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BOND AGREEMENT

by and between

NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY

and

[PURCHASER]

Dated: [CLOSING DATE]

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## TABLE OF CONTENTS

Page Nos.

### **ARTICLE I**

#### **Background, Representations and Findings**

|             |  |   |
|-------------|--|---|
| Section 1.1 | Background .....                             | 1 |
| Section 1.2 | Definitions.....                             | 2 |
| Section 1.3 | Authority Representations and Covenants..... | 4 |
| Section 1.4 | Purchaser Representations .....              | 6 |

### **ARTICLE II**

#### **The Financing**

|              |   |    |
|--------------|---|----|
| Section 2.1  | The Financing .....   | 8  |
| Section 2.2  | The Bonds .....   | 8  |
| Section 2.3  | Security .....  | 8  |
| Section 2.4  | Deposit of Net Proceeds.....                                | 9  |
| Section 2.5  | Escrow Fund .....   | 9  |
| Section 2.6  | Investment of Escrow Fund .....                             | 10 |
| Section 2.7  | General Provisions of Investments .....                     | 11 |
| Section 2.8  | Rebate Fund .....   | 11 |
| Section 2.9  | Excess Bond Proceeds .....                                  | 12 |
| Section 2.10 | Opinion of Bond Counsel .....                               | 12 |
| Section 2.11 | Opinion of Counsel for the Escrow Agent and Purchaser ..... | 12 |
| Section 2.12 | Opinion of Counsel to the Institution .....                 | 12 |
| Section 2.13 | Bond and Other Documents.....                               | 13 |
| Section 2.14 | Payments Adjusted for Non-Business Days .....               | 13 |

### **ARTICLE III**

#### **The Escrow Agent**

|             |   |    |
|-------------|---|----|
| Section 3.1 | Appointment of Escrow Agent; Acceptance of the Escrow ..... | 14 |
| Section 3.2 | Fees, Charges and Expenses of Escrow Agent .....            | 16 |
| Section 3.3 | Intervention by Escrow Agent .....                          | 16 |
| Section 3.4 | Successor Escrow Agent.....                                 | 16 |
| Section 3.5 | Resignation by the Escrow Agent.....                        | 17 |
| Section 3.6 | Removal of the Escrow Agent .....                           | 17 |
| Section 3.7 | Appointment of Successor Escrow Agent .....                 | 17 |

|              |  |    |
|--------------|--|----|
| Section 3.8  | Concerning any Successor Escrow Agent .....  | 17 |
| Section 3.9  | Escrow Agent Protected in Relying upon Resolutions, etc. ....  | 18 |
| Section 3.10 | Successor Escrow Agent.....  | 18 |
| Section 3.11 | Escrow Agent and Authority Required to Accept Directions and<br>Actions of Institution .....   | 18 |
| Section 3.12 | Escrow Agent Not Responsible for Use of Proceeds.....  | 19 |
| Section 3.13 | Bonds Mutilated, Destroyed, Stolen or Lost.....  | 19 |
| Section 3.14 | Immunity of Authority .....  | 19 |
| Section 3.15 | Neither Authority, the Purchaser, Nor Escrow Agent Responsible for<br>Insurance, Taxes, Acts of the Authority or Application of Moneys Applied<br>in Accordance with this Bond Agreement ..... | 19 |
| Section 3.16 | Authority, Purchaser and Escrow Agent May Rely on Certificates .....   | 20 |

## **ARTICLE IV**

### **Events of Default**

|             |   |    |
|-------------|---|----|
| Section 4.1 | Events of Default .....                             | 21 |
| Section 4.2 | Purchaser’s Remedies .....                          | 21 |
| Section 4.3 | No Remedy Exclusive.....                            | 22 |
| Section 4.4 | Agreement to Pay Attorneys’ Fees and Expenses ..... | 22 |
| Section 4.5 | No Additional Waiver Implied by One Waiver .....    | 22 |

## **ARTICLE V**

### **Miscellaneous**

|              |   |    |
|--------------|---|----|
| Section 5.1  | Limitation of Liability of Authority .....                              | 23 |
| Section 5.2  | Notices .....   | 23 |
| Section 5.3  | Severability .....  | 24 |
| Section 5.4  | Applicable Law .....  | 24 |
| Section 5.5  | Successors and Assigns.....   | 24 |
| Section 5.6  | Amendments .....  | 24 |
| Section 5.7  | Term of Agreement.....  | 24 |
| Section 5.8  | No Warranty of Condition or Suitability by Authority.....               | 25 |
| Section 5.9  | Amounts Remaining in Escrow Fund .....                                  | 25 |
| Section 5.10 | Headings .....  | 25 |
| Section 5.11 | Further Assurances and Corrective Instruments .....                     | 25 |
| Section 5.12 | Jury Trial Waiver .....   | 25 |
| Section 5.13 | Right to Sell a Portion of the Bonds to a Prospective Participant ..... | 25 |

## ARTICLE I

### Background, Representations and Findings.

Section 1.1 Background. THIS BOND AGREEMENT dated [CLOSING DATE], by and between 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”) and [PURCHASER], a [\_\_\_\_\_] (the “Escrow Agent” and “Purchaser”).

WHEREAS, the Authority is a body corporate and politic with corporate succession, constituting a political subdivision of 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, Richard Stockton University (the “Institution”) has determined it is necessary and advisable to undertake a project (the “Project”) consisting of: the (i) the current refunding of [all or a portion of] the New Jersey Educational Facilities Authority Revenue Bonds, Richard Stockton College Issue Series 2005 F (the “Refunded Bonds”) and (ii) the payment of costs of issuance of the Bonds (as hereinafter defined), as presented, submitted and approved by the Institution’s Board of Trustees; and

WHEREAS, the Authority has determined that it is necessary and in keeping with its authorized purposes to issue a series of bonds to be designated “New Jersey Educational Facilities Authority Revenue Bonds, Richard Stockton University Issue, Series 2015 [\_\_\_]” (the “Bonds” or the “Bond”) for the purpose of providing funds to finance all or a portion of the Project; and

WHEREAS, the repayment of the Bonds will be secured by the pledge of certain lease payments pursuant to a Lease and Agreement, dated as of [\_\_\_\_\_], 2015, by and between the Authority and the Institution (the “Lease”) pursuant to which the Authority will lease the Project or portion thereof being financed by the Bonds to the Institution; and

WHEREAS, in order to provide for the issuance and delivery of the Bonds, to establish and declare the terms and conditions upon which the Bonds are to be issued and secured and to secure the payment of the principal thereof and premium, if any, and interest thereon, the Authority has authorized the execution and delivery of this Bond Agreement; 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 the following terms shall have the meanings specified in the foregoing recitals:

Act  
Authority  
Bond or Bonds  
Escrow Agent  
Lease  
Institution  
Project  
Purchaser  
State

The following terms shall have the following meanings unless a different meaning clearly appears from the context:

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

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

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

“Authority’s Arbitrage Certificate” means the Arbitrage and Tax Certificate dated the date of the issuance of the Bonds executed by the Authority in a form satisfactory to Bond Counsel;

“Basic Lease Payments” shall have the meaning ascribed to such term in the Lease;

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

“Bond Counsel” shall mean the law firm of [\_\_\_\_\_] 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 Resolution, the Lease and all documents and instruments executed in connection therewith and all amendments and modifications thereto;

“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 Bond, and interest income earned thereon, if any;

“Business Day” means any day other than (a) a Saturday or Sunday 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 and the Escrow Agent are located, are closed;

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

“Cost” shall include all expenses as may be necessary or incident to the Project, including certain costs of issuance incurred in connection with the Bonds and capitalized interest on the Bonds, if any;

“Counsel for the Purchaser” and “Counsel for the Escrow Agent” shall mean the law firm of [\_\_\_\_\_], [\_\_\_\_\_], New Jersey;

“Escrow Fund” means the fund so designated which is established pursuant to Section 2.5 hereof;

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

“Leased Facilities” shall have the meaning ascribed to such term in the Lease;

“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;

“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;

“Pledged Revenues” shall mean Basic Lease Payments and any other amounts payable to the Purchaser by the Institution pursuant to the Lease;

“Rebatable Arbitrage” shall mean the excess of the future value, as of a date, of all receipts on nonpurpose investments over the future value, as of that date, of all payments on nonpurpose investments, as more fully described in Code Section 148(f) and Treas. Reg. Sec. 1.148-3;

“Rebate Fund” shall mean the fund so designated which is established pursuant to Section 2.8 hereto;

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

“Requisition Form” shall mean the form of requisition required by Section 2.5 as a condition precedent to the disbursement of moneys from the Escrow Fund, in the form made part of the Record of Proceedings;

“Resolution” shall mean the resolution of the Authority dated [\_\_\_\_\_], 2015 authorizing the issuance and sale of the Bonds;

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

“Tax Certificate” shall mean the arbitrage and tax certificate executed by the Institution in form and substance acceptable to the Authority, wherein the Institution certifies as to such matters as the Authority shall require.

Section 1.3 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 for the Project.

(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 Pledged Revenues, 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 PLEDGED REVENUES 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, 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 Institution 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 Institution 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 Purchaser in connection with the Authority'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).



(j) Pursuant to Section 11.04 of the Lease, the Institution has covenanted that it will (i) take no action that would cause the Bonds to be “private activity bonds” within the meaning of Section 141 of the Code, (ii) take no action that would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Code, (iii) comply with the provisions of the Code applicable to the Bonds and (iv) not take any action or fail to take any action which would cause the interest on the Bonds to lose the exclusion from gross income for purposes of Federal income taxation under Section 103 of the Code. The Authority hereby covenants that it will (i) take no action that would cause the Bonds to be “private activity bonds” within the meaning of Section 141 of the Code, (ii) take no action that would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Code, (iii) comply with the provisions of the Code applicable to the Bonds and (iv) not take any action or fail to take any action which would cause the interest on the Bonds to lose the exclusion from gross income for purposes of Federal income taxation under Section 103 of the Code. In Section 11.05 of the Lease, Authority and the Institution covenant and agree that the Authority shall calculate or cause to be calculated the Rebatable Arbitrage at the times and in the manner set forth in the Tax Certificate and shall pay or direct the Escrow Agent to pay the Rebatable Arbitrage from the Rebate Account to the United States, in the percentage, at the times and in the manner set forth in the Tax Certificate. 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.

(k) No portion of the proceeds of the Bonds will be used for (i) the purpose of purchasing or carrying any “margin security” or “margin stock” as such terms are used in Regulations U and X of the Board of Governors of the Federal Reserve System, 12 C.F.R 221 and 224 or (ii) primarily personal, family or household purposes.

Section 1.4 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 Institution and the value of the Project, or has caused such investigation and evaluation of the Institution and the Project to be made by persons it deems competent to do so. All information relating to the business and affairs of the Institution that the Purchaser has requested from the Institution or 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 Institution under the Lease or by the Authority 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 sold 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;

(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

### **The Financing.**

Section 2.1 The Financing. In order to provide for the financing of the Project, the Purchaser has agreed with the Authority to purchase the Bonds, and the Authority has agreed to lease the Leased Facilities to the Institution. 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 deliver the proceeds from the sale of the Bonds to the trustee for the Refunded Bonds and to the Escrow Fund established under Section 2.5 of this Agreement in the amounts specified in instructions from the Authority to the Purchaser to such effect.
- (c) The Institution and the Authority will execute and deliver the Lease.

Section 2.2 The Bonds. 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 \$[BOND AMOUNT]. In the Lease, the Institution has agreed to pay Basic Lease Payments (as defined therein) from legally available funds of the Institution at the times and in the amounts sufficient to satisfy the payment obligations under the Bonds. The Purchaser acknowledges that, in the Lease, the Institution has authorized the Purchaser to debit the Demand Deposit Account (as defined in the Lease) on any date on which payment of Basic Lease Payments are due in an amount equal to the amount of such payment.

The Bonds will be delivered in registered form. 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 Purchaser mutually agree.

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.

Section 2.3 Security. The Authority hereby pledges and grants to the Purchaser a security interest in Pledged Revenues and in all funds deposited from time to time in the Escrow Fund. 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. The Authority hereby authorizes the Purchaser to file such financing statements as the Purchaser reasonably deems necessary or appropriate for the purpose of perfecting the security interest described in this Section.

Section 2.4 Application of Net Proceeds. The Net Proceeds of the Bonds will be applied as directed by the Authority in written instructions to the Purchaser. The amount deposited in the Escrow Fund established in Section 2.5 hereof will be applied to payment of Costs of the Project

(and in particular costs of issuance of the Bonds) upon requisition by the Authority and/or the Institution, as applicable, as provided in Section 2.5 of this Bond Agreement. The Authority hereby authorizes and directs [PURCHASER], in its capacity as Purchaser and Escrow Agent, to deposit the \$\_\_\_\_\_ of proceeds of the Bonds, \$[BOND AMOUNT], into the Escrow Fund and to deliver \$\_\_\_\_\_ of proceeds of the Bonds to the trustee for the Refunded Bonds. The Authority agrees that the sums so requisitioned from the Escrow Fund will be used for the Costs of the Project.

Section 2.5 Escrow Fund. There is hereby created and established with the Escrow Agent a fund to be designated the Escrow Fund. The Authority irrevocably authorizes and directs the Escrow Agent to make payments from the Escrow Fund to pay Costs of the Project, or to reimburse the Institution for any Cost of the Project paid by it, provided the conditions set forth in this Section are satisfied.

(a) The Authority agrees as a condition precedent to the disbursement of any portion of the Escrow Fund to comply with the terms of this Bond Agreement and to cause to be furnished or to furnish the Escrow Agent with a Requisition Form signed by either an Authorized Institution Representative and an Authorized Authority Representative or two Authorized Institution Representatives stating with respect to each payment made: (i) the requisition number; (ii) the name and address of the Person to whom payment is to be made by the Escrow Agent or, if the payment is to be made to the Institution for a reimbursable advance, the name, address and a copy of the invoice of the Person to whom such advance was made together with proof of payment by the Institution; (iii) the amount to be paid; (iv) that each obligation for which payment is sought is a Cost of the Project against the Escrow Fund, is unpaid or unreimbursed, and has not been the basis of any previously paid requisition; (v) if such payment is a reimbursement to the Institution for costs or expenses incurred by reason of work performed or supervised by officers or employees of the Institution or any of its affiliates, that the amount to be paid does not exceed the actual cost thereof to the Institution or any of its affiliates; and (vi) 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 has been received, 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. Each Requisition Form shall be accompanied by such invoices, bills or receipts as the Escrow Agent may reasonably require.

(b) The Authority further agrees that prior to the first disbursement from the Escrow Fund, the Authority shall furnish the Escrow Agent or cause to be furnished to the Escrow Agent such documents as the Escrow Agent may reasonably require, including, but not limited to, paid or unpaid invoices, bills, receipts, affidavits, certificates and opinions.

(c) Upon the written request of the Authority, the Escrow Agent shall furnish the Authority with a record of the requisitions and disbursements from the Escrow Fund.

Section 2.6 Investment of Escrow Fund. (a) The Escrow Agent may invest or reinvest, in accordance with written directions, or oral directions confirmed in writing, of an Authorized Authority Representative or Authorized Institution Representative only in the following obligations or securities (collectively "Permitted Investments"):

(i) direct obligations of the United States of America for which its full faith and credit is pledged;

(ii) obligations issued by any instrumentality or agency of the United States of America, whether now existing or hereafter organized and guaranteed by the United States of America;

(iii) obligations issued or guaranteed by any state of the United States of America or the District of Columbia which are rated at least Aa by Moody's or AA by Standard & Poor's;

(iv) repurchase agreements fully secured by obligations of the kind specified in (i) or (ii) above including repurchase agreements with the Escrow Agent;

(v) interest-bearing deposits in any bank or trust company (which may include the Escrow Agent) or any other bank or trust company which has a combined capital surplus and undivided profits at least \$50,000,000;

(vi) commercial paper with one of the two highest ratings from Moody's or Standard & Poor's; and

(vii) deposits in the Federated Cash Management Fund Trust for short-term government obligations or any similar common trust fund established pursuant to law as a legal depository of public moneys.

(b) With respect to Permitted Investments described in clause (iv) of subsection (a) above, the Escrow Agent (i) shall make any such purchase subject to agreement with the seller for repurchase by the seller at a later date, and in such connection, may accept the seller's agreement for the payment of interest in lieu of the right to receive the interest payable by the issuer of the security purchased, provided that title to the security so purchased by the Escrow Agent shall vest in the Escrow Agent, that the Escrow Agent shall have a perfected security interest in such security and that the current market value of such security (or of cash or additional securities of the type described in said clauses pledged with the Escrow Agent as collateral for the purpose) is at all times at least equal to the total amount thereafter to become payable by the seller under said agreement, or (ii) may purchase shares of a fund whose sole assets are of a type described in clauses (i) and (ii) of subsection (a) above and such repurchase agreements thereof.

Section 2.7 General Provisions of Investments. (a) Any permissible investments of money in the Escrow Fund shall be held by or under the control of the Escrow Agent and shall be deemed at all times as part of the fund or account from which the investment was made and the interest accruing on any such investment and any profit realized from such investment shall be credited to such fund or account and any loss resulting from such investment shall be charged to such fund or account.

(b) Neither the Authority nor the Institution shall direct the Escrow Agent to invest the proceeds of the Bonds or payments due under the Bond Agreement, or any other funds which may be deemed to be proceeds of the Bonds pursuant to Section 103 or 148 of the Code and the applicable regulations thereunder, including proposed regulations, in such a way as to cause the Bonds to be treated as “arbitrage bonds” within the meaning of Section 103 or 148 of the Code and such regulations issued thereunder, as applicable to the Bonds. In accordance with the foregoing, unless the Escrow Agent shall have been furnished with an approving opinion of Bond Counsel, no moneys in the Escrow Fund shall be invested, except as provided in the Authority’s Arbitrage Certificate.

(c) The Escrow Agent shall not be held liable for any breach by the Authority or the Institution of provisions of the foregoing subparagraph as long as the Escrow Agent invests or reinvests, pursuant to written directions of an Authorized Authority Representative or Authorized Institution Representative, in Permitted Investments pursuant hereto. The Escrow Agent shall refuse to invest in obligations directed by an Authorized Authority Representative or Authorized Institution Representative that violate the provisions hereof.

(d) The Escrow Agent is entitled to rely on such written directions and shall not be liable for any direct or consequential damages which may result from the Escrow Agent’s compliance with such directions.

Section 2.8 Rebate Fund. At the written request of the Authority, the Escrow Agent shall create a special fund designated as the Rebate Fund. The Authority shall notify the Institution of the amount of Rebatable Arbitrage, if any, and of the obligation to deposit such amount in the Rebate Fund. The Authority shall transfer or cause to be transferred by the Escrow Agent from the Rebate Fund at such times and to such person as required by Section 148 of the Code an amount equal to the Rebatable Arbitrage. Amounts in the Rebate Fund shall be exempt from the lien of this Bond Agreement. To the extent such amounts on deposit in the Rebate Fund are not sufficient to meet the Rebatable Arbitrage, the amount of the deficiency shall be immediately paid by the Institution to the Escrow Agent for deposit in the Rebate Fund. Notwithstanding anything contained in this Bond Agreement to the contrary, the Escrow Agent shall not be responsible or liable for any loss, liability, or expense incurred to the extent incurred as a result of the failure of the Authority to fulfill its obligations with respect to the calculation and payment of the Rebatable Arbitrage. The Purchaser and the Escrow Agent shall be entitled to rely conclusively upon the calculations provided by the Authority.

Moneys held in the Rebate Fund shall be invested and reinvested upon the written direction of the Authority by the Escrow Agent in Permitted Investments (as hereinafter defined) that mature at such times specified in such written direction, which times shall be not later than such times as shall be necessary to provide moneys when needed for the payments to be made from such Rebate Fund and in accordance with the provisions hereof. The interest earned on any moneys or investments in the Rebate Fund shall be retained in the Rebate Fund.

Moneys held in the Rebate Fund shall be held by the Escrow Agent for a period of not less than seventy-five (75) days following the redemption or final maturity of the Bonds.

Section 2.9 Excess Bond Proceeds. When the Institution certifies to the Escrow Agent and the Authority that the Project is complete, any amounts remaining in the Escrow Fund, as and when determined by the Escrow Agent and the Purchaser, will be applied to the payment of current interest on the Bonds and/or to the payment of accrued interest, as directed by the Authority. If for any reason the amount in the Escrow Fund proves insufficient to pay all Costs of the Project, the Institution will pay the remainder of such Costs.

Section 2.10 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) interest income on the Bonds is not includable in gross income for federal income tax purposes under 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 constitute valid, binding special and limited obligations of the Authority and are enforceable in accordance with their terms.

Section 2.11 Opinion of Counsel for the Escrow Agent and Purchaser. As a condition precedent to the issuance of the Bonds, the Authority shall have received an opinion of (a) Counsel for the Escrow Agent, dated the date hereof, addressed to the Authority and reasonably satisfactory in form and substance to Bond Counsel that the Escrow Agent is lawfully empowered, authorized and duly qualified to serve as escrow agent and to perform the provisions of and to accept the fiduciary obligations contemplated hereby, and the Escrow Agent has duly authorized the acceptance of the escrow contemplated hereby and (b) Counsel for the Purchaser, dated the date hereof, 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 2.12 Opinion of Counsel to the Institution. As a condition precedent to the issuance of the Bonds, the Authority and the Purchaser shall have received the opinion of counsel for the Institution to the Authority and the Purchaser and satisfactory in form and substance to Bond Counsel and Counsel for the Purchaser:

(a) confirming certain representations and warranties of the Institution set forth in the Lease as reasonably requested by Bond Counsel; and

(b) to the effect that (i) the Lease has been duly executed and delivered by the Institution and constitutes the legal, valid and binding obligation of the Institution, enforceable in

accordance with its terms, except to the extent that the enforceability of may be limited by bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally and (ii) such other matters as Bond Counsel or Counsel for the Purchaser may reasonably require.

Section 2.13 Bond and Other Documents. As a condition precedent to the issuance of the Bonds, the Authority, the Purchaser and the Escrow Agent shall have received:

- (a) the Lease and this Bond Agreement duly executed by all parties thereto;
- (b) certificates, in form and substance acceptable to the Authority and the Escrow Agent evidencing the insurance required to be maintained by this Bond Agreement;
- (c) the Tax Certificate, in form and substance satisfactory to Bond Counsel; and
- (d) all other documents required by the Authority, the Escrow Agent and the Purchaser.

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

Section 2.14 Payments Adjusted for Non-Business Days. The Following Business Day Convention shall be used with respect to the Bond 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.



## **ARTICLE III**

### **The Escrow Agent**

Section 3.1 Appointment of Escrow Agent; Acceptance of the Escrow. (a) [PURCHASER] is hereby appointed as Escrow Agent. The Escrow Agent hereby accepts the escrow imposed upon it by this Bond Agreement, and agrees to perform said escrow, but only upon and subject to the following express terms and conditions:

(i) The Escrow Agent may execute any of the powers hereof and perform any of its duties by or through attorneys or agents (provided that neither the Authority, the Institution nor any affiliate or agent of any of the foregoing shall act as an agent of the Escrow Agent), and shall not be answerable for any misconduct or negligence on the part of any attorney or agent appointed hereunder and shall be entitled to advice of counsel concerning all fiduciary matters hereof and the duties hereunder and may in all cases pay such reasonable compensation to all such attorneys and agents as may reasonably be employed in connection with the fiduciary obligations hereof and may be reimbursed therefor. The Escrow Agent may act upon the opinion or advice of any attorney (who may be the attorney or attorneys for the Authority or the Institution) approved by the Escrow Agent in the exercise of its reasonable judgment. The Escrow Agent shall not be responsible for any loss or damage resulting from any action or nonaction in good faith in reliance upon such opinion or advice.

(ii) The Escrow Agent shall not be responsible for any recital herein or in the Bonds or for insuring the Project, or collecting any insurance moneys, or for the validity of execution by the Authority of this Bond Agreement or of any supplements hereto or any instruments of further assurance, or for the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby, or for the value or title of the Project or otherwise as to the maintenance of the security hereof, or, except as provided in Article II hereof, for the eligibility of any security as an investment of escrow funds held by it.

(iii) The Escrow Agent shall not be accountable for the use of the Bonds delivered hereunder after the Bonds shall have been delivered in accordance with the instructions of the Authority. The Escrow Agent may become the Purchaser of the Bonds secured hereby with the same rights that it would have if not Escrow Agent. The Escrow Agent shall have the same rights and powers as any other bank or lender and may exercise the same as though it were not the Escrow Agent, and it may accept deposits from, lend money to and generally engage in any kind of business with the Institution as though it were not the Escrow Agent.

(iv) The Escrow Agent shall be protected in acting in good faith upon any notice, request, investment instruction, consent, certificate, order, affidavit, letter, telegram or other paper or document believed to be genuine and correct and to have been signed or sent by the proper Person or Persons. Any action taken by the Escrow Agent pursuant to this Bond Agreement upon the request or authority or consent of any Person who at the time of

making such request or giving such authority or consent is the Purchaser of any Bond, shall be conclusive and binding upon all future Purchasers of the same Bond and upon a Bond issued in exchange therefor or in place thereof.

(v) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Escrow Agent shall be entitled, in the absence of bad faith on its part, to rely upon a certificate of the Authority or the Institution signed by (a) an Authorized Authority Representative or Authorized Institution Representative, as applicable, as sufficient evidence of the facts therein contained, and shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same. The Escrow Agent may accept a certificate of the Secretary or any Assistant Secretary of the Authority or the Institution, as applicable, to the effect that a resolution in the form therein set forth has been adopted by the Authority or the Institution, as applicable, as conclusive evidence that such resolution has been duly adopted, and is in full force and effect.

(vi) The permissive right of the Escrow Agent to take actions enumerated in this Bond Agreement shall not be construed as a duty, and it shall not be answerable for other than its negligence, willful misconduct, or willful default. The Escrow Agent shall act on behalf of the Authority hereunder only insofar as its duties are expressly set forth and shall not have implied duties. The Escrow Agent shall not be under a duty to inquire into or pass upon the validity, effectiveness, genuineness or value of the Bond Documents and shall assume that the same are valid, effective and genuine and what they purport to be. The Escrow Agent may consult with legal counsel selected by it and shall be entitled to rely upon the opinion of such counsel in taking or omitting to take any action.

(vii) The Escrow Agent shall not be personally liable for any debts contracted or for damages to Persons or to personal property injured or damaged, or for salaries or non-fulfillment of contracts by the Institution or the Authority during any period.

(viii) The Escrow Agent shall not be required to give any bond or surety in respect of the execution of the said escrows and powers or otherwise in respect to its duties herein.

(ix) All moneys or investments received by the Escrow Agent shall, until used or applied as herein provided, be held in escrow in the manner and for the purposes for which they were received.

(b) The Escrow Agent shall exercise the rights and powers vested in it hereby, and use the same degree of care and skill in their exercise, as a prudent Person would exercise or use under the circumstances in the conduct of such Person's own affairs.

(c) Before taking any action hereunder the Escrow Agent may require that a satisfactory indemnity bond be furnished for the reimbursement of all expenses to which it may be

put and to protect it against all liability, except liability which is adjudicated to have resulted from negligence, willful misconduct or willful default by reason of any action so taken.

Section 3.2 Fees, Charges and Expenses of Escrow Agent. Unless otherwise provided by contract with the Escrow Agent, the Authority shall pay to the Escrow Agent, from time to time, reasonable compensation for all services rendered by it hereunder and also all its reasonable expenses, charges, counsel fees and other disbursements and those of its attorneys, agents and employees, incurred in and about the performance of its powers and duties hereunder. The Authority shall indemnify and save the Escrow Agent harmless against any expenses and liabilities which it may incur in the exercise and performance of its powers and duties hereunder, and that are not due to the negligence or willful misconduct of the Escrow Agent; and further provided that the foregoing is subject to the limitations of the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:2-1 *et seq.*, and the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 *et seq.* While the New Jersey Contractual Liability Act, N.J.S.A. 59: 13-1 *et seq.*, is not applicable by its terms to claims arising under contracts with the Authority, the Escrow Agent, by accepting its appointment as such under this Bond Agreement, agrees that such statute (except N.J.S.A. 59:13-9) shall be applicable to all claims against the Authority arising under this Bond Agreement. None of the provisions contained in this Bond Agreement shall require the Escrow Agent to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if there is reasonable ground for believing that the repayment of such funds or liability is not reasonably assured to it. The provisions of this section shall survive resignation or removal of the Escrow Agent and payment of the Bonds.

Section 3.3 Intervention by Escrow Agent. In any judicial proceeding to which the Authority is a party and which in the opinion of the Escrow Agent and its counsel has a substantial bearing on the interests of the Purchaser of the Bonds, the Escrow Agent may, and if requested in writing by the Purchaser shall, intervene on behalf of the Purchaser provided the Purchaser agrees to indemnify the Escrow Agent for such intervention.

Section 3.4 Successor Escrow Agent. Any corporation or association into which the Escrow Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, provided such corporation or association is a trust company or national or state bank within or outside the State having escrow powers, in good standing, being otherwise acceptable to the Purchaser and having reported capital surplus and undivided profits of not less than \$50 million *ipso facto*, shall be and become successor Escrow Agent hereunder and vested with all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

Section 3.5 Resignation by the Escrow Agent. The Escrow Agent and any successor Escrow Agent may at any time resign by giving not less than thirty (30) days' written notice to the Authority, the Purchaser and the Institution. Such resignation shall take effect only upon the appointment of a successor Escrow Agent by the Authority. In case at any time the Escrow Agent

shall resign and no appointment of a successor Escrow Agent shall be made prior to the date specified in the notice of resignation as the date when such resignation shall take effect, the resigning Escrow Agent may forthwith apply to a court of competent jurisdiction for the appointment of a successor Escrow Agent. The Escrow Agent shall be compensated by the Authority for all costs of seeking and appointing a successor should the Authority fail to so appoint a successor Escrow Agent within the thirty (30) day time period to do so.

Section 3.6 Removal of the Escrow Agent. (a) Upon thirty (30) days written notice, the Escrow Agent may be removed at any time, by an instrument or concurrent instruments in writing delivered to the Escrow Agent, the Authority and the Institution and signed by the Purchaser.

(b) The Escrow Agent may also be removed at any time for any breach of trust or for acting or proceeding in violation of, or for failing to act or proceed in accordance with, any provisions of this Bond Agreement, by any court of competent jurisdiction upon the application by the Authority, the Purchaser or the Institution.

Section 3.7 Appointment of Successor Escrow Agent. (a) In case the Escrow Agent hereunder shall resign, or be removed, or be dissolved, or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder as fiduciary for Purchaser of the Bonds, or in case it shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, the Authority, by an instrument executed by an Authorized Authority Representative, with the written consent of the Institution, shall forthwith appoint a successor Escrow Agent to fill such vacancy. Such appointment shall become final upon the written acceptance of such fiduciary obligations by the successor Escrow Agent so appointed as provided in Section 3.8 hereof.

(b) Every such Escrow Agent appointed pursuant to the provisions of this Section shall be a national banking association or a domestic bank or trust company having trust powers in good standing, being otherwise acceptable to the Purchaser and having a reported capital, surplus and undivided profits of not less than \$50 million.

Section 3.8 Concerning any Successor Escrow Agent. (a) Every successor Escrow Agent appointed hereunder shall execute, acknowledge and deliver to its predecessor Escrow Agent, the Authority and the Institution an instrument in writing accepting such appointment hereunder as fiduciary for the Purchaser of the Bonds. Thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessors.

(b) Every predecessor Escrow Agent shall, on the written request of the Authority, or of the successor Escrow Agent, execute and deliver an instrument transferring to such successor Escrow Agent all the estates, properties, rights, powers and escrows, duties and obligations of such predecessor hereunder. Every predecessor Escrow Agent shall deliver all securities and moneys held by it as Escrow Agent hereunder to its successor for direct deposit in the appropriate successor escrow accounts. Should any instrument in writing from the Authority be required by a successor Escrow Agent for more fully and certainly vesting in such successor the estates, properties, rights, powers, escrows, duties and obligations hereby vested or intended to be vested in the predecessor

Escrow Agent, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Authority.

(c) The resignation of any Escrow Agent and the instrument or instruments removing any Escrow Agent and appointing a successor hereunder, or the instrument evidencing the transfer of the escrow funds shall be filed and/or recorded by the successor Escrow Agent in each filing or recording office where this Bond Agreement (or a memorandum thereof) shall have been filed and/or recorded.

Section 3.9 Escrow Agent Protected in Relying upon Resolutions, etc. The resolutions, opinions, certificates and other instruments provided for in this Bond Agreement may be accepted by the Escrow Agent as conclusive evidence of the facts and conclusions stated therein and shall be full warrant, protection and authority to the Escrow Agent for the application of moneys hereunder and the taking of or omitting to take any other action under this Bond Agreement.

Section 3.10 Successor Escrow Agent. Any Escrow Agent that has resigned or been removed shall cease to be Escrow Agent of the funds, and the successor Escrow Agent shall become such Escrow Agent. Every predecessor Escrow Agent shall deliver to its successor Escrow Agent all books of account and all other records, documents and instruments relating to its duties as Escrow Agent.

Section 3.11 Escrow Agent and Authority Required to Accept Directions and Actions of Institution. Whenever, after reasonable request by the Institution, the Authority shall fail, refuse or neglect to give any direction to the Escrow Agent or to require the Escrow Agent to take any other action that the Authority is required to have the Escrow Agent take pursuant to the provisions of this Bond Agreement, the Institution, upon thirty (30) days prior written notice to the Authority, instead of the Authority, may give such direction to the Escrow Agent or require the Escrow Agent to take any such action after such thirty (30) day notice period. Upon receipt by the Escrow Agent of a written notice from the Institution stating that the Institution has made reasonable request of the Authority, and that the Authority has failed, refused or neglected to give any direction to the Escrow Agent or to require the Escrow Agent to take any such action and proof that such written notice has been furnished to the Authority, the Escrow Agent is hereby irrevocably empowered and directed, subject to other provisions of this Bond Agreement, to accept such direction from the Institution as sufficient for all purposes of this Bond Agreement. The Institution shall have the direct right to cause the Escrow Agent to comply with any of the Escrow Agent's obligations under this Bond Agreement to the same extent that the Authority is empowered so to do.

Notwithstanding the foregoing, the Authority reserves the right to dispute and challenge any direction given by the Institution or action taken by the Escrow Agent pursuant to this Section in any manner available under law, provided, however, the Escrow Agent shall not be liable for action taken in good faith reliance on such direction.

Section 3.12 Escrow Agent Not Responsible for Use of Proceeds. The Institution acknowledges that the Escrow Agent is not responsible for the ultimate use of the Bond Proceeds or any consequences, of whatever kind, resulting, directly or indirectly, from the Institution's use of Bond Proceeds.

Section 3.13 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 upon the request of the Purchaser, the Authority shall execute and deliver a new Bond to the Purchaser 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 (a) certify to the Authority that the Purchaser is the owner of the Bond and the Bond has been destroyed, stolen or lost, (b) furnish the Authority with indemnity satisfactory to the Authority, (c) comply with such other reasonable regulations as the Authority may prescribe and (d) pay such fees and expenses as the Authority may require in connection therewith.

Section 3.14 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 or the investment of funds, neither the Authority nor its members, officers, employees or agents shall be accountable to the Purchaser or the Escrow Agent 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 3.15 Neither Authority, the Purchaser, Nor Escrow Agent Responsible for Insurance, Taxes, Acts of the Authority or Application of Moneys Applied in Accordance with this Bond Agreement. Neither the Authority, the Purchaser nor the Escrow Agent 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 Institution, 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, the Purchaser nor the Escrow Agent shall have responsibility in respect of the sufficiency of the security provided by this Bond Agreement. Neither the Authority, the Purchaser nor the Escrow Agent 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, the Purchaser nor the Escrow Agent shall be under any liability for failure to see that any such duties or covenants are so done or performed.

Neither the Authority, the Purchaser nor the Escrow Agent 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 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, the Purchaser nor the Escrow Agent 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, the Purchaser, the Institution and the Escrow Agent hereunder shall extend to their respective directors, members, attorneys, officers, employees and agents.

Section 3.16 Authority, Purchaser and Escrow Agent May Rely on Certificates. The Authority, the Purchaser and the Escrow Agent 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, the Purchaser nor the Escrow Agent 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

### Events of Default

Section 4.1 Events of Default. An event of default shall exist hereunder (herein called “Event of Default”) if:

(a) payment of the principal of any Bond or an installment of interest on any Bond shall not be made when the same shall become due and payable, either on a stated interest payment date, at maturity or by proceedings for redemption or otherwise; or

(b) the Authority shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Bonds or in this Bond Agreement on the part of the Authority to be performed and such default shall continue for thirty (30) days after written notice specifying such default and requiring same to be remedied shall have been given to the Authority by the Purchaser or the Escrow Agent; or

(c) an event of default, as defined in the Lease, has occurred under the Lease and is continuing.

Section 4.2 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 may, by written notice to the Authority and the Institution, declare the entire unpaid principal amount of the Bonds 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 Institution 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 Authority and the Purchaser shall be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the Authority and the Purchaser shall continue as though no such proceedings had taken place.



Section 4.3 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 4.4 Agreement to Pay Attorneys' Fees and Expenses. If upon the occurrence of an Event of Default 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 herein or in the Lease, the Authority agrees that it will pay to the Purchaser the reasonable fees of such attorneys and such other expenses so incurred by the Purchaser or both whether or not suit be brought, but only from sums available or payable by the Institution under the Lease.

Section 4.5 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.

**ARTICLE V**

**Miscellaneous**

Section 5.1 Limitation of Liability of Authority. In the event of any default by the Authority hereunder, the liability of the Authority to the Purchaser shall be enforceable only out of its interest under this Bond Agreement and there shall be no other recourse for damages by the Purchaser against the Authority, its officers, members, agents, counsel and employees, or any of the property now or hereafter owned by it or them.

Section 5.2 Notices. 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:

[Bond Counsel]

The Purchaser/Escrow Agent -

[PURCHASER]  
[\_\_\_\_\_  
[\_\_\_\_\_  
Attention: [\_\_\_\_\_]

with a copy to:

[\_\_\_\_\_  
[\_\_\_\_\_  
[\_\_\_\_\_  
Attention: [\_\_\_\_\_]

The Institution -

with a copy to:

[\_\_\_\_\_]

[\_\_\_\_\_]

[\_\_\_\_\_]

Attention: [\_\_\_\_\_]

Section 5.3 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 5.4 Applicable Law. This Bond Agreement shall be governed by the laws of the State without regard to conflicts of laws principles.

**THE AUTHORITY, THE PURCHASER AND THE ESCROW AGENT AGREE THAT ANY SUIT FOR THE ENFORCEMENT OF THIS BOND AGREEMENT OR ANY OF THE OTHER BOND DOCUMENTS SHALL BE BROUGHT IN THE COURTS OF THE STATE LOCATED IN THE COUNTY OF MERCER OR IN FEDERAL COURTS IN THE DISTRICT OF NEW JERSEY OR THIRD CIRCUIT AND CONSENT TO THE JURISDICTION OF SUCH COURTS. THE AUTHORITY, THE PURCHASER AND THE ESCROW AGENT HEREBY WAIVE ANY OBJECTION THAT THEY 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 5.5 Successors and Assigns. 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,” “Escrow Agent” and “Purchaser” shall, where the context requires, include the respective permitted successors and assigns of such persons.

Section 5.6 Amendments. This Bond Agreement may not be amended except by an instrument in writing signed by the Purchaser, the Escrow Agent and the Authority.

Section 5.7 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 Escrow Agent in accordance herewith. Notwithstanding the foregoing, the rebate requirements hereof shall survive the termination of this Bond Agreement.

Section 5.8 No Warranty of Condition or Suitability by Authority. The Authority makes no warranty, either express or implied, as to the condition of the Project or any part thereof or that they will be suitable for the Institution’s purposes or needs. The Purchaser 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 in any respect or in connection with or for the purposes and uses of the Institution or its tenants.

Section 5.9 Amounts Remaining in Escrow Fund. It is agreed by the parties that any amounts remaining in the Escrow Fund, after payment in full of the Bonds and of the fees, charges and expenses of the Purchaser, Escrow Agent and the Authority in accordance herewith, shall be paid by the Purchaser to, or at the direction of, the Authority.

Section 5.10 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 5.11 Further Assurances and Corrective Instruments. The Authority and the Purchaser 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 are reasonably necessary or advisable for the implementation, correction, confirmation or perfection of this Bond Agreement and any rights hereunder.

Section 5.12 Jury Trial Waiver. 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 OR ENFORCEMENT OF THE BOND DOCUMENTS, AND AGREE THAT THE PARTIES WILL SEEK TO CONSOLIDATE ANY SUCH ACTION WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED.

Section 5.13 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 Authority 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 Authority, the Purchaser shall remain responsible for the performance of its obligations hereunder and the Authority 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 Authority or the Institution 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.

**{THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK}**

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

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By \_\_\_\_\_  
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[PURCHASER],  
as Purchaser

By: \_\_\_\_\_  
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[PURCHASER],  
as Escrow Agent

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