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Eric D. Brophy, Esq.
Executive Director

**MINUTES OF THE MEETING OF THE
NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY
HELD REMOTELY ON TUESDAY, AUGUST 24, 2021**

The meeting was called to order at 10:02 a.m. by board Chair Joshua Hodes. The New Jersey Educational Facilities Authority gave notice of the time, place and date of this meeting via email on June 14, 2021, to The Star Ledger, The Times of Trenton and the Secretary of State and by posting the notice at the offices of the Authority in Princeton, New Jersey and on the Authority's website. Pursuant to the New Jersey Open Public Meetings Act, a resolution must be passed by the New Jersey Educational Facilities Authority in order to hold a session from which the public is excluded.

AUTHORITY MEMBERS PRESENT (VIA ZOOM):

Joshua Hodes, Chair
Elizabeth Maher Muoio, State Treasurer, Treasurer (represented by Ryan Feeney)
Louis Rodriguez
Brian Bridges, Secretary of Higher Education

AUTHORITY MEMBERS ABSENT:

Ridgeley Hutchinson, Vice Chair

STAFF PRESENT (VIA ZOOM):

Eric D. Brophy, Executive Director
Sheryl A. Stitt, Deputy Executive Director
Steven Nelson, Director of Project Management
Ellen Yang, Director of Compliance Management
Zachary Barby, Communications/IT Coordinator
Matthew Curtis, Information Technology Manager
Edward DiFiglia, Public Information Officer
Carl MacDonald, Project Manager
Kristen Middleton, Assistant Controller

Jamie O'Donnell, Grant Program Manager
Sheila Toles, Human Resources Manager
Gary Vencius, Accounting Manager

ALSO PRESENT (VIA ZOOM):

Victoria Nilsson, Esq., Deputy Attorney General
Janice Venables, Esq., Governor's Authorities Unit

ITEMS OF DISCUSSION

1. Approval of the Minutes of the Meeting of July 27, 2021

The minutes of the meeting of July 27, 2021 were delivered electronically and via hand delivery to Governor Philip D. Murphy under the date of July 29, 2021. Mr. Rodriguez moved the meeting minutes for approval as presented; the motion was seconded by Mr. Hodes and passed unanimously.

2. Executive Director's Report

Mr. Brophy provided the Executive Director's report for informational purposes only.

Mr. Brophy reported that Executive Management had updated the Authority's Return to Office policy to conform to the Phase 3 plans set by the Governor's office. He explained that although Phase 3 would require all employees to work in the office full time, the plan provided for virtual workdays under certain circumstances including awaiting Covid test results or caring for a sick or quarantined child or family member.

Mr. Brophy reported that Phase 3 had been scheduled to take effect on September 7, 2021. He reported that following further guidance from the Governor's Authorities Unit on August 23rd, Phase 2 had been extended to October 18, 2021 when implementation of Phase 3 would begin. Mr. Brophy reported that Governor Murphy also announced that all State employees, including Authorities, would be required to be vaccinated by October 18, 2021 or submit to regular weekly COVID tests.

Mr. Brophy reported that interviewing continued for the open position of Compliance Manager. He reported that Ms. Yang and Mr. DiFiglia had attended a job fair at the NJ Law Center in New Brunswick to help recruit for the position and that staff hoped to fill the position soon.

Mr. Brophy reported that the Authority continued to work with and provide support for the State Library grant program and that weekly group meetings continued.

Mr. Brophy reported that work on the Securing Our Children's Future grant program continued with \$26 million in grants approved by the Legislature and the Governor. He reported that Notices of Grant Awards had been distributed to all recipients and that grant agreements were being developed.

Mr. Brophy reported at the July meeting that the Office of the Secretary of Higher Education (OSHE) had published the Proposed Readoption of Regulations with amendments for the Higher Education Capital Improvement Fund (CIF) and would be accepting written public comments through September 17, 2021. He reported that on August 2, 2021, OSHE had also published Proposed Readoption of Regulations with amendments for the Higher Education Facilities Trust Fund (HEFT) with comments to be received by October 1, 2021.

Mr. Brophy reported that Executive Management continued to meet with sponsors, key legislators and higher education stakeholders regarding the Authority's statutory amendments. He hoped that with the return of the Legislature, Senate Bill 4020 and Assembly Bill 5867 would continue to move forward.

Mr. Brophy reported that the Communications division continued to work on an Authority-sponsored webinar. He reported that the virtual roundtable had a target date of September 29, 2021 and would include a variety of speakers on topics of interest to New Jersey higher education.

3. **Resolution of the New Jersey Educational Facilities Authority Authorizing the Issuance and Sale of NJEFA Refunding Bond, Seton Hall University Issue, 2021 Series D**

Mr. Nelson reported that the Authority sought the Members' approval for the issuance of a refunding bond for Seton Hall University in an amount not to exceed \$12,250,000. The proceeds of the 2021 Series D bond would be used for the refunding of a portion of the Authority's 2013 Series D bonds and the payment of certain costs of issuance. He reported that the refunding transaction was anticipated to defease the 2013 Series D serial bonds only, producing approximately \$1,000,000 in present value savings, while preserving the optionality of the remaining 2013 Series D term bonds for future refunding opportunities.

Mr. Nelson reported that the 2021 Series D bond would be issued and sold on a private placement basis to Bank of America and that the bond would defease a portion of the 2013 Series D bonds prior to the call date and would be funded under a taxable interest rate until the conversion date, which is 90 days from the July 1, 2023 call date, at which time the bond would be deemed eligible to convert to a tax-exempt rate. He explained that at closing and funding, the taxable rate would be in effect until the conversion date when the bond is converted to a pre-established tax-exempt interest rate. The bond documents would permit the

conversion from a taxable to a tax-exempt interest rate on the call date provided that all conditions are met, including a tax-exempt opinion by bond counsel supporting the conversion to the tax-exempt rate.

Mr. Nelson reported that Phoenix Advisors had been retained by the University to serve as financial advisor, the Bank of New York Mellon as trustee on the 2013 Series D bonds would be acting as escrow agent and McManimon, Scotland & Baumann had been selected to serve as bond counsel on the transaction.

John Cavaliere, Esq. of McManimon, Scotland & Baumann, LLC, bond counsel, described the resolution.

Secretary Bridges moved the adoption of the following entitled resolution:

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF A NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY REFUNDING BOND, SETON HALL UNIVERSITY ISSUE, 2021 SERIES D, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$12,250,000 AND AUTHORIZING AND APPROVING THE EXECUTION AND DELIVERY OF A BOND AGREEMENT AND RELATED INSTRUMENTS AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH

The motion was seconded by Mr. Rodriguez and passed unanimously.

The adopted resolution is appended as Exhibit I.

4. **Resolution of the New Jersey Educational Facilities Authority Authorizing the Approval of the Installation and Operation of a Certain Cell Tower Project on Facilities Located on the Campus of Montclair State University and Determining Other Matters in Connection Therewith**

Ms. Yang reported that Montclair State University had requested the Authority's approval to install and operate a cell tower on the School of Nursing and Graduate School building. She explained that the building, formerly known as Partridge Hall, was located on a parcel of land owned by the Authority and was subject to a lease agreement for the Authority's Montclair State University Revenue Bonds, Series 2014 A.

Ms. Yang reported that the University planned to enter into a structure sublease agreement with a cellular service provider for an initial term of five years, after which the sublease agreement would automatically renew for four additional terms of five years each.

Ms. Yang reported that McManimon, Scotland & Baumann, bond counsel to the Authority, had determined that the Authority's approval of the cell tower project was permissible under the lease and bond documents for the prior bonds, subject to a few conditions.

John Cavaliere, Esq. of McManimon, Scotland & Baumann, LLC, bond counsel, described the resolution and stated that an Authorized Officer of the Authority is authorized to execute a non-disturbance agreement with respect to the Leased Facility, in the form and substance approved by an Authorized Officer with the advice of bond counsel and the Attorney General of the State. In addition, the Authority's approval of the Cell Tower Project is permissible under the Lease and bond documents for the Prior Bond, subject to execution of a Structure Sublease Agreement by MSU and the Operator that is acceptable to an Authorized Officer of the Authority, with the advice of Bond Counsel and the Attorney General of the State, and subject to delivery to the Authority of an opinion of Bond Counsel.

Mr. Rodriguez moved the adoption of the following entitled resolution:

RESOLUTION AUTHORIZING THE APPROVAL BY THE
NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY OF
THE INSTALLATION AND OPERATION OF A CERTAIN
CELL TOWER PROJECT ON FACILITIES LOCATED ON
THE CAMPUS OF MONTCLAIR STATE UNIVERSITY AND
DETERMINING OTHER MATTERS IN CONNECTION
THEREWITH

The motion was seconded by Mr. Hodes and passed unanimously.

The adopted resolution is appended as Exhibit II.

5. Next Meeting Date

Mr. Hodes reminded everyone that the next meeting was scheduled for Tuesday, September 28, 2021 at 10:00 a.m. and requested a motion to adjourn.

Mr. Rodriguez moved that the meeting be adjourned at 10:18 a.m. The motion was seconded by Mr. Hodes and passed unanimously.

Respectfully submitted,


Eric D. Brophy
Secretary



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 PHONE 609-987-0880 • FAX 609-987-0850 • www.njeda.com

Date: August 24, 2021

To: Members of the Authority

Issue: Seton Hall University

Below please find the procurement procedures that were undertaken with respect to the professional appointments in connection with the Seton Hall University transaction and staff's recommendations with respect thereto.

Bond Counsel

In accordance with Executive Order No. 26 (1994), the Attorney General's office has selected McManimon, Scotland & Baumann, LLC to serve as Bond Counsel for this transaction.

Escrow Agent

The Bank of New York Mellon is the Escrow Agent on the transaction. The Escrow Agent is typically the Trustee on the Bonds being refunded, and as such, this role is not the subject of an RFP process.

Verification Agent

On July 16, 2021, the Authority circulated an RFP to six (6) nationally recognized independent public accounting firms that regularly perform verification agent services. The RFP was also posted on the Authority's website and the State of New Jersey's website. The Authority received one (1) response to the RFP. The responsive firm and their fee quote may be found below:

| | |
|----------------------------|---------|
| Firm: | Fee: |
| Causey Demgen & Moore P.C. | \$1,690 |

Causey's proposed fee of \$1,690 is in line with proposals the Authority has received for verification agent services previously. Authority staff recommends the selection of Causey Demgen & Moore P.C. to serve as Verification Agent.

The Authority's staff involvement in the procurement processes related to the above referenced professionals was completed as of the 16th day of August 2021.

By: 

Eric D. Brophy, Esq.
Executive Director

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF A NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY REFUNDING BOND, SETON HALL UNIVERSITY ISSUE, 2021 SERIES D, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$12,250,000 AND AUTHORIZING AND APPROVING THE EXECUTION AND DELIVERY OF A BOND AGREEMENT AND RELATED INSTRUMENTS AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH.

ADOPTED: August 24, 2021

WHEREAS, the New Jersey Educational Facilities Authority (the “Authority”) is a body corporate and politic with corporate succession, constituting a political subdivision of the State of New Jersey (the “State”), created and established by the New Jersey Educational Facilities Authority Law, being Chapter 72A of Title 18A of the New Jersey Statutes as enacted by Chapter 271 of the Laws of 1967, as amended and supplemented (the “Act”); and

WHEREAS, Seton Hall University (the “University”) is a nonprofit corporation organized under the laws of the State; and

WHEREAS, the Act provides that the Authority shall have the power to borrow money and issue its bonds and to provide for the rights of the holders of its bonds; and

WHEREAS, as an inducement to the University to undertake a project (the “Refunding Project”) consisting of the: (a) refunding of a portion of the Authority’s \$41,910,000 original principal amount Revenue Bonds, Seton Hall University Issue, 2013 Series D (the “Bonds to be Refunded”) and (b) financing of the payment of certain costs of issuance incurred in connection with the issuance of the Bonds described below, the Authority proposes to issue its Refunding Bonds, Seton Hall University Issue, 2021 Series D in a principal amount not to exceed \$12,250,000 (the “Bonds”) and to secure the Bonds by a pledge of moneys to be received by the Authority and the assignment of certain rights of the Authority, which pledge and assignment are hereby declared to further secure the payment of the principal of and interest on the Bonds; and

WHEREAS, the Authority proposes to apply the proceeds of the Bonds to make a certain loan to the University to finance of the Refunding Project in accordance with the Bond Agreement by and among the Authority, Bank of America, N.A. (the “Bank”) and the University (the “Bond Agreement”) providing, in part, for payments by the University sufficient to meet installments of interest and principal on the Bonds; and

WHEREAS, a portion of the proceeds of the Bonds will be deposited with the escrow agent named herein (the "Escrow Agent"), to be held in trust under the terms of an Escrow Deposit Agreement (the "Escrow Agreement") to be entered into between the Authority and the Escrow Agent for the benefit of the holders of the Bonds to be Refunded; and

WHEREAS, in accordance with the purposes and objectives of Executive Order No. 26 (Whitman 1994) (“Executive Order No. 26”), the Authority hereby finds and determines that the issuance of the Bonds involves certain circumstances under which a private placement is

permissible as outlined in Executive Order No. 26, namely volatile market conditions in the context of the relatively small issue size, and that a direct purchase of the Bonds is necessary for the Refunding Project due to the representations of the University that a competitive sale of the Bonds is not in the best interest of the Authority and the University, and a direct purchase would be the most cost-effective means of financing the Refunding Project.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE AUTHORITY AS FOLLOWS:

Section 1. In order to assist in the financing of the Refunding Project, Bonds of the Authority are hereby authorized to be issued in a principal amount not to exceed \$12,250,000, designated as “New Jersey Educational Facilities Authority Revenue and Refunding Bonds, Seton Hall University Issue, 2021 Series D” or such other designation as an Authorized Officer (as hereinafter defined) may determine, with an initial interest rate not to exceed 4% and a maturity not later than July 1, 2033. The Bonds will initially be issued on a federally taxable basis with a tax-exempt conversion feature, shall be dated, shall bear interest at such a rate of interest, and shall be payable as to principal, interest and premium, if any, all as is specified therein. The Bonds shall be issued in the forms, shall mature, shall be subject to redemption prior to maturity and shall have such other details and provisions as are prescribed by the Bond Agreement.

Section 2. The Bonds shall be special and limited obligations of the Authority, payable solely out of the moneys derived pursuant to the Bond Agreement and all such moneys are hereby pledged to the payment of the Bonds. The payment of the principal of, premium, if any, and interest on the Bonds shall be secured by a pledge and assignment of revenues and certain rights of the Authority as provided in the Bond Agreement. Neither the members of the Authority nor any person executing the Bonds issued pursuant to this resolution and the Act shall be liable personally on the Bonds by reason of the issuance thereof. The Bonds shall not be in any way a debt or liability of the State or any political subdivision other than the Authority, whether legal, moral or otherwise.

Section 3. The Bond Agreement and all instruments attached as exhibits thereto, in substantially the form attached hereto, are hereby approved. The Chair, Vice Chair, Executive Director, Deputy Executive Director, Treasurer, Director of Project Management, Director of Compliance Management, Director of Finance, Secretary, Assistant Treasurer or any Assistant Secretary and any other person authorized by resolution of the Authority, and any of such officers designated by resolution as “acting” or “interim” (the “Authorized Officers”), are hereby authorized to execute, acknowledge and deliver the Bond Agreement and all instruments attached as exhibits thereto with any changes, insertions and omissions as may be approved by any of the Authorized Officers, with the advice of bond counsel and the Attorney General of the State, and the Secretary, any Assistant Secretary or any other Authorized Officer of the Authority are hereby authorized to affix the official common seal of the Authority on the Bond Agreement and all instruments attached as exhibits thereto and attest the same. The execution of the Bond Agreement shall be conclusive evidence of any approval required by this Section 3.

Section 4. Any Authorized Officer is hereby authorized and directed to execute, acknowledge and deliver, and any other Authorized Officer is hereby authorized to attest the

Escrow Agreement in such form as the Authorized Officer executing the same may approve, with the advice of Bond Counsel and the Attorney General of the State, such approval to be evidenced conclusively by such Authorized Officer's execution thereof.

Section 5. The Bank of New York Mellon is hereby appointed to act as the Escrow Agent under the Escrow Agreement for the refunding of the Bonds to be Refunded. The Escrow Agent shall signify its acceptance of the duties and obligations imposed upon it by the Escrow Agreement by the Escrow Agent's execution and delivery thereof. The Authorized Officers are authorized to appoint a verification agent in connection with the refunding of the Bonds to be Refunded pursuant to the terms of the Escrow Agreement, in accordance with the Authority's procurement policies and procedures.

Section 6. The Bonds are hereby authorized to be sold to the Purchaser in accordance with the Bond Agreement and Executive Order No. 26.

Section 7. Any Authorized Officer is hereby authorized to utilize the proceeds of the Bonds or other available moneys held pursuant to the authorizing documents of the Bonds to be Refunded either (i) to purchase United States Treasury Obligations, State and Local Government Series ("SLGS") or (ii) to select a firm to act as its broker or to select a bidding agent to solicit bids to purchase open market U.S. Treasury Obligations (which qualify as permissible defeasance obligations pursuant to the authorizing documents of the Bonds to be Refunded), in the event that such Authorized Officer determines that it is necessary or advantageous to the Authority to purchase such open market U.S. Treasury Obligations. In connection with the purchase of open market U.S. Treasury Obligations, any Authorized Officer is further authorized to solicit bids for one or more float forward or escrow reinvestment agreements (a "Float Forward Agreement") and to direct the Escrow Agent pursuant to the Escrow Agreement to enter into any such Float Forward Agreement with the successful bidder or bidders thereof. Pursuant to the terms of any Float Forward Agreement, the provider, in consideration of an upfront payment to the Escrow Agent, shall have the right to sell U.S. Treasury Obligations to the Escrow Agent, at the times and in the amounts set forth in the Float Forward Agreement at an aggregate purchase price not exceeding the maturity value thereof. Such U.S. Treasury Obligations shall mature on or before the dates when the proceeds thereof are needed to make payments in accordance with the Escrow Agreement. Each Float Forward Agreement shall be awarded to the bidder offering to pay the highest upfront payment therefor. The form of any Float Forward Agreement shall be approved by an Authorized Officer, in consultation with Bond Counsel and the Attorney General of the State. An Authorized Officer is further authorized to execute and deliver any such Float Forward Agreement and/or any certificates or other documents required in connection therewith. Notwithstanding the foregoing, nothing contained herein shall prohibit an Authorized Officer from purchasing both SLGS and open market U.S. Treasury Obligations, to the extent permitted by law. Bond Counsel and the Escrow Agent are hereby authorized to act as agent(s), if so directed by an Authorized Officer, on behalf of the Authority for the subscription of SLGS via SLGSafe pursuant to the regulations promulgated therefor set forth in 31 *C.F.R.* Part 344.

Section 8. The Authorized Officers are hereby designated to be the authorized representatives of the Authority, charged by this resolution with the responsibility for issuing the Bonds and each of them is hereby authorized and directed to execute and deliver any and all papers,

instruments, opinions, certificates, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this resolution, the Bond Agreement and the issuance of the Bonds.

Section 9. In case any one or more of the provisions of this resolution, the Bond Agreement or the Bonds issued hereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this resolution or the Bond Agreement and the Bonds shall be construed and enforced as if such illegal or invalid provision had not been contained therein.

Section 10. All prior resolutions of the Authority or portions thereof that are inconsistent herewith are hereby repealed.

Section 11. This resolution shall take effect in accordance with the Act.

____ Mr. Bridges ____ moved that the foregoing resolution be adopted as introduced and read, which motion was seconded by ____ Mr. Rodriguez ____ and upon roll call the following members voted:

AYE: Joshua Hodes
Louis Rodriguez
Brian Bridges
Elizabeth Maher Muoio (represented by Ryan Feeney)

NAY: None

ABSTAIN: None

ABSENT: Ridgeley Hutchinson

The Chair thereupon declared said motion carried and said resolution adopted.

BOND AGREEMENT

By and Among

NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY,

BANK OF AMERICA, N.A.

and

SETON HALL UNIVERSITY

Dated: [CLOSING DATE]

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ARTICLE I

Background, Representations and Findings.

Section 1.1 Background. THIS BOND AGREEMENT dated [CLOSING DATE], by and among the NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY (the “Authority”), a body corporate and politic with corporate succession, constituting a political subdivision of the State of New Jersey (the “State”), BANK OF AMERICA, N.A., a national banking association (the “Purchaser”) and SETON HALL UNIVERSITY, a State nonprofit corporation (the “Borrower”).

WHEREAS, the New Jersey Educational Facilities Authority (the “Authority”) was created as a public body corporate and politic of the State of New Jersey (the “State”) pursuant to the New Jersey Educational Facilities Authority Law (being Chapter 72A of Title 18A of the New Jersey Statutes, as amended and supplemented), N.J.S.A. 18A:72A-1 et seq. (the “Act”); and

WHEREAS, the Authority is authorized pursuant to the Act to make loans to private colleges and universities in the State to refund mortgages or advances given or made by private colleges or universities in the State and to finance educational projects of private colleges and universities; and

WHEREAS, the Authority has heretofore issued its \$41,910,000 original principal amount Revenue Bonds, Seton Hall University Issue, 2013 Series D (the “2013 Series D Bonds”); and

WHEREAS, the Borrower has requested a loan from the Authority to (a) refund a portion of the 2013 Series D Bonds (the “Bonds to be Refunded”) and (b) pay certain costs incidental to the issuance and sale of the Bonds, as hereinafter defined (collectively, the “Project”); and

WHEREAS, the property refinanced with proceeds of the Bonds to be Refunded will be referred to as the “Project Facilities”; and

WHEREAS, the Authority has by resolution, duly adopted in accordance with the Act on August 24, 2021, authorized the issuance of its \$[12,045,000] principal amount New Jersey Educational Facilities Authority Refunding Bonds, Seton Hall University Issue, 2021 Series D (the “Bonds”) to the Purchaser for the purpose of loaning the proceeds of the sale of the Bonds to the Borrower; and

WHEREAS, the execution and delivery of this Bond Agreement have been duly authorized by the parties and all conditions, acts and things necessary and required by the Constitution or statutes of the State or otherwise to exist, to have happened, or to have been performed precedent to or in the execution and delivery of this Bond Agreement do exist, have happened and have been performed.

NOW THEREFORE, in consideration of the premises and the mutual covenants and representations herein, and intending to be legally bound the parties hereto hereby mutually agree as follows:

Section 1.2 Definitions.

In this Bond Agreement, capitalized terms defined in the recitals shall have the meaning ascribed to them therein. In addition, the following terms shall have the following meanings unless a different meaning clearly appears from the context:

“Annual Administrative Fee” means the annual fee for the general administrative services of the Authority including without limitation, the cost of attendance at Authority events, in an amount equal to 7/100 of 1% of the Outstanding principal amount of the Bonds to commence on the closing date for the Bonds;

“Anti-Terrorism Laws” shall mean any laws (including common law), statutes, treaty, ordinance, regulation, rule, order, opinion, release, injunction, writ, decree or award of any Governmental Authority relating to terrorism or money laundering including Executive Order No. 13224 and the USA Patriot Act;

“Article” shall mean a specified article hereof, unless otherwise indicated;

“Authority’s Tax Certificate” shall mean the Arbitrage and Tax Certificate, including the exhibits thereto, dated as of the date of issuance and delivery of the Bonds, furnished by the Authority;

“Authorized Authority Representative” shall mean any individual or individuals duly authorized by the Authority to act on its behalf;

“Authorized Borrower Representative” shall mean the Borrower’s chief financial officer or any individual or individuals duly authorized by the Borrower to act on its behalf;

“Beneficial Ownership Certification” shall mean a certification regarding beneficial ownership required by the Beneficial Ownership Regulation;

“Beneficial Ownership Regulation” shall mean 31 C.F.R. § 1010.230;

“Bond Agreement” or “Agreement” shall mean this Bond Agreement;

“Bond Counsel” shall mean the law firm of McManimon, Scotland & Baumann, LLC, Roseland, New Jersey or an attorney or firm of attorneys of nationally recognized standing on the subject of municipal bonds;

“Bond Documents” shall mean any or all of this Bond Agreement, the Note and all documents and instruments executed in connection therewith and all amendments and modifications thereto;

“Business Day” shall mean any day other than (a) a Saturday or Sunday or a day on which offices of the State are authorized to be closed or (b) a day on which commercial banks in New York, New York, or the city or cities in which the primary office of the Purchaser is located is closed;

“Capitalized Lease Obligations” shall mean Indebtedness represented by obligations under a lease that is required to be capitalized for financial reporting purposes in accordance with GAAP, consistently applied;

“Change in Law” shall mean the occurrence, after the date of this Bond Agreement, of the adoption or taking effect of any new or changed law, rule, regulation or treaty, or the issuance of any request, rule, guideline or directive (whether or not having the force of law) by any governmental authority; provided that (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives issued in connection with that Act, and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor authority) or the United States regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law,” regardless of the date enacted, adopted or issued;

“Code” shall mean the Internal Revenue Code of 1986, as amended, and the Treasury Regulations in effect thereunder;

“Commitment Fee” shall mean the commitment fee payable by the Borrower to the Purchaser on the date hereof equal to \$[_____];

“Cost” shall include all expenses as may be necessary or incident to the Project;

“Counsel for the Purchaser” shall mean the law firm of Stradley Ronon Stevens & Young, LLP, Malvern, Pennsylvania;

“Covenant Compliance Certificate” shall mean the certificate in the form attached hereto in **Schedule 5.6**;

“Debt Service” shall mean the actual principal payments and interest expense for the trailing twelve month period;

“Debt Service Coverage Ratio” shall mean the ratio calculated by dividing (a) Net Revenues Available for Debt Service by (b) Debt Service of the Borrower; extraordinary gains or losses shall be excluded in determining this ratio;

“Default” shall mean the occurrence of an event which, but for the giving of any required notice and/or the expiration of any applicable cure period, would be an Event of Default;

“Default Rate” shall mean the interest rate of the Note plus 3.00% per annum, not to exceed the maximum amount permitted by law;

“ERISA” shall have the meaning ascribed to such term in Section 1.3(l) hereof;

"ERISA Affiliate" shall mean any trade or business (whether or not incorporated) under common control with the Borrower within the meaning of Section 414(b) or (c) of the Code;

“Event of Default” shall mean any event of default as defined in Article VI;

“Expendable Resources” shall mean Unrestricted Resources, plus donor restricted endowment funds, within temporarily restricted net assets, as may be classified as a result of the New Jersey Uniform Prudent Management of Institutional Funds Act;

“GAAP” shall mean generally accepted accounting principles in the United States of America in effect from time to time;

“Governmental Authority” shall mean the United States of America, the State of New Jersey or any political subdivision or instrumentality thereof, or any court, entity or agency exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government;

The terms “herein”, “hereunder”, “hereby”, “hereto”, “hereof”, and any similar terms, refer to this Bond Agreement; the term “heretofore” shall mean before the date of execution of this Bond Agreement; and the term “hereafter” shall mean after the date of execution of this Bond Agreement;

“Indebtedness” shall mean the following obligations of the Borrower: (i) all indebtedness for borrowed money (including the Bonds) or for the deferred purchase price of property or services (other than current trade liabilities incurred in the ordinary course of business and payable in accordance with customary practices), (ii) any other indebtedness which is evidenced by a note, bond, debenture or similar instrument, (iii) all Capitalized Lease Obligations, (iv) the face amount of all letters of credit issued for the account of the Borrower and all drafts drawn thereunder, (v) all obligations of other Persons which the Borrower has guaranteed, (vi) all net obligations under any swap or interest rate hedging agreements, and (viii) all liabilities secured by any lien on any property owned by the Borrower even if the Borrower has not assumed or otherwise become liable for the payment thereof;

“Indemnified Parties” shall mean the State, the Authority, the Purchaser, any Person who “controls” the State, the Authority or the Purchaser within the meaning of Section 15 of the Securities Act of 1933, as amended, and any member, officer, official, employee, agent or attorney of the Authority, the State or the Purchaser, and their respective successors and assigns;

“Initial Fee” shall mean the fee paid or payable to the Authority for its services in connection with the issuance of the Bonds, calculated at the rate of 1/5 of 1% of the principal amount of the Bonds with a maximum initial fee of \$125,000 payable by the Borrower on the closing date for the Bonds;

“Loan” shall mean the loan from the Authority to the Borrower in the principal amount of the Bonds, under the terms and conditions provided for herein;

“Long-Term Debt” shall mean all obligations for the payment of money incurred, assumed or guaranteed by the Borrower, including Capitalized Lease Obligations, whether due and payable in all events, including the current portion of such obligations, or upon the performance of work, the possession of property as lessee or the rendering of services by others, except: (a) Short-Term Debt; (b) current obligations payable out of current revenues, including current payments for the funding of pension plans; (c) obligations under contracts for supplies, services and pensions, allocable to current operating expenses of future years in which the supplies are to be furnished, the services rendered or the pensions paid; and (d) rentals payable in future years under operating leases;

“Material Adverse Effect” shall mean any material adverse effect upon the financial condition of the Borrower which will materially interfere with the ability of the Borrower to perform its obligations hereunder or under the Bond Documents;

“Maximum Marginal Statutory Rate” means the tax rate on the highest bracket of taxable income to be imposed upon domestic corporations pursuant to Section 11(b) of the Code (or corresponding section in any future income tax law enacted by the Congress and signed into law); the current Maximum Marginal Statutory Rate is [21]%;

“Moody’s” shall mean Moody's Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware, and its successors and assigns;

“Net Revenues Available For Debt Service” shall mean the change in unrestricted net assets (without recognition of any unrealized gains or losses on investments), plus (a) interest expense, (b) depreciation and amortization expense, (c) non-cash post-retirement benefit expense, asset impairment adjustments and losses on extinguishment of debt;

“Note” shall mean the note executed by the Borrower in favor of the Authority and assigned to the Purchaser, evidencing the Obligations;

“Obligations” shall mean all direct or indirect obligations of the Borrower created pursuant to the Bond Documents, including without limitation all principal, interest, obligations fees, indemnities and, to the extent entered into in connection with the transactions contemplated herein, obligations in respect to interest rate swap or other hedging agreements, corporate cards and cash management products and services;

“Omnibus Certificate of the Authority” shall mean the certificate of the Authority which is made a part of the Record of Proceedings;

“Paragraph” shall mean a specified paragraph of a Section, unless otherwise indicated;

“Person” or “Persons” shall mean any individual, corporation, partnership, joint venture, trust, or unincorporated organization, or a governmental agency or any political subdivision thereof;

“Record of Proceedings” shall mean the Bond Documents, certificates, affidavits, opinions and other documentation executed in connection with the sale of the Bonds and the making of the Loan;

“Requisition Form” shall mean the form of requisition required by Section 3.5 as a condition precedent to the disbursement of the proceeds of the Bonds, in the form made part of the Record of Proceedings;

“Resolution” shall mean the resolution of the Authority dated August 24, 2021 authorizing the issuance and sale of the Bonds and determining other matters in connection with the Project;

“Reserved Rights” shall mean the rights of the Authority to receive payments under and to enforce, Article VI entitled “Events of Default and Remedies” and Sections 1.5, 4.6, 5.1, 5.2, 5.7, 5.8, 5.10, 5.11, 5.13, 6.3, 6.5 and 7.17 hereof and Sections 5, 8 & 9 of **Exhibit C** hereof. These Reserved Rights have been assigned to the Purchaser herewith but are also held and retained by the Authority concurrently with the Purchaser;

“S&P” means S&P Global Ratings, acting through Standard & Poor's Financial Services LLC, a corporation organized and existing under the laws of the State of New York, and its successors and assigns;

“Section” shall mean a specified section hereof, unless otherwise indicated;

“Short-Term Debt” shall mean all obligations of the Borrower for the repayment of borrowed money incurred, assumed or guaranteed by the Borrower, payable upon demand or having a final maturity of less than one year from the date incurred (excluding the current portion of any Long-Term Debt), including debt having a stated maturity in excess of one year but that is subject to payment upon demand within one year, unless the payment of such debt is secured by a letter of credit or standby take-out or credit agreement that provides for repayment to the issuer of such facility not less than one year after such facility is drawn upon;

“Tax-Exempt Conversion” shall mean the conversion of the interest rate of the Bonds to a federally tax-exempt rate in accordance with Section 3.3;

“Tax-Exempt Conversion Date” shall have the meaning set forth in Section 3.3;

“Unrestricted Resources” shall mean unrestricted net assets of the Borrower as shown on the Borrower's most recent audited financial statements minus (net property, plant and equipment minus outstanding Long-Term Debt attributable to plant); and

“USA Patriot Act” shall mean the USA Patriot Act of 2001, Pub. L. No. 107-56 (signed into law October 26, 2001), as amended from time to time.

Section 1.3 Borrower Representations. The Borrower represents that:

(a) Powers, etc. The Borrower is a tax-exempt corporation under Section 501(c)(3) of the Code, duly organized, validly existing and in good standing under the laws of the State, has the power and authority to own its properties and assets and to carry on its activities as now being conducted (and as now contemplated by the Borrower) and has the power to perform all the undertakings of the Bond Documents to borrow hereunder and to execute and deliver the Bond Documents.

(b) Execution of Bond Documents. The execution, delivery and performance by the Borrower of the Bond Documents and other instruments required by this Bond Agreement:

(i) have been duly authorized by all requisite corporate action;

(ii) do not and will not conflict with or violate any provision of law, rule or regulation, any order of any court or other agency of government;

(iii) do not and will not violate or result in a default under any provision of any indenture, agreement or other instrument to which the Borrower is a party or is subject;

(iv) do not and will not conflict with or violate any provision of the certificate of incorporation or bylaws of the Borrower; and

(v) do not and will not require any authorization, consent, approval, license, exemption of, or filing or registration with, any court or governmental department, commission, board, bureau or instrumentality, other than consents or approvals already obtained in the ordinary course of business.

(c) Judgment; Litigation. Except as set forth on **Schedule 1.3(d)**, there are no outstanding judgments against the Borrower; nor is there any action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending or, to the knowledge of the Borrower, threatened against or affecting it or any of its properties or rights which, if adversely determined, would (i) affect the transactions contemplated hereby, (ii) affect the validity or enforceability of the Bond Documents, (iii) affect the ability of the Borrower to perform its obligations under the Bond Documents, (iv) materially impair the Borrower's right to carry on its business substantially as now conducted (and as now contemplated by the Borrower), or (v) have a Material Adverse Effect on the Borrower's financial condition.

(d) Payment of Taxes. The Borrower has filed or caused to be filed all federal, State and local tax returns which are required to be filed and has paid or caused to be paid all taxes as shown on said returns or on any assessment received by it, to the extent that such taxes have become due. The Borrower represents that the taxes as shown on said returns were computed in good faith and are believed by the Borrower to be accurate.

(e) No Defaults. The Borrower is not in breach or default in any material respect in the performance, observance or fulfillment of any of the obligations, covenants or conditions

contained in any agreement or instrument to which it is a party or by which it is bound. There is no event which is, or with notice or lapse of time or both would be, a default under this Bond Agreement.

(f) No Material Adverse Change. Except as disclosed to the Purchaser, there has been no material adverse change in the financial condition, operations, properties or prospects of the Borrower since the date of the most recent financial statements submitted to the Purchaser and the Authority.

(g) Obligations of the Borrower. The Bond Documents have been duly executed and delivered and are legal, valid and binding obligations of the Borrower enforceable against it in accordance with their respective terms.

(h) No Action. The Borrower has not taken and will not take any action and knows of no action that any other Person has taken or intends to take, which would cause interest income on the Bonds to be included in the gross income of the recipients thereof under the Code commencing on the Tax-Exempt Conversion Date or on any date thereafter.

(i) Operation of the Project Facilities and Borrower's Facilities and Business. The operation of the Project Facilities in the manner presently contemplated and the operation of the Borrower's facilities and business will not conflict with any current zoning, water, air pollution or other ordinances, orders, laws or regulations applicable thereto. The Borrower will finance and refinance the Project Facilities pursuant to this Bond Agreement. The Borrower possesses all permits, memberships, franchises, contracts and licenses required and all trademark rights, trade name rights, patent rights, copyrights, and fictitious name rights necessary to enable it to conduct the business in which it is now engaged.

(j) Environmental Representation. (i) For purposes of this Section 1.3, "Applicable Environmental Laws" shall mean (A) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. 9601 *et seq.* ("CERCLA"); (B) the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6901 *et seq.* ("RCRA"), (C) the New Jersey Industrial Site Recovery Act, as amended, N.J.S.A. 13:1K-6 *et seq.* ("ISRA"); (D) the New Jersey Spill Compensation and Control Act, as amended, N.J.S.A. 58:10-23.11B *et seq.* ("Spill Act"); (E) the New Jersey Leaking Underground Storage Tank Act, as amended, N.J.S.A. 58:10A-21 *et seq.* ("LUST"); and (F) any and all laws, regulations, executive orders, both federal, state and local, pertaining to environmental matters, as the same may be amended or supplemented from time to time. Any terms mentioned in the following sub-sections which are defined in any Applicable Environmental Law shall have the meanings ascribed to such terms in said laws; provided, however, that if any of such laws are amended so as to broaden any term defined therein, such broader meaning shall apply subsequent to the effective date of such amendment.

(ii) To its knowledge and except as disclosed by the Borrower on **Schedule 1.3(k)(ii)** hereto, the Borrower represents and warrants that neither the Borrower nor the Project Facilities are in violation of or subject to any existing, pending or threatened investigation or

inquiry by any governmental authority pertaining to any Applicable Environmental Law. The Borrower shall not cause or permit the Project Facilities to be in violation of, or do anything which would subject the Project Facilities to any remedial obligations under, any Applicable Environmental Law and shall promptly notify the Authority and the Purchaser in writing, of any existing, pending or threatened investigation or inquiry by any governmental authority in connection with any Applicable Environmental Law.

(iii) To its knowledge, the Borrower represents and warrants that no friable asbestos, or any substance containing asbestos deemed hazardous by federal or state regulations, has been installed in the Project Facilities. The Borrower covenants that it will not install in the Project Facilities friable asbestos or any substance containing asbestos deemed hazardous by federal or state regulations. In the event any such materials are found to be present at the Project Facilities, the Borrower agrees to remove the same promptly upon discovery at its sole cost and expense.

(iv) The Borrower represents and warrants that it has taken all steps required by the Authority and the Purchaser to determine and the Borrower has determined that, to its knowledge, no Hazardous Substances or Hazardous Wastes as such terms are defined in ISRA have been disposed of or otherwise released or discharged on or to the Project Facilities. The use which the Borrower makes and intends to make of the Project Facilities will not result in the release or discharge of any Hazardous Substance or Hazardous Waste on or to the Project Facilities. During the term of this Bond Agreement, the Borrower shall ensure that any Hazardous Substances or Hazardous Wastes present on the Project Facilities are disposed of or removed in accordance with all Applicable Environmental Laws.

(v) The Borrower further represents, warrants, covenants and agrees as follows:

(A) Except as permitted by applicable federal, state and local law, regulations and executive orders and except for *de minimus* quantities of Hazardous Substances or Hazardous Wastes stored or disposed of in accordance with all Applicable Environmental laws, to the Borrower's knowledge, none of the real property owned and/or occupied by the Borrower and located in the State, including without limitation the Project Facilities, has ever been used by previous owners and/or operators or will be used in the future to (1) refine, produce, store, handle, transfer, process or transport Hazardous Substances or Hazardous Wastes; or (2) generate, manufacture, refine, transport, heat, store, handle or dispose of Hazardous Substances or Hazardous Wastes.

(B) Except as disclosed to the Authority and the Purchaser in writing, the Borrower has not received any communication, written or oral, from the State Department of Environmental Protection concerning any intentional or unintentional action or omission on the Borrower's part resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of Hazardous Substances or Hazardous Wastes into the waters or onto the lands of the State or into the waters outside the jurisdiction of the State resulting in damage to the lands, waters,

fish, shellfish, wildlife, biota, air and other resources owned, managed, held in trust or otherwise controlled by the State.

(C) To the Borrower's knowledge, none of the real property owned and/or occupied by the Borrower and located in the State, including without limitation the Project Facilities, has or is now being used as a Major Facility, as such term is defined in N.J.S.A. 58:10-23.11(b)(1), and the Borrower shall not use any such property as a Major Facility in the future without the prior express written consent of the Authority and the Purchaser. If the Borrower ever becomes an owner or operator of a Major Facility, then the Borrower shall furnish the State Department of Environmental Protection with all the information required by N.J.S.A. 58:10-23.11d, and shall duly file with the Director of the Division of Taxation in the State Department of the Treasury a tax report or return, and shall pay all taxes due therewith, in accordance with N.J.S.A. 58:10-23.11h.

(D) Except as permitted by applicable federal, state and local law, regulations and executive orders, the Borrower shall not conduct or cause or permit to be conducted on the Project Facilities any activity which constitutes an Industrial Establishment, as such term is defined in ISRA, without the prior express written consent of the Authority and the Purchaser. In the event that the provisions of ISRA become applicable to the Project Facilities subsequent to the date hereof, the Borrower shall give prompt written notice thereof to the Authority and the Purchaser and shall take immediate requisite action to insure full compliance therewith. The Borrower shall deliver to the Authority and the Purchaser copies of all correspondence, notices and submissions that it sends to or receives from the State Department of Environmental Protection in connection with such ISRA compliance. The Borrower's obligation to comply with ISRA shall, notwithstanding its general applicability, also specifically apply to a sale, transfer, closure or termination of operations associated with any foreclosure action.

(E) No lien has been attached to any revenue or any real or personal property owned by the Borrower and located in the State, including, without limitation, the Project Facilities, as a result of (1) the Administrator of the New Jersey Spill Compensation Fund expending monies from said fund to pay for Damages as such term is defined in N.J.S.A. 58:10-23.11(g) and/or Cleanup and Removal Costs as such term is defined in N.J.S.A. 58:10-23.11(b)(d); or (2) the Administrator of the United States Environmental Protection Agency expending monies from the Hazardous Substance Superfund as such term is referred to in 26 U.S.C. §9507 for Damages as such term is defined in 42 U.S.C. §9601(6) and/or response action costs as such term is defined in 42 U.S.C. §9607(a). In the event that any such lien has been filed, then the Borrower shall, within thirty (30) days from the date that the Borrower is given such notice of such lien of (or within such shorter period of time in the event that the State or the United States has commenced steps to have the Project Facilities sold), either: (1) pay the claim and remove the lien from the Project Facilities; or (2) furnish (i) a bond satisfactory to the Authority and the Purchaser in the amount of the claim out of which the lien arises, (ii) a cash deposit in the amount of the claim out of which the lien arises, or (iii) other security satisfactory to the Authority and the Purchaser in an amount sufficient to discharge the claim out of which the lien arises.

(F) In the event that the Borrower shall cause or permit to exist a releasing, spilling, leaking, pumping, pouring, omitting, emptying or dumping of Hazardous Substances or Hazardous Wastes into the waters or onto the lands of the State, or into the waters outside the jurisdiction of the State resulting in damage to the lands, waters, fish, shellfish, wildlife, biota, air or other resources owned, managed, held in trust or otherwise controlled by the State, without having obtained a permit issued by the appropriate authorities, the Borrower shall promptly clean up such release, spill, leak, pumping, pouring, emission, emptying or dumping in accordance with the provisions of the Spill Act.

(k) Anti-Terrorism Laws and Sanctions. The Borrower is not in violation of any Anti-Terrorism Law or engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law. The Borrower, nor any affiliated entities of Borrower, nor any subsidiaries nor, to the knowledge of the Borrower, any owner, trustee, director, officer, employee, agent, affiliate or representative of the Borrower is an individual or entity (“Person”) currently the subject of any sanctions administered or enforced by the United States Government, including, without limitation, the U.S. Department of Treasury’s Office of Foreign Assets Control, the United Nations Security Council, the European Union, Her Majesty’s Treasury, or other relevant sanctions authority (collectively, “Sanctions”), nor is the Borrower located, organized or resident in a country or territory that is the subject of Sanctions. The Borrower represents and covenants that it will not, directly or indirectly, use the proceeds of the credit provided under this Bond Agreement, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other Person, to fund any activities of or business with any Person, or in any country or territory, that, at the time of such funding, is the subject of Sanctions, or in any other manner that will result in a violation by any Person (including any Person participating in the transaction, whether as underwriter, advisor, investor or otherwise) of Sanctions.

(l) ERISA Compliance. Each employee benefit plan as to which the Borrower may have any liability complies in all material respects with all applicable provisions of the Employee Retirement Income Security Act of 1974 (as amended from time to time, “ERISA”) and other federal or state law, including all applicable minimum funding requirements, and (i) no Prohibited Transaction (as defined under ERISA) has occurred with respect to any such plan; (ii) no Reportable Event (as defined under Section 4043 of ERISA) has occurred with respect to any such plan which requires notice or would cause the Pension Benefit Guaranty Corporation to institute proceedings under Section 4042 of ERISA; and (iii) no action by the Borrower or any ERISA Affiliate to terminate or withdraw from any Plan has been taken and no notice of intent to terminate a Plan has been filed under Section 4041 or 4042 of ERISA. As of the date hereof and throughout the term of this Bond Agreement, the Borrower is not (1) an employee benefit plan subject to Title I of the ERISA, (2) a plan or account subject to Section 4975 of Code; (3) an entity deemed to hold “plan assets” of any such plans or accounts for purposes of ERISA or the Code; or (4) a “governmental plan” within the meaning of ERISA.

(m) Blocked Persons. The Borrower is not any of the following (each a “Blocked Person”):

(i) a Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order No. 13224;

(ii) a Person owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order No. 13224;

(iii) a Person or entity with which the Purchaser is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law;

(iv) a Person or entity that commits, threatens or conspires to commit or supports “terrorism” as defined in the Executive Order No. 13224;

(v) a Person or entity that is named as a “specially designated national and blocked person” on the most current list published by the U.S. Treasury Department Office of Foreign Asset Control (“OFAC”) at its official website: <http://www.treas.gov/ofac/t11sdn.pdf> or any replacement website or other replacement official publication of such list;

(vi) a Person who is affiliated with a Person listed above; or

(vii) a Person who is listed on any other list of terrorist or terrorist organizations maintained pursuant to any of the rules and regulations of OFAC or pursuant to any other applicable executive order. The above-referenced lists contained in this Section 1.3(m) are collectively referred to as the “OFAC Lists.”

(n) Conduct of Business with Blocked Persons. The Borrower does not (i) conduct any business or engage in making or receiving any contribution of funds, goods or services to or for the benefit of any Blocked Person or (ii) deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order No. 13224.

(o) Beneficial Ownership Certification. The information included in the Beneficial Ownership Certification most recently provided to the Purchaser, if applicable, is true and correct in all respects.

Section 1.4 Authority Representations and Covenants. The Authority hereby represents and covenants that:

(a) The Authority is a body corporate and politic with corporate succession, constituting a political subdivision of the State, duly organized, established and existing under the laws of the State, particularly the Act. The Authority is authorized to issue the Bonds in accordance with the Act and to use the proceeds thereof to make the Loan to the Borrower.

(b) The Authority has complied with the provisions of the Act and has full power and authority pursuant to the Act to consummate all transactions contemplated to be performed by the Authority by this Bond Agreement, the Bonds, and any and all agreements relating thereto and to

perform its obligations thereunder and to issue, sell and deliver the Bonds to the holders as provided herein. The Authority has duly authorized the execution, delivery and due performance of this Bond Agreement and the Bonds, and the Authority has duly authorized the taking of any and all action as may be required on the part of the Authority pursuant to the express provisions of this Bond Agreement to perform, give effect to and consummate the transactions contemplated by this Bond Agreement and all approvals necessary in connection with the foregoing have been received.

(c) When the Bonds are issued, transferred and delivered in accordance with the provisions of this Bond Agreement, the Bonds will have been duly authorized, executed, issued and delivered and will constitute the valid, special and limited obligation of the Authority payable solely from the revenues and other monies derived by the Authority from this Bond Agreement, and nothing in the Bonds or this Bond Agreement shall be construed as assigning or pledging therefor any other funds or assets of the Authority. THE STATE IS NOT OBLIGATED TO PAY, AND NEITHER THE FAITH AND CREDIT NOR TAXING POWER OF THE STATE IS PLEDGED TO THE PAYMENT OF, THE PRINCIPAL OR REDEMPTION PRICE, IF ANY, OF OR INTEREST ON THE BONDS. THE BONDS ARE NOT A DEBT OR LIABILITY OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, OTHER THAN THE AUTHORITY. THE BONDS ARE SPECIAL AND LIMITED OBLIGATIONS OF THE AUTHORITY, PAYABLE SOLELY OUT OF THE REVENUES OR OTHER RECEIPTS, FUNDS OR MONEYS OF THE AUTHORITY PLEDGED HEREUNDER AND FROM ANY AMOUNTS OTHERWISE AVAILABLE HEREUNDER FOR THE PAYMENT OF THE BONDS. THE BONDS DO NOT NOW AND SHALL NEVER CONSTITUTE A CHARGE AGAINST THE GENERAL CREDIT OF THE AUTHORITY. THE AUTHORITY HAS NO TAXING POWER.

The Act provides that neither the members of the Authority nor any person executing bonds for the Authority shall be liable personally on said bonds by reason of the issuance thereof.

(d) The execution and delivery of this Bond Agreement, the Bonds and any and all other Bond Documents to which the Authority is a party, and compliance with the provisions thereof, will not conflict with or constitute on the part of the Authority a violation of the Constitution of the State or a violation, breach of or default under its By-Laws or any statute, indenture, mortgage, deed of trust, note agreement or other agreement or instrument to which the Authority is a party or by which the Authority is bound, or to the knowledge of the Authority, any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Authority or any of its activities or properties, and to the knowledge of the Authority, all consents, approvals, authorizations and orders of governmental or regulatory authorities which are required to be obtained by the Authority for the consummation of the transactions contemplated thereby have been obtained. No authority or proceedings for the issuance of the Bonds or documents executed in connection therewith have been repealed, revoked, rescinded or superseded.

(e) To the knowledge of the Authority, as of this date, there is no action, suit or proceeding, at law or in equity, pending or threatened against the Authority to restrain or enjoin

the issuance or sale of the Bonds or in any way contesting the validity or affecting the power of the Authority with respect to the issuance and sale of the Bonds or the documents or instruments executed by the Authority in connection therewith or the existence of the Authority or the right or power of the Authority to finance the Project Facilities, nor to the Authority's knowledge, any basis therefor.

(f) The Authority, to its knowledge, has never defaulted and is not now in default with respect to any bonds, notes or other obligations that it has issued.

(g) Any certificate signed by an Authorized Authority Representative shall be deemed a representation and warranty by the Authority to the respective parties as to the statements made therein.

(h) The Authority makes no representation as to (i) the financial position or business condition of the Borrower or (ii) the correctness, completeness or accuracy of any of the statements, materials (financial or otherwise), representations or certifications furnished or to be made by the Borrower in connection with the sale or transfer of the Bonds, the execution and delivery of this Bond Agreement or the consummation of the transactions contemplated hereby.

(i) The Authority agrees that it will cooperate with the Borrower in connection with the Borrower's obligation to cause all documents, statements, memoranda or other instruments to be registered, filed or recorded in such manner and at such places as may be required by law fully to protect the security of the Purchaser and the right, title and interest of the Purchaser in and to any moneys or securities held hereunder or any part thereof (including any refilings, continuation statements or such other documents as may be required).

Section 1.5 Purchaser Representations. The Purchaser hereby represents as follows:

(a) it has made an independent investigation and evaluation of the financial position and business condition of the Borrower and the value of the Project Facilities, or has caused such investigation and evaluation of the Borrower and the Project Facilities to be made by persons it deems competent to do so. All information relating to the business and affairs of the Borrower that the Purchaser has requested from the Authority in connection with the transactions referred to herein has been provided to the Purchaser. The Purchaser hereby expressly waives the right to receive such information from the Authority and relieves the Authority and its agents, representatives and attorneys of any liability for failure to provide such information or for the inclusion in such information or in any of the documents, representations or certifications to be provided by the Borrower under this Bond Agreement of any untrue fact or for the failure therein to include any fact;

(b) it is purchasing the Bonds for its own account, with the purpose of investment and not with the intention of distribution or resale thereof. The Bonds will not be the subject of an offering unless registered in accordance with the rules and regulations of the Securities and Exchange Commission or the Authority is furnished with an opinion of counsel or a "No Action"

letter from the Securities and Exchange Commission, that such registration is not required; provided, however, the foregoing restrictions shall not prohibit the Purchaser's assignment of, or granting participations in, the Bonds in accordance with the provisions of this Bond Agreement;

(c) it has taken all action necessary to be taken by it prior to the date of this Bond Agreement to authorize the execution, delivery and performance of this Bond Agreement; and

(d) this Bond Agreement is the legal, valid and binding obligation of the Purchaser, enforceable against it in accordance with its terms.

ARTICLE II

Project Facilities.

Section 2.1 Description of Project Facilities. The Borrower will provide such supplemental information to reflect material additions to, deletions from and changes in the Project Facilities and will notify the Authority and the Purchaser of such modifications so that the Authority and the Purchaser will be able to ascertain the nature, location and estimated cost of the facilities covered by this Bond Agreement.

Notwithstanding any provision to the contrary, the Borrower shall not make any improvements, additions or changes to the Project Facilities that would result in a violation of the Act or conflict with the Borrower's covenants herein.

ARTICLE III

The Financing.

Section 3.1 The Financing. The Purchaser has agreed with the Authority to purchase the Bonds, and the Authority has agreed to make the Loan to the Borrower. To accomplish this financing, the following acts will occur simultaneously and concurrently with the execution and delivery of this Bond Agreement:

- (a) The Authority will sell, issue and deliver the Bonds to the Purchaser.
- (b) The Purchaser will disburse the proceeds of the Bonds in accordance with the completed and executed Requisition Form.
- (c) The Borrower will execute and deliver to the Authority the Note and the other Bond Documents.

Section 3.2 Effectiveness of Bonds and Note. So long as there are no defaults in the performance by the Borrower of any of the terms, covenants and conditions of the Bond Documents, the Bonds will be outstanding and will control the interest rate and periodic payments due the Purchaser. If there is such a default, the provisions of Article VI hereof and the Bond Documents will govern. When the obligations of the Authority pursuant to the Bonds have been released and canceled pursuant to Article VI, the Note will remain fully effective and will control the interest rate and payments due the Purchaser.

Section 3.3 The Bonds. (a) Subject to the terms and conditions and upon the basis of the representations hereinafter set forth, the Authority hereby agrees to sell the Bonds to the Purchaser, and the Purchaser hereby agrees to purchase the Bonds from the Authority at the purchase price of \$[12,045,000].

(b) The Bonds will be delivered in registered form, without coupons, substantially in the form set forth as **Exhibit A** hereto, with appropriate insertions and deletions. Payment for the Bonds by the Purchaser and delivery thereof by the Authority shall be made at the offices of the Authority in Princeton, New Jersey or at such other place in the State as the Authority and the Purchaser mutually agree.

(c) The offering of the Bonds has not been registered under the Securities Act of 1933, as amended, and this Bond Agreement has not been qualified under the Trust Indenture Act of 1939, as amended. The Bonds may not be offered or sold by the Purchaser in contravention of said acts. No party shall obtain a public rating or CUSIP number with respect to the Bonds.

(d) The Purchaser, as bond registrar, shall maintain at its principal office registry systems for the registration and transfer of the Bonds and the Purchaser shall register or cause such Bonds to be registered therein, and permit any Bond to be transferred thereon, under such

reasonable regulations as it or the Authority may prescribe. The Purchaser is hereby appointed the agent of the Authority for such registration and transfer of the Bonds.

(e) The Bonds shall be transferable only upon the registry systems maintained at the principal office of the Purchaser by the registered owner thereof in person or by his or her attorney duly authorized in writing, upon surrender thereof together with a written instrument of transfer satisfactory to the Purchaser and duly executed by such registered owner or such duly authorized attorney. No transfer of the Bonds shall be valid unless made on such registry system and similarly noted by endorsement of the Purchaser on such Bonds, or unless, at the expense of the registered owner, the Authority shall execute, and the Purchaser shall deliver new Bonds registered in the name of the transferee.

(f) The Bonds are initially being issued as bonds the interest on which is includable in the gross income of the holders thereof for federal income tax purposes. The Bonds may be converted to bear interest at the Tax-Exempt Rate on or after the date hereof, subject to the satisfaction of the conditions in this subsection (f) prior to such date (the “Tax-Exempt Conversion Date”). Beginning on the Tax-Exempt Conversion Date, the Bonds will bear interest at a rate per annum, and shall be payable, as set forth in the form of the Bonds attached hereto as **Exhibit A**.

The Tax-Exempt Conversion shall become effective on the Tax-Exempt Conversion Date upon delivery by the Borrower to the Purchaser and the Authority, on or prior to the Tax-Exempt Conversion Date, of a Written Request for Conversion substantially in the form attached as **Exhibit D**, together with an opinion of Bond Counsel to the effect that the interest on the Bonds will be excludable from the gross income of the holder thereof for federal income tax purposes from and after the Tax-Exempt Conversion Date and the other documents described in **Exhibit D**. The Authority agrees to (i) execute and deliver to Bond Counsel on or prior to the Tax-Exempt Conversion date a supplement to the Authority’s Tax Certificate in form and substance reasonably acceptable to Bond Counsel and Internal Revenue Service Form 8038 (or other required information return) at the request of, and at the expense of, the Borrower and (ii) cooperate with Bond Counsel in the satisfaction of the requirements of Section 147(f) of the Code. The Borrower will deliver to Bond Counsel a supplement to the Borrower’s Tax Certificate in form and substance reasonably acceptable to Bond Counsel on or prior to the Tax-Exempt Conversion Date.

Section 3.4 Deposit of Net Proceeds. The purchase price of the Bonds will be paid by the Purchaser as set forth in this Section 3.4. The Purchaser will pay the full purchase price of the Bonds upon the issuance and sale of the Bonds. The Authority hereby authorizes and directs Bank of America, N.A., in its capacity as Purchaser to disburse the proceeds of the Bonds as set forth in the Requisition Form. The Borrower agrees that the sums so requisitioned will be applied to the redemption of the Bonds to be Refunded on the date hereof and to pay the Costs of the Project.

Section 3.5 Requisition Form. (a) The Borrower agrees as a condition precedent to the disbursement of the proceeds of the Bonds to comply with the terms of this Bond Agreement and to furnish the Purchaser with a Requisition Form signed by an Authorized Borrower Representative stating with respect to each payment made: (i) the name and address of the Person to whom payment

is to be made by the Purchaser (or an indication that payment should be made to the Borrower), a copy of the invoice of the Person to whom such advance was made together with, if applicable, proof of payment by the Borrower; (ii) the amount to be paid; (iii) that each obligation for which payment is sought is a Proper Charge, is unpaid or unreimbursed, and has not been the basis of any previously paid requisition; (iv) if such payment is a reimbursement to the Borrower for costs or expenses incurred by reason of work performed or supervised by officers or employees of the Borrower or any of its affiliates, that the amount to be paid does not exceed the actual cost thereof to the Borrower or any of its affiliates; (v) that no uncured Event of Default or Default has occurred under this Bond Agreement and the other Bond Documents; and (vi) the Borrower has received no written notice of any lien, right to lien or attachment upon, or other claim affecting the right to receive payment of, any of the moneys payable under such Requisition Form to any of the Persons named therein, or if any of the foregoing has been received, it has been released or discharged or will be released or discharged upon payment of the Requisition Form.

(b) The Borrower further agrees that prior to the first disbursement of the proceeds of the Bonds, the Borrower shall furnish the Authority and the Purchaser with such documents as the Authority or the Purchaser may reasonably require, including, but not limited to, paid or unpaid invoices, bills, receipts, affidavits, certificates and opinions.

Section 3.6 Restriction on Use of Bond Proceeds. The Borrower shall apply the proceeds of the Bonds as set forth in the Borrower's Tax Certificate and (a) shall not use or direct the use of Bond proceeds in any manner, or take or omit to take any other action, so as to cause the interest on the Bonds to be included in the gross income of the Purchaser for federal income tax on or subsequent to the Tax-Exempt Conversion Date, (b) shall not use more than 2% of the proceeds of the Bonds for costs of issuance thereof, and (c) shall not use the proceeds of the Bonds to acquire, construct or install facilities, the nature of which would cause the interest on the Bonds to become subject to federal income tax on or subsequent to the Tax-Exempt Conversion Date, including, without limitation, the requirement that 95% of the proceeds of the Bonds be used to finance the acquisition of property to be owned by a 501(c)(3) organization under the Code to be issued for activities that are not unrelated to its trade or business determined by applying Section 513(a) of the Code.

Section 3.7 Purchaser Not Responsible for Use of Proceeds. The Borrower acknowledges that the Purchaser is not responsible for the ultimate use of the proceeds of the Bonds or any consequences, of whatever kind, resulting, directly or indirectly, from the Borrower's use of proceeds of the Bonds.

Section 3.8 Investment of Bond Proceeds. The proceeds of the Bonds will not be invested by the Purchaser. Any investment of Bond Proceeds will be pursuant to an escrow deposit agreement with The Bank of New York Mellon, as escrow agent for the Bonds to be Refunded.

Section 3.9 Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated, or be destroyed, stolen or lost, the Authority shall, upon request of the registered owner, execute and thereupon the Purchaser, as bond registrar, shall deliver a new Bond of like tenor and

of the same principal amount as the Bond so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond upon surrender and cancellation of such mutilated Bond, or in lieu of and in substitution for the Bond destroyed, stolen or lost, on the condition that the Purchaser shall certify to the Authority that the registered owner has (a) filed with the Purchaser evidence satisfactory to the Purchaser that such Bond has been destroyed, stolen or lost and proof of ownership thereof, (b) furnished the Purchaser and the Authority with indemnity satisfactory to the Purchaser and the Authority, (c) complied with such other reasonable regulations as the Purchaser may prescribe and (d) agreed to pay such fees and expenses as the Authority and the Purchaser may require in connection therewith.

Section 3.10 Paid Bonds; Loan Statements. The Borrower shall notify the Authority promptly in writing upon the maturity or full prepayment of the Bonds. [The Purchaser shall furnish the Authority, on a monthly basis, loan statements which include the following information: beginning Loan balance, ending Loan balance, and all Loan activity during the course of the statement period.]

Section 3.11 Immunity of Authority. In the exercise of the powers of the Authority and its members, officers, employees or agents under this Bond Agreement or any other Bond Document and including without limitation the application of moneys hereunder, neither the Authority nor its members, officers, employees or agents shall be accountable to the Purchaser or the Borrower for any action taken or omitted by it or them in good faith and believed by it or them to be authorized or within the discretion or rights or powers conferred. The Authority and its members, officers, employees and agents shall be protected in its or their acting upon any paper or document believed by it or them to be genuine, and it and they may conclusively rely upon the advice of counsel and may (but need not) require further evidence of any fact or matter before taking any action.

Section 3.12 Neither Authority nor the Purchaser Responsible for Insurance, Taxes, Acts of the Authority or Application of Moneys Applied in Accordance with this Bond Agreement. Neither the Authority nor the Purchaser shall be under any obligation to effect or maintain insurance or to renew any policies of insurance or to inquire as to the sufficiency of any policies of insurance carried by the Borrower, or to report, or make or file claims or proof of loss for, any loss or damage insured against or which may occur, or to keep itself informed or advised as to the payment of any taxes or assessments, or to require any such payment to be made. Neither the Authority nor the Purchaser shall have responsibility in respect of the sufficiency of the security provided by this Bond Agreement. Neither the Authority nor the Purchaser shall be under any obligation to ensure that any duties herein imposed upon any party other than itself, or any covenants herein contained on the part of any party other than itself to be performed, shall be done or performed, and neither the Authority nor the Purchaser shall be under any liability for failure to see that any such duties or covenants are so done or performed.

Neither the Authority nor the Purchaser shall be liable or responsible because of the failure of the Authority or of any of its members, officers, employees, attorneys or agents to make any collections or deposits or to perform any act herein required of the Authority or because of the loss

of any moneys arising through the insolvency or the act or default or omission of any other depository in which such moneys shall have been deposited under the provisions of this Bond Agreement. Neither the Authority nor the Purchaser shall be responsible for the application of any of the proceeds of the Bonds or any other moneys deposited with it and paid out, withdrawn or transferred hereunder if such application, payment, withdrawal or transfer shall be made in accordance with the provisions of this Bond Agreement.

The immunities and exemptions from liability of the Authority and the Purchaser hereunder shall extend to their respective directors, members, attorneys, officers, employees and agents.

Section 3.13 Authority and Purchaser May Rely on Certificates. The Authority and the Purchaser shall be protected and shall incur no liability in acting or proceeding, or in not acting or not proceeding, in good faith and in accordance with the terms of this Bond Agreement, upon any resolution, order, notice request, consent, waiver, certificate, statement, affidavit, requisition, bond or other paper or document that it shall in good faith believe to be genuine and to have been adopted or signed by the proper board or person or to have been prepared and furnished pursuant to any of the provisions of this Bond Agreement, or upon the written opinion of any attorney, engineer, accountant or other expert believed by it to be qualified in relation to the subject matter, and neither the Authority nor the Purchaser shall be under any duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument.

ARTICLE IV

The Loan.

Section 4.1 The Loan. The Authority, agrees, upon the terms and subject to the conditions hereinafter set forth, to make the Loan to the Borrower for the purposes set forth in the recitals hereinabove.

Section 4.2 Payment of Loan. The Loan and other Obligations shall be evidenced by the Note. The Loan to be repaid by the Borrower and the face amount of the Note will be an amount equal to the principal or applicable redemption price of and interest on, the respective Bonds. The Borrower agrees that its obligations to make the payments required hereunder and under the Note shall constitute a general obligation of the Borrower payable from any moneys legally available to the Borrower and secured as set forth in Section 4.3 of this Bond Agreement. The Authority hereby authorizes and directs the Loan to be repayable to the Purchaser as assignee of the Authority, by or on behalf of the Borrower in installments which, as to amounts and due dates, correspond to the payments of the principal or applicable redemption price of, and interest on, and late fees, if any, provided by, the Bonds. Without limiting the foregoing, the Borrower expressly acknowledges that the following terms of the Bonds are applicable to the repayment of the Note:

- (a) Each monthly payment thereunder shall be applied first in payment of accrued and unpaid interest, then to unpaid principal then due and, to the extent there are excess sums paid by the Borrower, such balance shall be applied first to any prepayment fee due under the Bond and then to reduce the principal installments due upon the Bond in inverse order of maturity. Subsequent to the occurrence of an Event of Default, the Purchaser may apply any payments it receives to principal, interest, fees or expenses as determined by the Purchaser in its sole discretion.
- (b) The Bonds are subject to redemption prior to maturity in whole or in part as set forth therein, provided, if the Note is accelerated in accordance with this Bond Agreement, and the Bonds are not cancelled, then the Bonds shall also be accelerated, and all payments of principal shall be applied to reduce the principal installments due pursuant to the Bonds in inverse order of maturity (in either event, payments shall be made to the Purchaser).
- (c) From and after the maturity date of the Bonds and Note and during the continuation of any Event of Default, the Bonds and Note shall bear interest at the Default Rate above the otherwise applicable interest rate. If any payment of principal or interest is not received by the Purchaser within fifteen (15) days of its due date, a late charge of five percent (5.00%) of such overdue amount shall be payable hereunder.

Any payment of principal received by the Purchaser in advance of the scheduled redemption date or principal installment due date specified in the Bond shall be subject to payment of the prepayment fee specified in the Bond.

The Borrower hereby authorizes the Purchaser (but the Purchaser is not obligated) to debit Borrower's account number #[_____] (the "Demand Deposit Account"), which shall be maintained by the Borrower with the Purchaser for so long as any obligations remain hereunder outstanding, on any date on which payment of interest, principal and/or any fees, expenses and/or charges are due under the Loan, in an amount equal to the amount of such payment. Inadequate funds in the Demand Deposit Account or the failure of the Purchaser to debit the Demand Deposit Account shall not relieve the Borrower from its obligation to pay said amounts due hereunder. Notwithstanding the foregoing, the Purchaser shall not debit any Demand Deposit Account designated by the Borrower in writing to the Purchaser as containing any student loan federal funds.

Section 4.3 Security. The Note shall be secured by this Bond Agreement and this Bond Agreement shall be deemed to be a security agreement for the purposes of creating the security interests granted herein subject to the provisions of the State Uniform Commercial Code.

Section 4.4 Incorporation of Terms. The other Bond Documents shall be made subject to all the terms and conditions contained in this Bond Agreement to the same extent and effect as if this Bond Agreement were fully set forth in and made a part of the other Bond Documents. This Bond Agreement is made subject to all the conditions, stipulations, agreements and covenants contained in the other Bond Documents to the same extent and effect as if the other Bond Documents were fully set forth herein and made a part hereof. Notwithstanding any of the foregoing, if any provisions in the other Bond Documents are inconsistent with this Bond Agreement, the Bond Documents that provide the greatest protection to the Authority and the Purchaser shall control.

Section 4.5 No Defense or Set-Off. The obligations of the Borrower to make or cause to be made payment of the Loan shall be absolute and unconditional without defense or set-off by reason of any default by the Authority or the Purchaser under this Bond Agreement or under any other agreement between the Borrower and the Authority or the Purchaser or for any other reason, failure to complete the Project, any acts or circumstances that may constitute failure of consideration, destruction of or damage to the Project Facilities, commercial frustration of purpose, or failure of the Authority to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Bond Agreement, it being the intention of the parties that the payments required of the Borrower hereunder will be paid in full when due without any delay or diminution whatsoever. Repayments of the Loan and additional sums required to be paid by or on behalf of the Borrower hereunder shall be received by the Authority or the Purchaser as net sums and the Borrower agrees to pay or cause to be paid all charges against or which might diminish such net sums.

Section 4.6 Assignment of Authority's Rights. As security for the payment of the Bonds the Authority hereby assigns to the Purchaser all the Authority's rights under this Bond Agreement (except the Reserved Rights, which are retained jointly with the Purchaser and those rights set forth in Section 10 of **Exhibit C**, which are retained exclusively by the Authority). To

the extent it has any rights thereunder, the Authority retains the right, jointly and severally with the Purchaser, to specifically enforce the provisions contained in the other Bond Documents. The Borrower consents to such assignment and agrees to make or cause to be made payment of the Loan under Section 4.2 directly to the Purchaser without defense or set-off by reason of any dispute between or among the Borrower, the Authority and/or the Purchaser, including, without limitation, any acts or circumstances that may constitute failure of consideration, destruction of or damage to the Project Facilities, commercial frustration of purpose, failure of the Authority or Purchaser to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Bond Agreement or any of the other Bond Documents, or the Purchaser not performing its duties pursuant to the terms of this Bond Agreement. The Borrower agrees that the Purchaser may exercise all rights granted to the Authority hereunder, subject to the Reserved Rights.

Section 4.7 Opinion of Counsel for Borrower. As a condition precedent to the issuance of the Bonds, the Authority and the Purchaser shall have received the opinion of counsel for the Borrower to the Authority and the Purchaser and satisfactory in form and substance to Bond Counsel and Counsel for the Purchaser to the effect that:

- (a) the Bond Documents have been duly executed and delivered by the Borrower and constitute the legal, valid and binding obligations of the Borrower, enforceable in accordance with their respective terms, except to the extent that the enforceability of such documents may be limited by bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally and
- (b) such other matters as Bond Counsel or Counsel for the Purchaser may reasonably require.

Section 4.8 Opinion of Bond Counsel. As a condition precedent to the issuance of the Bonds, the Authority and the Purchaser shall have received the opinion of Bond Counsel to the effect that:

- (a) the offering or sale of the Bonds is not required to be registered under the Securities Act of 1933, as amended, or under the rules and regulations promulgated thereunder; and
- (b) the Bonds have been duly authorized and issued under the provisions of the Resolution and the Act and constitutes valid, binding special and limited obligations of the Authority and is enforceable in accordance with their terms, except to the extent that the enforceability of the Bonds may be limited by bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally.

Section 4.9 Opinion of Counsel for the Purchaser. As a condition precedent to the issuance of the Bonds, the Authority shall have received an opinion of Counsel for the Purchaser, dated the date of the Loan, addressed to the Authority and reasonably satisfactory in form and substance to Bond Counsel that the Purchaser has duly executed and delivered this Bond Agreement, which is a legal, valid and binding obligation of the Purchaser, enforceable against the

Purchaser in accordance with its terms.

Section 4.10 Loan and Other Documents. As a condition precedent to the issuance of the Bonds, the Authority and the Purchaser shall have received:

- (a) the Bond Documents duly executed by all parties thereto;
- (b) certificates, in form and substance acceptable to the Authority and the Purchaser evidencing the insurance required to be maintained by this Bond Agreement;
- (c) the Tax Certificates, in form and substance satisfactory to Bond Counsel; and
- (d) upon the request of the Purchaser, the Borrower shall have provided to the Purchaser, and the Purchaser shall be reasonably satisfied with, the documentation and other information so requested in connection with applicable “know your customer” and anti-money-laundering rules and regulations, including, without limitation, the PATRIOT Act;
- (e) if the Borrower qualifies as a “legal entity customer” under the Beneficial Ownership Regulation, it shall have provided a Beneficial Ownership Certification to the Purchaser if so requested;
- (f) A certificate of the Secretary or an Assistant Secretary of the Borrower dated the closing date including (i) resolutions duly adopted by the Borrower authorizing the transactions under the Bond Documents; (ii) a copy of the by-laws of the Borrower; (iii) evidence of the incumbency and signature of the officers executing on its behalf any of the Bond Documents and any other document to be delivered pursuant to any such documents, together with evidence of the incumbency of such Secretary or Assistant Secretary; (iv) a copy of the Borrower’s Articles or Certificate of Incorporation, together with the certification of the Secretary or Assistant Secretary of the Borrower as of the closing date that such Articles or Certificate of Incorporation are in full force and effect in the form delivered as of the closing date; (v) a certificate of good standing for the Borrower from the State; and (vi) a copy of the Internal Revenue Service’s determination letter recognizing the Borrower’s qualifications as an organization described in Section 501(c)(3) of the Code exempt from tax under Code Section 501(a);
- (g) A certificate of the Secretary or Assistant Secretary of the Authority dated the closing date including (i) resolutions duly adopted by the Authority authorizing the transactions contemplated hereunder; (ii) a copy of the Bylaws of the Authority; (iii) evidence of the incumbency and signature of the officers executing this Bond Agreement, the Bond and any other documents required to be executed on its behalf, together with evidence of the incumbency of such Secretary or Assistant Secretary; and (iv) a specimen copy of the Bond;
- (h) all other documents reasonably required by the Authority and the Purchaser.

Any certificate signed by an Authorized Borrower Representative and delivered to the Authority or the Purchaser shall be deemed a representation or warranty by the Borrower to the Authority or the Purchaser, as the case may be, as to the statements made therein.

Section 4.11 Payments Adjusted for Non-Business Days. The Following Business Day Convention shall be used with respect to the Loan to adjust any relevant date if that date would otherwise fall on a day that is not a Business Day. For the purposes herein, the term "Following Business Day Convention" shall mean that an adjustment will be made if any relevant date would otherwise fall on a day that is not a Business Day so that the date will be the first following day that is a Business Day.

Section 4.12 Prepayment of the Note. The Borrower may prepay the Note to the same extent as the respective Bonds may be optionally redeemed, subject to payment of the prepayment fee specified therein.

Section 4.13 Redemption of the Bonds. The Bonds are subject to redemption prior to maturity in whole or in part as set forth therein, provided, if the Note is accelerated in accordance with this Bond Agreement, then the Bonds shall be accelerated, and all payments of principal shall be applied to reduce the principal installments due pursuant to the Bonds in inverse order of maturity. Any prepayment fee or premium due on the Note pursuant hereto, if any, shall be deemed to be a redemption premium to be paid to the holder of the Bonds.

Section 4.14 Cross-Default. The Loan and all of the Borrower's obligations under the Bond Documents shall be cross-defaulted with all other loans and credit facilities extended by the Purchaser to the Borrower.

Section 4.15 Payments Net. All payments by the Borrower of principal of, interest and prepayment fees, if any, on, the Bonds and all other amounts payable hereunder and/or under the Bond Documents shall be made free and clear of and without deduction for any present or future income, excise, stamp or franchise taxes and other taxes, fees, duties, withholdings or other charges of any nature whatsoever imposed by any taxing authority, but excluding franchise taxes and taxes imposed on or measured by the Purchaser's net income or receipts (such non-excluded items being called "Taxes"). In the event that any withholding or deduction from any payment to be made by the Borrower hereunder is required in respect of any Taxes pursuant to any applicable law, rule or regulation, then the Borrower will:

- (a) pay directly to the relevant authority the full amount required to be so withheld or deducted;
- (b) promptly forward to the Purchaser an official receipt or other documentation satisfactory to the Purchaser evidencing such payment to such authority; and

(c) pay to the Purchaser such additional amount or amounts as is reasonably necessary to ensure that the net amount actually received by the Purchaser will equal the full amount the Purchaser would have received had no such withholding or deduction been required.

Moreover, if any Taxes are directly asserted against the Purchaser with respect to any payment received by the Purchaser under this Bond Agreement and/or the other Bond Documents, the Purchaser may pay such Taxes and the Borrower will promptly pay such additional amount (including any penalties, interest or expenses) as is reasonably necessary in order that the net amount received by the Purchaser after the payment of such Taxes (including any Taxes on such additional amount) shall equal the amount the Purchaser would have received had no such Taxes been asserted.

If the Borrower fails to pay any Taxes when due to the appropriate taxing authority or fails to remit to the Purchaser the required receipts or other required documentary evidence, the Borrower shall indemnify the Purchaser for any incremental Taxes, interest or penalties that may become payable by the Purchaser as a result of any such failure.

Section 4.16 Change in Law. (a) If any Change in Law occurs that:

(i) subjects the Purchaser or any affiliate thereof to any tax or other charge not imposed on the date of this Bond Agreement, with respect to any amount paid or to be paid by or to the Purchaser or such affiliate under this Bond Agreement, any Bond Document or the Bonds (other than any tax measured by or based upon the overall net income of the Purchaser or such affiliate), or changes the basis of taxation of payments to the Purchaser or any affiliate thereof of principal of or interest on any amounts described above, including, without limitation, the imposition of any excise tax or surcharge thereon, or any other amounts payable hereunder; or

(ii) imposes, modifies, or deems applicable any reserve, deposit, or similar requirements against any assets held by, deposits with or for the account of, or credit extended by, an office of the Purchaser or any affiliate thereof in connection with payments by the Purchaser or any affiliate thereof under this Bond Agreement or any Bond Document; or

(iii) imposes any condition upon or causes in any manner the addition of any supplement to or increase of any kind to the Purchaser's or any of the Purchaser's affiliates' capital or cost base for purchasing or holding the Bonds or any interest therein; or

(iv) imposes upon the Purchaser or any affiliate thereof any other condition with respect to this Bond Agreement, any Bond Document or the Bonds;

and if the result of any of the foregoing is to increase the cost to the Purchaser or any affiliate thereof of purchasing or holding the Bonds or any interest therein, or to reduce the amount of any payment (whether of principal, interest, or otherwise) receivable by the Purchaser or any affiliate thereof under this Bond Agreement, any Bond Document or the Bonds, or to require the Purchaser or any affiliate thereof to make any payment on, or calculated by reference to, the gross amount of

any sum received by it under this Bond Agreement, any Bond Document or under the Bonds, or to deny any federal, state or local income tax deduction to the Purchaser or any affiliate thereof, in each case by an amount which the Purchaser in its sole judgment deems material, then, in any such case the Borrower shall promptly pay the Purchaser, within thirty (30) days of demand by the Purchaser, such additional amount as will compensate the Purchaser or any applicable affiliate thereof for such additional cost, reduction, payment, expense or lost deduction, as the case may be.

If the Purchaser determines that the amount of capital required or expected to be maintained by the Purchaser or any affiliate thereof is increased as a result of a Change in Law, then, within thirty (30) days of demand by the Purchaser, the Borrower shall pay the Purchaser the amount necessary to compensate for any shortfall in the rate of return on the portion of such increased capital which the Purchaser determines is attributable to this Bond Agreement, any Bond Document or in connection with purchasing or holding the Bonds or any interest therein or making any other financial accommodation pursuant to this Bond Agreement (after taking into account the Purchaser's or any of the Purchaser's applicable affiliates, as applicable, policies as to capital adequacy).

The Purchaser shall certify the amount of such additional cost, reduction, payment, expense or lost deduction to the Borrower (with a copy to the Authority) and such certification shall be conclusive absent manifest error. Any statement or certification provided by the Purchaser to the Borrower in connection with this Section 4.16 shall be conclusive absent manifest error.

(b) If the Maximum Marginal Statutory Rate decreases for any period during which the Bonds are outstanding then, within thirty (30) days of any written notice from time to time by the Purchaser to the Borrower, the Borrower shall promptly pay directly to Purchaser additional amounts sufficient to compensate Purchaser for such reduction. Such notice shall contain the written statement of the Purchaser as to any such additional amount or amounts (including calculations thereof in reasonable detail) and shall, in the absence of manifest error, be conclusive and binding on the Borrower. In determining such amount, the Purchaser may use any method of averaging and attribution that it (in its sole and absolute discretion shall deem applicable); provided however, in no event shall Purchaser be obligated to pay Borrower amounts under this Section 4.16(b) during any time the Maximum Marginal Statutory Rate is above the Maximum Marginal Statutory Rate in effect on the date hereof.

Notwithstanding anything herein to the contrary, in no event shall the Borrower be obligated to pay the Purchaser amounts under this Section 4.16 during any time the Maximum Marginal Statutory Rate is above the Maximum Marginal Statutory Rate in effect on the date hereof. If there has been an increase in the compensation paid to the Purchaser in connection with a reduction in the Maximum Marginal Statutory Rate, and then a subsequent change occurs that would increase the Maximum Marginal Statutory Rate, the Purchaser shall provide written notice to the Borrower of the new calculation of the amount owed hereunder taking into account the higher Maximum Marginal Statutory Rate.

No failure on the part of Purchaser to demand compensation on any one occasion shall constitute a waiver of its right to demand such compensation on any other occasion and no failure on the part of Purchaser to deliver any certificate in a timely manner shall in any way reduce any obligation of the Borrower to Purchaser under this Section 4.16.

The provisions of this Section 4.16 shall survive the termination of this Bond Agreement with respect to any occurrence prior to such termination.

ARTICLE V

Covenants and Representations of Borrower.

The Borrower covenants, represents and agrees, so long as this Bond Agreement shall remain in effect as follows:

Section 5.1 Public Purpose Covenants and Representations of the Borrower. The Borrower hereby covenants and represents as follows:

(a) Inducement. The availability of financial assistance from the Authority as provided for herein has been an important inducement to the Borrower to undertake the Project and to locate the Project Facilities in the State.

(b) No Untrue Statements. The Borrower covenants that the representations, statements and warranties of the Borrower set forth this Bond Agreement or any other Bond Document (i) are true, correct and complete, (ii) do not contain any untrue statement of a material fact, and (iii) do not omit to state a material fact necessary to make the statements contained herein or therein not misleading or incomplete. The Borrower understands that all such statements, representations and warranties have been relied upon as an inducement by the Authority to issue the Bonds and as an inducement to the Purchaser to purchase the Bonds.

(c) Project Facilities Users. The Borrower shall not permit any leasing, subleasing or assigning of leases (or any modifications or terminations of such leases) of any of the Project Facilities (i) without the prior written consent of the Purchaser and the Authority or (ii) that would impair the ability of the Borrower to operate the Project Facilities or cause the Project Facilities not to be operated as an authorized educational facilities project under the Act. Notwithstanding the foregoing sentence, the prior written consent of the Authority and the Purchaser shall not be required in connection with those various summer programs involving the use and occupancy of certain of the Borrower's facilities, any short term leases of less than ninety (90) days in the aggregate or leases to tax exempt organizations or governmental entities. In the event the consent of the Purchaser and Authority shall be required under this subparagraph (c)(i), if the Purchaser and Authority fail to object in writing to the Borrower within ten (10) days after notice from the Borrower seeking consent, then the consent of the Purchaser and Authority shall be deemed to have been given.

(d) Maintain Existence; Merge, Sell, Transfer. The Borrower shall maintain its existence as a non-profit corporation under State law and shall not sell, assign, transfer, mortgage or otherwise encumber or dispose of any or all of the Project Facilities or substantially all of its assets without the consent of the Authority and the Purchaser; provided however that the Borrower may merge with or into or consolidate with another entity, and the Project Facilities or this Bond Agreement may be transferred pursuant to such merger or consolidation without violating this subsection (d) provided (i) the net worth of the surviving, resulting or transferee company following the merger, consolidation or transfer is equal to or greater than the net worth of the

Borrower immediately preceding the merger, consolidation or transfer; (ii) any litigation or investigations in which the surviving, resulting or transferee company or its principals, officers and directors are involved, and any court, administrative or other orders to which the surviving, resulting or transferee company or its officers and directors are subject, relate to matters arising in the ordinary course of business; (iii) the merger, consolidation or transfer shall not impair the excludability of interest paid on the Bonds from the gross income of the Purchaser thereof for purposes of federal income taxation or cause a reissuance pursuant to an opinion of Bond Counsel; (iv) the surviving, resulting or transferee company assumes in writing the obligations of the Borrower under this Bond Agreement and the Note; (v) after the merger, consolidation or transfer, the Project Facilities shall be operated as an authorized project under the Act; and (vi) the Borrower has obtained the prior written consent of the Purchaser, which consent may be withheld or conditioned in the Purchaser's sole discretion.

(e) Intentionally Omitted.

(f) Operate Project Facilities. The Borrower shall operate or cause the Project Facilities to be operated as an authorized educational facilities project for a purpose and use as provided for under the Act until the expiration or earlier termination of this Bond Agreement.

(g) Intentionally Omitted.

(h) Prevailing Wage Regulations. In connection with the Project Facilities, the Borrower hereby acknowledges that the provisions of N.J.S.A. 18A:72A-5.1 to -5.4 relating to payment of the prevailing wage rate determined by the Commissioner of the Department of Labor and Workforce Development pursuant to the Prevailing Wage Act (N.J.S.A. 34:11-56.25 *et seq.*) applies to construction and rehabilitation undertaken in connection with the Authority's assistance in financing the Project Facilities and hereby covenants to comply with such provisions in connection with the Project Facilities to the extent applicable.

(i) Preservation of Project Facilities. (i) The Borrower will at all times preserve and protect the Project Facilities in good repair, working order and safe condition, and from time to time will make, or will cause to be made, all needed and proper repairs, renewals, replacements, betterments and improvements thereto including those required after a casualty loss. The Borrower shall pay all operating costs, utility charges and other costs and expenses arising out of ownership, possession, use or operation of the Project Facilities. The Authority shall have no obligation and makes no warranties respecting the condition or operation of the Project Facilities.

(ii) The Borrower will not use as a basis for contesting any assessment or levy of any tax the financing of the Project Facilities under this Bond Agreement or the issuance of the Bonds by the Authority and, if any administrative body or court of competent jurisdiction shall hold for any reason that the Project Facilities are exempt from taxation by reason of the financing under this Bond Agreement or issuance of the Bonds by the Authority or other Authority action in respect thereto, the Borrower covenants to make payments in lieu of all such taxes in an amount equal to such taxes and, if applicable, interest and penalties.

(j) Access to the Project Facilities and Inspection. The Authority and the Purchaser and their respective duly authorized agents shall have the right, at all reasonable times upon the furnishing of notice that is reasonable under the circumstances to the Borrower, to enter upon the Project Facilities and to examine and inspect the Project Facilities.

(k) Additional Information. Until payment of the Bonds shall have occurred the Borrower shall promptly, from time to time, deliver to the Authority and the Purchaser such information and materials relating to the Project Facilities and the Borrower as the Authority and/or the Purchaser, as the case may be, may reasonably request. An Authorized Authority Representative and a representative of the Purchaser shall also be permitted, at all reasonable times, to examine the books and records of the Borrower with respect to the Project Facilities and the obligations of the Borrower hereunder, but such representatives shall not be entitled to access to trade secrets or other proprietary information (other than financial information of the Borrower.)

Section 5.2 Insurance. The Borrower shall, at the times specified in the following paragraphs, procure and maintain, or cause to be procured and maintained, to the extent reasonably obtainable in the opinion of the Authority, the following insurance:

(a) Special Form perils insurance, or current equivalent, with a deductible clause in an amount not to exceed one hundred thousand dollars (\$100,000) or such other deductible provisions as are approved in writing by the Purchaser and Authority (the "Deductible Amount"), on the plant, structure, machinery, equipment and apparatus comprising the Project Facilities, plus Boiler and Machinery coverage, and Flood Insurance if the Project Facilities are located within a Special Flood Hazard Area, each with deductible clauses and coverage sublimits acceptable to the Authority. Coverage for Contingent Liability From Operation of Building Laws shall be included, and an Agreed Amount Endorsement shall be attached to the policy. The foregoing insurance shall be maintained as long as any of Obligations are outstanding and shall be in an amount not less than one hundred per centum (100%) of the current estimated replacement value thereof, exclusive of excavations and foundations, or such other amount as may be approved in writing by the Purchaser and Authority. The inclusion of the Project Facilities under a blanket insurance policy or policies of the Borrower insuring against the above hazards shall be a complete compliance with the provisions of this paragraph. Any such policy shall provide that the insurance company shall give at least thirty (30) days' notice in writing to the Purchaser of the cancellation or non-renewal of the policy, except in the event of nonpayment of premiums, in which case ten (10) days' notice, or current industry standard notice, shall be provided. In any event each such policy shall be in an amount sufficient to prevent the Borrower and the Purchaser from becoming co-insurers under the applicable terms of such policy. In the event that the Borrower is unable to procure insurance with a loss deductible clause of not exceeding the Deductible Amount, the setting aside in a special fund of obligations of or guaranteed by the United States of America or moneys at least equal to the difference between the Deductible Amount and the amount deductible on such policy or policies shall be deemed to be in complete compliance with the provisions of this subparagraph establishing a Deductible Amount;

(b) At all times, insurance protecting the Authority, Purchaser and the Borrower against loss or losses from liabilities imposed by law or assumed in any insured written contract and arising from bodily injury of persons or damage to the property of others caused by accident or occurrence, with limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence and five million dollars (\$5,000,000) general aggregate for bodily injury and property damage, or such other amounts as may be approved in writing by the Purchaser and Authority. The Authority and Purchaser shall be named as Additional Insureds on such policy or policies.

Upon closing of the related financing transaction, and thereafter upon each renewal of insurance coverage, the Borrower, shall deliver to the Authority and Purchaser, either a complete copy of the policy or policies, including all declarations and endorsements, or a fully completed Certificate of Insurance detailing all coverage in force, including full blanket property limits and any excess coverages, and including evidence of the required Additional Insured Endorsement.

All policies of insurance shall be payable to the Borrower, the Authority and Purchaser, as their interest may appear.

All insurance prescribed by this Section 5.2 shall be procured from financially sound and reputable insurers qualified to do business in the State or insurers approved in writing by the Authority. To the extent that any such insurance required by this Section 5.2 is not obtainable on reasonable terms as determined by the Authority, the Authority may make exceptions to the required coverage or provide for reasonable substitutions of coverage. The policies shall be open to inspection by the Authority at all reasonable times, and a list prepared as of June 30 of each Bond Year describing such policies shall be furnished by the Authority annually within sixty (60) days after the beginning of each Bond Year, together with a certificate of an Authorized Officer of the Borrower certifying that such insurance meets all the requirements of this Bond Agreement.

In the event that the Borrower shall fail to obtain or maintain the insurance required under this Section 5.2, the Authority or Purchaser may, at its sole option, obtain such coverage. In such event, the Authority shall promptly notify the Borrower of its actions. The Borrower agrees to promptly reimburse the Authority or Purchaser for the costs of such coverage.

Section 5.3 Payment of Taxes, etc. The Borrower will promptly pay and discharge or cause to be promptly paid and discharged all taxes, assessments and governmental charges or levies imposed upon it or in respect of any of its property and assets before the same shall become in default, as well as all lawful claims which, if unpaid, might become a lien or charge upon such property and assets or any part thereof, except for a period not to exceed thirty (30) days such taxes, assessments and governmental charges that do not in the aggregate exceed \$50,000 that are contested in good faith with due diligence by the Borrower for which the Borrower has maintained adequate reserves satisfactory to the Purchaser.

Section 5.4 Compliance with Applicable Laws. (a) The Borrower agrees to install, operate and maintain the Project Facilities and its business as an institution of higher education in accordance with all applicable federal, State, county and municipal laws, ordinances, rules and

regulations now in force or that may be enacted hereafter including, but not limited to such environmental protection, employee pension and benefit funds, the payment of taxes, assessments and other governmental charges, zoning, workers' compensation, sanitary, safety, non-discrimination laws, ordinances, rules and regulations as shall be binding upon the Borrower. The Borrower agrees to all reasonable conditions required by the Purchaser designed to protect the Purchaser, including, but not limited to, indemnifying the Purchaser against the effects of CERCLA, the Employee Retirement Income Security Act (Public Law 94-306, as amended) and such other legislation, rules and regulations as are in effect or may come into effect and apply to the Borrower, the Purchaser, the transactions contemplated hereby or the Project Facilities or occupants or users thereof, whether as lessees, tenants, licensees or otherwise. The Borrower agrees to pay any costs required to comply with any of the above.

(b) In accordance with P.L. 2005, c. 92, the Borrower covenants and agrees that all services performed by the Borrower under this Bond Agreement shall be performed within the United States of America.

Section 5.5 Environmental Covenant. The Borrower shall not permit any action to occur which would be in direct violation of any and all applicable federal, State, county and municipal laws, ordinances, rules and regulations now in force or hereinafter enacted, including the regulations of the Authority and the regulations of the State Department of Environmental Protection.

The Borrower shall give immediate written notice to the Authority and the Purchaser of any inquiry, notices of investigation or any similar communication from the State Department of Environmental Protection regarding potential violations of ISRA, the Spill Act or any other Applicable Environmental Law.

Section 5.6 Financial Statements. The Borrower shall furnish to the Purchaser (and to the Authority, upon request), or cause to be furnished to the Purchaser (and to the Authority, upon request), in form and substance satisfactory to the Purchaser, the information set forth in this Section 5.6. The Purchaser reserves the right, upon written notice to the Borrower, to require the Borrower to deliver financial information and statements to the Purchaser more frequently than otherwise provided below, and to use such additional information and statements to measure any applicable financial covenants in this Bond Agreement.

(a) Annual audited financial statements of the Borrower within one hundred fifty (150) days of fiscal year end, including statements of financial position, statements of activities and statements of cash flows. Such financial information shall present fairly the financial position of the Borrower as of the close of such year and the results of its operations during such year, in accordance with GAAP, and shall be audited and accompanied by the opinion, satisfactory in form and substance to the Purchaser, of an independent certified public accountant acceptable to the Purchaser. In addition, Borrower shall supply student application and enrollment statistics on an annual basis.

(b) Concurrently with the delivery of each annual financial statement, the Borrower shall submit a Compliance Certificate in the form attached hereto at Schedule 5.6 from its president or chief financial officer stating that to the best of his or her knowledge no Default or Event of Default has occurred, and showing in detail the financial covenant compliance calculations supporting such statements.

(c) Within sixty (60) days after the end of each January 31, April 30 and October 31 year to date fiscal period of the Borrower then ending, its periodic financial statements (which shall include, but are not limited to, a balance sheet, income statement and statement of cash flow) prepared by the Borrower, in reasonable detail and certified as true and correct by its chief financial officer, subject, however, to year-end adjustments revealed in a relevant year-end audit of financial statements covering corresponding fiscal periods.

(d) Concurrently with the delivery of each annual and quarterly financial statement, the Borrower shall submit a Compliance Certificate from its president or chief financial officer stating that to the best of his or her knowledge no Default or Event of Default has occurred, and showing in detail the financial covenant compliance calculations supporting such statements.

(e) Annual operating and capital budget of Borrower within one hundred twenty (120) days of fiscal year end.

(f) Copy of management letter within 30 days of receipt (if applicable).

(g) All rating agency reports and updates issued in connection with the Borrower.

(h) Such other information respecting the operations and properties, financial or otherwise, of the Borrower as the Purchaser may from time to time reasonably request

Section 5.7 Filing of Other Documents. The parties hereto shall execute, at the request of the Borrower, and the Borrower shall file, and hereby authorizes the Purchaser to prepare, execute, if necessary, and file financing statements, continuation statements, notices and such other documents necessary to perfect all security interests created pursuant to the terms of this Bond Agreement and the other Bond Documents and to preserve and protect the rights of the Purchaser in the granting by the Authority of certain rights of the Authority, pursuant to this Bond Agreement, and the Authority shall have no responsibilities for such filings whatsoever, other than executing the documents requested by the Borrower.

Section 5.8 Indemnification. (a) The Borrower agrees to and does hereby indemnify and hold harmless the Indemnified Parties against any and all losses, claims, damages or liabilities (including all costs, expenses and reasonable counsel fees incurred in investigating or defending such claim) suffered by any of the Indemnified Parties and caused by, relating to, arising out of, resulting from, or in any way connected with (i) the condition, use, possession, conduct, management, planning, design, acquisition, construction, installation, financing or sale of the Project Facilities or any part thereof including the payment of rebate to the federal government; or

(ii) any untrue statement of a material fact contained in information provided by the Borrower with respect to the transactions contemplated hereby; or (iii) any omission of a material fact necessary to be stated therein in order to make such statement not misleading or incomplete; or (iv) the acceptance or administration by the Authority or the Purchaser of their respective duties under this Bond Agreement or (v) the Loan and/or the Bond transaction. In case any action shall be brought against one or more of the Indemnified Parties based upon any of the above and in respect to which indemnity may be sought against the Borrower, such Indemnified Party shall promptly notify the Borrower in writing, and except where the Borrower is the claimant the Borrower shall assume the defense thereof, including the employment of counsel reasonably satisfactory to the Indemnified Party, the payment of all costs and expenses and the right to negotiate and consent to settlement. Any one or more of the Indemnified Parties shall have the right to employ separate counsel at the Borrower's expense in any such action and to participate in the defense thereof if, in the opinion of the Indemnified Party, a conflict of interest could arise out of the representation of the parties by the same counsel. The Borrower shall not be liable for any settlement of any such action effected without Borrower's consent, but if settled with the consent of the Borrower, or if there is a final judgment for the claimant on any such action, the Borrower agrees to indemnify and hold harmless the Indemnified Parties from and against any loss or liability by reason of such settlement or judgment. Notwithstanding anything in this Bond Agreement to the contrary which may limit recourse to the Borrower or may otherwise purport to limit the Borrower's liability, the provisions of this Section 5.8 shall control the Borrower's obligations and shall survive repayment of the Bonds.

(a) The Borrower agrees to and does hereby indemnify and hold harmless the Indemnified Parties against any and all losses, claims, damages or liabilities (including all costs, expenses, and reasonable counsel fees incurred in investigating or defending such claim) suffered by any of the Indemnified Parties and caused by, relating to, arising out of, resulting from, or in any way connected to an examination, investigation or audit of the Bonds by the Internal Revenue Service or the loss of the Bonds' tax-exempt status. In the event of such examination, investigation or audit, the Indemnified Parties shall have the right to employ counsel at the Borrower's expense. In such event, the Borrower shall assume the primary role in responding to and negotiating with the Internal Revenue Service but shall inform the Indemnified Parties of the status of the investigation. In the event Borrower fails to respond adequately and promptly to the Internal Revenue Service, the Authority shall have the right to assume the primary role in responding to and negotiating with the Internal Revenue Service and shall have the right to enter into a closing agreement, for which Borrower shall be liable.

(b) Notwithstanding anything in this Bond Agreement to the contrary which may limit recourse to the Borrower or may otherwise purport to limit the Borrower's liability, the provisions of this Section 5.8 shall control the Borrower's obligations and shall survive repayment of the Bonds.

(c) Notwithstanding the foregoing, the Borrower shall not be obligated to indemnify an Indemnified Party for losses, claims, damages or liabilities resulting from the gross negligence,

with regard to the Authority, or negligence with regard to the Purchaser, or willful misconduct of such Indemnified Party.

(d) Notwithstanding the foregoing, the failure on the part of the Authority to provide the notices in this Section 5.8 shall not relieve the Borrower of its obligations to the Authority hereunder.

Section 5.9 Deposit Relationship. To facilitate the administration of the Loan and payments Obligations, the Borrower shall maintain an operating account with the Purchaser.

Section 5.10 Brokerage Fee. The Authority shall not be liable to any person for any brokerage fee, finders' fee, or loan servicing fee in connection with the Loan and the Borrower shall hold the Authority harmless from any such fees or claims.

Section 5.11 Costs and Expenses. All expenses in connection with the preparation, execution, delivery, recording and filing of this Bond Agreement, the Note and other Bond Documents and in connection with the preparation, issuance and delivery of the Bonds, including, but not limited to, the Initial Fee, the fees and expenses of Bond Counsel, the fees and expenses of the Purchaser and the fees and expenses of Counsel for the Purchaser shall be paid directly by the Borrower. The Borrower shall also pay throughout the term of the Bonds the Authority's Annual Administrative Fee, if any, and other annual expenses, if any, under this Bond Agreement, the Note and the other Bond Documents including, but not limited to, reasonable attorneys' fees and all costs of issuing, marketing, collecting payment on and redeeming the Bonds hereunder and thereunder, and any costs and expenses of the Purchaser in connection with any approval, consent or waiver under, or modification of, any such document. The Borrower shall pay on demand all expenses of the Purchaser in connection with the preparation, administration, default, collection, waiver or amendment of any Bond Document terms, or in connection with the Purchaser's exercise, preservation or enforcement of any of its rights, remedies or options hereunder or any other Bond Document, including, without limitation, fees of outside legal counsel or the allocated costs of in-house legal counsel, accounting, consulting, brokerage or other similar professional fees or expenses, and any fees or expenses associated with travel or other costs relating to any appraisals or examinations (including field examinations) conducted in connection with the Loan or the Project Facilities, and the amount of all such expenses shall, until paid, bear interest at the rate applicable to principal hereunder (including any Default Rate). The Purchaser may, at its discretion and at any time when due, after notifying the Borrower, charge any account maintained by the Borrower with the Purchaser, an amount equal to the sums due hereunder, and all such sums to the extent not paid shall be added to the outstanding Obligations to the Purchaser.

Section 5.12 Damage to Project Facilities. In the event of damage or destruction of part or all of the Project Facilities, the Borrower shall notify the Authority and the Purchaser not later than five (5) days after the occurrence of such event. Damage to or destruction of all or a portion of the Project Facilities shall not terminate this Bond Agreement or cause any abatement of or reduction in the payments to be made by the Borrower or otherwise affect the respective obligations of the Authority or the Borrower. In the event of damage or destruction of the Project Facilities or

any part thereof, for as long as no Event of Default then exists, the net proceeds of any insurance policies required to be maintained under Section 5.2, at the option of the Borrower, shall be: (i) applied to the redemption of the Bonds or (ii) applied to restore or replace the Project Facilities, as the case may be, to substantially its condition immediately prior to such event or to a condition of at least equivalent value. If an Event of Default then exists, such net proceeds shall only be applied to the redemption of the Bonds unless the Purchaser has consented in writing to the application of such net proceeds to the restoration or replacement of the Project Facilities. The Borrower shall notify Purchaser of its election within ninety (90) days of its receipt of notice of such destruction.

The Borrower and the Purchaser shall cooperate and consult with each other in all matters pertaining to the settlement or adjudication of any such insurance claims or pertaining to the settlement, compromising or arbitration of any claim on account of any damage or destruction of the Project Facilities. In no event shall the Borrower voluntarily settle, or consent to the settlement of, any insurance claim equal to or greater than \$1,000,000 with relation to the Project Facilities without the prior written consent of the Purchaser, which consent shall not be unreasonably withheld, delayed or conditioned.

Section 5.13 Notice and Certification with Respect to Bankruptcy Proceedings. The Borrower shall promptly notify the Purchaser and the Authority in writing of the occurrence of any of the following events and shall keep the Purchaser and the Authority informed of the status of any petition in bankruptcy filed (or bankruptcy or similar proceeding otherwise commenced) against the Borrower: (i) application by the Borrower for or consent by it to, the appointment of a receiver, trustee, liquidator or custodian or the like of such party or of its property, or (ii) the fact that it is generally not paying its debts as they become due, or (iii) general assignment by the Borrower for the benefit of creditors, or (iv) adjudication of the Borrower, as insolvent or the entry of an order for relief under the United States Bankruptcy Code, or (v) commencement by the Borrower of a voluntary case under the United States Bankruptcy Code or filing by it of a voluntary petition or answer seeking its reorganization, an arrangement with creditors of the Borrower, an order for relief or seeking to take advantage of any insolvency law or filing by the Borrower of an answer admitting the material allegations of an insolvency proceeding, or action by the Borrower for the purpose of effecting any of the foregoing, or (vi) if without the application, approval or consent of the Borrower, a proceeding shall be instituted in any court of competent jurisdiction, under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking in respect of such party an order for relief or an adjudication in bankruptcy, reorganization, dissolution, winding up, liquidation, a composition or arrangement with creditors, a readjustment of debts, the appointment of a trustee, receiver, liquidator or custodian or the like of the Borrower or of all or any substantial part of its respective assets, or other relief in respect thereof under any bankruptcy or insolvency law.

Section 5.14 Inspection. The Borrower agrees that the Authority and the Purchaser, and each of their duly authorized agents, shall, upon reasonable notice, have the right during normal business hours to enter upon and to examine and inspect any portion of the Project Facilities. The Authority and Purchaser shall be permitted, at all reasonable times, to examine the books and records of the Borrower with respect to the Project Facilities and to make copies or abstracts thereof.

The Borrower also agrees to provide the Authority and Purchaser with such information and materials relating to the Project Facilities and the Borrower as are reasonably requested by the Authority or the Purchaser from time to time.

Section 5.15 Notice of Default. The Borrower further agrees, in addition to and not in limitation of Section 5.6(d), to notify the Authority and the Purchaser as soon as possible, but in any event within five (5) days (a) after the occurrence of any Event of Default as specified in this Bond Agreement or of any act, omission, thing or condition (including the failure to observe any covenant herein) which upon the giving of notice or lapse of time, or both, would constitute such an Event of Default has happened or exists, which notice shall also specify the Event of Default or act, omission, thing or condition in question and set forth in detail what action the Borrower proposes to take with respect thereto; (b) after (i) the Borrower's receipt of notice of any pending litigation or administrative proceedings or investigations against or affecting the Borrower, which, if determined adversely to the Borrower would have a Material Adverse Effect upon the financing condition or operations of the Borrower and (ii) a determination by the Borrower to set aside reserves in connection with such proceedings, which shall be in accordance with GAAP, consistently applied, and (c) after each event that has the potential to have a Material Adverse Effect upon the Borrower.

Section 5.16 Use of Proceeds. (a) The Borrower is not engaged principally or materially in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation U of the Board of Governors of the Federal Reserve System), and will not use the proceeds of the Bonds so as to violate Regulation U as it may be amended or interpreted from time to time by the Board of Governors of the Federal Reserve System.

(a) The Borrower, in its operation of the Project Facilities, shall at all times comply with the requirements of the Americans with Disabilities Act, 42 U.S.C. §12101 *et seq.*, to the extent that such requirements are applicable to the Project Facilities.

Section 5.17 Financial Covenants. The Borrower shall:

(a) Maintain a ratio of Expendable Resources to Long Term Debt of at least 0.9 to 1.0, tested annually as of each fiscal year end and certified in each related Covenant Compliance Certificate.

(b) Maintain a Debt Service Coverage Ratio equal to or greater than 1.20x, tested annually as of each fiscal year end and certified in each related Covenant Compliance Certificate.

(c) Maintain, at all times, a minimum rating from Moody's of Baa3 and from S&P of BBB- with respect to its unenhanced parity debt obligations.

Section 5.18 Consent to Authority's Use of Photographs and Videos. The Borrower agrees that the Authority may use photographs or videos taken on the Borrower's campus (whether taken by the Authority or other person) in the Authority's newsletters, reports or other publications

or materials (including PowerPoint presentations) in connection with the Authority's operations.

Section 5.19 Certain Transactions. The Borrower and its agents shall not (i) conduct any business or engage in any transaction or dealing with any Blocked Person, including the making or receiving any contribution of funds, goods or services to or for the benefit of any Blocked Person, (ii) deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order No. 13224, (iii) permit the transfer of any interest in either the Borrower or its agents to any Blocked Person or any beneficial owner of such Blocked Person or (iv) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in the Executive Order No. 13224 or the USA Patriot Act. The Borrower acknowledges that pursuant to the requirements of the USA Patriot Act, the Purchaser is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow the Purchaser to identify the Borrower in accordance with the USA Patriot Act. The Borrower shall deliver to the Purchaser any certification or other evidence requested from time to time by the Purchaser, in its sole discretion, confirming the Borrower's compliance with this subsection(s). The Borrower shall immediately notify the Purchaser if the Borrower has any knowledge that any member of or beneficial owner of the Borrower is listed on the OFAC Lists, or is indicated on or arraigned and held over on charges involving money laundering or predicate crimes to money laundering. Promptly following any request therefor, the Borrower shall provide information and documentation reasonably requested by the Purchaser for purposes of compliance with applicable "know your customer" and anti-money-laundering rules and regulations, including, without limitation, the USA PATRIOT Act and the Beneficial Ownership Regulation.

Section 5.20 Additional Covenants. The Borrower shall comply with the Additional Covenants set forth in the attached **Exhibit E**.

ARTICLE VI

Events of Default and Remedies.

Section 6.1 Events of Default; Acceleration. Each of the following events is hereby defined as, and is declared to be and to constitute, an “Event of Default” hereunder:

(a) failure by the Borrower to make or cause to be made any payment required to be made under Section 4.2 or the Note on its due date;

(b) failure of the Borrower to make any payment due (other than a payment required to be made under Section 4.2 hereof) under this Bond Agreement or under any of the other Bond Documents within fifteen (15) days from the earlier to occur of the Borrower’s knowledge of such failure or notice from the Purchaser or the Authority to the Borrower of such failure;

(c) default in the due observance or performance of any covenant, condition or agreement on the part of the Borrower to be observed or performed pursuant to the terms hereof or under any other Bond Document (other than the payment of monies which shall be governed by (a) or (b) above, and other than default under any financial covenant, covenant to deliver financial information or reports, covenant that already includes a grace period, or covenant that, by its nature, is not capable of cure, for which no cure periods shall apply) and such default shall continue unremedied for thirty (30) days from the earlier to occur of the Borrower’s knowledge of such default or notice from the Purchaser or the Authority to the Borrower;

(d) the Borrower shall have applied for or consented to the appointment of a custodian, receiver, trustee or liquidator of all or a substantial part of its assets; a custodian shall have been appointed with or without consent of the Borrower; the Borrower shall generally not be paying its debts as they become due; the Borrower admits in writing its inability to pay its debts when or as they become due; the Borrower shall have made a general assignment for the benefit of creditors; the Borrower shall have filed a voluntary petition in bankruptcy, or a petition or an answer seeking reorganization or an arrangement with creditors, or has taken advantage of any insolvency law, or has filed an answer admitting the material allegations of a petition in a bankruptcy, reorganization or insolvency proceeding; or a petition in bankruptcy shall have been filed against the Borrower and shall not have been dismissed for a period of forty five (45) consecutive days, or if an order for relief has been entered under the Bankruptcy Code; or an order, judgment or decree shall have been entered without the application, approval or consent of the Borrower by any court of competent jurisdiction appointing a receiver, trustee, custodian or liquidator of the Borrower of a substantial part of its respective assets and such order, judgment or decree shall have continued unstayed and in effect for any period of forty five (45) consecutive days;

(e) a writ of execution or attachment or any similar process shall be issued or levied against all or any part of or interest in any of the properties or assets of the Borrower or any judgment involving monetary damages shall be entered against the Borrower which shall become a lien on the Project Facilities or any portion thereof or interest therein and such execution, attachment or similar process is not released, bonded, satisfied, vacated or stayed within thirty (30) days after its entry or levy and such writ, attachment, levy or judgment shall involve monetary damages aggregating more than \$1,000,000;

(f) the voluntary closing of business or cessation of operations of the Borrower at the Project Facilities or an abandonment by the Borrower of same;

(g) if any representation or warranty by or on behalf of the Borrower made herein or in any of the other Bond Documents or in any report, certificate, financial statement or other instrument furnished in connection with this Bond Agreement or any of the other Bond Documents shall prove to be false, incorrect or misleading in any material respect when made;

(h) an event of default shall have occurred under any of the Bond Documents;

(i) an event of default shall have occurred under any of the documents executed by the Borrower with respect to any Indebtedness owed by the Borrower in excess of \$1,000,000 which would allow the creditor to accelerate such Indebtedness;

(j) a material adverse change occurs, or is reasonably likely to occur, in the Borrower's business condition (financial or otherwise), operations, properties or prospects, or ability to repay the Obligations, or the Purchaser determines that it is insecure for any other reason;

(k) the existence of any liens for taxes due with respect to the Project Facilities unless such liens are being contested in good faith and adequate reserves with respect thereto have been deposited with the Purchaser, or carrier's, warehousemen's, mechanic's, materialmen's, repairmen's or other liens which, if for an amount \$1,000,000 or less, have not been dismissed for 30 days or for which escrows, satisfactory in amount to the Purchaser, have not been established by the Borrower;

(l) if the State Department of Environmental Protection or the federal Environmental Protection Agency, or any other State or federal agency or any other person or entity asserts or creates a lien in excess of \$1,000,000 upon any or all of the Project Facilities by reason of the occurrences of a hazardous discharge or environmental complaint or otherwise or asserts a claim against the Borrower, the Project Facilities, the Authority or the Purchaser for damages or cleanup costs related to a hazardous discharge or environmental complaint;

(m) if the Borrower shall default in its performance of any other liabilities or obligations (other than the Obligations) owed to the Purchaser or its affiliates, including without limitation, with respect to any swap contracts, corporate cards or cash management services, past any applicable grace and/or cure periods;

(n) any Government Authority takes action that the Purchaser believes materially adversely affects the Borrower's financial condition or ability to repay the Obligations;

(o) Any one or more of the following events occurs with respect to a Plan of the Borrower subject to Title IV of ERISA, provided such event or events could reasonably be expected, in the judgment of the Purchaser, to subject the Borrower to any tax, penalty or liability (or any combination of the foregoing) which, in the aggregate, could have a material adverse effect on the financial condition of the Borrower: (i) a reportable event shall occur under Section 4043(c) of ERISA with respect to a Plan, or (ii) any Plan termination (or commencement of proceedings

to terminate a Plan) or the full or partial withdrawal from a Plan by the Borrower or any ERISA Affiliate;

(p) A judicial or nonjudicial forfeiture or seizure proceeding is commenced by a government authority and remains pending with respect to any property of Borrower or any part thereof, on the grounds that the property or any part thereof had been used to commit or facilitate the commission of a criminal offense by any person, including any tenant, pursuant to any law, including under the Controlled Substances Act or the Civil Asset Forfeiture Reform Act, regardless of whether or not the property shall become subject to forfeiture or seizure in connection therewith; or

(q) The unenhanced parity debt obligations of the Borrower are downgraded to a level below Baa3 by Moodys or BBB- by S&P.

Section 6.2 Purchaser's Remedies. Upon receipt by the Purchaser of notice of the occurrence of an Event of Default hereunder, and at any time thereafter during the continuance of such Event of Default, the Purchaser, as assignee of the Authority as provided herein, may, by written notice to the Authority and the Borrower, declare the entire unpaid principal amount of the Bonds and the Note to be due and payable forthwith, to the extent and in accordance with this Bond Agreement, whereupon, such amount shall become forthwith due and payable, both as to principal and interest, without presentment, demand, protest, or other notice of any kind, all of which are hereby expressly waived, anything contained herein or elsewhere to the contrary notwithstanding, and thereupon the Purchaser may take one or more of the following remedial steps in such order and sequence as the Purchaser in its sole judgment may determine:

(a) take any action at law or in equity to collect the payments, costs and expenses then due and thereafter to become due under this Bond Agreement or any of the other Bond Documents or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Bond Agreement or under any other Bond Document or to otherwise protect its rights hereunder; or

(b) exercise any and all rights and remedies conferred upon secured parties by the Uniform Commercial Code and other applicable laws.

If the Purchaser shall have proceeded to enforce the rights of the Purchaser under this Bond Agreement and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Purchaser, then the Borrower and the Purchaser shall be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the Borrower and the Purchaser shall continue as though no such proceedings had taken place.

The Authority agrees that the Purchaser, subject to the provisions of this Bond Agreement reserving the Reserved Rights to the Authority and respecting actions by the Purchaser in its name or where necessary to validly assert its rights, as assignee of the Authority, (but not in the name of the Authority) may enforce all rights of the Authority and all obligations of the Borrower under and pursuant to this Bond Agreement whether or not the Authority is in default hereunder.

In addition to the foregoing, if an Event of Default specified in 6.1(d) shall occur, the outstanding principal balance and accrued interest under the Note, together with any additional amounts payable hereunder or thereunder, shall be immediately due and payable without demand or notice of any kind.

Section 6.3 Additional Remedies. In addition to the above remedies, if the Borrower commits a breach, or threatens to commit a breach of this Bond Agreement or of any other Bond Document, the Authority (to the extent the Authority has any rights under the applicable Bond Documents) and the Purchaser shall have the right and remedy, without posting bond or other security, to have the provisions of this Bond Agreement specifically enforced by any court having equity jurisdiction, it being acknowledged and agreed that any such breach or threatened breach will cause irreparable injury to the Authority and that money damages will not provide an adequate remedy therefor.

Notwithstanding anything in this Bond Agreement or in any of the other Bond Documents to the contrary, the Purchaser shall have no right to waive an Event of Default under any of the Bond Documents which arises out of a violation of a Reserved Right without the prior written consent of the Authority, which it shall give in its sole and complete discretion. Notwithstanding anything herein or in any other Bond Document to the contrary, nothing herein shall affect the Authority's unconditional right to specifically enforce its Reserved Rights.

Section 6.4 No Remedy Exclusive. No remedy herein conferred or reserved to the Authority or the Purchaser 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 Bond Agreement or now or hereafter existing under any other agreements at law or in equity or by statute. No delay or omission to exercise any right or power occurring upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority or the Purchaser to exercise any remedy reserved to either of them in this Article, it shall not be necessary to give notice, other than such notice as may be required in this Article.

Section 6.5 Agreement to Pay Attorneys' Fees and Expenses. In the event the Borrower should default under any of the provisions of this Bond Agreement and either the Authority or the Purchaser shall require and employ attorneys or incur other expenses for the collection of payments due or to become due or for the enforcement or performance or observance of any obligation or agreement on the part of the Borrower herein contained, the Borrower agrees that it will on demand therefor pay to the Authority and the Purchaser the reasonable fees of such attorneys and such other expenses so incurred by the Authority or the Purchaser or both whether or not suit be brought.

In the event of a judgment on the Note, the Borrower agrees to pay to the holder of the Note on demand all costs and expenses incurred by the holder in satisfying such judgment, including without limitation, reasonable fees and expenses of the holder's counsel; it being expressly understood that such agreement by the Borrower to pay all post-judgment costs and expenses of the holder is absolute and unconditional and (a) shall survive (and not merge into) the entry of a judgment for amounts owing hereunder and (b) shall not be limited regardless of whether

the Note is secured or unsecured, and regardless of whether the holder exercises any available rights or remedies against any collateral pledged as security for the Note.

Section 6.6 No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Bond Agreement should be breached by any party and thereafter waived by any other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 6.7 Payment of Loan on Event of Default; Suit Therefor. (a) The Borrower covenants that, in case it shall fail to pay or cause to be paid any sum payable by or on behalf of the Borrower under Section 4.2 as and when the same shall become due and payable whether at maturity or by acceleration or otherwise, then, the Borrower will pay to the Purchaser the whole amount of the Loan that then shall have become due and payable under this Bond Agreement; and, in addition thereto, such further amount as shall be sufficient to cover the reasonable costs and expenses of collection, including reasonable compensation to the Purchaser, its agents and counsel, and any reasonable expenses or liabilities incurred by the Authority or the Purchaser. In case the Borrower shall fail forthwith to pay such amounts upon such demand, the Purchaser shall be entitled and empowered to institute any actions or proceedings at law or in equity for the collection of the sums so due and unpaid, and may prosecute any such action or proceeding to judgment or final decree, and may enforce any such judgment or final decree against the Borrower and collect in the manner provided by law out of the property of the Borrower the moneys adjudged or decreed to be payable.

(a) In case there shall be pending proceedings for the bankruptcy or for the reorganization of the Borrower under the federal bankruptcy laws or any other applicable law, or in case a receiver or trustee shall have been appointed for the benefit of the creditors or the property of the Borrower, the Purchaser and the Authority, as applicable, shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the whole amount of the Loan, including interest owing and unpaid in respect thereof, and any other amount owed by the Borrower hereunder, and, in case of any judicial proceedings, to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Purchaser or the Authority allowed in such judicial proceedings relative to the Borrower, its creditors, or its property, and to collect and receive any moneys or other property payable or deliverable on any such claims, and to distribute the same after the deduction of its charges and expenses. Any receiver, assignee or trustee in bankruptcy or reorganization is hereby authorized to make such payments to the Authority or the Purchaser, and to pay to the Authority or the Purchaser any amount due it for reasonable compensation and expenses, including counsel fees incurred by it up to the date of such distribution.

ARTICLE VII

Miscellaneous

Section 7.1 Limitation of Liability of Authority. In the event of any default by the Authority hereunder, the liability of the Authority to the Borrower shall be enforceable only out of its interest in the Project Facilities and under this Bond Agreement and there shall be no other recourse for damages by the Borrower against the Authority, its officers, members, agents, counsel and employees, or any of the property now or hereafter owned by it or them.

Section 7.2 Notices. Unless otherwise provided in this Bond Agreement or in another agreement between the Purchaser, the Authority and the Borrower, all notices required under this Bond Agreement shall be personally delivered or sent by first class mail, postage prepaid, or by overnight courier, to the addresses, or sent by facsimile to the fax number(s) listed below, or to such other addresses as the Purchaser, the Authority and the Borrower may specify from time to time in writing (any such notice a "Written Notice"). Written Notices shall be effective (i) if mailed, upon the earlier of receipt or five (5) days after deposit in the U.S. mail, first class, postage prepaid, (ii) if telecopied, when transmitted, or (iii) if hand-delivered, by courier or otherwise (including telegram, lettergram or mailgram), when delivered. In lieu of a Written Notice, notices and/or communications from the Purchaser to the Borrower may, to the extent permitted by law, be delivered electronically (i) by transmitting the communication to the electronic address provided by the Borrower or to such other electronic address as the Borrower may specify from time to time in writing, or (ii) by posting the communication on a website and sending the Borrower a notice to the Borrower's postal address or electronic address telling the Borrower that the communication has been posted, its location, and providing instructions on how to view it (any such notice, an "Electronic Notice"). Electronic Notices shall be effective when the communication, or a notice advising of its posting to a website, is sent to the Borrower's electronic address. Notice hereunder shall be effective upon receipt and shall be given by personal service or by certified or registered mail, return receipt requested, to:

The Authority:

New Jersey Educational Facilities Authority
103 College Road East
Princeton, New Jersey 08540
Attention: Executive Director

with a copy to:

McManimon, Scotland & Baumann, LLC
75 Livingston Avenue
Roseland, New Jersey 07068
Attention: John V. Cavaliere, Esq.

The Borrower:

Seton Hall University
400 South Orange Avenue
Bayley Hall – 2nd Floor
South Orange, New Jersey 07079
Attention: Vice President for Finance/CFO

with a copy to :

Connell Foley
56 Livingston Avenue
Roseland, New Jersey 07068
Attention: John D. Cromie, Esq.

The Purchaser:

Bank of America, N.A.
NJ6-503-03-17
208 Harristown Road
Glen Rock, New Jersey 07452
Attention: James P. Andersen
Senior Vice President

with a copy to:

Stradley Ronon Stevens & Young, LLP
30 Valley Stream Parkway
Malverne, Pennsylvania 19355-1481
Attention: Michael E. Roynan, Esq.

Section 7.3 Severability. If any provision hereof is found by a court of competent jurisdiction to be prohibited or unenforceable, it shall be ineffective only to the extent of such prohibition or unenforceability, and such prohibition or unenforceability shall not invalidate the balance of such provision to the extent it is not prohibited or unenforceable, nor invalidate the other provisions hereof, all of which shall be liberally construed in order to effect the provisions of this Bond Agreement.

Section 7.4 Applicable Law. This Bond Agreement shall be governed by the laws of the State without regard to conflicts of laws principles.

THE BORROWER AGREES THAT ANY SUIT FOR THE ENFORCEMENT OF THIS BOND AGREEMENT OR ANY OF THE OTHER BOND DOCUMENTS MAY BE BROUGHT IN THE COURTS OF THE STATE LOCATED IN THE COUNTY OF MERCER AND CONSENTS TO THE JURISDICTION OF SUCH COURT OR SERVICE OF PROCESS IN ANY SUCH SUIT BEING MADE UPON THE BORROWER BY MAIL AT THE ADDRESS SET FORTH HEREIN. THE BORROWER HEREBY WAIVES ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE VENUE OF ANY

SUCH SUIT OR ANY SUCH COURT OR THAT SUCH SUIT IS BROUGHT IN AN INCONVENIENT FORUM.

Section 7.5 Assignment. Except as otherwise permitted herein, the Borrower shall not assign this Bond Agreement or any interest of the Borrower herein, either in whole or in part, without the prior written consent of the Purchaser and the Authority, which consent may be withheld in either party's sole and absolute discretion. This Bond Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective permitted successors and assigns, and the terms "Authority", "Borrower" and "Purchaser" shall, where the context requires, include the respective permitted successors and assigns of such persons.

Section 7.6 Electronic Records and Signatures. This Bond Agreement and any document, amendment, approval, consent, information, notice, certificate, request, statement, disclosure or authorization related to this Bond Agreement (each a "Communication"), including Communications required to be in writing, may, if agreed by the Purchaser, be in the form of an Electronic Record and may be executed using Electronic Signatures, including, without limitation, facsimile and/or .pdf. The Borrower agrees that any Electronic Signature (including, without limitation, facsimile or .pdf) on or associated with any Communication shall be valid and binding on the Borrower to the same extent as a manual, original signature, and that any Communication entered into by Electronic Signature, will constitute the legal, valid and binding obligation of the Borrower enforceable against the Borrower in accordance with the terms thereof to the same extent as if a manually executed original signature was delivered to the Purchaser. Any Communication may be executed in as many counterparts as necessary or convenient, including both paper and electronic counterparts, but all such counterparts are one and the same Communication. For the avoidance of doubt, the authorization under this paragraph may include, without limitation, use or acceptance by the Purchaser of a manually signed paper Communication which has been converted into electronic form (such as scanned into PDF format), or an electronically signed Communication converted into another format, for transmission, delivery and/or retention. The Purchaser may, at its option, create one or more copies of any Communication in the form of an imaged Electronic Record ("Electronic Copy"), which shall be deemed created in the ordinary course of the Bank's business, and destroy the original paper document. All Communications in the form of an Electronic Record, including an Electronic Copy, shall be considered an original for all purposes, and shall have the same legal effect, validity and enforceability as a paper record. Notwithstanding anything contained herein to the contrary, the Purchaser is under no obligation to accept an Electronic Signature in any form or in any format unless expressly agreed to by the Purchaser pursuant to procedures approved by it; provided, further, without limiting the foregoing, (a) to the extent the Purchaser has agreed to accept such Electronic Signature, the Purchaser shall be entitled to rely on any such Electronic Signature purportedly given by or on behalf of the Borrower without further verification and (b) upon the request of the Purchaser any Electronic Signature shall be promptly followed by a manually executed, original counterpart. For purposes hereof, "Electronic Record" and "Electronic Signature" shall have the meanings assigned to them, respectively, by 15 USC §7006, as it may be amended from time to time.

Section 7.7 USA Patriot Act Notice. The Borrower is hereby given notice that pursuant to the requirements of the USA Patriot Act, the Purchaser is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the

Borrower and other information that will allow the Purchaser to identify the Borrower in accordance with the USA Patriot Act.

Section 7.8 Amendments. This Bond Agreement may not be amended except by an instrument in writing signed by the Purchaser, the Borrower and the Authority.

Section 7.9 Term of Agreement. This Bond Agreement and the respective obligations of the parties hereto shall be in full force and effect from the date hereof until (a) the principal or redemption price of, and all interest on, the Bonds shall have been paid and (b) payment in full of the fees, charges and expenses of the Purchaser and the Authority in accordance herewith. Notwithstanding the foregoing, the indemnification provisions of Section 5.8 and the rebate requirements of Section 9 in **Exhibit C** shall survive the termination of this Bond Agreement.

Section 7.10 No Warranty of Condition or Suitability by Authority. The Authority makes no warranty, either express or implied, as to the condition of the Project Facilities or any part thereof or that they will be suitable for the Borrower's purposes or needs. The Borrower acknowledges and agrees that the Authority is not a dealer in property of such kind, and that the Authority has not made, and does not hereby make, any representation or warranty or covenant with respect to the merchantability, fitness for a particular purpose, condition or suitability of the Project Facilities in any respect or in connection with or for the purposes and uses of the Borrower or its tenants.

Section 7.11 Acknowledgement Regarding Any Supported QFCs. To the extent that this Bond Agreement and any document executed in connection with this Bond Agreement (collectively, "Loan Documents") provide support, through a guarantee or otherwise, for any Swap Contract or any other agreement or instrument that is a QFC (such support, "QFC Credit Support", and each such QFC, a "Supported QFC"), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "U.S. Special Resolution Regimes") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the Governing Law State and/or of the United States or any other state of the United States):

(a) In the event a Covered Entity that is party to a Supported QFC (each, a "Covered Party") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against

such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States.

(b) As used in this paragraph, the following terms have the following meanings:

“BHC Act Affiliate” of a party means an “affiliate” (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

“Covered Entity” means any of the following: (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“Default Right” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“QFC” has the meaning assigned to the term “qualified financial contract” in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

“Swap Contract” means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a “Master Agreement”), including any such obligations or liabilities under any Master Agreement.

Section 7.12 Intentionally Omitted.

Section 7.13 Headings. The captions or headings in this Bond Agreement are for convenience of reference only and shall not control or affect the meaning or construction of any provision hereof.

Section 7.14 Further Assurances and Corrective Instruments. The Authority and the Borrower hereby agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such further acts, instruments, conveyances, transfers

and assurances, as the Purchaser reasonably deems necessary or advisable for the implementation, correction, confirmation or perfection of this Bond Agreement or the Borrower's Tax Certificate and any rights of the Authority hereunder.

Section 7.15 Jury Trial Waiver. THE BORROWER, THE AUTHORITY AND THE PURCHASER MUTUALLY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY CLAIM BASED HEREON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS BOND AGREEMENT OR ANY OTHER BOND DOCUMENTS CONTEMPLATED TO BE EXECUTED IN CONNECTION HERewith OR ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY, INCLUDING, WITHOUT LIMITATION, ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS OR ACTIONS OF THE AUTHORITY OR THE PURCHASER RELATING TO THE ADMINISTRATION OF THE LOAN OR ENFORCEMENT OF THE BOND DOCUMENTS, AND AGREE THAT THE PARTIES WILL NOT SEEK TO CONSOLIDATE ANY SUCH ACTION WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. EXCEPT AS PROHIBITED BY LAW, THE BORROWER HEREBY WAIVES ANY RIGHT IT MAY HAVE TO CLAIM OR RECOVER IN ANY LITIGATION ANY SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OR ANY DAMAGES OTHER THAN, OR IN ADDITION TO, ACTUAL DAMAGES. THE BORROWER CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE AUTHORITY OR THE PURCHASER HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE AUTHORITY OR THE PURCHASER WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER. THIS WAIVER CONSTITUTES A MATERIAL INDUCEMENT FOR THE PURCHASER TO ACCEPT THE BONDS AND THE NOTE AND FOR THE AUTHORITY TO MAKE THE LOAN.

Section 7.16 Waiver of Class Actions. The terms "Claim" or "Claims" refer to any disputes, controversies, claims, counterclaims, allegations of liability, theories of damage, or defenses between Bank of America, N.A., its subsidiaries and affiliates, on the one hand, and the other parties to this Agreement, on the other hand (all of the foregoing each being referred to as a "Party" and collectively as the "Parties"). Whether in state court, federal court, or any other venue, jurisdiction, or before any tribunal, the Parties agree that all aspects of litigation and trial of any Claim will take place without resort to any form of class or representative action. Thus the Parties may only bring Claims against each other in an individual capacity and waive any right they may have to do so as a class representative or a class member in a class or representative action. THIS CLASS ACTION WAIVER PRECLUDES ANY PARTY FROM PARTICIPATING IN OR BEING REPRESENTED IN ANY CLASS OR REPRESENTATIVE ACTION REGARDING A CLAIM.

Section 7.17 Right of Set-Off. In addition to the remedies provided above, the Borrower hereby grants the Authority and the Purchaser a continuing lien, security interest, and right of set-off as security for all liabilities and obligations to the Authority and the Purchaser, whether now existing or hereafter arising, upon and against all deposits, credits, collateral, and property, now or hereafter in the possession, custody, safekeeping or control of the Authority, the Purchaser or any

entity under the control of the Purchaser and its successors and assigns or in transit to any of them. At any time, without demand or notice (any such notice being expressly waived by the Borrower), the Authority or the Purchaser may set off the same or any part thereof and apply the same to any liability or obligation of the Borrower even though unmaturing and regardless of the adequacy of any other collateral securing the Loan. ANY AND ALL RIGHTS TO REQUIRE THE AUTHORITY OR THE PURCHASER TO EXERCISE ITS RIGHTS OR REMEDIES WITH RESPECT TO ANY OTHER COLLATERAL WHICH SECURES THE LOAN, PRIOR TO EXERCISING ITS RIGHT OF SET-OFF WITH RESPECT TO SUCH DEPOSITS, CREDITS OR OTHER PROPERTY OF THE BORROWER OR ANY GUARANTOR, ARE HEREBY KNOWINGLY, VOLUNTARILY, AND IRREVOCABLY WAIVED.

Section 7.18 Payment of Fees and Expenses. In addition to the Commitment Fee payable on the date hereof, the Borrower shall pay, on demand, all expenses of the Authority and the Purchaser in connection with the preparation, administration, default, collection, waiver or amendment of Loan terms, or in connection with the Authority's and the Purchaser's exercise, preservation or enforcement of any of its rights, remedies or options hereunder, including without limitation fees of outside legal counsel or the allocated costs of in-house legal counsel, accounting, consulting, brokerage or other similar professional fees or expenses, and any fees or expenses associated with travel or other costs relating to any appraisals or examinations conducted in connection with the Loan, and the amount of all such expenses shall, until paid, bear interest at the rate applicable to principal hereunder (including any Default Rate).

Section 7.19 Pledge to Federal Reserve. Subject to the provisions of Section 1.5(b) hereof, the Purchaser may at any time pledge or assign all or any portion of its rights under the Bond Documents (including any portion of the Note) to any of the 12 Federal Reserve Banks organized under Section 4 of the Federal Reserve Act, 12 U.S.C. § 341. No such pledge or assignment or enforcement thereof shall release the Borrower from its obligations under any of the Bond Documents.

Section 7.20 Right to Sell Bonds to Third Party. Subject to the provisions of Section 1.5(b) hereof, the Purchaser shall have the right at any time or from time to time, and without the Borrower's consent, to assign all or any portion of its rights and obligations hereunder to one or more banks or other financial institutions (each, an "Assignee"), and the Borrower agrees that it shall execute, or cause to be executed, such documents, including without limitation amendments to this Bond Agreement and to any other documents, instruments, and agreements executed in connection herewith as the Purchaser shall deem necessary to effect the foregoing. In addition, at the request of the Purchaser and any such Assignee, the Borrower shall issue one or more new promissory notes, as applicable, to any such Assignee and, if the Purchaser has retained any of its rights and obligations hereunder following such assignment, then to the Purchaser, which new promissory notes shall be issued in replacement of, but not in discharge of, the liability evidenced by the Note and shall reflect the amount of the respective commitments and loans held by such Assignee and the Purchaser after giving effect to such assignment. Upon the execution and delivery of appropriate assignment documentation, amendments and any other documentation required by the Purchaser in connection with such assignment, and the payment by Assignee of the purchase price agreed to by the Purchaser and such Assignee, such Assignee shall be a party to the Bond Documents and shall have all of the rights and obligations of the Purchaser thereunder (and under

any and all other guaranties, documents, instruments, and agreements executed in connection therewith) to the extent that such rights and obligations have been assigned by the Purchaser pursuant to the assignment documentation between the Purchaser and such Assignee, and the Purchaser shall be released from its obligations hereunder and thereunder to a corresponding extent. The Borrower may furnish any information concerning the Borrower in its possession from time to time to prospective Assignees, provided that the Purchaser shall require any such prospective Assignees to agree in writing to maintain the confidentiality of such information.

Section 7.21 Right to Sell a Portion of the Bonds to a Prospective Participant. The Purchaser shall have the unrestricted right at any time and from time to time, and without the consent of or notice to the Borrower to grant to one or more banks or other financial institutions (each, a “Participant”) participating interests in the Bonds. In the event of any such grant by the Purchaser of a participating interest to a Participant, whether or not upon notice to the Borrower, the Purchaser shall remain responsible for the performance of its obligations hereunder and the Borrower shall continue to deal solely and directly with the Purchaser in connection with the Purchaser’s rights and obligations hereunder. The Purchaser may furnish any information concerning the Borrower in its possession from time to time to prospective Participants, provided that the Purchaser shall require any such prospective Participant to agree in writing to maintain the confidentiality of such information.

Section 7.22 Integration Clause; Survival of Representations, Warranties and Modifications. This Bond Agreement and the other Bond Documents are intended by the parties as the final, complete, and exclusive statement of the transactions evidenced by this Bond Agreement and the other Bond Documents. All prior or contemporaneous promises, agreements, and understandings, whether oral or written, are deemed to be superseded by this Bond Agreement and the other Bond Documents, and no party is relying on any promise, agreement or understanding not set forth in this Bond Agreement and the other Bond Documents. All warranties, representations and covenants imposed or made herein, or in the other Bond Documents shall survive the execution and delivery of this Bond Agreement and the other Bond Documents. No delay or omission of the Purchaser or the Authority in exercising or enforcing any of the Purchaser’s and the Authority’s rights and remedies hereunder shall constitute a waiver thereof; nor shall any single or partial exercise by the Purchaser or the Authority of any right hereunder preclude any other or further exercise thereof or the exercise of any other right; and no waiver by the Purchaser or the Authority of any default or Event of Default shall operate as a waiver of any other default or Event of Default. No term or provision of this Bond Agreement, or any other Bond Document shall be waived, altered or modified except with the prior written consent of the Purchaser (and the Authority with respect to rights hereunder which have been specifically reserved by the Authority), which consent makes explicit reference hereto or thereto. Except as provided in the preceding sentence, no other agreement or transaction, of whatsoever nature, entered into among the Purchaser, the Authority and the Borrower at any time (whether before, during or after the effective date or terms of this Bond Agreement), shall be construed in any particular as a waiver, modification or limitation of any of the Purchaser’s and the Authority’s rights and remedies under this Bond Agreement, or the other Bond Documents nor shall anything in this Bond Agreement, or in the other Bond Documents be construed as a waiver, modification or limitation of any of the Purchaser’s and the Authority’s rights and remedies, not only under the provisions of this Bond Agreement or the other Bond Documents but also of any such other agreement or transaction.

Section 7.23 Usury Limitation. If, at any time, the rate of interest, together with all amounts which constitute interest and which are reserved, charged or taken by the Purchaser or the Authority as compensation for fees, services or expenses incidental to the making, negotiating or collection of the Loan, shall be deemed by any competent court of law, governmental agency or tribunal to exceed the maximum rate of interest permitted to be charged under the Note under applicable law, then, during such time as such rate of interest would be deemed excessive, that portion of each sum paid attributable to that portion of such interest rate that exceeds the maximum rate of interest so permitted shall be deemed a voluntary prepayment of principal. As used herein, the term “applicable law” shall mean the law in effect as of the date hereof; provided, however, that in the event there is a change in the law which results in a higher permissible rate of interest, then this Bond Agreement shall be governed by such new law as of its effective date.

Section 7.24 Counterparts. This Bond Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

Section 7.25 Default Rate. With respect to the Default Rate, the Borrower acknowledges that: (a) such additional rate is a material inducement to the Purchaser to purchase the Bond; (b) the Purchaser would not have purchased the Bond in the absence of the agreement of the Borrower to pay such additional rate; (c) such additional rate represents compensation for increased risk to the Purchaser that the Bond will not be paid; and (d) such rate is not a penalty and represents a reasonable estimate of (i) the cost to the Purchaser in allocating its resources (both personnel and financial) to the ongoing review, monitoring, administration and collection of the Bond and (ii) compensation to the Purchaser for losses that are difficult to ascertain.

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IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have caused this Bond Agreement to be executed and delivered as of the date first written above.

ATTEST

NEW JERSEY EDUCATIONAL
FACILITIES AUTHORITY

Steven Nelson
Assistant Secretary

By: _____
Eric D. Brophy, Esq.
Executive Director

SETON HALL UNIVERSITY

By: _____
Stephen Graham
Vice President for Finance/
Chief Financial Officer

BANK OF AMERICA, N.A.,
as Purchaser

By: _____
James P. Andersen
Senior Vice President

EXHIBIT A

Form of Bonds

THE STATE OF NEW JERSEY IS NOT OBLIGATED TO PAY, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF NEW JERSEY IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OR REDEMPTION PRICE, IF ANY, OF OR THE INTEREST ON THIS BOND. THIS BOND IS NOT A DEBT OR LIABILITY OF THE STATE OF NEW JERSEY OR ANY POLITICAL SUBDIVISION THEREOF, OTHER THAN THE AUTHORITY. THIS BOND IS A SPECIAL AND LIMITED OBLIGATION OF THE AUTHORITY, PAYABLE SOLELY OUT OF THE REVENUES OR OTHER RECEIPTS, FUNDS OR MONEYS OF THE AUTHORITY PLEDGED UNDER THE BOND AGREEMENT FOR THE PAYMENT OF THIS BOND. THIS BOND DOES NOT NOW AND SHALL NEVER CONSTITUTE A CHARGE AGAINST THE GENERAL CREDIT OF THE AUTHORITY. THE AUTHORITY HAS NO TAXING POWER.

**NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY
REFUNDING BOND
SETON HALL UNIVERSITY ISSUE, 2021 SERIES D**

DATED DATE: [CLOSING DATE] **MATURITY DATE:** July 1, 2033 **INITIAL INTEREST RATE:** []%

NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY (herein called the “Authority”), a public body corporate and politic constituting an instrumentality of the State of New Jersey (the “State”), acknowledges itself indebted and for value received hereby promises to pay, or cause to be paid, in any coin or currency of the United States of America that at the time of payment is legal tender for the payment of public and private debts, to **BANK OF AMERICA, N.A.** (the “Purchaser”) the principal sum of [] and 00/100 DOLLARS (\$[BOND AMOUNT]) as follows:

Interest shall be payable on the first day of each consecutive month commencing on [] 1, 2021 and on the first day of each month thereafter. Principal payments shall be made as set forth in the attached **Schedule A**, with a final payment of all outstanding principal, plus accrued interest, on the Maturity Date.

Interest shall initially accrue at the Interest Rate set forth above. All interest payable hereunder shall be due in arrears and calculated on a 360-day year based on the actual number of days elapsed. Notwithstanding the foregoing, commencing on the Tax-Exempt Conversion Date, interest on the outstanding principal amount of this Bond shall accrue at the rate of []% per annum.

Each of said monthly payments shall be applied first in payment of accrued and unpaid interest and the balance to the payment of unpaid principal.

[This Bond is subject to mandatory tender for purchase on July 1, 2033 (the “Tender Date”) by Seton Hall University (the “Borrower”) at a purchase price of 100% of the outstanding principal amount of this Bond, plus any accrued and unpaid interest thereon and all other amounts due under the Bond Agreement. Notwithstanding the foregoing, the Purchaser may waive, in its sole discretion, such mandatory tender of this Bond on such Tender Date if (i) at least 180 days prior to such Tender Date (or such shorter period of time as may be acceptable to the Purchaser), the Borrower provides a written request to the Purchaser requesting that the Purchaser waive the mandatory tender of this Bond, and (ii) at least 90 days prior to such Tender Date (or such shorter period as shall be acceptable to the Borrower), the Purchaser provides to the Borrower and the Authority the terms by which the Purchaser will agree to continue to hold this Bond after the Tender Date, including any modifications to the Interest Rate hereof, in exchange for such waiver. For the avoidance of doubt, if the Purchaser does not affirmatively waive the mandatory tender of this Bond in writing as described in subsection (ii) above, this Bond will remain subject to mandatory tender for purchase on the Tender Date as set forth herein.]

All sums due hereunder from the Authority shall be paid solely from the revenues received from the Borrower or other moneys derived from the Loan made with respect to the Project hereinafter referred to or any other revenues pledged therefor under the Bond Agreement or the other Bond Documents. This Bond, as to principal, interest and premium, if any, when due, will be payable by debit to the Demand Deposit Account as provided in the Bond Agreement, or if applicable, at the offices of Bank of America, N.A., 208 Harristown Road, Glen Rock, New Jersey 07452 or such other place as the Purchaser may from time to time specify in writing, in lawful currency of the United States of America, in immediately available funds, without counterclaim or setoff and free and clear of, and without any deduction or withholding for, any taxes or other payments.

This Bond is the duly authorized bond designated as the New Jersey Educational Facilities Authority Refunding Bond, Seton Hall University Issue, 2021 Series D issued in the principal amount of \$[12,045,000] (this “Bond”). This Bond has been issued under and by virtue of the New Jersey Educational Facilities Authority Law (being Chapter 72A of Title 18A of the New Jersey Statutes, as amended and supplemented) (the “Act”), and by virtue of a resolution adopted by the Authority on August 24, 2021 (the “Resolution”). This Bond is secured under a Bond Agreement (and the documents referred to therein) dated the Dated Date (as amended, restated or otherwise supplemented, the “Bond Agreement”) by and among the Authority, the Purchaser and the Borrower, for the purpose of financing the Project. Capitalized terms used herein and not defined shall be defined as set forth in the Bond Agreement.

Reference is hereby made to the Resolution and the Bond Agreement, copies of which are on file at the office of the Authority for a description of the provisions, among others, with respect to the terms upon which this Bond is issued, the nature and extent of the security for this Bond, the rights, duties and obligations of the Authority, the Borrower and the Purchaser, and the modification or amendment of the Bond Agreement and the Resolution, to all of which the holder of this Bond hereto assents by acceptance of this Bond.

This Bond is subject to cancellation as provided in Section 10 of **Exhibit C** of the Bond Agreement upon the occurrence of an Event of Cancellation under the Bond Agreement.

This Bond is subject to Redemption (defined below), in whole or in part, without premium or penalty, at any time upon at least ten (10) Business Days prior written notice to the Purchaser (which notice shall be irrevocable).

This Bond is also subject to redemption prior to maturity in whole or in part in the following manner: if the applicable Note is prepaid, in whole or in part, or is accelerated in accordance with the Bond Agreement, then this Bond shall be redeemed in whole or in part or accelerated.

This Bond may be redeemed prior to maturity and repaid in full or in part at any time. The prepayment will be applied to the most remote payment of principal due under this Bond. Each prepayment, whether voluntary, by reason of acceleration or otherwise, will be accompanied by the amount of accrued interest on the amount prepaid, and, if the prepayment is made prior to the expiration of the Fixed Rate Term with respect to any principal amount that accrues interest at a fixed rate, a prepayment fee calculated by the Purchaser. The prepayment fee will be equal to the present value of the difference, if positive, between (i) the sum of the interest payments that would have accrued through the end of the Fixed Rate Term on each prepaid installment of principal at a fixed interest rate for such installment equal to the Original Funding Rate, as if the prepayment had not been made, less (ii) the sum of the interest payments that would have accrued on each prepaid installment of principal at a fixed interest rate for such installment equal to the Reinvestment Rate, as if the prepayment had not been made.

The following definitions will apply to the calculation of the prepayment fee: (i) "Fixed Rate Term" means the full term of the credit during which the interest rate was fixed on the principal amount prepaid, (ii) "Original Funding Rate" means with respect to any prepaid installment of principal, the Swap Rate on the date the interest rate was fixed by the Purchaser on the principal amount prepaid for a term corresponding to a period of time equal to the Fixed Rate Term, interpolated, if necessary, (iii) "Reinvestment Rate" means with respect to any prepaid installment of principal, the Swap Rate on the date the prepayment fee is calculated by the Purchaser for a term corresponding to the period of time remaining until such principal installment was scheduled to be made, interpolated, if necessary, and (iv) "Swap Rate" means, as of any date, the offered U.S. Dollar interest rate swap rate for a fixed rate payer determined by the Purchaser on such date by reference to the Bloomberg service or such other similar data source then used by the Purchaser for determining such rate.

Any partial redemption hereunder shall be accompanied by the payment of all accrued and unpaid interest on this Bond and all other fees, expenses and other sums due and owing, if any, and be applied in inverse order of maturity and shall be applied first to fees, costs, expenses or charges under the Bond Documents, then to the payment of accrued interest and the balance to principal hereunder.

Any prepayment fee or premium due on the Note pursuant to the Bond Agreement, if any, shall be deemed to be a redemption premium to be paid to the Holder of this Bond.

This Bond is a special and limited obligation of the Authority payable from the Revenues derived by the Authority from the Borrower under the Bond Agreement, and neither the State of New Jersey nor any political subdivision thereof, other than the Authority, shall be obligated to pay the principal of or interest on this Bond except from the Revenues pledged therefor under the Resolution, and neither the faith and credit nor the taxing power of the State of New Jersey or any political subdivision thereof is pledged to the payment of the principal of or interest on this Bond. The Authority has no taxing power.

No recourse shall be had for the payment of the principal of or interest on this Bond against any member or other officer of the Authority or any person executing this Bond, all such liability, if any, being hereby expressly waived and released by every holder or registered owner of this Bond by the acceptance hereof and as a part of the consideration hereof, as provided in the Resolution.

It is hereby certified, recited and declared by the Authority that all acts, conditions and things required by the Constitution and statutes of the State of New Jersey and the Resolution to exist, to have happened and to have been performed precedent to and in the issuance of this Bond in order to make it the legal, valid and binding, special and limited obligations of the Authority in accordance with its terms, exist, have happened and have been performed in regular and due time, form and manner as required by law, and that the issuance of this Bond, together with all other indebtedness of the Authority, does not exceed or violate any constitutional, statutory or other limitation upon the amount of the bonded indebtedness prescribed by law for the Authority.

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IN WITNESS WHEREOF, New Jersey Educational Facilities Authority has caused this bond to be executed in its name by the manual or facsimile signature of its Chair, Vice Chair or Executive Director and its official common seal (or a facsimile thereof) to be hereunto affixed, imprinted, engraved or otherwise reproduced and attested by the manual or facsimile signature of its Executive Director, Secretary or any Assistant Secretary, all as of the Dated Date.

NEW JERSEY EDUCATIONAL
FACILITIES AUTHORITY

{SEAL}

By: _____

ATTEST:

Eric D. Brophy, Esq.
Executive Director

Steven Nelson
Assistant Secretary

SCHEDULE A
PRINCIPAL PAYMENTS

| <u>Payment Date (July 1)</u> | <u>Principal Amount</u> |
|------------------------------|-------------------------|
| 2024 | \$1,110,000 |
| 2025 | \$1,130,000 |
| 2026 | \$1,155,000 |
| 2027 | \$1,170,000 |
| 2028 | \$1,190,000 |
| 2029 | \$1,215,000 |
| 2030 | \$1,235,000 |
| 2031 | \$1,260,000 |
| 2032 | \$1,280,000 |
| 2033 | \$1,300,000 |

EXHIBIT B

Special Notice Events

1. Change of ownership of the financed property -- if the ownership of any portion of the financed and/or refinanced Project Facilities is transferred to anyone, prior to the earlier of the end of the expected economic life of the property, or the latest maturity date of any bond of the issue financing (or refinancing) the property;

2. Private business use of the Bond Financed Property -- if any portion of the financed and/or refinanced Project Facilities will be used by anyone other than a State or local governmental unit or a 501(c)(3) organization acting in furtherance of its exempt purpose (an "Exempt Person") or members of the general public who are not using the property in the conduct of a trade or business (e.g., use by a person as an owner, lessee, purchaser of the output of facilities under a "take and pay" or "take or pay" contract, purchaser or licensee of research, a manager or independent contractor under certain management or professional service contracts or any other arrangement that conveys special legal entitlements including an arrangement that conveys priority rights to the use or capacity of the financed property, for beneficial use of the property financed with proceeds of tax-exempt debt or an arrangement that conveys a special economic benefit);

3. Unrelated trade or business -- if any portion of the financed and/or refinanced Project Facilities is to be used by any 501(c)(3) organization (including by the Borrower) in an unrelated trade or business (i.e., a trade or business not substantially related to the 501(c)(3) purpose or purposes of the 501(c)(3) organization);

4. Private Loans Bond Proceeds -- if any portion of the proceeds of the Bonds (including any investment earnings thereon are to be re-loaned by the Borrower;

5. Naming rights agreements for the Bond Financed Property -- if any portion of the financed and/or refinanced Project Facilities will become subject to a naming rights agreement, other than a "brass plaque" dedication;

6. Research using the Bond Financed Property -- if any portion of the financed and/or refinanced Project Facilities will be used for the conduct of research under the sponsorship, or for the benefit of, any organization other than an Exempt Person;

7. Management agreement or service agreement -- if any portion of the financed and/or refinanced Project Facilities is to be used under a management contract or professional service contract (e.g., medical group), other than a contract for services that are solely incidental to the primary function of financed and/or refinanced Project Facilities, such as janitorial services or office equipment repair, or a qualified management contract described in Rev. Proc. 97-13;

8. Joint ventures -- if any portion of the financed and/or refinanced Project Facilities has been used in any joint venture arrangement with any person other than an Exempt Person; or

9. Sinking fund or pledge fund -- if the Borrower, or any organization related to the Borrower, identifies funds which are expected to be used to pay debt service on the Bonds or secure the payment of debt service on the Bonds, other than those funds or accounts described in this Bond Agreement or the other Bond Documents.

EXHIBIT C

Post-Conversion Provisions

Commencing on the Tax-Exempt Conversion Date, the following provisions shall apply:

Section 1. Definitions. the following terms shall have the following meanings unless a different meaning clearly appears from the context:

“Adverse Determination” shall have the meaning set forth in clause (b) of the definition of “Determination of Taxability”;

“Arbitrage Rebate Amount” shall mean the amount required to be rebated to the United States pursuant to Section 148(f)(2) of the Code or successor provisions applicable to the Bonds;

“Authority’s Tax Certificate” shall mean the Arbitrage and Tax Certificate, including the exhibits thereto, dated as of the Tax-Exempt Conversion Date, furnished by the Authority;

“Bond Proceeds” shall mean the amount, including any accrued interest, paid to the Authority or its agents by the Purchaser pursuant to this Bond Agreement as the purchase price of the Bonds, and interest income earned thereon, if any;

“Bond Year” shall mean each one-year period (or shorter period from date of issue) that ends at the close of business on a day in the calendar year selected by the Authority;

“Borrower’s Tax Certificate” shall mean the Arbitrage and Tax Certificate, including the exhibits thereto, dated as of the date of issuance and delivery of the Bonds, furnished by the Borrower;

“Determination of Taxability” shall mean one of the following situations:

(a) Cancellation of the Bonds pursuant to Section 10 of this **Exhibit C**;

(b) The delivery to the Authority of a “Proposed Adverse Determination” (the “Adverse Determination”) in connection with an examination of the Bonds by the Internal Revenue Service asserting that the interest on the Bonds is included in the gross income of the Purchaser, such Adverse Determination to be effective 30 days after delivery, subject to a stay of such 30-day period for the action described below, if prior thereto the Borrower files with the Purchaser evidence of the filing of a timely appeal with the Internal Revenue Service or evidence that a Closing Agreement (as defined in the Code) is being negotiated and delivers to the Purchaser a copy of such Closing Agreement or evidence of a successful appeal from the Internal Revenue Service within one hundred eighty (180) days after the date of such Adverse Determination, the failure of which shall constitute the occurrence of a Determination of Taxability on the date that is one hundred eighty (180) days after the date borne by such Adverse Determination; or

(c) The delivery of written notice (the “Taxability Notice”) by the Purchaser to the Authority and the Borrower declaring that the Internal Revenue Service has issued to the Purchaser

a proposed deficiency letter (“30-day letter”), the effect of which (in the reasonable opinion of the Purchaser) is to assert that the interest on the Bonds is included in the gross income of the Purchaser, such Taxability Notice to be effective 30 days after the delivery of the same, subject to a stay of such 30-day period for the period of litigation if prior thereto the Borrower agrees in writing to participate in and defend a final judicial determination to affirm that the interest on the Bonds is excluded from gross income.

In the event the final judicial determination is adverse, the Taxability Notice will be effective 30 days after the entry of such final judicial determination.

(d) The delivery of written notice (the “Event Notice”) to the Borrower by the Authority or the Purchaser declaring that a change in law or fact, or the interpretation thereof, or the occurrence or recognition of a fact, circumstance or situation which causes or could cause the loss of the exclusion from gross income provided under Section 103(a) of the Code for interest on the Bonds (the “Event of Taxability”) has occurred on a specified date (other than by reason of any of the events described in the foregoing subparagraphs (b) and (c)) and describing the Event of Taxability, such Event Notice to become effective 30 days after delivery unless prior thereto the Borrower, on behalf of the Authority or the Purchaser (a) (1) agrees in writing to seek a private letter ruling or other written determination (hereinafter, referred to as the “Ruling”) from the Internal Revenue Service affirming that the interest on the Bonds is excluded from gross income and will remain unaffected by the Event of Taxability described in the Event Notice or (2) agrees, in writing, to take a specific remedial action with respect to the Bonds pursuant to Treasury Regulation §1.142-2 to preserve the exclusion from gross income of interest on the Bonds; and (b) procures an opinion from Bond Counsel, at the Borrower’s cost, to the effect that there is a substantial and valid legal basis for the position that the interest on the Bonds has been, is and will remain Tax-exempt, and (I) counsel has no reason to believe that the Internal Revenue Service will decline to consider the ruling request for procedural or technical reasons, and no knowledge or reason to believe that the Internal Revenue Service has indicated a position not to rule favorably on similar questions or would not rule favorably or (II) counsel has no reason to believe that the proposed remedial action would not be sufficient to preserve the exclusion from gross income of the interest on the Bonds. In the event the Ruling is adverse, the Event Notice will be effective 30 days after the receipt of such adverse determination;

(e) In order to stay the Determination of Taxability under paragraphs (b), (c) or (d) above, the Borrower must agree in writing to reimburse and fully indemnify and hold harmless the Authority and the Purchaser from and against any and all liability, damage, loss, cost or expense (including reasonable attorneys’ fees) which the Authority or the Purchaser may incur as the result of the examination, litigation, ruling or remedial action and further agrees to pay on demand all costs and expenses which the Authority or the Purchaser may incur in connection with the examination, litigation, ruling or remedial action and to furnish such bond, letter of credit or other form of security as the Authority or the Purchaser may reasonably request from time to time to secure the Authority’s or the Purchaser’s obligations with respect to the Bonds, including without limitation, any potential increases in interest during the period of appeal or contest, whether prospective or retroactive, and any potential Taxes, closing agreement amount, penalties or related interest;

“Event of Cancellation” shall have the meaning assigned to such term in Section 10 of this **Exhibit C**;

“Event Notice” shall have the meaning set forth in clause (d) of the definition of “Determination of Taxability”;

“Gross Proceeds” shall mean gross proceeds as defined in Treasury Regulations §1.148-1;

“Net Proceeds” shall mean the Bond Proceeds less any amounts placed in a reasonably required reserve or replacement fund within the meaning of Section 148 of the Code;

“Proper Charge” shall mean (i) issuance costs of the Bonds, including, legal fees, printing costs, and similar expenses, which shall at no time exceed two per centum (2%) of the proceeds of the Bonds; or (ii) an expenditure for the Project used (A) for the acquisition or improvement of land or the acquisition, construction, reconstruction or improvement of property of a character subject to the allowance for depreciation or (B) to redeem part or all of a prior issue which was issued for purposes described in (A) above; (iii) expenditures for the Project which, after taking into account all expenditures under (i) above, will not result in more than five per centum (5%) of the Net Proceeds being expended for expenditures other than those referred to in (ii) above;

“Rebate Computation Date” shall mean the dates selected in the Tax Certificates as the dates on which the Arbitrage Rebate Amount is required to be rebated to the United States, but if no dates are selected in the Tax Certificates, any date permitted by Treasury Regulation Section 1.148-3(e);

“Ruling” shall have the meaning set forth in clause (d) of the definition of “Determination of Taxability”;

“Tax Certificates” shall mean the Borrower’s Tax Certificate and the Authority’s Tax Certificate;

“Taxability Notice” shall have the meaning set forth in clause (c) of the definition of “Determination of Taxability”;

“30-day letter” shall have the meaning set forth in clause (c) of the definition of “Determination of Taxability”;

“Yield” shall be determined on the basis of issue price (within the meaning of Treas. Reg. Sec. 1.148-1(b)) and shall mean that discount rate which when used in computing the present value as of the issue date of all unconditionally payable payments of principal, interest and fees for qualified guarantees on the issue and amounts reasonably expected to be paid as fees for qualified guarantees on the issue, produces an amount equal to the issue present value, using the same discount rate, of the issue price of the Bonds as of the issue date.

Section 2. Borrower Representations and Covenants.

(f) Proper Charges. The Borrower has not paid any expense prior to sixty (60) days prior to August 24, 2021 for which it shall seek reimbursement from the Bond Proceeds.

(g) Use of Proceeds. No portion of the Bond Proceeds will be used to provide any airplane, skybox or other private luxury box, facility primarily used for gambling or store the principal business of which is the sale of alcoholic beverages for consumption off premises.

(h) Economic Life. The remaining average economic life of the assets to be refinanced with proceeds of the Bonds as described in the Borrower's Tax Certificate, setting forth the respective cost, economic life, ADR midpoint life, if any, under Rev. Proc. 87-56, as supplemented and amended from time to time, and guideline life, if any, under Rev. Proc. 62-21, 1962-2 C.B. 118, as supplemented and amended from time to time, of each asset constituting the Projects to be financed and refinanced with the proceeds of the Bonds is true, accurate and complete.

(i) Actions Affecting Treatment of Interest. The Borrower has not taken and will not take any action and knows of no action that any other person has taken or intends to take, which would cause interest income on the Bonds to be includable in the gross income of the recipients thereof under Section 103 of the Code.

(j) No Federal Guaranty. The Bonds will not be federally guaranteed within the meaning of Section 149(b) of the Code.

(k) Issuance Costs. No more than two percent (2%) of the proceeds of the Bonds were used to pay the issuance costs of the Bonds (as such terms are used in Section 147(g) of the Code).

(l) Tax-Exempt Status of the Borrower. The Borrower hereby represents and warrants that:

(i) the Borrower is an organization exempt from federal income taxation as provided in Section 501(a) of the Code by virtue of being described in Section 501(c)(3) of the Code;

(ii) the purposes, character, activities and methods of operation of the Borrower (the "Borrower Purposes") are not materially different from the purposes, character, activities and methods of operation at the time of its receipt of a determination from the Internal Revenue Service that it was an organization described in Section 501(c)(3) of the Code (the "Determination");

(iii) the Borrower has not applied a substantial part of its assets (be it corpus or income) for any purpose or purposes other than those Borrower Purposes which have been disclosed to the Internal Revenue Service, including, without limitation, the Borrower Purposes disclosed in connection with the Determination;

(iv) the Borrower has not operated during its five most recent fiscal years or the current fiscal year, as of the date hereof, in a manner which would cause the Internal Revenue Service to classify the Borrower as an "action organization" within the meaning of Treasury

Regulations Section 1.501(c)(3)-(1)(c)(3) including, without limitation, any actions of which the Internal Revenue Service is not aware and which involve (i) the promotion of or attempts to influence legislation by propaganda or otherwise as a substantial part of its activities or (ii) the intervention, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office;

(v) with the exception of the payment of compensation (and the payment or reimbursement of expenses) which is not excessive and is for personal services which are reasonable and necessary to carrying out the Borrower Purposes, no individual or individuals controlled by the Borrower nor any person having a personal or private interest in the activities of the Borrower has acquired or received, directly or indirectly, any income or assets, regardless of form, of the Borrower during the current fiscal year and the five fiscal years preceding the current fiscal year, other than any such acquisitions or receipts of which the Internal Revenue Service has been informed except if for fair market value;

(vi) the Borrower is not a “private foundation” within the meaning of Section 509(a) of the Code;

(vii) the Borrower has not been notified, directly or indirectly, by the Internal Revenue Service that its exemption under Section 501(c)(3) of the Code has been revoked or modified or that the Internal Revenue Service is considering revoking or modifying such exemption, and such exemption is still in full force and effect;

(viii) the Borrower has filed with the Internal Revenue Service all returns, reports and other documents as required by law, and such materials have not omitted or misstated any material fact; and

(ix) the Borrower has not devoted more than an insubstantial part of its activities in furtherance of a purpose other than an exempt purpose within the meaning of Section 501(c)(3) of the Code.

(m) Loss of Tax Exemption. The Borrower has not taken any action, nor does it know of any action taken by others or any condition which has not been disclosed to the Internal Revenue Service which would cause the Borrower to lose its exemption from taxation under Section 501(a) of the Code or cause the interest on the Bonds to be includable in the gross income of the recipients thereof for federal income tax purposes.

(n) Project Users. The Borrower shall not permit any leasing, subleasing or assigning of leases (or any modifications or terminations of such leases) of any of the Projects that would impair the excludability of interest paid on the Bonds from the gross income of the Purchaser for purposes of federal income taxation, or that would impair the ability of the Borrower to operate the Projects or cause the Projects not to be operated as an authorized educational facilities project under the Act. Notwithstanding the foregoing sentence, the prior written consent of the Authority and the Purchaser shall not be required in connection with those various summer programs involving the use and occupancy of certain of the Borrower’s facilities, any short term leases of less than ninety (90) days in the aggregate or leases to tax exempt organizations or governmental

entities. In the event the consent of the Purchaser and Authority shall be required under this subparagraph (c)(i), if the Purchaser and Authority fail to object in writing to the Borrower within thirty (30) days after notice from the Borrower seeking consent, then the consent of the Purchaser and Authority shall be deemed to have been given.

(o) Cost Recovery. To the extent that any property is financed by Bond Proceeds, the cost recovery deduction allowed for such property shall be determined by using the alternative depreciation system determined in accordance with Section 168(g) of the Code.

Section 3. Representations and Covenants. (a) Pursuant to Section 8 hereof, the Borrower has covenanted that it will not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the interest on the Bonds under Section 103 of the Code and that the Borrower will not directly or indirectly use or permit the use (including the making of any investment) of any Bond Proceeds or any other funds of the Authority or the Borrower, or take or omit to take any action, that would cause the Bonds to be “arbitrage bonds” within the meaning of Section 148(a) of the Code. The Authority hereby covenants that it will not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the interest on the Bonds under Section 103 of the Code and that the Authority will not directly or indirectly use or permit the use (including the making of any investment) of any Bond Proceeds or any other funds of the Authority or the Borrower, or take or omit to take any action, that would cause the Bonds to be “arbitrage bonds” within the meaning of Section 148(a) of the Code. In this Bond Agreement, the Borrower has agreed to comply with the rebate requirements contained in Section 148(f) of the Code and any regulations promulgated thereunder. The Authority further covenants to comply with the rebate requirements (including the prohibited payment provisions) contained in Section 148(f) of the Code and any regulations promulgated thereunder, to the extent applicable.

(b) The Authority covenants to create and retain records with respect to: (i) all investments made with Gross Proceeds of the Bonds (including without limitation, records required under Treasury Regulations §1.148-5(d)(6)); (ii) all information necessary to compute the yield on the Bonds, including the information necessary to establish the existence of any qualified guarantee or qualified hedge (within the meaning of Treasury Regulations §1.148-4(f) and (h)) with respect to the Bonds, the amount and date of payments for a qualified guarantee or qualified hedge with respect to the Bonds, and the issue price of the Bonds; (iii) all information necessary to establish that any exception to arbitrage rebate (with the meaning of Treasury Regulations §1.148-7) has been met with respect to proceeds of the Bonds, and such records are further described in the Authority’s Tax Certificate with respect to the Bonds. The Authority covenants to retain all such records until three years after the last scheduled maturity date of the Bonds, or in the event the Bonds are retired early, three years after the final retirement of the Bonds.

(c) Subject to the exception provided in Section 8 hereof, as of the last day of each fifth Bond Year or more frequently as determined by the Authority and the redemption or final maturity of the Bonds, the Authority shall calculate, or cause to be calculated, the Arbitrage Rebate Amount pursuant to Section 148 of the Internal Revenue Code. On or before the thirtieth day after each

such date, the Authority shall provide a report to the Borrower summarizing the amount, if any, of the Arbitrage Rebate Amount due for the immediately preceding period.

(d) In the event Arbitrage Rebate Amount is due, the Borrower will pay over to the United States the Arbitrage Rebate Amount with respect to the Bonds in installments as follows: each payment shall be made not later than sixty (60) days after the then current Rebate Computation Date and shall be in an amount which ensures that the Arbitrage Rebate Amount with respect to the Bonds, as of the then current Rebate Computation Date, will have been paid to the United States.

(e) Each payment of Arbitrage Rebate Amount to be paid to the United States shall be filed with the Internal Revenue Service at such address that may be specified by the Internal Revenue Service. Each payment shall be accompanied by Form 8038-T (or such other form required by the Internal Revenue Service furnished by the Borrower or the Authority), executed by the Authority, and a statement identifying the Authority, the date of the issue, and a copy of the applicable Form 8038.

(f) The provisions of this subsection shall survive termination of this Bond Agreement. The Authority acknowledges that the provisions of this (k) through (o) of this subsection are intended to comply with Section 148(f) of the Code and the regulations promulgated thereunder and if as a result of a change in such section of the Code or the promulgated regulations thereunder or in the interpretation thereof, a change in this Section shall be permitted or necessary to assure continued compliance with Section 148(f) of the Code and the promulgated regulations thereunder, then the Authority, with written notice to the Purchaser and the Borrower, shall be empowered to amend this Section, and the Authority may require, by written notice to the Borrower and the Purchaser, the amendment of this subsection to the extent necessary or desirable to assure compliance with the provisions of Section 148 of the Code and the regulations promulgated thereunder; provided that either the Authority or the Purchaser may require, prior to any such amendment becoming effective, at the sole cost and expense of the Borrower, an opinion of Bond Counsel satisfactory to the Authority to the effect that either (A) such amendment is required to maintain the exclusion from gross income under Section 103 of the Code of interest paid and payable on the Bonds or (B) such amendment shall not adversely affect the exclusion from gross income under Section 103 of the Code of the interest paid or payable on the Bonds.

Section 4. Bonds Not to Become Arbitrage Bonds. The Borrower hereby covenants to the Authority and to the Purchaser that, notwithstanding any other provision of this Bond Agreement or any other instrument, it will neither make nor instruct the Purchaser to make any investment or other use of the proceeds of the Bonds that would cause the Bonds to be arbitrage bonds under Section 148 of the Code and the regulations thereunder, and that it will comply with the requirements of such Section and regulations throughout the term of the Bonds. The Purchaser is entitled to rely on such written directions and shall not be liable for any direct or consequential damages which may result from the Purchaser's compliance with such directions.

Section 5. Three-Year Expenditure Requirement. Except to the extent otherwise approved by an opinion of Bond Counsel furnished by the Borrower to the Purchaser, within three years of the date of original delivery and payment for the Bonds, the Borrower shall have

completed the Project and caused all of the proceeds of the Bonds to be expended for Costs of the Project.

Section 6. Opinion of Bond Counsel. As a condition precedent to the Tax-Exempt Conversion, the Authority and the Purchaser shall have received the opinion of Bond Counsel to the effect that:

(a) interest income on the Bonds is not includable in gross income for federal income tax purposes under Section 103 of the Code;

(b) interest income on the Bonds or gain from the sale thereof is not includable as gross income under the State Gross Income Tax Act (P.L. 1976, Chapter 47);

(c) the offering or sale of the Bonds is not required to be registered under the Securities Act of 1933, as amended, or under the rules and regulations promulgated thereunder; and

(d) the Bonds have been duly authorized and issued under the provisions of the Resolution and the Act and constitutes valid, binding special and limited obligations of the Authority and is enforceable in accordance with their terms, except to the extent that the enforceability of the Bonds may be limited by bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally.

Section 7. Concerning the Projects. The Borrower shall operate or cause the Projects to be operated as an authorized educational facilities project for a purpose and use as provided for under the Act until the expiration or earlier termination of this Bond Agreement. The Projects are of a character included within the definition of "project" in the Act. The Borrower will neither (a) materially alter the operation of the Projects without the prior written consent of the Authority and the Purchaser, nor (b) cause a change in the use of the Projects such that the Bonds would cease to be "qualified 501(c)(3) bonds" (within the meaning of Section 145 of the Code).

Section 8. Additional Tax Covenants and Representations. (a) The Borrower covenants that it will not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the interest on the Bonds under Section 103 of the Code. The Borrower will not directly or indirectly use or permit the use (including the making of any investment) of any Bond Proceeds or any other funds of the Authority or the Borrower, or take or omit to take any action, that would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148(a) of the Code.

(b) The Borrower hereby covenants that in connection with complying with the requirement for payment of the Arbitrage Rebate Amount to the United States with respect to the Bonds the Borrower will take the following actions:

(i) Unless the proceeds of the Bonds satisfies one or more exception to the arbitrage rebate requirement set forth in Section 148(f)(4)(B) of the Code the Borrower shall, within ten (10) days of receipt of the report furnished by the Authority, pay the amount (if any) of the Arbitrage Rebate Amount at the times and in the amounts determined by the Authority in such report.

(ii) If the Borrower fails to make or cause to be made any payment required pursuant to this subparagraph when due, the Authority shall have the right, but shall not be required, to make such payment on behalf of the Borrower. Any amount advanced by the Authority pursuant to this subparagraph shall be added to the moneys owing by the Borrower under this Bond Agreement and shall be payable on demand with interest at the Default Rate.

(c) The Borrower covenants to create and maintain records, which, in the judgment of the Authority, are sufficient to determine the compliance of the Bonds with the requirements of Sections 141 of the Code, including but not limited to (i) the allocation and use of the proceeds of the Bonds, and any debt refinanced with proceeds of the Bonds and (ii) the ownership and use of all of the property financed with proceeds of the Bonds, and any debt refinanced with proceeds of the Bonds, as such records are further described in the Borrower's Tax Representation Letter with respect to the Bonds. The Borrower covenants to retain all such records until three years after the last scheduled maturity date of the Bonds, or in the event the Bonds are retired early, three years after the final retirement of the Bonds.

(d) All of the property refinanced with the Net Proceeds of the Bonds including any investment earnings thereon will be owned for federal income tax purposes by the Borrower, by another entity exempt from federal income taxation by reason of Section 501(c)(3) of the Code or by a state or local governmental unit (collectively, "Exempt Persons") and all of the Bond Proceeds, including any investment income earned on such Bond Proceeds, will be used in the exempt purposes of the Borrower.

(e) The aggregate amount of Bond Proceeds used, directly or indirectly, in any trade or business carried on by any Person which is not an Exempt Person, and to pay costs of issuance of the Bonds, will not exceed five percent (5%) of the Net Proceeds of the Bonds. For purposes of the preceding sentence, use of the proceeds by an organization described in Section 501(c)(3) of the Code with respect to an unrelated trade or business, determined according to Section 513(a) of the Code, constitutes a use by a Person who is not an Exempt Person.

(f) The Borrower will provide to the Authority all information necessary to enable the Authority to complete and file Internal Revenue Service Form 8038 pursuant to Section 149 of the Code.

(g) The Borrower agrees that neither it, nor any "related party" (within the meaning of Section 150 of the Code) shall purchase bonds of an issue financing the program of the Authority, including the Bonds, pursuant to an arrangement, formal or informal, in an amount related to the amount of obligations acquired by the Authority under the program from such persons.

(h) All of the representations and warranties of the Borrower contained in the Tax Representation Letter are incorporated herein by reference with the same force and effect as if set out in full herein. The Borrower covenants and agrees that (unless it has delivered to the Authority and the Purchaser an opinion of Bond Counsel to the effect that the taking or failure to take, as applicable, of any of the following actions will not adversely affect the excludability from gross income for federal income tax purposes of the interest on the Bonds).

(i) The Borrower acknowledges and agrees that the Authority has adopted written Post-Issuance Compliance Procedures intended to meet the guidelines set forth in Internal Revenue Manual Section 7.2.3.4.4 (“Written Procedures”) and will provide a Post-Issuance Compliance Checklist to the Borrower at closing to assist the Borrower in monitoring compliance with federal tax requirements necessary in order to maintain tax-exempt status of the Bonds. The Borrower agrees to follow the Written Procedures and Post-Issuance Compliance Checklist and at least once a year review the Bonds and any other outstanding bonds of the Authority that have financed facilities for the Borrower (together with the Bonds, the “Authority’s Bonds”) in order to determine whether such bonds meet all federal tax law conditions applicable to such bonds and certify its findings in writing to the Authority. In addition, with respect to any act or event that is not otherwise allowed pursuant to the terms of this Bond Agreement the Borrower shall, with respect to any of the Authority’s Bonds, provide prompt written notice to the Authority with respect to any of any of the acts or events listed on **Exhibit B** (a “Special Notice Event”), but no later than thirty (30) days after the occurrence of such Special Notice Event, whether the Borrower is on notice of such Special Notice Event by its diligence or internal procedures or its own filing of any statement, tax schedule, return or document with the Internal Revenue Service which discloses that a Special Notice Event shall have occurred, by its receipt of any oral or written advice from the Internal Revenue Service that a Special Notice Event shall have occurred, or otherwise. Upon receipt of notice or knowledge of a Special Notice Event, the Borrower shall promptly institute such actions, if any, as are required to remediate such Special Notice Event, including without limitation such actions required under Section 1.141-12 of the Treasury Regulations and provide to the Authority an opinion of Bond Counsel outlining the plan of remediation and whether or not the tax exempt status of the Authority Bonds will be preserved. In the event the Authority becomes aware of a Special Notice Event, the Authority shall have the right, upon prior written notice to the Borrower, to conduct its own investigation and at the sole cost of expense of the Borrower, retain Bond Counsel to determine any and all actions required to remediate such Special Notice Event.

(j) The Borrower agrees to apply any monies received from The Bank of New York Mellon, as escrow agent in connection with the Bonds to be Refunded, to the payment of interest on the Bonds.

Section 9. Additional Defaults. Each of the following events is hereby defined as, and is declared to be and to constitute, an “Event of Default” hereunder:

(k) any change in the tax-exempt status of the Borrower; and

(l) upon a Determination of Taxability.

Section 10. Event of Cancellation. (a) The occurrence of a Determination of Taxability or an Event of Default shall constitute an “Event of Cancellation” hereunder, and at any time thereafter during the continuance of such Event of Cancellation, the Authority may, by written notice direct the Purchaser to call and cancel the Bonds (but not the Note, which shall continue in full force and effect). The Purchaser and any assignees and the Borrower hereby expressly agree that the Bonds may be called and canceled by the Authority if and in the manner provided above,

and upon the date specified in the notice from the Authority (the “Cancellation Date”), which shall be at least thirty (30) and no more than sixty (60) days after the giving of such notice, the Bonds will be called and canceled, and the Purchaser may, at its option, declare the obligation evidenced by the Note immediately due and payable. The Purchaser will deliver the Bonds to the Authority for cancellation upon the Cancellation Date, but even if such delivery does not occur, the Bonds will be considered canceled and of no further force or effect on the Cancellation Date (but with no effect on the Note whatsoever).

(b) Upon cancellation of the Bonds, the Note will solely evidence the Obligations relating thereto and, in the event the Note is not accelerated by the Purchaser as hereinabove provided, all of the terms of Note will control such obligations of the Borrower to the Purchaser, except that from and after cancellation of the Bonds the per annum interest rate will automatically increase and change to the interest rate on the Note equal to the equivalent taxable rate thereon as determined by the Purchaser, and the Note will continue to be repaid in new monthly payments of principal and interest, at the new interest rate, in an amount sufficient to fully amortize the Note to the maturity date thereof as provided herein and therein. This condition may be reflected, at the option of the Purchaser, in a separate agreement to be prepared by counsel for the Borrower. The Authority will no longer be a party to the transaction and shall have no further rights with respect thereto (except the rights to indemnification and to its fees and expenses which shall survive) and shall be released of any and all debts, liabilities and obligations to any party under this Bond Agreement, the Bonds or any other Bond Document. The Authority and the Purchaser shall execute and deliver to each other such other documents and agreements as the other may reasonably request in order to evidence the cancellation of the Bonds, continuation of the Note (if applicable) and the withdrawal of the Authority from the transaction.

(c) Upon cancellation of the Bonds pursuant to the provisions hereof, the Authority hereby agrees that the Purchaser shall automatically be vested with all of the Authority’s right, title and interest in and to the Bond Documents, except as expressly reserved

(d) In the event that there is a dispute among any of the parties concerning the right of the Authority to cancel the Bonds pursuant to the provisions of this Section, the Borrower shall nevertheless comply with the terms of the Note as hereinabove amended and make all payments required thereunder from and after the Cancellation Date directly to the Purchaser. If a court of competent jurisdiction determines finally that the Authority’s attempted cancellation of the Bonds violated the terms of this Bond Agreement, the Bonds will be reinstated in accordance with the final order of the court, but until such final order is made, the Borrower will continue to comply with the terms of this Bond Agreement, the Note and the other Bond Documents as hereinabove amended. Any overpayment by the Borrower will be promptly returned to it by the Purchaser upon reinstatement of the Bonds.

(e) The provisions of this Section 10 shall not be construed to limit the Purchaser’s right to immediately pursue its rights and remedies set forth in the Bond Agreement upon the occurrence of an Event of Default.

EXHIBIT D

Form of Written Request for Conversion

New Jersey Educational Facilities Authority
103 College Road East
Princeton, New Jersey 08540
Attention: Executive Director

Bank of America, N.A.
NJ6-503-03-17
208 Harristown Road
Glen Rock, New Jersey 07452
Attention: James P. Andersen

Re: \$[12,045,000] original principal amount of New Jersey Educational Facilities Authority Refunding Bond, Seton Hall University Issue, 2021 Series D (the “Bonds”)

Ladies and Gentlemen;

Reference is made to that certain Bond Agreement dated [CLOSING DATE] (the “Bond Agreement”) by and among the New Jersey Educational Facilities Authority, Bank of America, N.A. and Seton Hall University (the “Borrower”). Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Bond Agreement.

The undersigned officer of the Borrower hereby requests, pursuant to Section 3.3 of the Bond Agreement, a conversion of the taxable interest rate on the Bonds to the Tax-Exempt Rate. The Bonds shall bear interest at the Tax-Exempt Rate from the Tax-Exempt Conversion Date until maturity or final payment as provided in the Bond Agreement and the Bonds.

In connection with such request, the Borrower has enclosed with this request, the following:

1. outstanding principal amount of the Bonds;
2. an opinion of Bond Counsel to the effect that interest on the Bonds will be excludable from the gross income of the holder thereof for federal income tax purposes from and after the Tax-Exempt Conversion Date;
3. a supplement to the Borrower’s Tax Certificate; and
4. a supplement to the Authority’s Tax Certificate and IRS Form 8038 (or other required information return).

Please advise if the foregoing are acceptable.

Very truly yours,
Seton Hall University

By: _____
Name: _____
Title: _____

EXHIBIT E

Additional Covenants

The Borrower agrees, so long as the Bonds are outstanding and until they are repaid in full:

1. Other Debts.

Not to have outstanding or incur any direct or contingent liabilities or capital lease obligations (other than those to the Purchaser), or become liable for the liabilities of others, without the Purchaser's written consent. This does not prohibit:

- (a) Acquiring goods, supplies, or merchandise on normal trade credit.
- (b) Endorsing negotiable instruments received in the usual course of business.
- (c) Obtaining surety bonds in the usual course of business.
- (d) Liabilities and obligations of the Borrower relating to grant commitments made by the Borrower in the ordinary course of its business.
- (e) Additional purchase money indebtedness, including capital leases, relating to assets acquired or leased after the date of this Bond Agreement, in an aggregate amount not to exceed \$5,000,000, provided that such limitation may be exceeded by the Borrower if, prior to incurring such indebtedness, the Borrower shall have delivered to the Purchaser a certificate of the chief financial officer of Borrower demonstrating and concluding that (i) based upon the audited financial statements for the most recent prior fiscal year, the Borrower would have been in compliance with the financial covenants set forth in Section 5.17(a) and (b) of this Bond Agreement, assuming that the proposed additional indebtedness had been incurred in such prior fiscal year and (ii) the incurrence of such indebtedness shall not otherwise result in an Event of Default under this Bond Agreement.
- (f) Additional indebtedness, in addition to indebtedness described in Section 1(e) above, in an aggregate amount not to exceed \$5,000,000, provided that such limitation may be exceeded by the Borrower if, prior to incurring such indebtedness, the Borrower shall have delivered to the Purchaser a certificate of the chief financial officer of Borrower demonstrating and concluding that (i) based upon the audited financial statements for the most recent prior fiscal year, the Borrower would have been in compliance with the financial covenants set forth in Section 5.17(a) and (b) of this Bond Agreement, assuming that the proposed additional indebtedness had been incurred in such prior fiscal year and (ii) the incurrence of such indebtedness shall not otherwise result in an Event of Default under this Bond Agreement.
- (g) Liabilities, lines of credit and leases in existence on the date of this Bond Agreement disclosed in writing to the Purchaser.

2. Other Liens.

Not to create, assume, or allow any security interest or lien (including judicial liens) on property the Borrower now or later owns, except:

- (a) Liens and security interests in favor of the Purchaser or any affiliate of the Purchaser.
- (b) Liens for taxes not yet due.
- (c) Liens outstanding on the date of this Bond Agreement disclosed in writing to the Purchaser.
- (d) Liens securing additional indebtedness incurred in accordance with Section 1(e) or 1(f) above.

3. Maintenance of Assets.

- (a) Not to sell, assign, lease, transfer or otherwise dispose of any part of the Borrower's business or the Borrower's assets except in the ordinary course of the Borrower's business.
- (b) Not to sell, assign, lease, transfer or otherwise dispose of any assets for less than fair market value, or enter into any agreement to do so.
- (c) Not to enter into any sale and leaseback agreement covering any of its fixed assets.
- (d) To maintain and preserve all rights, privileges, and franchises the Borrower now has.
- (e) To make any repairs, renewals, or replacements to keep the Borrower's properties in good working condition.

4. Investments.

Not to have any existing, or make any new, investments in any individual or entity, or make any capital contributions or other transfers of assets to any individual or entity, except for:

- (a) Existing investments disclosed to the Purchaser in writing.
- (b) Investments made in accordance with the Borrower's investment policy, as adopted from time to time by the Borrower's Board of Trustees, a copy of which policy, as revised from time to time, shall be provided to the Purchaser.
- (c) Investments in any of the following:
 - (i) certificates of deposit;
 - (ii) U.S. treasury bills and other obligations of the federal government;

- (iii) readily marketable securities (including commercial paper, but excluding restricted stock and stock subject to the provisions of Rule 144 of the Securities and Exchange Commission).

5. Loans.

Not to make any loans, advances or other extensions of credit to any individual or entity, except for:

- (a) Existing extensions of credit disclosed to the Purchaser in writing.
- (b) Extensions of credit to the Borrower's current Affiliates as allowed in Section 7(d) below.
- (c) Extensions of credit in the nature of accounts receivable or notes receivable arising from the sale or lease of goods or services in the ordinary course of business to non-affiliated entities.
- (d) Student loans.

6. Change of Management.

Not to make any substantial change in the present executive or management personnel of the Borrower.

7. Additional Negative Covenants.

Not to, without the Purchaser's written consent:

- (a) Enter into any consolidation, merger, or other combination.
- (b) Engage in any business activities substantially different from the Borrower's present business.
- (c) Liquidate or dissolve the Borrower's business.
- (d) Except in the ordinary course of and pursuant to the reasonable requirements of the Borrower's business and upon fair and reasonable terms no less favorable to the Borrower than it would obtain in a comparable arms' length transaction with a Person not an Affiliate, enter into any transactions, including without limitation, the purchase, sale, or exchange of property or the rendering of any service, with any Affiliate. For purposes of this Bond Agreement, the term "Affiliate" means, with respect to any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, governmental authority or other entity (each a "Person"), any Person that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such first Person. A Person shall be deemed to control another Person for the purposes of this definition if such first Person

possesses, directly or indirectly, the power to direct, or cause the direction of, the management and policies of the second Person, whether through the ownership of voting securities, common directors, trustees or officers, by contract or otherwise.

8. Notices to Purchaser.

To promptly notify the Purchaser in writing of:

- (a) Any lawsuit over One Million Dollars (\$1,000,000.00) against the Borrower or any Obligor.
- (b) Any substantial dispute between any governmental authority and the Borrower or any Obligor.
- (c) Any event of default under this Bond Agreement, or any event which, with notice or lapse of time or both, would constitute an event of default.
- (d) Any material adverse change in the Borrower's or any Obligor's business condition (financial or otherwise), operations, properties or prospects, or ability to repay the credit.
- (e) Any change in the Borrower's or any Obligor's name, legal structure, state of registration, place of business, or chief executive office.
- (f) Any actual contingent liabilities of the Borrower or any Obligor, and any such contingent liabilities which are reasonably foreseeable, where such liabilities are in excess of One Million Dollars (\$1,000,000.00) in the aggregate.

For purposes of this Bond Agreement, "Obligor" shall mean any guarantor, any party pledging collateral to the Purchaser, or, if the Borrower is comprised of the trustees of a trust, any trustor.

9. Compliance with Laws.

To comply with the laws (including any fictitious or trade name statute), regulations, and orders of any government body with authority over the Borrower's business. The Purchaser shall have no obligation to make any advance to the Borrower except in compliance with all applicable laws and regulations and the Borrower shall fully cooperate with the Purchaser in complying with all such applicable laws and regulations.

10. ERISA Plans.

Promptly during each year, to pay and cause any subsidiaries to pay contributions adequate to meet at least the minimum funding standards under ERISA with respect to each and every Plan; file each annual report required to be filed pursuant to ERISA in connection with each Plan for each year; and notify the Purchaser within ten (10) days of the occurrence of any Reportable Event that might constitute grounds for termination of any capital Plan by the Pension Benefit Guaranty Corporation or for the appointment by the appropriate United

States District Court of a trustee to administer any Plan. “ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time. Capitalized terms in this paragraph shall have the meanings defined within ERISA.

11. ERISA Plans - Notices.

With respect to a Plan subject to Title IV of ERISA, to give prompt written notice to the Purchaser of:

- (a) The occurrence of any reportable event under Section 4043(c) of ERISA for which the PBGC requires 30-day notice.
- (b) Any action by the Borrower or any ERISA Affiliate to terminate or withdraw from a Plan or the filing of any notice of intent to terminate under Section 4041 of ERISA.
- (c) The commencement of any proceeding with respect to a Plan under Section 4042 of ERISA.

12. Books and Records.

To maintain adequate books and records.

13. Audits.

To allow the Purchaser and its agents, upon reasonable prior notice during normal business hours, to inspect the Borrower’s properties and examine, audit, and make copies of books and records at any reasonable time. If any of the Borrower’s properties, books or records are in the possession of a third party, the Borrower authorizes that third party to permit the Purchaser or its agents to have access to perform inspections or audits and to respond to the Purchaser’s requests for information concerning such properties, books and records.

14. Cooperation.

To take any action reasonably requested by the Purchaser to carry out the intent of this Bond Agreement.

15. Swap Products.

The Borrower shall not post, deliver, deposit or otherwise pledge any cash or other collateral with or in favor of any counterparty pursuant to any one or more Derivative Agreement unless repayment upon such Derivative Agreement is expressly subordinate to the prior repayment of sums due under this Bond Agreement and such collateral is held for the benefit of the Purchaser for such purpose. The term “Derivative Agreement” shall mean, without limitation, (i) any contract known as or referred to or which performs the function of an interest rate swap agreement, currency swap agreement, swaption, forward payment conversion agreement or futures contract; (ii) any contract providing for payments based on levels of, or changes or differences in, interest rates, currency exchange rates, or stock or

other indices; (iii) any contract to exchange cash flows or payments or series of payments; (iv) any type of contract called, or designed to perform the function of, interest rate floors or caps, options, puts or calls, to hedge or minimize any type of financial risk, including, without limitation, payment, currency, rate or other financial risk; and (v) any other type of contract or arrangement that the Borrower determines is to be used, or is intended to be used, to manage or reduce the cost of Indebtedness, to convert any element of Indebtedness from one form to another, to maximize or increase investment return, to minimize investment return risk or to protect against any type of financial risk or uncertainty.

SCHEDULE 1.3(c)

Litigation

None.

SCHEDULE 1.3(k)(ii)

Disclosures

None.

SCHEDULE 5.6

COMPLIANCE CERTIFICATE

This Compliance Certificate (this "Certificate") is delivered pursuant to the Bond Agreement dated as of [CLOSING DATE] (together with all amendments and modifications, if any, from time to time made thereto, the "Bond Agreement"), by and among between the New Jersey Educational Facilities Authority, Seton Hall University (the "Borrower") and Bank of America, N.A ("Bank"). Unless otherwise defined, terms used herein (including any exhibits hereto) have the meanings provided in the Bond Agreement.

The undersigned, being the duly elected, qualified and acting president or chief financial officer of the Borrower, on behalf of the Borrower and solely in his or her capacity as an officer of the Borrower, hereby certifies and warrants that:

He or she is the president or chief financial officer of the Borrower and that, as such, he or she is authorized to execute this Certificate on behalf of the Borrower.

The financial statements attached hereto are true and correct as of June 30, 20__ and have been prepared in accordance with GAAP, consistently applied.

Attached hereto are calculations demonstrating the Borrower's compliance with the Expendable Resources to Long Term Debt and Debt Service Coverage Ratio covenants set forth in Section 5.17 of the Bond Agreement.

As of June 1, 20__ the Borrower maintained a minimum rating from Moody's of Baa3 and from S&P of BBB- with respect to its unenhanced parity debt obligations.

As of June 1, 20__ unless specifically noted below, Borrower was not in default of any of the provisions of the Bond Agreement during the period to which this Certificate relates.

Borrower was in default of the following provisions of the Bond Agreement during the period to which this Certificate relates ***[Show "Nil" or specifically list any areas where Borrower was not in compliance with the terms of the Bond Agreement]:***

IN WITNESS WHEREOF, the undersigned has executed and delivered this certificate, this ___ day of _____, 20__.

SETON HALL UNIVERSITY

By: _____
Name:
Title:

**CINDERELLA TAXABLE TO TAX-EXEMPT PRIVATE PLACEMENT
 SETON HALL UNIVERSITY
 Summary of Terms & Conditions**

| Borrower | Seton Hall University | | | | | | | | | | | | | | | | | | | | | | |
|------------------------------------|--|-------------|------------------|----------|-------------|----------|-------------|----------|-------------|----------|-------------|----------|-------------|----------|-------------|----------|-------------|----------|-------------|----------|-------------|----------|-------------|
| Bank | Bank of America, N.A. (the “Bank” or “BANA”) | | | | | | | | | | | | | | | | | | | | | | |
| Facility | <p>Direct Purchase of Series 2021 Fixed Rate Taxable Bonds that will convert to a Tax-Exempt Non-Bank Qualified Bonds (the “2021 Bonds”) when the refunding of the Borrower’s New Jersey Educational Facilities Authority Revenue Bonds, Seton Hall University Issue, 2013 Series D (2013D Bonds) qualify as an acceptable use of tax-exempt bond proceeds and all conditions precedent to the Bonds qualifying as tax-exempt to the Bank are met.</p> <p>The 2021 Bonds shall be issued as a single physical term Bond registered to BANA and delivered to BANA at closing. The 2021 Bonds will bear interest at a Bank Purchase Mode only, will not be designed or intended to be traded in a public market, will not carry a public rating, will not be held at DTC and will not have a CUSIP number assigned to it. Other than conversion of the interest rate from taxable to tax-exempt, the 2021 Bonds will not be structured with a multi-modal format. The Bank shall not be required to surrender or return the 2021 Bonds for substitution upon conversion from the taxable to tax-exempt rate.</p> | | | | | | | | | | | | | | | | | | | | | | |
| Facility Amount | \$12,045,000. | | | | | | | | | | | | | | | | | | | | | | |
| Purpose | Combined with the amounts on deposit in the 2013D Bonds Debt Service Fund and other amounts on deposit with the bond trustee, the proceeds of the 2021 Bonds will be available to refund the outstanding Series 2013D Bonds on the first call or maturity date on 7/1/2023 and cover costs of issuance. | | | | | | | | | | | | | | | | | | | | | | |
| Maturity Date | 7/1/2033 | | | | | | | | | | | | | | | | | | | | | | |
| | The 2021 Bonds shall mature on July 1, 2033. On the Maturity Date, the Borrower will cause the 2021 Bonds, together with all interest accrued thereon, to be paid in full. | | | | | | | | | | | | | | | | | | | | | | |
| Repayment/ Amortization | <p>Monthly interest-only thru 6/30/24 then monthly interest and annual principal as follows:</p> <table border="0"> <thead> <tr> <th style="text-align: left;"><u>Date</u></th> <th style="text-align: left;"><u>Principal</u></th> </tr> </thead> <tbody> <tr><td>7/1/2024</td><td>\$1,110,000</td></tr> <tr><td>7/1/2025</td><td>\$1,130,000</td></tr> <tr><td>7/1/2026</td><td>\$1,155,000</td></tr> <tr><td>7/1/2027</td><td>\$1,170,000</td></tr> <tr><td>7/1/2028</td><td>\$1,190,000</td></tr> <tr><td>7/1/2029</td><td>\$1,215,000</td></tr> <tr><td>7/1/2030</td><td>\$1,235,000</td></tr> <tr><td>7/1/2031</td><td>\$1,260,000</td></tr> <tr><td>7/1/2032</td><td>\$1,280,000</td></tr> <tr><td>7/1/2033</td><td>\$1,300,000</td></tr> </tbody> </table> | <u>Date</u> | <u>Principal</u> | 7/1/2024 | \$1,110,000 | 7/1/2025 | \$1,130,000 | 7/1/2026 | \$1,155,000 | 7/1/2027 | \$1,170,000 | 7/1/2028 | \$1,190,000 | 7/1/2029 | \$1,215,000 | 7/1/2030 | \$1,235,000 | 7/1/2031 | \$1,260,000 | 7/1/2032 | \$1,280,000 | 7/1/2033 | \$1,300,000 |
| <u>Date</u> | <u>Principal</u> | | | | | | | | | | | | | | | | | | | | | | |
| 7/1/2024 | \$1,110,000 | | | | | | | | | | | | | | | | | | | | | | |
| 7/1/2025 | \$1,130,000 | | | | | | | | | | | | | | | | | | | | | | |
| 7/1/2026 | \$1,155,000 | | | | | | | | | | | | | | | | | | | | | | |
| 7/1/2027 | \$1,170,000 | | | | | | | | | | | | | | | | | | | | | | |
| 7/1/2028 | \$1,190,000 | | | | | | | | | | | | | | | | | | | | | | |
| 7/1/2029 | \$1,215,000 | | | | | | | | | | | | | | | | | | | | | | |
| 7/1/2030 | \$1,235,000 | | | | | | | | | | | | | | | | | | | | | | |
| 7/1/2031 | \$1,260,000 | | | | | | | | | | | | | | | | | | | | | | |
| 7/1/2032 | \$1,280,000 | | | | | | | | | | | | | | | | | | | | | | |
| 7/1/2033 | \$1,300,000 | | | | | | | | | | | | | | | | | | | | | | |
| Upfront Fee | N/A | | | | | | | | | | | | | | | | | | | | | | |
| Interest Rate: | The Facility will be issued in a single tranche, bearing interest at the taxable fixed interest | | | | | | | | | | | | | | | | | | | | | | |

rate (“Taxable Rate”) on the Closing Date. The tranche will convert to the tax-exempt fixed rate (“Tax Exempt Rate”) on July 1, 2023 when the refunding of the Borrower’s Series 2013D Bonds qualify as an acceptable use of tax-exempt bond proceeds and all conditions precedent to the Bonds qualifying as tax-exempt to the Bank are met. Interest shall be calculated on the basis of the actual number of days elapsed in a 360 day year.

| Maturity Date | Indicative Taxable Rate as of July 12, 2021 | Indicative Tax-Exempt Rate as of July 12, 2021 |
|----------------------|--|---|
| 12 years | 2.14%* | 1.74%* |

*The fixed rates quoted in the chart above are indicative market rates as of July 12, 2021 and are subject to fluctuations based on market conditions. Actual fixed rates will be determined up to fifteen (15) business days prior to closing. We can also lock in a fixed rate forward if desired.

The pricing quoted above assumes that on and after conversion to the Tax Exempt Rate interest on the Facility is excludable from gross income of the Bank under Section 103 of the Internal Revenue Code of 1986, as amended. In the event a determination of taxability shall occur, in addition to the amounts required to be paid with respect to the Facility under the financing documents, the Borrower shall be obligated to pay to the Bank:

- (1) an amount equal to the positive difference, if any, between (i) the amount of interest that would have been paid during the period of taxability if the Bonds had borne interest at the taxable rate (i.e., the product of the otherwise applicable rate and the Taxable Rate Factor) and (ii) the interest actually paid to the Bank as the owner of the Bond. Taxable Rate Factor (the “TRF”) means 1.0 divided by (1.0 minus the Maximum Federal Corporate Tax Rate) truncated to the fourth decimal place. The TRF was 1.2658 as of June 7, 2021 reflecting a Maximum Federal Corporate Tax Rate of 21%; and
- (2) an amount equal to any interest, penalties or charges owed by the Bank as a result of interest on the Facility becoming includable in the gross income of the Bank, together with any and all attorneys’ fees, court costs, or other out-of-pocket costs incurred by the Bank in connection therewith.

Default Rate: Upon the occurrence and during the continuance of any default under the Facility, the applicable rate on the Facility shall increase by 3% per annum.

Optional Redemption Provision: The Borrower, upon ten (10) business days written notice, may prepay the Bonds, in whole or in part, plus accrued interest to the day of prepayment. The Bank’s standard make whole provision will apply for prepayment of the Bonds on any date prior to the Maturity Date (except with respect to any schedule amortization of the Bonds).

Other Fees and Expenses:

(a) Bank’s Counsel: Legal fee estimated at \$29,000 to \$33,000 plus disbursements.

| | |
|---|--|
| (b) Administrative Expense | Amendments, transfers, standard waivers or consents: \$2,500 plus attorney's fees and expenses. |
| Payment of Fees and Expenses: | |
| (a) Timing/ Computation of Payments | <p>All fees are non-refundable. BANA's Counsel's fees and expenses are payable at closing in immediately available funds.</p> <p>All other calculations of interest and fees shall be made on the basis of the actual number of days elapsed in a 360 day year.</p> |
| (b) Fees and Expenses Valid for 90 days | All fees and expenses, including those of BANA's Counsel, are subject to increase if the transaction is not closed within 90 days from the date BANA receives the mandate from the Borrower. In addition, the fees and expenses payable to BANA's Counsel may be increased if the security and/or structure of the transaction changes materially once documentation has commenced. |
| (c) Borrower Responsible for All Fees and Expenses | The Borrower will pay all reasonable costs and expenses associated with the preparation, due diligence, administration, and closing of all loan documentation including, without limitation, the legal fees of counsel to the BANA, regardless of whether or not the Facility is closed. The Borrower will also pay the expenses of BANA in connection with the enforcement of any loan documentation. |
| Cost and Yield Protection; Taxes | <p>Consistent with the existing loan agreements with the Bank and customary for transactions and facilities of this type, including, without limitation, in respect of breakage or redeployment costs incurred in connection with prepayments, changes in capital adequacy and capital requirements or their interpretation (including implementation of the Dodd-Frank Wall Street Reform and Consumer Protection Act and Basel III) and payments free and clear of withholding or other taxes.</p> <p>If a change in laws, rules, guidelines, or regulations (or their interpretation, implementation or administration) shall occur or be implemented and shall increase the cost to the Bank, its parent company's or participant's (if any) of issuing or maintaining the Facility or decrease the return on the Bank's, its parent company's or any of its participants' capital, or on the capital of the holding company of any participant, the Bank may increase the interest rate by such amount as is necessary to compensate it, its parent company or such participant for such increased costs or decreased return.</p> |
| Clawback | The Facility will include customary interest rate recapture ("clawback") language allowing the BANA to recover interest in excess of any maximum interest rate imposed by law. |
| CONDITIONS PRECEDENT TO CLOSING: | <p>The closing and the initial extension of credit under the Facility will be subject to satisfaction of the conditions precedent deemed appropriate by BANA including, but not limited to:</p> <ul style="list-style-type: none"> • The negotiation, execution and delivery of definitive documentation (including, without limitation, satisfactory legal opinions and other customary closing documents) for the Facility satisfactory to BANA. • There shall not have occurred any event or condition that has had or could be reasonably expected, either individually or in the aggregate, to have a Material Adverse Effect. "Material Adverse Effect" means (A) a material adverse change in, or a material adverse effect on, the operations, business, assets, properties, liabilities (actual or contingent), condition (financial or otherwise) or prospects of |

the Borrower and any of their respective subsidiaries, taken as a whole; (B) a material impairment of the rights and remedies of BANA under any loan documentation, or of the ability of the Borrower to perform its obligations under any loan documentation to which it is a party; or (C) a material adverse effect upon the legality, validity, binding effect or enforceability against the Borrower of any loan documentation to which it is a party, in each case as determined in the sole discretion of BANA.

- Receipt and review of the Borrower's investment policy, guidelines and permitted investments, which must be satisfactory to BANA.
- Certified copies of relevant ordinances, resolutions, agreements, contracts, certificates, etc.
- Bring down of representations and warranties, receipt of statement as to compliance with covenants and of no Event of Default and any other event that, with the passage of time, the giving of notice, or both, would result in an Event of Default.
- Other conditions precedent as are customary for a financing of the type contemplated, including payment of fees at closing.

**CONDITIONS
PRECEDENT TO ALL
EXTENSIONS OF
CREDIT:**

Usual and customary for transactions of this type including, without limitation, the following:

- All of the representations and warranties in the loan documentation shall be true and correct as of the date of such extension of credit.
- No event of default under the Facility or inchoate default shall have occurred and be continuing, or would result from such extension of credit

**Representations
and Warranties**

Consistent with existing loan agreements with the Bank and usual and customary for transactions of this type including, without limitation, the following: (i) legal existence, qualification and power; (ii) due authorization and no contravention of law, contracts or organizational documents; (iii) governmental and third party approvals and consents; (iv) enforceability; (v) accuracy and completeness of specified financial statements and no event or circumstance, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect; (vi) no material litigation; (vii) no default; (viii) ownership of property; (ix) insurance matters; (x) environmental matters; (xi) tax matters; (xii) ERISA compliance; (xiii) use of proceeds and not engaging in business of purchasing/carrying margin stock; (xiv) status under Investment Company Act; (xv) accuracy of disclosure; (xvi) compliance with laws; (xvii) bankruptcy and insolvency; and (xviii) no proposed legal changes which may adversely affect the Facility, the obligations of the Borrower thereunder or the transaction.

Covenants

Consistent with existing loan agreements with the Bank and usual and customary for transactions of this type, including, without limitation, the following: (i) timely delivery of audited financial statements, forecasts, regulatory filings, compliance certificates and other information, (ii) notices of default, material litigation, material governmental proceedings or investigations, ERISA and environmental proceedings and material changes in accounting or financial reporting practices; (iii) payment of obligations; (iv) preservation of existence; (v) maintenance of properties and insurance; (vi) compliance with laws; (vii) maintenance of books and records; (viii) inspection rights; (ix) use of proceeds; (x) more restrictive covenants in other existing or future credit facilities deemed incorporated in the Facility; (xi) limitations on (A) liens, investments (including loans and advances), and indebtedness, (B) mergers and other fundamental changes, (C) sales and other dispositions of property or assets, (D) changes in the nature of business, (E)

transactions with affiliates, (F) burdensome agreements, and (G) use of proceeds; (xii) subordination of swap termination payments and restrictions on collateralization of swap obligations; and (xiii) compliance with U.S. QFC Resolution Stay Regulations.

Events of Default

Consistent with existing loan agreements with the Bank and usual and customary in transactions of this type including, without limitation, the following: (i) nonpayment of principal, interest, fees or other amounts; (ii) failure to perform or observe covenants set forth in the loan documentation; (iii) any representation or warranty proving to have been incorrect when made or confirmed; (iv) cross-default to other indebtedness; (v) voluntary or involuntary bankruptcy, insolvency, debt moratorium, etc.; (vi) inability to pay debts; (vii) failure by the Borrower to pay, when due, an uninsured, final and non-appealable judgment or order of \$1,000,000 or more which shall be rendered against the Borrower and such judgment has not been vacated, discharged, satisfied or stayed by the Borrower within a reasonable period of time; (viii) customary ERISA defaults; and (ix) actual or asserted invalidity or impairment of any loan documentation.

Remedies

At BANA's option, the maturity of the Bonds may be accelerated and the entire unpaid principal amount, together with all accrued unpaid interest and all other amounts declared due and payable in full.

In addition, the Default Rate will apply to all outstanding obligations of the Borrower to BANA following an Event of Default and BANA may pursue any other remedies to which it is entitled under the Bond Documentation, at law or in equity.

Security

The Facility shall be a General Obligation of the Borrower. The Borrower shall covenant to a negative pledge with respect to the liens upon the Borrower's assets and revenues.

Additional Business Requirements

To facilitate the administration of the Facility, the Borrower will maintain an operating account with the Bank.

Reporting Requirements

Consistent with the existing loan agreements with the Bank, reporting requirements will include, but not be limited to:

1. Annual audited financial statements of the Borrower within 150 days of fiscal year end, including statements of financial position, statements of activities and statements of cash flows. Such financial information shall present fairly the financial position of Borrower as of the close of such year and the results of its operations during such year, in accordance with GAAP, and shall be audited and accompanied by the opinion, satisfactory in form and substance to the Bank, of an independent certified public accountant acceptable to the Bank. In addition, Borrower shall supply student application and enrollment statistics on an annual basis.
2. Concurrently with the delivery of each annual financial statement, the Borrower shall submit a Compliance Certificate from its President or Chief Financial Officer stating that to the best of his or her knowledge no Default or Event of Default has occurred, and showing in detail the financial covenant compliance calculations supporting such statements.
3. Within sixty (60) days after the end of each October 31, January 31 and April 30 of the Borrower, its interim financial statements (which shall include, but are not limited to, a balance sheet, income statement and statement of cash flow) prepared by the Borrower, in reasonable detail and certified as true and correct by its Chief Financial Officer, subject, however, to year-end adjustments revealed in a relevant year-end audit of financial statements covering corresponding fiscal periods.
4. Concurrently with the delivery of each annual and quarterly financial statement, the Borrower shall submit a Compliance Certificate from its President or Chief Financial Officer stating that to the best of his or her knowledge no Default or Event of

Default has occurred, and showing in detail the financial covenant compliance calculations supporting such statements.

5. Copy of management letter within 30 days of receipt, if applicable.
6. Annual operating and capital budget to be provided within 120days of fiscal year end.
7. All Agency reports and updates issued in connection with the Borrower.
8. Such other information respecting the operations and properties, financial or otherwise of the Borrower as the Bank may from time to time reasonably request.

Financial Covenants

Consistent with the existing loan agreements with the Bank, financial covenants will include, but not be limited to:

1. Maintain a Debt Service Coverage Ratio (“DSCR”) equal to or greater than 1.20x, tested annually as of each fiscal year end and certified in each related Covenant Compliance Certificate. Debt Service Coverage Ratio shall mean the ratio calculated by dividing (a) Net Revenues Available for Debt Service divided by (b) Debt Service of the Borrower. Extraordinary gains or losses shall be excluded in determining this ratio. Net Revenues Available For Debt Service shall mean the change in Unrestricted Net Assets (without recognition of any unrealized gains or losses on investments), plus (a) interest expense, (b) depreciation and amortization expense, (c) non-cash post-retirement benefit expense, asset impairment adjustments and losses on extinguishment of debt. Debt Service shall mean the actual principal payments and interest expense for the trailing 12 month period.

2. Maintain a ratio of Expendable Resources to Long Term Debt of at least 0.9 to 1.0, tested annually as of each fiscal year end and certified in each related Covenant Compliance Certificate. Expendable Resources shall mean Unrestricted Resources, plus donor restricted endowment funds, within temporarily restricted net assets, as may be classified as a result of the New Jersey Uniform Prudent Management of Institutional Funds Act (UPMIFA). “Unrestricted Resources” means Unrestricted Net Assets of the Borrower as shown on the Borrower’s most recent audited financial statements minus (Net Property, Plant and Equipment minus outstanding Long-Term Indebtedness attributable to plant).

3. Maintain, at all times, a minimum rating from Moody’s of Baa3 and from S&P of BBB- with respect to its unenhanced parity debt obligations.

Assignments and Participations:

Assignments: BANA will be permitted to make assignments to other financial institutions.

Participations: BANA will be permitted to sell participations with voting rights limited to significant matters such as changes in amount, rate, maturity date and releases of all or substantially all of the value of any collateral or guaranty, without the consent of the Borrower.

Bond Documentation

The Bonds will be purchased by the Bank in accordance with and subject to the provisions of a tri-party Bond Agreement among the Bank, the Borrower and the Issuer of the Bonds containing standard closing conditions, representations and warranties, covenants and remedies. The Bond, the Bond Agreement, any Assignment or Agreement, as executed and delivered in connection with the Bond, are herein collectively referred to as the “Bond Documentation”.

Waivers and Amendments

Amendments and waivers of the provisions of the Agreement and other definitive credit documentation will require the approval of BANA.

**Choice of Law/Jury
Trial/Venue:**

Governing Law This Term Sheet, the Agreement, and any other documents to which the Bank shall become a party will be governed by the laws of the State of New Jersey.

Jury Trial The Borrower agrees to waive a jury trial in any proceeding against BANA.

Venue Any disputes or legal actions arising out of the Facility shall be brought in the courts of New Jersey, and each party, to the fullest extent permitted by law, shall consent to the jurisdiction of such courts.

Indemnification The Borrower will indemnify and hold harmless BANA and its respective affiliates and its partners, directors, officers, employees, agents and advisors from and against all losses, claims, damages, liabilities and expenses arising out of or relating to the Facility, the Borrower's use of loan proceeds or the commitment including, but not limited to, reasonable attorneys' fees (including the allocated cost of internal counsel) and settlement costs. This indemnification shall survive and continue for the benefit of all such persons or entities.

CONTACTS:

Bank of America, NA (BANA):

Name: James P. Andersen
Title: Senior Vice President
Senior Credit Products Officer
Address: Bank of America
NJ6-503-03-17
208 Harristown Road
Glen Rock, NJ 07452
Telephone: (201) 251-5773
Facsimile: (201) 251-6042
email: james.p.andersen@bofa.com

Bank's Counsel: Stradley Ronon

Name: Michael Roynan
Address: 30 Valley Stream Parkway
Malvern, PA 19355
Telephone: 610-640-5805
Facsimile: 610-640-1965
email: mroynan@stradley.com

PROPOSED TERMS AND CONDITIONS SUBJECT TO CERTAIN EVENTS:

*This Summary of Terms is intended only as an outline of certain of the material terms of the Facility and does not purport to summarize all of the conditions, covenants, representations, warranties and other provisions that would be contained in definitive documentation for the Facility contemplated hereby. **This Summary of Terms is not a commitment.** It represents a willingness on the part of BANA to seek approval to provide the commitment indicated herein and consummate a transaction based upon the terms and conditions outlined in this term sheet and is subject to:*

- Final credit approval,
- Absence of any material adverse change in the financial condition, operations or prospects of the Borrower, or in any law, rule or regulation

(or their interpretation or administration), that, in each case, may adversely affect the consummation of the transaction, to be determined in the sole discretion of BANA,

- Such additional due diligence as BANA may require, and
- Agreement as to all final terms and conditions and satisfactory documentation thereof (including satisfactory legal opinions).

RESCISSION BY THE BANK BANA reserves the right to unilaterally rescind part or all of the proposed terms and conditions herein at any time prior to its acceptance, which can only be effected by signing and returning this document to BANA.

FUTURE MODIFICATIONS: The terms, conditions, pricing levels and fees (including legal fees and expenses) cited herein reference the financing and the Facility Amount as described in this Summary of Terms and Conditions and are subject to revision in the event that (i) the Facility Amount changes, (ii) the security or transaction structure is modified, (iii) the transaction deviates materially from what was described herein, or (iv) the proposed financing does not close within 90 days.

CONFIDENTIALITY: This Summary of Terms and Conditions contains confidential and proprietary structuring and pricing information. Except for disclosure on a confidential basis to your accountants, attorneys and other professional advisors retained by you in connection with the Facility or as may be required by law, the contents of this Summary of Terms and Conditions may not be disclosed in whole or in part to any other person or entity without our prior written consent, provided that nothing herein shall restrict disclosure of information relating to the tax structure or tax treatment of the proposed Facility.

No ADVISORY OR FIDUCIARY ROLE:

The contents of this proposal and any subsequent discussions between us, including any and all information, recommendations, opinions, indicative pricing, quotations and analysis with respect to any municipal financial product or issuance of municipal securities, are provided to you in reliance upon the "bank" exemption and the exemption provided for responses to requests for proposals or qualifications under the municipal advisor rules (the "Rules") of the Securities and Exchange Commission (Rule 15Ba1-1 et seq.).

In submitting this proposal, we are not undertaking to act as a "municipal advisor" to you or any other person within the meaning of Section 15B of the Securities Exchange Act of 1934 and the Rules. In connection with this proposal and the transactions described herein, we are not acting as a financial advisor or municipal advisor to you or any other person, and are not subject to any fiduciary duty to you or to any other person. We understand that you will consult with and rely on the advice of your own municipal, financial, tax, legal and other advisors in connection with your evaluation of this proposal and the transactions described herein.

RESOLUTION AUTHORIZING THE APPROVAL BY THE NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY OF THE INSTALLATION AND OPERATION OF A CERTAIN CELL TOWER PROJECT ON FACILITIES LOCATED ON THE CAMPUS OF MONTCLAIR STATE UNIVERSITY AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH.

ADOPTED: AUGUST 24, 2021

WHEREAS, the New Jersey Educational Facilities Authority (the “*Authority*”) is a body corporate and politic with corporate succession, constituting a political subdivision of the State of New Jersey (the “*State*”), created and established by the New Jersey Educational Facilities Authority Law, being Chapter 72A of Title 18A of the New Jersey Statutes as enacted by Chapter 271 of the Laws of 1967, as amended and supplemented (the “*Act*”); and

WHEREAS, Montclair State University (the “*Public College*”) is a four-year public, multi-purpose, non-sectarian academic institution of higher education duly organized and existing under the laws of the State; and

WHEREAS, the Act provides that the Authority shall have the power to make loans and issue its bonds and to provide for the rights of the holders of its bonds; and

WHEREAS, the Authority has previously issued and sold its Revenue Bonds, Montclair State University Issue, Series 2014 A (the “*Prior Bonds*”), on behalf of the Public College; and

WHEREAS, the Prior Bonds financed certain capital projects for the Public College, including, *inter alia*, Partridge Hall, now known as the School of Nursing/Graduate School Building (the “*Leased Facilities*”), which Leased Facilities are subject to the terms of a Lease and Agreement dated as of April 1, 2014 by and between the Authority and the Public College relating to the Prior Bonds (the “*Lease*”); and

WHEREAS, the Lease provides that the Public College shall have the right, with the approval of the Authority, to make such changes, alterations and additions, structural or otherwise, to the Leased Facilities and the fixtures and equipment thereof as are deemed necessary or desirable in connection with the use of the Leased Facilities; and

WHEREAS, the Public College has requested that the Authority, as landlord of the Leased Facilities pursuant to the terms of the Lease, approve the installation and operation of a cell tower project (the “*Cell Tower Project*”) to be located on the Leased Facilities.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY AS FOLLOWS:

Section 1. The Authority hereby approves the installation and operation of the Cell Tower Project on the Leased Facilities (the “*Approval*”).

Section 2. The Chair, Vice Chair, Executive Director, Deputy Executive Director, Director of Project Management, Director of Compliance Management, Secretary, Treasurer or any Assistant Secretary or any Assistant Treasurer and any other person authorized by resolution of the Authority, and any of such officers designated by resolution as “acting” or “interim” (each,

an “*Authorized Officer*”), are hereby authorized to execute, acknowledge and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this resolution, including, but not limited to, a non-disturbance agreement in favor of the operator of the Leased Facilities with respect to the Leased Facilities (the “*Operator*”), in form and substance approved by an Authorized Officer with the advice of bond counsel to the Authority (“*Bond Counsel*”), if necessary, and the Attorney General of the State, such execution and delivery to be deemed conclusive evidence of the approval thereof.

Section 3. The Approval is subject to the (a) execution and delivery of an agreement between the Public College and the Operator (the “*Structure Sublease Agreement*”) that is acceptable to an Authorized Officer with the advice of Bond Counsel and the Attorney General of the State in order to protect the interests of the Authority with respect to the Leased Facilities and (b) delivery to the Authority of an opinion of Bond Counsel to the effect that the (i) execution, delivery and performance of the Structure Sublease Agreement will not, in and of themselves, (A) give rise to a reissuance of the Prior Bonds so as to cause the Prior Bonds to lose their tax-exempt status or (B) adversely affect the exclusion from gross income for federal income tax purposes of interest on the Prior Bonds pursuant to Section 103 of the Internal Revenue Code of 1986, as amended, and (ii) approval by the Authority of the Cell Tower Project (A) has been duly authorized by the Authority, (B) is authorized by the terms of the documents executed and delivered in connection with the issuance of the Prior Bonds (the “*Bond Documents*”) and (C) does not require any modification or amendment of the Bond Documents.

Section 4. In case any one or more of the provisions of this resolution shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this resolution, and this resolution shall be construed and enforced as if such illegal or invalid provision had not been contained therein.

Section 5. All prior resolutions of the Authority or portions thereof that are inconsistent herewith are hereby repealed.

Section 6. This resolution shall take effect in accordance with the Act.

____ Mr. Rodriguez ____ moved that the foregoing resolution be adopted as introduced and read, which motion was seconded by ____ Mr. Hodes ____ and upon roll call the following members voted:

AYE: Joshua Hodes
Louis Rodriguez
Brian Bridges
Elizabeth Maher Muoio (represented by Ryan Feeney)

NAY: None

ABSTAIN: None

ABSENT: Ridgeley Hutchinson

The Chair thereupon declared said motion carried and said resolution adopted.