1. The Authority is an independent instrumentality of the State of Kansas (the "State"), duly organized and validly existing under the Constitution and laws of the State.
2. The Authority is authorized and has the power to enter into the Lease Documents pursuant to K.S.A. 74-8901 *et seq.*, as amended.
3. The actions of the Authority adopting the Resolution and approving and authorizing the execution and delivery of the Lease Documents and all other necessary documents, were duly taken at meetings of the Board of Directors of the Authority that were called and held pursuant to law and with all public notice required by law and at which a quorum was present and acting throughout.
4. There is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body known to be pending or threatened against or affecting the Authority to restrain or enjoin the issuance or delivery of the Lease Documents or which challenges the authority of the Authority or its members, officers or employees to enter into the Lease Documents, or contesting or affecting any authority for or the validity of the Lease Documents, the Assignment, the Resolution or the Annual Administrative Service Fee Agreement or in any way contesting the existence or powers of the Authority with respect to the Lease Documents or the security therefor wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Resolution, the Lease Documents or the Annual Administrative Service Fee Agreement.
5. The authorization of the Resolution and the execution and delivery of the Lease Documents and the Annual Administrative Service Fee Agreement and compliance with the provisions thereof, under the circumstances contemplated thereby, do not and will not in any material respect conflict with or constitute on the part of the Authority a breach of or default under any agreement or other instrument to which the Authority is a party or by which it is bound or any existing law, regulation, court order or consent decree to which the Authority is subject.
6. The Lease Documents, the Resolution and the Annual Administrative Service Fee Agreement have been duly authorized, executed and delivered by the Authority and, assuming due authorization, execution and delivery by the other parties thereto where applicable, are valid and binding obligations of the Authority, enforceable in accordance with their respective terms, subject to laws relating to bankruptcy, insolvency, reorganization or creditors' rights generally and to the application of equitable principles.

This opinion is issued to and for the sole benefit of the above addressees and is issued for the sole purpose of the transactions specifically referred to herein. No person other than the above addressees may rely upon this letter without my express prior written consent. This letter may not be utilized for any other purpose whatsoever and may not be quoted without my express prior written consent. I assume no obligation to review or supplement this letter for any reason. I express no opinion regarding the tax-exempt status, present or future, of the Lease.

Very truly yours,



Rebecca Floyd  
General Counsel

Office of the Secretary  
1000 SW Jackson, Suite 500  
Topeka, KS 66612

Sarah L. Shipman, Acting Secretary



Phone: 785-296-3011  
Fax: 785-296-2702  
[www.admin.ks.gov](http://www.admin.ks.gov)

Sam Brownback, Governor

December 29, 2015

Kansas Development Finance Authority  
Topeka, Kansas

Banc of America Public Capital Corp  
and its successors and assigns  
Hunt Valley, Maryland

Bryan Cave LLP  
Kansas City, Missouri

Re: \$16,600,000 Lease with Option to Purchase, Series 2015L, dated as of December 29, 2015 by and between Kansas Development Finance Authority and State of Kansas – Department of Administration (the “Lease”)

Ladies and Gentlemen:

I have acted as Counsel for the State of Kansas - Department of Administration (the “Tenant”) in connection with the above-referenced Lease, and as such I have advised the Tenant in connection with the Lease and certain other instruments, certificates and proceedings of the State relating thereto. The Lease is being executed and delivered for the purpose of providing funds to finance a new energy service center for certain of the State’s offices and administrative buildings including the Landon State Office Building (the “Landon Facilities”) and the State Capitol Building in Topeka, Kansas (the “Energy Center Project”). I have examined the original or copies certified or otherwise identified to my satisfaction of:

- (i) Resolution No. 337 of the Kansas Development Finance Authority (the “Authority”) adopted on October 1, 2015 (the “Resolution”).
- (ii) Request by the Secretary of Administration of the State for financing of the Energy Center Project.
- (iii) Site Lease Agreement dated as of December 29, 2015 (the “Site Lease”) by and between the Tenant, as lessor, and the Authority, as lessee.
- (iv) Lease Agreement with Option to Purchase, Series 2015L, dated as of December 29, 2015 (the “Lease”) entered into by and among the Tenant and the Authority.
- (v) Assignment dated as of December 29, 2015 (the “Assignment”) by the Authority to Banc of America Public Capital Corp, as Assignee; and
- (vi) Such other documents, instruments, certificates and records, as I have considered necessary for purposes of this opinion.

For purposes of this opinion, I have assumed that the Authority has all requisite power and authority and has taken all necessary action to execute and deliver all instruments to which it is a party and to effect the transactions contemplated thereby.

Based on the foregoing, I am of the opinion that:

1. The Tenant is a validly existing department of the Executive Branch of government of the State of Kansas.
2. The Tenant is authorized and has the power under the Constitution and statutes of the State of Kansas to enter into the Site Lease and the Lease, to perform its obligations thereunder and to complete the transactions contemplated thereby. The Site Lease and the Lease have been approved by the Secretary of Administration in accordance with K.S.A. 75-3651.
3. The Site Lease and the Lease have been duly authorized, approved, executed and delivered, and when duly executed and delivered by and on behalf of the Authority, will constitute valid and binding contracts of the Tenant, enforceable in accordance with their terms, except to the extent limited by the federal and state laws affecting remedies and by bankruptcy, reorganization or other laws of general application relating to or affecting the enforcement of creditors' rights.
4. The execution of the Site Lease and the Lease and the appropriation of moneys to make the payments due under the Lease will not violate any constitutional, statutory, or other limitations upon the manner, form, or amount of indebtedness which may be incurred by the Tenant.
5. There is no litigation, action, suit or proceeding pending or before any court, administrative agency, arbitrator or governmental body which challenges the authority of the Tenant or its officers or employees to enter into Site Lease or the Lease, the proper authorization, approval and/or execution of the Site Lease and the Lease, and the documents contemplated thereby, or the ability of the Tenant otherwise to perform its obligations under the Site Lease or the Lease and to complete the transactions thereunder contemplated.
6. The Tenant is the fee simple owner of and has merchantable title to the land and all existing buildings comprising the Landon Facilities, and said existing buildings are located wholly within the boundaries of the Landon Site all as more fully described in Schedule I of the Site Lease. Fee simple title to the Landon Site is vested in Tenant and is subject to no liens or encumbrances that would interfere with the Lease. The site of the Energy Center Project is not subject to any dedication, easement, right-of-way, reservation in patent, covenant, condition, restriction, lien or encumbrance which would prohibit or materially interfere with the construction of the Energy Center Project as contemplated by the Lease or its intended use.
7. The execution and delivery of the Lease and the Site Lease and compliance with the provisions thereof, under the circumstances contemplated thereby, do not and will not in



any material respect conflict with or constitute on the part of the Tenant a breach of or default under any agreement or other instrument to which the Tenant is a party or by which it is bound or any existing law, regulation, court order or consent decree to which the Tenant is subject.

My opinion that the Site Lease and the Lease are enforceable in accordance with their terms is qualified to the extent that enforcement of the certain payment obligations created by the Lease is subject to annual appropriation by the Kansas Legislature.

Sincerely,

John L. Yeary

A handwritten signature in black ink, appearing to read "John L. Yeary", written over the printed name.

Chief Counsel  
Kansas Department of Administration



December 29, 2015

Kansas Development Finance Authority  
Topeka, Kansas

Banc of America Public Capital Corp,  
And its successors and assigns  
Hunt Valley, Maryland

State of Kansas – Department of Administration  
Topeka, Kansas

**Re: \$16,600,000 Lease with Option to Purchase, Series 2015L, by and between  
Kansas Development Finance Authority and State of Kansas – Department  
of Administration, dated as of December 29, 2015**

We have acted as Special Tax Counsel in connection with the authorization, execution and delivery of the Lease with Option to Purchase, Series 2015L, dated as of December 29, 2015 (the “Lease”) by and between the Kansas Development Finance Authority (the “Authority”) and State of Kansas – Department of Administration (the “Tenant”) and the assignment of all right, title and interest of the Authority in the Lease and in that certain Site Lease Agreement (the “Site Lease”) dated as of December 29, 2015 between the Authority and the Tenant by the Authority pursuant to the Assignment dated as of December 29, 2015 (the “Assignment”) between the Authority and the assignee named therein (the “Assignee”). The Lease has been authorized and issued under and pursuant to the laws of the State of Kansas, including in particular K.S.A. 74-8901 *et seq.* and K.S.A. 75-3651 *et seq.* for the purpose of providing funds to finance a new energy service center for certain of the State’s offices and administrative buildings including the Landon State Office Building (the “Landon Facilities”) and the State Capitol Building in Topeka, Kansas (the “Energy Center Project”). Capitalized terms used herein shall have the meanings ascribed therein as set forth in the Lease and the Assignment.

For purposes of rendering this opinion, we have examined certified copies of certain proceedings taken, and certain affidavits and certificates furnished by the Authority and the Tenant in the authorization, execution and delivery and the sale and assignment of the Lease, including the following:

- (i) the Site Lease;
- (ii) the Lease;
- (iii) the Assignment; and

- (iv) such other documents as we have deemed relevant and necessary as a basis for the opinions set forth herein.

As to questions of fact material to our opinion, we have assumed the authenticity of and relied upon the proceedings, affidavits and certificates furnished to us without undertaking to verify the same by independent investigation. From our examination of such proceedings, affidavits and certificates, and on the basis of existing law, it is our opinion that:

1. The Site Lease, the Lease and the Assignment have been duly authorized, executed and delivered by the parties thereto and constitute valid and legally binding agreements of the parties thereto enforceable in accordance with the respective terms thereof, except to the extent to which enforceability thereof may be limited by the exercise of judicial discretion or by state or federal laws relating to bankruptcy, reorganization, moratorium or creditors' rights.

2. The Lease is for a term expiring March 15, 2031, is subject to extension and prior termination as provided in the Lease and binds the Tenant to make payments of Basic Rent, subject to annual appropriation by the legislature of the State for such purpose. The payment of Rental Payments under the Lease is secured by certain rights and interests established under the Lease. Neither the Lease nor any obligation for payment of Rental Payments thereunder constitutes a debt or liability of the Authority, the Tenant, the State or any political subdivision thereof or an indebtedness of any of them in contravention of any constitutional or statutory debt limitation or restriction.

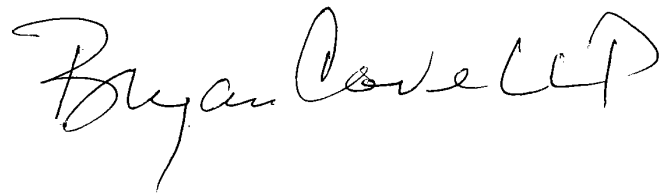
3. The offering and sale of the Assigned Rights is exempt from registration under the Securities Act of 1933, as amended.

4. The Lease is not "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and applicable Treasury Regulations.

5. The Interest Component of the Basic Rent as identified in the Lease to be received by the Assignee of the Lease is not includable in gross income for federal income tax purposes, and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on all taxpayers, but is includable in adjusted current earnings of corporations in determining alternative minimum taxable income for purposes of the federal alternative minimum tax imposed on corporations; provided, however, we express no opinion as to the status for federal income tax purposes of amounts received as Rental Payments other than as Basic Rent from the Tenant from any source subsequent to an event of default or termination of the Lease.

6. The Interest Component of the Basic Rent is not includable in adjusted gross income or taxable income for State of Kansas income tax purposes; provided, however, we express no opinion as to the status for Kansas income tax purposes of amounts received as Rental Payments other than as Basic Rent from the Tenant from any source subsequent to an event of default or termination of the Lease. We express no opinion as to whether the Interest Component of the Basic Rent is subject to the State franchise tax imposed on financial institutions.

The opinions expressed in paragraphs 4 through 6 above are subject to the condition of compliance by the Tenant and the Authority with all requirements of the Code that must be satisfied subsequent to the execution and delivery of the Lease in order that the Interest Component of the Basic Rent may be, and continue to be, excluded from gross income for federal income tax purposes. The Tenant and the Authority have covenanted to comply with these continuing requirements. Failure to do so could result in the inclusion of the Interest Component of the Basic Rent in federal gross income and in State adjusted gross income or taxable income, retroactive to the date of delivery of the Lease. Except as stated in this opinion, we express no opinion regarding federal, state or other tax consequences to owners of the Lease.

A handwritten signature in black ink that reads "Bryan Cave LLP". The signature is written in a cursive, flowing style with a large initial 'B' and a stylized 'C'.