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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, JANUARY 26, 2021**

The meeting was called to order at 10:00 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 January 15, 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  
Ridgeley Hutchinson, Vice Chair  
Elizabeth Maher Muoio, State Treasurer, Treasurer (represented by Ryan Feeney)  
Louis Rodriguez  
Brian Bridges, Acting Secretary of Higher Education

### **AUTHORITY MEMBERS ABSENT:**

None

### **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  
Brian Sootkoos, Director of Finance-Controller  
Zachary Barby, Communications/IT Coordinator  
Rebecca Clark, Associate Project Manager  
Matthew Curtis, Information Technology Manager  
Edward DiFiglia, Public Information Officer  
Carl MacDonald, Project Manager

Sheila Toles, Human Resources Manager  
Linda Hazley, Office Manager/Document Specialist

**ALSO PRESENT (VIA ZOOM):**

George Loeser, Esq., Deputy Attorney General  
Rudy Rodas, Esq., Governor's Authorities Unit  
Victoria Nilson, Esq., Deputy Attorney General  
Stephen Bolyai, William Paterson University  
Jim Fearon, Esq., Gluck Walrath  
Dr. Hania Ferrara, Fairleigh Dickinson University  
John Cavaliere, Esq., McManimon, Scotland & Baumann

**ITEMS OF DISCUSSION**

**1. Approval of the Minutes of the Meeting of November 24, 2020**

The minutes of the meeting of November 24, 2020 were delivered electronically to Governor Philip Murphy under the date of November 24, 2020. Mr. Rodriguez moved the meeting minutes for approval as presented; the motion was seconded by Acting Secretary Bridges and passed unanimously.

**2. Executive Director's Report**

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

In his report, Mr. Brophy reviewed the Authority's business activity during 2020 and highlighted the year's successes and challenges related to the COVID-19 pandemic. Mr. Brophy stated that in addition to moving to an entirely remote work environment last March, the year brought many opportunities to improve how the Authority works, from expanding staff skills in new technologies to rethinking how the Authority serves higher education and the citizens of New Jersey.

Mr. Brophy thanked the staff for their exceptional work and dedication during 2020. He thanked the NJEFA Board for their flexibility and support in transitioning meeting logistics to online platforms. Mr. Brophy also expressed gratitude to the Authority's partners, particularly the Office of the Secretary of Higher Education, Treasury, the Governor's Authorities Unit, the Attorney General's Office and the Authority's colleagues in the public finance community.

Mr. Brophy highlighted several of the year's accomplishments, including completion of seven (7) transactions with five (5) institutions for a total of \$543 million in par value. He reported that among these transactions was the Authority's largest, single new money financing and first Green Bond issuance in Authority history for the Stevens Institute of Technology. He also reported that during the year Authority staff provided critical support to the State Librarian and Governor Murphy's Administration on implementation of the Library Construction Bond Act; developed a new Memorandum of Understanding between the Authority and its clients to clarify and streamline the institution transaction process; developed and advocated for statutory amendments to expand services and create a loan

program to provide COVID relief to institutions; and adopted a new fee policy to ensure long-term sustainability of the Authority's mission. Mr. Brophy also announced that a more detailed year-in-review slide presentation would be posted on the Authority's website.

Following a review of 2020 activity, Mr. Brophy updated the Board on the Authority's COVID-19 preparedness and Authority operations.

3. **Resolution of the New Jersey Educational Facilities Authority Authorizing the Issuance of NJEFA Revenue Bonds, The William Paterson University of New Jersey Issue, Series 2021 C**

Mr. Nelson reported that the Authority sought the Members' approval to authorize the issuance of revenue bonds for William Paterson University, Series 2021 C. He reported the proceeds of the bonds would be used to renovate and equip multiple buildings across the University's campus, including the School of Continuing Education building, the Speert Hall dining room and other food service venues on campus, the Carriage House, the University Commons, various residence halls, the demolition of Overlook North Residence Hall, and the replacement of the roof of the Power Arts building.

Mr. Nelson reported that in accordance with its policies and procedures, the Authority distributed and evaluated RFPs for underwriting manager and trustee services and based on the results of the evaluations, the Authority recommended that BofA Securities be appointed as senior manager and U.S. Bank be appointed as trustee. He reported that Gluck Walrath had been selected to serve as bond counsel.

James Fearon, Esq. of Gluck Walrath described the resolution for the Members' consideration.

Stephen Bolyai, Vice President of Finance and Administration of William Paterson University commented on the importance of the financing.

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

RESOLUTION AUTHORIZING THE ISSUANCE OF NEW JERSEY  
EDUCATIONAL FACILITIES AUTHORITY REVENUE BONDS,  
THE WILLIAM PATERSON UNIVERSITY OF NEW JERSEY  
ISSUE, SERIES 2021 C

The motion was seconded by Acting Secretary Bridges and passed unanimously.

The adopted resolution is appended as Exhibit I.

4. **Resolution of the New Jersey Educational Facilities Authority Authorizing the Issuance of NJEFA Revenue and Refunding Bond, Fairleigh Dickinson University Issue, 2021 Series A and NJEFA Revenue Bond, Fairleigh Dickinson University Issue, 2021 Series B**

Mr. MacDonald reported that the Authority sought the Members' approval for the issuance of a revenue and refunding bond and a revenue bond for Fairleigh Dickinson University, 2021 Series A and 2021 Series B in an amount not to exceed \$75,000,000.

Mr. MacDonald reported that the proceeds of the 2021 Series A and 2021 Series B bonds would be used to refund the Authority's \$14,505,000 original principal amount revenue refunding bond, Fairleigh Dickinson University issue, 2006 Series G, the Authority's \$2,147,544 original principal amount revenue refunding bond, Fairleigh Dickinson University issue, 2006 Series H, the Authority's \$51,925,000 original principal amount revenue refunding bond, Fairleigh Dickinson University issue, 2014 Series B, the Authority's \$19,675,000 principal amount revenue refunding bond, Fairleigh Dickinson University issue, 2015 Series B; to finance and reimburse the University for, certain capital improvements to its campus facilities, including, but not limited to, improvements to the athletic fields facilities at the University's Florham campus, maintenance of and improvements to Hennessy Hall at the Florham campus, improvements to the Metropolitan Pedestrian Bridge at the University's Metropolitan campus, and maintenance and improvements regarding the Perimeter Projects at the Metropolitan campus and pay certain costs of issuance.

Mr. MacDonald reported that bonds would be issued and sold on a private placement basis to TD Bank, N.A. He reported that Janney Montgomery Scott, LLC had been retained by the University to serve as financial advisor and that McManimon, Scotland & Baumann, LLC would serve as bond counsel.

John Cavaliere, Esq. of McManimon, Scotland & Baumann described the resolution for the Members' consideration.

Dr. Hania Ferrara, Senior Vice President of Finance and Administration commented on the University's project.

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

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF A NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY REVENUE AND REFUNDING BOND, FAIRLEIGH DICKINSON UNIVERSITY ISSUE, 2021 SERIES A AND A NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY REVENUE BOND, FAIRLEIGH DICKINSON UNIVERSITY ISSUE 2021 SERIES B, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$75,000,000 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 II.

**5. Moody's Investors Service Presentation: 2021 Higher Education Overview**

Moody's Investors Service representatives Susan Shaffer, Vice President and Senior Credit Officer for Public Finance, and Craig Sabatini, Analyst, provided the Members with a presentation on Moody's higher education outlook for the next 12 to 18 months. Their presentation included national data and trends as well as credit information and perspective on New Jersey institutions rated by Moody's.

**6. Report on Operating and Construction Fund Statements and Disbursements**

Mr. Sotkoos reviewed the Results of Operations and Budget Variance Analysis and reported on the status of construction funds and related investments for December 2020.

Mr. Feeney moved that the reports be accepted as presented; the motion was seconded by Mr. Rodriguez and passed unanimously.

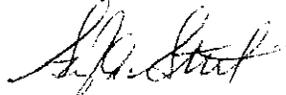
The reports are appended as Exhibit III.

**7. Next Meeting Date**

Mr. Hodes reminded everyone that the next meeting was scheduled for Tuesday, February 23, 2021 at 10:00 a.m. and requested a motion to adjourn.

Mr. Hodes moved that the meeting be adjourned at 11:00 a.m. The motion was seconded by Mr. Rodriguez and passed unanimously.

Respectfully submitted,



Sheryl A. Stitt  
Assistant Secretary

Draft of 01/13/21

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**NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY**

**RESOLUTION AUTHORIZING THE ISSUANCE OF NEW JERSEY  
EDUCATIONAL FACILITIES AUTHORITY REVENUE BONDS, THE  
WILLIAM PATERSON UNIVERSITY OF NEW JERSEY ISSUE, SERIES  
2021 C**

Adopted: January 26, 2021

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**RESOLUTION AUTHORIZING THE ISSUANCE OF NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY REVENUE BONDS, THE WILLIAM PATERSON UNIVERSITY OF NEW JERSEY ISSUE, SERIES 2021 C**

**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 Board of Trustees of The William Paterson University of New Jersey (the “Public University”) has determined that it is necessary and advisable to undertake a capital project consisting of (i) the renovation and equipping of the building located at 1800 Valley Road, for use by the School of Continuing Education and also to house a Child Development Center, (ii) the renovation and equipping of the Speert Hall dining room and other food service venues on the campus of the Public University, (iii) the renovation and equipping of the Carriage House to house a catering kitchen on the first floor and administrative offices on the second floor, (iv) the renovation and equipping of the University Commons, including replacement of granite walls and elevator lobby surrounds, (v) the renovation and equipping of various residence halls, including installation of kitchen counters, windows and screens at Pioneer and Heritage Halls, installation of a compressor and heat exchanger at High Mountain West Hall, renovation of bathrooms at White and Matelson Halls, façade restoration at White Hall, renovations to the cooling tower at Overlook South Hall, and interior renovations at the various residence halls, (vi) the demolition of Overlook North Residence Hall, and (vii) the replacement of the roof of the Power Arts Building (collectively, the “Series 2021 C Project”); and

**WHEREAS**, the Public University has requested that the Authority issue, and the Authority has determined that it is necessary and in keeping with its authorized purposes to issue, one or more series of bonds as described herein (the “Bonds”) for the purpose of providing funds to (i) pay the cost of the Series 2021 C Project, (ii) fund capitalized interest on the Bonds, if any, (iii) fund a debt service reserve fund for the Bonds, if any, and (iv) pay certain costs incidental to the issuance, sale and delivery of the Bonds (collectively, the “Project”); and

**WHEREAS**, the repayment of the Bonds will be secured by a Lease and Agreement between the Authority and the Public University (the “Agreement”), pursuant to which the Authority will lease the Leased Facilities (as defined in the Agreement) to the Public University; *provided*, that the Agreement (to the extent set forth therein) shall be subject to the Prior Agreements (as defined in the Agreement), if any; and

**WHEREAS**, the Bonds will be issued under and secured by a Trust Indenture (the “Trust Indenture”) to be entered into by and between the Authority and the financial institution named herein, as trustee (together with its successors in trust, the “Trustee”); and

**WHEREAS**, the Authority deems it necessary and in keeping with its purposes to issue the Bonds under the Trust Indenture herein authorized for the purpose of financing all or any combination of the purposes enumerated above, and to authorize certain actions and the execution and delivery of certain documents in connection therewith; and

**WHEREAS**, the Authority has undertaken procedures to procure professionals in connection with the issuance of the Bonds and the members of the Authority have been provided with a memorandum summarizing the procurement procedures of the Authority staff's recommendations with respect thereto; and

**WHEREAS**, the Public University has indicated that it may pay for certain costs of the Series 2021 C Project (the "Project Costs") prior to the issuance of the Bonds with funds of the Public University that are not proceeds of tax-exempt bonds; and

**WHEREAS**, pursuant to Section 8(c) of the Act, the bonds of the Authority shall be authorized by resolution of the members of the Authority;

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

**ARTICLE I**  
**AUTHORIZATION OF BONDS; APPROVAL OF DOCUMENTS**

**1.1 Purpose and Issuance of the Bonds.**

The Authority hereby declares the Project to be an authorized undertaking of the Authority and authorizes and directs the Chair, Vice Chair, Executive Director, Deputy Executive Director, Treasurer, Director of Project Management, Director of Compliance Management, Secretary, Assistant Treasurer or any Assistant Secretary of the Authority, and any other person authorized by resolution of the Authority, and any such officers designated as “acting” or “interim” (each an “Authorized Officer”), to execute and deliver all documents necessary to enable the Authority, as permitted by the Act, to finance, on behalf of the Public University, the costs of the Project, in whole or in part.

**1.2 Authorization of the Bonds.**

(a) The Authority hereby authorizes the issuance of the Bonds, in an aggregate principal amount not to exceed \$22,000,000, in one or more series, in order to finance, on behalf of the Public University, the costs of the Project, in whole or in part; *provided, however*, that prior to the issuance and delivery of the Bonds, the Board of Trustees of the Public University shall have adopted a resolution authorizing the execution of the Agreement, the hereinafter-defined Purchase Contract and any commitment for a financial guaranty insurance policy insuring payment of principal of and interest on all or part of the Bonds when due, and the consummation of the transactions contemplated thereby and by this resolution. The Bonds (which may consist of one or more series of tax-exempt and/or taxable Bonds issued at the same time) shall be designated “New Jersey Educational Facilities Authority Revenue Bonds, The William Paterson University of New Jersey Issue, Series 2021 C” or such other or additional designation or designations as shall be set forth in the Trust Indenture or as an Authorized Officer may determine.

(b) The Authority hereby finds and determines that the issuance of the Bonds involves certain circumstances under which a negotiated bond sale is permissible as outlined in Executive Order No. 26 (Whitman 1994) (“Executive Order No. 26”), namely, volatile market conditions, and that a competitive sale of the Bonds is not in the best interest of the Authority and the Public University.

(c) Based upon the Authority’s competitive request for proposal process under its standard procurement process and procedures and in accordance with Executive Order No. 26 and Executive Order No. 37 (Corzine 2006) (“Executive Order No. 37”), the Authority hereby selects BofA Securities, Inc. as the senior managing underwriter for the Bonds. Any Authorized Officer is hereby authorized to execute and deliver on behalf of the Authority one or more contracts of purchase (collectively, the “Purchase Contract”) by and among the Authority, the Public University and BofA Securities, Inc., on behalf of itself and any other members of an underwriting syndicate headed by such firm (collectively, the “Underwriters”), in substantially the form presented to this meeting with such changes as shall be approved by any Authorized Officer, 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), for the purchase of the Bonds at the price or prices to be agreed upon; provided, however, that the Underwriters’ discount for the Bonds shall not exceed

\$6.00 per \$1,000 of principal amount. A copy of the Purchase Contract as executed shall be filed with the records of the Authority.

(d) The Chair, the Vice-Chair, the Executive Director, the Deputy Executive Director or the Director of Project Management or any such officer designated as “acting” or “interim” are hereby authorized to select and appoint a co-senior and/or one or more co-managing underwriters, if necessary, in connection with the financing and in accordance with Executive Order No. 26 and Executive Order No. 37 and the Authority’s competitive request for proposal process under its standard procurement policies and procedures, to purchase the Bonds as members of an underwriting syndicate headed by BofA Securities, Inc.

(e) The Bonds shall be issued in fully registered form, shall be in the denominations, and shall be numbered as shall be provided in the Trust Indenture. The Bonds shall be dated initially, bear interest from the date of issuance thereof at the rates set forth in the Trust Indenture, mature and be executed and authenticated as shall be set forth in the Trust Indenture; *provided, however*, that the final maturity date of the Bonds will be no later than July 1, 2051. The Bonds shall bear interest at one or more fixed interest rates as set forth in the Trust Indenture, with a true interest cost not to exceed 6%. The Bonds shall be subject to redemption as provided in the Trust Indenture; *provided, however*, the redemption premium, if any, on the Bonds issued as tax-exempt bonds shall not exceed 5%, and the redemption premium, if any, on the Bonds issued as taxable bonds shall be without limitation and may be in the form of a “make-whole” redemption.

### **1.3 Form of Bonds.**

The Bonds shall be in substantially the form set forth in Exhibit A to the Trust Indenture, with such insertions, omissions or variations as may be necessary or appropriate, as approved by an Authorized Officer with the advice of Bond Counsel and the Attorney General of the State, such execution and attestation to be conclusive evidence of the approval thereof.

### **1.4 Delivery of the Bonds.**

The Bonds shall be executed in the name of the Authority by the manual or facsimile signature of its Chair, Vice Chair, Executive Director or Deputy Executive Director, and any such officers designated as “acting” or “interim”, and its official common seal (or a facsimile thereof) shall be thereunto affixed, imprinted, engraved or otherwise reproduced and attested by the manual or facsimile signature of its Executive Director, Deputy Executive Director, Secretary or any Assistant Secretary or Assistant Treasurer, and any such officers designated as “acting” or “interim”, or in such other manner as may be provided by law; *provided*, the Bonds may not be attested by the party executing the Bonds. Following the execution of the Bonds, any Authorized Officer is hereby authorized to deliver the Bonds to the Trustee for authentication and, after authentication, to deliver the Bonds to the Underwriters or their agents against receipt of the purchase price or unpaid balance thereof.

### **1.5 Approval of Preliminary Official Statement and Official Statement.**

The distribution of one or more Preliminary Official Statements relating to the Bonds (a draft of which is presented to this meeting and shall be filed with the records of the Authority) (collectively, the “Preliminary Official Statement”) is hereby approved in substantially such form, with such insertions, deletions and changes therein and any supplements thereto as approved by any Authorized Officer with the advice of Bond Counsel and the Attorney General of the State. Any Authorized Officer is hereby authorized to “deem final” the Preliminary Official Statement in accordance with Rule 15c2-12 of the Securities and Exchange Commission, if applicable.

Any Authorized Officer is hereby authorized and directed to execute and deliver one or more final Official Statements (collectively, the “Official Statement”), in substantially the form of the Preliminary Official Statement, with such changes, insertions and alterations as the Authorized Officer executing same shall approve with the advice of Bond Counsel and the Attorney General of the State, such approval to be evidenced conclusively by the execution thereof by such Authorized Officer.

### **1.6 Approval of Agreement.**

The form of the Agreement presented to the meeting at which this Resolution is adopted (a copy or copies of which shall be filed with the records of the Authority) is hereby approved. Any Authorized Officer is hereby authorized and directed to execute, acknowledge and deliver, and any other Authorized Officer is hereby authorized and directed to affix and attest the official common seal of the Authority to the Agreement in substantially such form, with such changes therein (including, without limitation, the date thereof, and any acceptable covenants or provisions that may be required by the Underwriters or the bond insurer, if any) and any supplements thereto 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 by such Authorized Officer’s execution thereof.

### **1.7 Approval of Trust Indenture.**

The form of the Trust Indenture presented to the meeting at which this Resolution is adopted (a copy or copies of which shall be filed with the records of the Authority) is hereby approved. Any Authorized Officer is hereby authorized and directed to execute, acknowledge and deliver, and any other Authorized Officer is hereby authorized and directed to affix and attest the official common seal of the Authority to the Trust Indenture in substantially such form, with such insertions and changes therein (including, without limitation, the date thereof and the initial Interest Payment Date contained therein, provisions relating to a policy of bond insurance, if any, any covenants or provisions that may be required by the Underwriters or the bond insurer, if any, and modifications to the permitted investments so as to be consistent with the Authority’s investment policies as in effect from time to time) and any supplements thereto 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 by such Authorized Officer’s execution thereof.

### **1.8 Appointments.**

U.S. Bank National Association is hereby appointed to act as the initial Trustee, Bond Registrar and Paying Agent for the Bonds under the Trust Indenture. The Trustee shall signify its acceptance of the duties and obligations imposed upon it by the Trust Indenture by the Trustee's execution and delivery thereof.

### **1.9 Book-Entry System for the Bonds.**

(a) Except as provided in the Trust Indenture, the registered owner of all of the Bonds shall be The Depository Trust Company ("DTC"), and the Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

(b) Unless a blanket DTC Representation Letter has theretofore been executed by the Authority and filed with DTC, at or prior to settlement for the Bonds, the Authority and the Trustee shall execute or signify their approval of a DTC Representation Letter. Any Authorized Officer is hereby authorized to execute and deliver a DTC Representation Letter to DTC.

### **1.10 Bond Insurance Authorized.**

Any Authorized Officer is hereby authorized to: (i) select a municipal bond insurer (the "Bond Insurer") for the Bonds pursuant to a competitive solicitation process and in accordance with applicable law, to the extent that such Authorized Officer, with the advice of the Underwriters and the Attorney General of the State and with the approval of the Public University, determines that the bond insurance or a surety for the debt service reserve fund is necessary or desirable in order to market the Bonds, *provided*, that the Underwriters will be able to certify substantially to the effect that the present value of the premium for the bond insurance is less than the present value of the interest reasonably expected to be saved as a result of obtaining the bond insurance; (ii) execute a commitment letter for the issuance of a bond insurance and surety policy or policies (collectively, the "Policy") by such Bond Insurer (or a certificate evidencing selection of the Bond Insurer); (iii) carry out the Authority's obligations thereunder (including payment of the premium for the Policy); and (iv) accept the terms and conditions relating to the Bonds required by the Bond Insurer as a condition to the issuance of the Policy and to incorporate such terms and conditions into the Trust Indenture, the Agreement, the Preliminary Official Statement and the Official Statement as such Authorized Officer deems necessary and appropriate, with the advice of Bond Counsel and the Attorney General of the State.

### **1.11 Continuing Disclosure.**

Pursuant to the Agreement, the Public University will undertake all responsibility for compliance with continuing disclosure requirements, and the Authority shall have no liability to the holders of the Bonds or any other person with respect to such disclosure matters. The form of the Continuing Disclosure Agreement presented to the meeting at which this Resolution is adopted (a copy or copies of which shall be filed with the records of the Authority), is hereby approved. The Trustee shall be appointed to act as Dissemination Agent under the Continuing Disclosure Agreement, and shall comply with and carry out all of the obligations imposed on the Dissemination Agent under the Continuing Disclosure Agreement and the Agreement. Notwithstanding any other provision of this Resolution, the Trust Indenture or the Agreement, failure of the Public University

or the Dissemination Agent to comply with the Continuing Disclosure Agreement shall not be considered an event of default under this Resolution, the Trust Indenture or the Agreement.

### **1.12 Conformance of Documents.**

Any Authorized Officer is hereby authorized and directed to approve, as Bond Counsel may advise, such changes to the forms of the Preliminary Official Statement, the Official Statement, the Purchase Contract, the Agreement, the Trust Indenture, the Continuing Disclosure Agreement and such other agreements, documents or certificates as may be necessary and appropriate to conform same to the bond insurance requirements of the issuer of a financial guaranty insurance policy insuring payment of principal of and interest on the Bonds when due, if any, and modifications to the permitted investments so as to be consistent with the Authority's investment policies as in effect from time to time, 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.

## **ARTICLE II MISCELLANEOUS**

### **2.1 Authorization to Invest Bond Proceeds and Certain Funds.**

Any Authorized Officer is hereby authorized to enter into or direct the Trustee to enter into one or more agreements to invest the proceeds of the Bonds as permitted by the Trust Indenture (the "Eligible Investments"), which may include investment agreements and repurchase agreements, in the event that such Authorized Officer determines, in consultation with and with the consent of the Public University, that it is advantageous to the Public University for the Authority to invest any proceeds of the Bonds in Eligible Investments. The form of any such investment agreement or repurchase agreement shall be as approved by an Authorized Officer, with the advice of Bond Counsel and the Attorney General of the State.

### **2.2 Reimbursement.**

(a) The Authority reasonably expects the Public University to reimburse its expenditure of Project Costs paid prior to the issuance of the Bonds with proceeds of the Bonds.

(b) This resolution is intended to be and hereby is a declaration of official intent to reimburse the expenditures for Project Costs paid prior to the issuance of the Bonds with the proceeds of the Bonds in accordance with Treasury Regulations Section 1.150-2.

(c) The maximum principal amount of Bonds expected to be issued to finance the Series 2021 C Project is \$22,000,000 (exclusive of capitalized interest and costs of issuance), which Bonds may be issued in one or more transactions over the next three years.

(d) The Project Costs to be reimbursed with the proceeds of the Bonds will be "capital expenditures" in accordance with the meaning of Section 150 of the Internal Revenue Code of 1986, as amended (the "Code").

### **2.3 Incidental Actions.**

(a) The Authorized Officers are hereby authorized and directed to execute and deliver such other documents, certificates, directions and notices, and to take such other action as may be necessary or appropriate in order: (i) to effectuate the financing of the Project; (ii) to effectuate the execution and delivery of the Purchase Contract, the Agreement, the Trust Indenture and the Official Statement, and the issuance, sale and delivery of the Bonds, including, without limitation, documents necessary to effectuate the issuance, sale and delivery of the Bonds; (iii) to implement the DTC book-entry only system for the Bonds; and (iv) to maintain the tax-exempt status of the interest on the Bonds (to the extent such Bonds are to be issued on a tax-exempt basis) (including the preparation and filing of any information reports or other documents with respect to the Bonds as may at any time be required under Section 149 of the Code and any regulations thereunder).

(b) The Authorized Officers are hereby authorized and directed to take such actions from time to time as may be necessary or appropriate to determine the specific real and/or personal property to be subject to the Agreement and (if necessary) to accept conveyance of, or convey such property to, the Public University or other applicable entity.

#### **2.4 Prior Resolutions.**

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

#### **2.5 Effective Date.**

This Resolution shall take effect as provided for under the Act.

**CONTINUING DISCLOSURE AGREEMENT**

**BY AND BETWEEN**

**THE WILLIAM PATERSON UNIVERSITY OF NEW JERSEY**

**AND**

**U.S. BANK NATIONAL ASSOCIATION,  
AS DISSEMINATION AGENT**

**Dated as of March \_\_, 2021**

Entered into with respect to the

New Jersey Educational Facilities Authority  
\$ \_\_\_\_\_ Revenue Bonds, The William Paterson University of New Jersey Issue,  
Series 2021 C

## CONTINUING DISCLOSURE AGREEMENT

**THIS CONTINUING DISCLOSURE AGREEMENT** (the “Agreement”), made and entered into as of March \_\_, 2021 by and between **THE WILLIAM PATERSON UNIVERSITY OF NEW JERSEY**, a public institution of higher education located in the State of New Jersey (the “Public University”), and **U.S. BANK NATIONAL ASSOCIATION**, a national banking association organized and existing under the laws of the United States of America with fiduciary and trust powers in the State of New Jersey (the “Dissemination Agent” or “Trustee”).

### WITNESSETH:

**WHEREAS**, on the date hereof the New Jersey Educational Facilities Authority, a body corporate and politic with corporate succession, constituting a political subdivision organized and existing under and by virtue of the laws of the State of New Jersey (hereinafter referred to as the “Authority”) is issuing its Revenue Bonds, The William Paterson University of New Jersey Issue, Series 2021 C, dated March \_\_, 2021, in the aggregate principal amount of \$\_\_\_\_\_ (the “Bonds”); and

**WHEREAS**, the Bonds are being issued pursuant to the Authority’s Bond Resolution adopted on January 26, 2021 (the “Resolution”), and a Trust Indenture dated as of March 1, 2021 (the “Trust Indenture”) by and between the Authority and the Trustee; and

**WHEREAS**, the Public University and the Authority have entered into a Lease and Agreement dated as of March 1, 2021 with respect to certain educational facilities financed with proceeds of the Bonds (the “Lease and Agreement”), whereby the Authority has leased certain educational facilities to the Public University and the Public University has agreed to make lease payments to the Authority; and

**WHEREAS**, the Trustee has duly accepted the trusts imposed upon it by the Trust Indenture as Trustee for the Holders (as defined herein) from time to time of the Bonds; and

**WHEREAS**, the Securities and Exchange Commission (the “SEC”) pursuant to the Securities Exchange Act of 1934, as amended and supplemented (codified as of the date hereof at 15 U.S.C. 77 *et seq.*) (the “Securities Exchange Act”), has adopted amendments effective July 3, 1995 to its Rule 15c2-12 (codified at 17 C.F.R. §240.15c2-12) (“Rule 15c2-12”) that generally prohibit a broker, dealer or municipal securities dealer from purchasing or selling municipal securities, such as the Bonds, unless such broker, dealer or municipal securities dealer has reasonably determined that an issuer of municipal securities or an obligated person has undertaken in a written agreement or contract for the benefit of holders of such securities to provide certain annual financial information and operating data, notices of the occurrence of certain disclosure events and notices of the failure to make a submission required by a continuing disclosure agreement to various information repositories; and

**WHEREAS**, the Authority and the Public University have determined that the Public University is an “obligated person” with respect to the Bonds within the meaning of Rule 15c2-12 and, in order to enable a “participating underwriter” (as such term is defined in Rule 15c2-12) to purchase the Bonds, is therefore required to cause the delivery of the information described in

this Agreement to the municipal securities marketplace for the period of time specified in this Agreement; and

**WHEREAS**, the SEC has adopted amendments, effective July 1, 2009, to Rule 15c2-12 requiring that the annual financial information and operating data, notices of the occurrence of certain disclosure events and notices of the failure to make a submission required by a continuing disclosure agreement be provided to the Municipal Securities Rulemaking Board (the “MSRB”) and not to the various information repositories, and requiring that such information be provided in an electronic format and accompanied by identifying information as prescribed by the MSRB; and

**WHEREAS**, the SEC has adopted amendments, effective December 1, 2010, to Rule 15c2-12 revising the list of disclosure events and requiring that notices of such disclosure events be provided within ten (10) business days after the occurrence of the event; and

**WHEREAS**, the SEC has adopted amendments, effective February 27, 2019, to Rule 15c2-12 revising the list of disclosure events to include two (2) additional disclosure events that must be included in any continuing disclosure agreements entered into on or after February 27, 2019, and requiring that notices of such additional disclosure events be provided within ten (10) business days after the occurrence of the event; and

**WHEREAS**, on February \_\_, 2021, the Authority and the Public University entered into a Contract of Purchase with BofA Securities, Inc., on behalf of itself and the other underwriters (if any) named therein (collectively, the “Underwriter”), for the purchase of the Bonds; and

**WHEREAS**, the execution and delivery of this Agreement have been duly authorized by the Public University and the Dissemination Agent, respectively, and all conditions, acts and things necessary and required to exist, to have happened or to have been performed precedent to and in the execution and delivery of this Agreement, do exist, have happened and have been performed in regular form, time and manner; and

**WHEREAS**, the Public University and the Dissemination Agent are entering into this Agreement for the benefit of the Holders of the Bonds.

**NOW, THEREFORE**, for and in consideration of the promises and of the mutual representations, covenants and agreements herein set forth, the Public University and the Dissemination Agent, each binding itself, its successors and assigns, do mutually promise, covenant and agree as follows:

## ARTICLE 1

### DEFINITIONS

Section 1.1. Terms Defined in Recitals. All capitalized terms in the preambles hereof shall have the meanings set forth therein for all purposes of this Agreement.

Section 1.2. Additional Definitions. The following additional terms shall have the meanings specified below:

“Annual Report” means Financial Statements and Operating Data provided at least annually.

“Bondholder” or “Holder” or any similar term, when used with reference to a Bond or Bonds, means any person who shall be the registered owner of any Outstanding Bond, including holders of beneficial interests in the Bonds.

“Business Day” means any day other than (a) a Saturday or Sunday, (b) a day on which commercial banks in New York, New York, the State or in the city or cities in which the designated corporate trust office of the Dissemination Agent is located are authorized or required by law to close or (c) a day on which the New York Stock Exchange is closed.

“Disclosure Event” means any event described in subsection 2.1(d) of this Agreement.

“Disclosure Event Notice” means the notice to the MSRB, as provided in subsection 2.1(d).

“Dissemination Agent” means U.S. Bank National Association, acting in its capacity as Dissemination Agent under this Agreement, or any successor Dissemination Agent designated in writing by the Public University and which has filed a written acceptance of such designation.

“EMMA” means the MSRB’s Electronic Municipal Markets Access System, or any other electronic municipal securities information access system designated by the MSRB for collecting and disseminating primary offering documents and certain other information.

“Final Official Statement” means the final Official Statement of the Authority dated February \_\_, 2021 pertaining to the Bonds.

“Financial Obligation” means a (i) debt obligation, (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation or (iii) guarantee of (i) or (ii); provided, however, that the term “Financial Obligation” shall not include municipal securities as to which a final official statement has been provided to the MSRB consistent with Rule 15c2-12.

“Financial Statements” means the basic financial statements of the Public University (including its component units, if any) for each Fiscal Year and includes statements of net assets,

statements of revenues, expenses, and changes in net assets and statements of cash flows or statements which convey similar information. The Annual Report shall contain audited Financial Statements, if audited Financial Statements are then available. If audited Financial Statements are not available at the time the Annual Report is filed, then the Annual Report shall contain unaudited Financial Statements, and audited Financial Statements shall thereafter be provided as required by Section 2.1(c) hereof.

“Fiscal Year” means the fiscal year of the Public University. As of the date of this Agreement, the Fiscal Year of the Public University begins on July 1 of each calendar year and closes on June 30 of the next succeeding calendar year.

“GAAP” means generally accepted accounting principles as in effect from time to time in the United States of America, consistently applied.

“GAAS” means generally accepted auditing standards as in effect from time to time in the United States of America, consistently applied.

“Operating Data” means the financial and statistical information of the Public University of the type included in Appendix A to the Final Official Statement under the headings

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“State” means the State of New Jersey.

Section 1.3. Capitalized Terms Not Defined Herein. Capitalized terms not defined herein shall have the meanings assigned to them in Section 1.01 of the Trust Indenture or Article I of the Lease and Agreement, as the case may be.

Section 1.4. Interpretation. Words of masculine gender include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing Persons include corporations, associations, partnerships (including limited partnerships), trusts, firms and other legal entities, including public bodies, as well as natural persons. Articles and Sections referred to by number mean the corresponding Articles and Sections of this Agreement. The terms “hereby”, “hereof”, “hereto”, “herein”, “hereunder” and any similar terms as used in this Agreement, refer to this Agreement as a whole unless otherwise expressly stated.

As the context shall require, all words importing the singular number shall include the plural number; the disjunctive term “or” shall be interpreted conjunctively as required to insure that the Public University performs any obligations, mentioned in the passage in which such term appears.

The headings of this Agreement are for convenience only and shall not define or limit the provisions hereof.

## ARTICLE 2

### CONTINUING DISCLOSURE COVENANTS AND REPRESENTATIONS

Section 2.1. Continuing Disclosure Covenants of Public University. The Public University agrees that it will provide, or shall cause the Dissemination Agent to provide:

(a) not later than December 27<sup>th</sup> following the end of each Fiscal Year, commencing with the Fiscal Year of the Public University ending June 30, 2021, an Annual Report to the MSRB through EMMA, to the Trustee and to the Authority, and if the Fiscal Year of the Public University should change, then the Annual Report shall be due not later than one hundred eighty (180) days after the end of each Fiscal Year;

(b) not later than fifteen (15) days prior to the date of each year specified in subsection 2.1(a) as the date by which the Annual Report must be provided to the MSRB, a copy of the Annual Report to the Dissemination Agent;

(c) if not submitted as part of the Annual Report, then when and if available, to the MSRB through EMMA, to the Trustee and to the Authority, audited Financial Statements for the Public University;

(d) in a timely manner not in excess of ten (10) Business Days after the occurrence of the Disclosure Event (as defined herein), to the MSRB through EMMA, to the Trustee and to the Authority, notice of any of the following events with respect to the Bonds (each, a “Disclosure Event”):

- (i) principal and interest payment delinquencies;
- (ii) non-payment related defaults, if material;
- (iii) unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) substitution of credit or liquidity providers or their failure to perform;
- (vi) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (vii) modifications to rights of Holders of the Bonds, if material;

- (viii) Bond calls, if material, and tender offers;
- (ix) defeasances of the Bonds;
- (x) release, substitution or sale of property securing repayment of the Bonds, if material;
- (xi) rating changes relating to the Bonds;
- (xii) bankruptcy, insolvency, receivership or similar events of the Public University, which shall be considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the Public University in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Public University, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Public University;
- (xiii) the consummation of a merger, consolidation, or acquisition involving the Public University or the sale of all or substantially all of the assets of the Public University, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (xiv) appointment of a successor or additional trustee for the Bonds, or the change of name of a trustee for the Bonds, if material;
- (xv) incurrence of a Financial Obligation of the Public University, if material, or agreement to covenants, events of default, remedies, priority rights or other similar terms of a Financial Obligation, any of which affect Holders of the Bonds, if material; and
- (xvi) Default, event of acceleration, termination event, modification of terms or other similar events under a Financial Obligation of the Public University, if any such event reflects financial difficulties.

(e) in a timely manner, to the MSRB through EMMA, to the Trustee and to the Authority, notice of a failure by the Public University to provide the Annual Report within the period described in subsection 2.1(a) hereof.

Section 2.2. Continuing Disclosure Representations. The Public University represents and warrants that:

(a) Financial Statements shall be prepared according to GAAP.

(b) Any Financial Statements that are audited shall be audited by an independent certified public accountant in accordance with GAAS.

Section 2.3. Form of Annual Report. (a) The Annual Report may be submitted as a single document or as separate documents comprising a package.

(b) Any or all of the items which must be included in the Annual Report may be incorporated by reference from other documents, including official statements delivered in connection with other financings issued on behalf of the Public University or related public entities which are available to the public on the MSRB's Internet Web site or filed with the SEC. If the document incorporated by reference is a final official statement, it must be available from the MSRB through EMMA. The Public University shall clearly identify each such other document so incorporated by reference.

(c) The Annual Report for any Fiscal Year containing any modified Operating Data or financial information (as contemplated by Sections 4.9 and 4.10 hereof) for such Fiscal Year shall explain, in narrative form, the reasons for such modification and the effect of such modification on the Annual Report being provided for such Fiscal Year.

Section 2.4. Documents to be Provided in Electronic Format and Accompanied by Identifying Information. The Public University agrees that each Annual Report, each Disclosure Event Notice and each notice pursuant to subsections 2.1(a), 2.1(c), 2.1(d) and 2.1(e) hereof shall be provided to the MSRB in an electronic format as prescribed by the MSRB, and that all documents provided to the MSRB shall be accompanied by identifying information as prescribed by the MSRB.

Section 2.5. Responsibilities, Duties, Immunities and Liabilities of the Dissemination Agent.

(a) If the Public University has determined it necessary to report the occurrence of a Disclosure Event, the Public University or Dissemination Agent (if the Dissemination Agent has received notice from the Public University of a Disclosure Event) shall in a timely manner not in excess of ten business days after the occurrence of the event, file a Disclosure Event Notice of such occurrence with the MSRB in an electronic format as prescribed by the MSRB. The obligations of the Public University or the Dissemination Agent to provide the notices to the MSRB under this Agreement are in addition to, and not in substitution of, any of the obligations of the Trustee to provide notices of events of default to Holders under Section 7.01 of the Trust Indenture. The Public University or the Dissemination Agent shall file a copy of each Disclosure Event Notice with the Authority and the Trustee (if the Dissemination Agent is not the Trustee), for informational purposes only.

(b) If an Annual Report is received by it, the Dissemination Agent shall file a written report with the Public University, with a copy to the Authority, certifying that the Annual Report has been provided to the MSRB pursuant to this Agreement, stating the date it was provided to the MSRB.

(c) The Dissemination Agent (i) shall have no duty to review any Financial Statements or Annual Reports, (ii) is not considered to have notice of (A) the content of such Financial Statements or Annual Reports or (B) a default or Event of Default based on the content of such Financial Statements or Annual Reports, and (iii) shall have no duty to verify the accuracy of such Financial Statements or Annual Reports.

(d) Article VIII of the Indenture, as it relates to the Trustee, is hereby made applicable to the responsibilities, duties, immunities and liabilities of the Dissemination Agent under this Agreement.

Section 2.6. Appointment, Removal and Resignation of Dissemination Agent.

(a) The Public University may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Agreement, and may discharge any such Dissemination Agent, and appoint a successor Dissemination Agent, with written notice to the Authority, such discharge to be effective on the date of the appointment of a successor Dissemination Agent. The Public University hereby appoints U.S. Bank National Association as Dissemination Agent and U.S. Bank National Association hereby accepts such appointment.

(b) The Dissemination Agent shall have only such duties as are specifically set forth in this Agreement, and, to the extent permitted by law, the Public University agrees to indemnify and hold the Dissemination Agent and its officers, directors, employees and agents harmless against any loss, expense or liability it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including reasonable attorneys' fees) of defending against any claim of liability, but excluding liability due to the Dissemination Agent's negligence or willful misconduct. The obligations of the Public University under this Section 2.6(b) shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

(c) The Dissemination Agent, or any successor thereto, may at any time resign and be discharged of its duties and obligations hereunder by giving not less than thirty (30) days written notice to the Public University and the Authority. Such resignation shall take effect on the date specified in such notice.

## ARTICLE 3

### DEFAULTS AND REMEDIES

Section 3.1. Disclosure Default. The occurrence and continuation of a failure by the Public University to observe, perform or comply with any covenant, condition or agreement on its part to be observed or performed in this Agreement and such failure shall remain uncured for a period of thirty (30) days after written notice thereof has been given to the Public University by the Trustee or any Bondholder shall constitute a disclosure default hereunder.

#### Section 3.2 Remedies on Default.

(a) The Trustee (at the request of the Underwriter or the Holders of at least twenty-five percent (25%) in aggregate principal amount of Outstanding Bonds, and after provision of indemnity in accordance with Section 7.05 of the Trust Indenture) shall, or any Bondholder, for the equal benefit and protection of all Bondholders similarly situated, may, take whatever action at law or in equity against the Public University and any of the officers, agents and employees of the Public University which is necessary or desirable to enforce the specific performance and observance of any obligation, agreement or covenant of the Public University under this Agreement and may compel the Public University or any such officers, agents or employees, except for the Dissemination Agent, to perform and carry out their duties under this Agreement; provided, that no person or entity shall be entitled to recover monetary damages hereunder under any circumstances.

(b) In case the Trustee or any Bondholder shall have proceeded to enforce its rights under this Agreement and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or any Bondholder, as the case may be, then and in every such case the Public University, the Trustee and any Bondholder, as the case may be, shall be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the Public University, the Trustee and any Bondholder shall continue as though no such proceeding had been taken.

(c) A default under this Agreement shall not be deemed an event of default under either the Trust Indenture or the Lease and Agreement, and the sole remedy under this Agreement in the event of any failure by the Public University to comply with this Agreement shall be as set forth in subsection 3.2(a) of this Agreement.

## ARTICLE 4

### MISCELLANEOUS

Section 4.1. Purposes of this Agreement. This Agreement is being executed and delivered by the Public University and the Dissemination Agent for the benefit of the Bondholders and in order to assist the Underwriter in complying with clause (b)(5) of Rule 15c2-12.

Section 4.2. Third-Party Beneficiaries; Authority and Bondholders.

(a) The Authority is hereby recognized as being a third-party beneficiary hereunder and may enforce any such right, remedy or claim conferred, given or granted hereunder in favor of the Trustee or the Holders of the Bonds.

(b) Each Bondholder is hereby recognized as being a third-party beneficiary hereunder and each may enforce, for the equal benefit and protection of all Bondholders similarly situated, any such right, remedy or claim conferred, given or granted hereunder in favor of the Trustee.

Section 4.3 No Recourse to Authority; Indemnified Parties. No recourse shall be had for the performance of any obligation, agreement or covenant of the Public University or the Trustee under this Agreement against the Authority or against any member, official, officer, employee, counsel, consultant and agent of the Authority or any person executing the Bonds.

To the extent permitted by law, the Public University agrees to indemnify and hold harmless the Authority, any member, officer, official, employee, counsel, consultant and agent of the Authority (collectively called the "Indemnified Parties"), against any and all losses, claims, damages, liabilities or expenses whatsoever caused by the Public University's failure to perform or observe any of its obligations, agreements or covenants under the terms of this Agreement but only if and insofar as such losses, claims, damages, liabilities or expenses are caused by any such failure of the Public University to perform. In case any action shall be brought against the Indemnified Parties based upon this Agreement and in respect of which indemnity may be sought against the Public University, the Indemnified Parties shall promptly notify the Public University in writing; provided, however, that the failure on the part of the Indemnified Party to give such notification shall not relieve the Public University from its obligation under this Section 4.3. Upon receipt of such notification, the Public University shall promptly assume the defense of such action, including the retention of counsel, the payment of all expenses in connection with such action, including any expenses incurred prior to such notification, and the right to negotiate and settle any such action on behalf of such party. Any Indemnified Party shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party unless the employment of such counsel has been specifically authorized by the Public University, or unless by reason of conflict of interest determined by the written opinion of counsel to any such Indemnified Party, in which case the fees and expenses of such separate counsel shall be borne

by the Public University. The Public University shall not be liable for any settlement of any such action effected without its written consent, but if settled with the written consent of the Public University or if there be a final judgment for the plaintiff in any such action with or without written consent, the Public University agrees to indemnify and hold harmless the Indemnified Parties from and against any loss or liability by reason of such settlement or judgment. Nothing in this paragraph shall require or obligate the Public University to indemnify or hold harmless the Indemnified Parties from or against any loss, claim, damage, liability or expense caused by any negligence, recklessness or intentional misconduct of the Indemnified Parties in connection with the Public University's performance of its obligations, agreements and covenants under this Agreement; and further provided, with respect to the Trustee, 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.

Section 4.4. Additional Information. Nothing in this Agreement shall be deemed to prevent the Public University from (a) disseminating any other information, using the means of dissemination set forth in this Agreement or any other means of communication, or (b) including any other information in any Annual Report or any Disclosure Event Notice, in addition to that which is required by this Agreement. If the Public University chooses to include any information in any Annual Report or any Disclosure Event Notice in addition to that which is specifically required by this Agreement, the Public University shall have no obligation under this Agreement to update such information or include it in any future Annual Report or any future Disclosure Event Notice. The Public University shall reimburse the Dissemination Agent for any expenses incurred by the Dissemination Agent in providing such additional information pursuant to this Section 4.4.

Section 4.5. Notices. All notices required to be given or authorized to be given by either party pursuant to this Agreement shall be in writing and shall be sent by registered or certified mail (as well as by Electronic Means, in the case of the Trustee or Dissemination Agent) to, in the case of the Public University, addressed to it at the office of the Senior Vice President of Administration and Finance, 300 Pompton Road, Wayne, New Jersey 07470 (facsimile (973) 720-2893); and in the case of the Trustee or Dissemination Agent, addressed to it at its designated corporate trust office at U.S. Bank National Association, c/o Global Corporate Trust, 333 Thornall Street, Edison, New Jersey 08837 (facsimile (973) 682-4540); and in the case of the Authority, addressed to it at its offices at 103 College Road East, Princeton, New Jersey 08540-6612 (facsimile (609) 987-0850). "Electronic Means" shall mean the following communications methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee or Dissemination Agent, or another method or system specified by the Trustee or Dissemination Agent as available for use in connection with its services hereunder.

Section 4.6. Assignments. This Agreement may not be assigned by either party without the written consent of the other and, as a condition to any such assignment, only upon the assumption in writing of all of the obligations imposed upon such party by this Agreement.

Section 4.7. Severability. If any provision of this Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatsoever.

Section 4.8. Execution of Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Both parties hereto may sign the same counterpart or each party hereto may sign a separate counterpart.

Section 4.9. Amendments, Changes and Modifications.

(a) Except as otherwise provided in this Agreement, subsequent to the initial issuance of the Bonds and prior to their payment in full (or provision for payment thereof having been made in accordance with the provisions of the Trust Indenture), this Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of the Trustee.

(b) Without the consent of any Bondholders, the Public University and the Trustee at any time and from time to time may enter into any amendments or modifications to this Agreement for any of the following purposes:

(i) to add to covenants and agreements of the Public University hereunder for the benefit of the Bondholders, or to surrender any right or power conferred upon the Public University by this Agreement;

(ii) to modify the contents, presentation and format of the Annual Report from time to time to conform to changes in accounting or disclosure principles or practices and legal requirements followed by or applicable to the Public University or to reflect changes in the identity, nature or status of the Public University or in the business, structure or operations of the Public University or any mergers, consolidations, acquisitions or dispositions made by or affecting the Public University; provided that any such modification shall comply with the requirements of Rule 15c2-12 as then in effect at the time of such modification; or

(iii) to cure any ambiguity, to correct or supplement any provision hereof which may be inconsistent with any other provision hereof, or to include any other provisions with respect to matters or questions arising under this Agreement which, in each case, comply with Rule 15c2-12 as then in effect at the time of such modification; *provided, however,* that prior to approving any such amendment or modification, the Public University determines that such amendment or modification does not adversely affect the interests of the Holders of the Bonds in any material respect.

(c) Upon entering into any amendment or modification required or permitted by this Agreement, the Public University shall provide, or cause the Dissemination Agent to provide, to the MSRB through EMMA, notice of any such amendment or modification.

(d) The Public University and the Trustee shall be entitled to rely exclusively upon an opinion of counsel nationally recognized as an expert in federal securities law acceptable to the Public University to the effect that such amendments or modifications comply with the conditions and provisions of this Section.

Section 4.10. Amendments Required by Rule 15c2-12. The Public University and the Dissemination Agent each recognize that the provisions of this Agreement are intended to enable the Underwriter to comply with Rule 15c2-12. If, as a result of a change in Rule 15c2-12 or in the interpretation thereof, a change in this Agreement shall be permitted or necessary to assure continued compliance with Rule 15c2-12 and upon delivery by the Underwriter of an opinion of counsel nationally recognized as expert in federal securities law acceptable to the Public University to the effect that such amendments shall be permitted or necessary to assure continued compliance by the Underwriter with Rule 15c2-12 as so amended or interpreted, then the Public University and the Dissemination Agent shall amend this Agreement to comply with and be bound by any such amendment to this Agreement to the extent necessary or desirable to assure compliance with the provisions of Rule 15c2-12 and provide the written notice of such amendment as required by subsection 4.9(c) hereof.

Section 4.11. Governing Law. This Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State. The parties agree that the Public University may be sued, pursuant to Section 3.2 hereof, only in a State court in the County of Mercer in the State.

Section 4.12. Termination of Public University's Continuing Disclosure Obligations. The continuing obligation of the Public University under Section 2.1 hereof to provide the Annual Report and any Disclosure Event Notice and to comply with the other requirements of said Section shall terminate if and when either (a) the Bonds are no longer Outstanding in accordance with the terms of the Trust Indenture or (b) the Public University no longer remains an "obligated person" (as defined in Rule 15c2-12(f)(10)) with respect to the Bonds and, in either event, only after the Public University provides, or causes the Dissemination Agent to provide, to the MSRB through EMMA written notice to such effect. This Agreement shall be in full force and effect from the date hereof and shall continue in effect so long as any Bonds are Outstanding.

Section 4.13. Compliance with P.L. 2005, c. 271 Reporting Requirements. The Dissemination Agent hereby acknowledges that it has been advised of its responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission ("ELEC") pursuant to *N.J.S.A. 19:44A-20.13* (P.L. 2005, c. 271, section 3) if the Dissemination Agent enters into agreements or contracts, such as this Agreement, with a New Jersey public entity, and receives compensation or fees in excess of \$50,000 or more in the aggregate from New Jersey public entities, in a calendar year. It is the Dissemination Agent's responsibility to determine if filing is necessary. Failure to do so can result in the imposition of financial penalties by ELEC. Additional information about this requirement is available from ELEC at 888-313-3532 or at [www.elec.state.nj.us](http://www.elec.state.nj.us).

Section 4.14. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Public University and the Dissemination Agent and their respective successors and assigns.

Section 4.15. Prior Undertakings. Except as otherwise described in the Final Official Statement, the Public University has not failed during the previous five (5) years to comply in any material respect with any prior continuing disclosure undertaking made by it in accordance with Rule 15c2-12.

Section 4.16. Covenant. In accordance with P.L. 2005, c. 92, the Dissemination Agent covenants and agrees that all services performed under this Agreement shall be performed within the United States of America.

Section 4.17. Headings for Convenience Only. The descriptive headings in this Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.

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**IN WITNESS WHEREOF, THE WILLIAM PATERSON UNIVERSITY OF NEW JERSEY and U.S. BANK NATIONAL ASSOCIATION** have caused this Agreement to be executed in their respective names by their duly authorized officers, all as of the date first above written.

**THE WILLIAM PATERSON UNIVERSITY OF  
NEW JERSEY**

By: \_\_\_\_\_  
Name: Stephen O. Bolyai  
Title: Senior Vice President for Administration and  
Finance

**U.S. BANK NATIONAL ASSOCIATION,  
AS DISSEMINATION AGENT**

By: \_\_\_\_\_  
Name: Paul D. O'Brien  
Title: Vice President

\$ \_\_\_\_\_  
**New Jersey Educational Facilities Authority**  
**Revenue Bonds, The William Paterson University of New Jersey Issue,**  
**Series 2021 C**

**BOND PURCHASE AGREEMENT**

\_\_\_\_\_, 2021

New Jersey Educational Facilities Authority  
103 College Road East  
Princeton, New Jersey 08540-6612

The William Paterson University of New Jersey  
300 Pompton Road  
Wayne, New Jersey 07470-0913

Ladies and Gentlemen:

BofA Securities, Inc. (the “Underwriter”) hereby offers to enter into this Bond Purchase Agreement (the “Purchase Agreement”) with the New Jersey Educational Facilities Authority, a public body corporate and politic of the State of New Jersey (the “Authority”) and The William Paterson University of New Jersey (the “University”), whereby the Underwriter will purchase and the Authority will sell the Series 2021 Bonds (as defined and described below). The Underwriter is making this offer subject to the acceptance by the Authority and the University at or before 8:00 P.M., Eastern Time, on the date hereof. If the Authority and the University accept this Purchase Agreement, this Purchase Agreement shall be in full force and effect in accordance with its terms and shall bind the Authority, the University and the Underwriter. The Underwriter may withdraw this Purchase Agreement upon written notice delivered by the Underwriter to the authorized officers of the Authority and the University at any time before the Authority and the University accept this Purchase Agreement. Terms used but not defined in this Purchase Agreement are defined in the Indenture (as defined below).

1. PURCHASE AND SALE.

Upon the terms and conditions and in reliance upon the representations, warranties and agreements herein set forth, the Underwriter hereby agrees to purchase from the Authority, and the Authority hereby agrees to sell and deliver to the Underwriter, all (but not less than all) of the New Jersey Educational Facilities Authority Revenue Bonds, The William Paterson University of New Jersey Issue, 2021 Series C (the “Series 2021 Bonds”), at the purchase price of \$ \_\_\_\_\_, representing the aggregate principal amount of the Series 2021 Bonds less an Underwriter’s discount of \$ \_\_\_\_\_ plus [net] original issue [premium/discount] of \$ \_\_\_\_\_. [ For convenience, the Underwriter shall pay by the Closing (as defined herein), on behalf of the Authority, \$ \_\_\_\_\_ from the proceeds of the Series 2021 Bonds to the Insurer

(as defined herein) as payment of the bond insurance premium for the Policy (as defined herein)]. The Underwriter intends to make an initial bona fide public offering of the Series 2021 Bonds at a price or prices described in Schedule I hereto; provided, however, the Underwriter reserves the right to change such initial public offering prices as the Underwriter may deem necessary or desirable, in its sole discretion, in connection with the marketing of the Series 2021 Bonds (but in all cases subject to the requirements of Section 4 hereof), and may offer and sell the Series 2021 Bonds to certain dealers, unit investment trusts and money market funds, certain of which may be sponsored or managed by the Underwriter at prices lower than the public offering prices or yields greater than the yields set forth therein (but in all cases subject to the requirements of Section 4 hereof).

Pursuant to Executive Order No. 9 (Codey 2004) (“Executive Order No. 9”), dated and effective as of December 6, 2004, it is the policy of the State of New Jersey (the “State”) that in all cases where bond underwriting services are or may be required by the State or any of its departments, agencies or independent authorities, including the Authority, such department, agency or independent authority shall deal directly with the principals of the underwriting firms or their registered lobbyists. The department, agency or independent authority shall not discuss, negotiate or otherwise interact with any third-party consultant, other than principals of underwriting firms and their registered lobbyists, with respect to the possible engagement of the firm to provide bond underwriting services. Compliance with Executive Order No. 9 is a material term and condition of this Purchase Contract and binding upon the parties hereto, including the Underwriter. Each of the Authority, the University and the Underwriter is acting for its own account and has made its own independent decision to enter into this Purchase Contract, and this Purchase Contract is appropriate and proper for it based upon its own judgment and upon advice from such advisors as it has deemed necessary. None of the Authority, the University or the Underwriter is acting as a fiduciary for or as an advisor to the other in respect of this Purchase Contract.

The Authority and the University acknowledge and agree that: (i) the Underwriter is not acting as a municipal advisor within the meaning of Section 15B of the Securities Exchange Act, as amended, (ii) the primary role of the Underwriter, as underwriter, is to purchase securities, for resale to investors, in an arm’s length commercial transaction between the Authority, the University and the Underwriter and the Underwriter has financial and other interests that differ from those of the Authority and the University; (iii) the Underwriter is acting solely as principal and is not acting as municipal advisor, financial advisor or fiduciary to either the Authority or the University and has not assumed any advisory or fiduciary responsibility to either the Authority or the University with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether the Underwriter has provided other services or is currently providing other services to the Authority on other matters); (iv) the only obligations the Underwriter has to the Authority and the University with respect to the transaction contemplated hereby expressly are set forth in this Purchase Agreement; and (v) the Authority and the University have consulted their own financial and/or municipal, legal, accounting, tax and other advisors, as applicable, to the extent deemed appropriate.

2. DESCRIPTION AND PURPOSE OF THE SERIES 2021 BONDS.

The Series 2021 Bonds have been authorized pursuant to 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 a resolution, adopted by the Authority on January 26, 2021 (the “Resolution”). The Series 2021 Bonds shall be dated the date of delivery. The Series 2021 Bonds shall be issued and secured under and pursuant to the Trust Indenture dated as of March 1, 2021 (the “Indenture”), by and between the Authority and U.S. Bank National Association, Edison, New Jersey, as trustee (the “Trustee”). The Authority will lend the proceeds of the Series 2021 Bonds to the University pursuant to a Lease Agreement dated as of March 1, 2021 (the “Lease Agreement”). As security for the Series 2021 Bonds, the Authority will pledge and assign to the Trustee the Authority’s right, title and interest in all payments to be received from the University under the Lease Agreement (except for the Authority’s right to certain unassigned rights, which will not be pledged).

The Series 2021 Bonds are being issued for the purpose of providing funds to: (i) the renovation and equipping of the building located at 1800 Valley Road, for use by the School of Continuing Education and also to house a Child Development Center, (ii) the renovation and equipping of the Speert Hall dining room and other food service venues on the campus of the University, (iii) the renovation and equipping of the Carriage House to house a catering kitchen on the first floor and administrative offices on the second floor, (iv) the renovation and equipping of the University Commons, including replacement of granite walls and elevator lobby surrounds, (v) the renovation and equipping of various residence halls, including installation of kitchen counters, windows and screens at Pioneer and Heritage Halls, installation of a compressor and heat exchanger at High Mountain West Hall, renovation of bathrooms at White and Matelson Halls, façade restoration at White Hall, renovations to the cooling tower at Overlook South Hall, and interior renovations at the various residence halls, (vi) the demolition of Overlook North Residence Hall, and (vii) the replacement of the roof of the Power Arts Building, and (viii) the payment of certain costs incidental to the issuance and sale of the Series 2021 Bonds (collectively, the “Series 2021 Project”).

The Series 2021 Bonds will be secured under the provisions of the Act and the Indenture. The Series 2021 Bonds shall mature in the years, bear interest, be purchased at the prices and be subject to redemption at the times and in the amounts, all as set forth in Schedule I attached hereto. The authorized denominations, record dates, interest payment dates, redemption provisions, and other details and particulars of the Series 2021 Bonds shall be as described in the Indenture and the Official Statement (as defined below).

3. DELIVERY OF THE OFFICIAL STATEMENT AND OTHER DOCUMENTS.

(a) The Authority and the University have approved and delivered or caused to be delivered to the Underwriter copies of the Preliminary Official Statement dated \_\_\_\_\_, 2021, which, including the cover page, inside cover page and all appendices thereto, is herein referred to as the “Preliminary Official Statement.” It is acknowledged by the Authority and the University that the Underwriter may deliver the Preliminary Official Statement and a final Official Statement (as hereinafter defined) electronically over the internet and in printed paper form. The Authority and the University deem the Preliminary Official Statement final as of its date and as of the date

hereof for purposes of Rule 15c2-12 (“Rule 15c2-12”) promulgated under the Securities Exchange Act of 1934, as amended (the “1934 Act”), except for any information which is permitted to be omitted therefrom in accordance with paragraph (b)(1) thereof.

(b) Within seven business days from the date hereof, and in any event not later than two business days before the Closing Date, the Authority and the University, at the University’s sole expense, shall deliver to the Underwriter a final Official Statement relating to the Series 2021 Bonds dated the date hereof (such Official Statement, including the cover page, inside cover page and all appendices attached thereto, together with all information previously permitted to have been omitted by Rule 15c2-12 and any amendments or supplements and statements incorporated by reference therein or attached thereto, as have been approved by the Authority, the University, Bond Counsel, and the Underwriter, is referred to herein as the “Official Statement”) and such additional conformed copies thereof as the Underwriter may reasonably request in sufficient quantities to comply with Rule 15c2-12, rules of the Municipal Securities Rulemaking Board (“MSRB”) and to meet potential customer requests for copies of the Official Statement. The Underwriter agrees to file a copy of the Official Statement, including any amendments or supplements thereto prepared by the Authority or the University, with the MSRB on its Electronic Municipal Markets Access (“EMMA”) system. The Official Statement shall be executed by authorized officers of the Authority and the University. The Official Statement shall be in substantially the same form as the Preliminary Official Statement and, other than information previously permitted to have been omitted by Rule 15c2-12, the Authority and the University shall only make such other additions, deletions and revisions in the Official Statement which are approved by the Underwriter. The Authority and the University hereby agree to deliver to the Underwriter an electronic copy of the Official Statement in a form that permits the Underwriter to satisfy their obligations under the rules and regulations of the MSRB and the U.S. Securities and Exchange Commission (“SEC”) including in a word-searchable pdf format including any amendments thereto. The Authority and the University hereby ratify, confirm and consent to and approves the use and distribution by the Underwriter before the date hereof of the Preliminary Official Statement and hereby authorizes and consents to the use by the Underwriter of the Official Statement, the Indenture and the Lease Agreement in connection with the public offering and sale of the Series 2021 Bonds.

(c) In order to assist the Underwriter in complying with Rule 15c2-12, the University will undertake, pursuant to the Continuing Disclosure Agreement dated as of the Closing Date (the “Disclosure Agreement”), by and between the University and Trustee, as dissemination agent for the University, to provide annual financial information and notices of the occurrence of specified events. A description of the Disclosure Agreement is set forth in, and a form of such agreement is attached as Appendix D to the Preliminary Official Statement and the Official Statement.

#### 4. [ESTABLISHMENT OF ISSUE PRICE.

(a) The Underwriter, agrees to make a bona fide public offering of all of the Series 2021 Bonds and to assist the Authority in establishing the issue price of the Series 2021 Bonds and shall execute and deliver to the Authority at Closing an “issue price” or similar certificate, substantially in the form attached hereto as Exhibit C, together with the supporting pricing wires or equivalent communications, with such modifications as may be deemed appropriate or necessary, in the reasonable judgment of the Underwriter, the Authority and Bond Counsel, to

accurately reflect, as applicable, the sales price or prices or the initial offering price or prices to the public of the Series 2021 Bonds. All actions to be taken by the Authority under this section to establish the issue price of the Series 2021 Bonds may be taken on behalf of the Authority by the Authority's financial advisor identified herein (the "Financial Advisor") and any notice or report to be provided to the Authority may be provided to the Authority's Financial Advisor.

(b) The Authority represents that it will treat the first price at which 10% of each maturity of the Series 2021 Bonds (the "10% Test") is sold to the public as the issue price of that maturity (if different interest rates apply within a maturity, each separate CUSIP number within that maturity will be subject to the 10% Test).

(c) The Underwriter confirms that:

(i) any agreement among underwriters, any selling group agreement and each third-party distribution agreement (to which the Underwriter is a party) relating to the initial sale of the Series 2021 Bonds to the public, together with the related pricing wires, contains or will contain language obligating the Underwriter, and each broker-dealer that is a party to such third-party distribution agreement, as applicable:

(A)(i) to report the prices at which it sells to the public the unsold Series 2021 Bonds of each maturity allocated to it until either all Series 2021 Bonds of that maturity allocated to it have been sold or it is notified by the Underwriter that the 10% Test has been satisfied as to the Series 2021 Bonds of that maturity and (ii) to comply with the hold-the-offering-price rule, if applicable, in each case if and for so long as directed by the Underwriter and as set forth in the related pricing wires, and

(B) to promptly notify the Underwriter of any sales of Series 2021 Bonds that, to its knowledge, are made to a purchaser who is a related party to an underwriter participating in the initial sale of the Series 2021 Bonds to the public (each such term being used as defined below),

(C) to acknowledge that, unless otherwise advised by the Underwriter, dealer or broker-dealer, the Underwriter shall assume that each order submitted by the Underwriter, dealer or broker-dealer is a sale to the public.

(ii) any agreement among underwriters and any selling group agreement relating to the initial sale of the Series 2021 Bonds to the public, together with the related pricing wires, contains or will contain language obligating each Underwriter that is a party to a third-party distribution agreement to be employed in connection with the initial sale of the Series 2021 Bonds to the public to require each broker-dealer that is a party to such third-party distribution agreement to (A) report the prices at which it sells to the public the unsold Series 2021 Bonds of each maturity allocated to it until either all Series 2021 Bonds of that maturity allocated to it have been sold or it is notified by the Underwriter that the 10% Test has been satisfied as to the Series 2021 Bonds of that maturity and (B) comply with the hold-the-offering-price rule, if applicable, in each case if and for so long as directed by the Underwriter and as set forth in the related pricing wires.

The Authority acknowledges that, in making the representations set forth in this section, the Underwriter will rely on (i) in the event a selling group has been created in connection with

the initial sale of the Series 2021 Bonds to the public, the agreement of each dealer who is a member of the selling group to comply with the requirements for establishing issue price of the Series 2021 Bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the Series 2021 Bonds, as set forth in a selling group agreement and the related pricing wires, and (ii) in the event that the Underwriter or dealer who is a member of the selling group is a party to a third-party distribution agreement that was employed in connection with the initial sale of the Series 2021 Bonds to the public, the agreement of each broker-dealer that is a party to such agreement to comply with the requirements for establishing issue price of the Series 2021 Bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable, as set forth in the third-party distribution agreement and the related pricing wires. The Authority further acknowledges that the Underwriter shall be solely liable for its failure to comply with its agreement to comply with its agreement regarding the requirements for establishing issue price of the Series 2021 Bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the Series 2021 Bonds, and that the Underwriter shall be liable for the failure of any dealer who is a member of a selling group, or of any broker-dealer that is a party to a third-party distribution agreement, to comply with its corresponding agreement to comply with the requirements for establishing issue price of the Series 2021 Bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the Series 2021 Bonds.

(d) The Underwriter acknowledges that sales of any Series 2021 Bonds to any person that is a related party to an underwriter participating in the initial sale of the Series 2021 Bonds to the public (each such term being used as defined below) shall not constitute sales to the public for purposes of this section. Further, for purposes of this section:

(i) “public” means any person other than an underwriter or a related party to an underwriter,

(ii) “underwriter” means (A) any person that agrees pursuant to a written contract with the Authority (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Series 2021 Bonds to the public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the Series 2021 Bonds to the public (including a member of a selling group or a party to a third-party distribution agreement participating in the initial sale of the Series 2021 Bonds to the public),

(iii) a purchaser of any of the Series 2021 Bonds is a “related party” to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to (i) more than 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (ii) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (iii) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other), and

(iv) “sale date” means the date of execution of this Purchase Agreement by all parties.]

5. REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE AUTHORITY. The Authority represents to and agrees with the Underwriter and the University that:

(a) The Authority is a public body corporate and politic constituting a political subdivision of the State, established as an instrumentality, created by and organized pursuant to the Act.

(b) The Authority has complied with all provisions of the laws of the State pertaining to the authorization, sale and issuance of the Series 2021 Bonds, including the Act, and no further approvals are necessary to be obtained prior to the issuance of the Series 2021 Bonds and the Authority has full power and authority to: (i) authorize the distribution of the Preliminary Official Statement and to execute and deliver the Official Statement; (ii) execute, issue, sell, deliver and perform its obligations under the Series 2021 Bonds; (iii) execute, deliver and perform its obligations under the Resolution, the Indenture, the Lease Agreement, and this Purchase Agreement; and (iv) carry out and consummate all transactions contemplated by the Series 2021 Bonds, the Resolution, the Indenture, the Continuing Disclosure Agreement, the Lease Agreement, the Official Statement, this Purchase Agreement and the Arbitrage and Tax Certificate of the Authority dated the date of hereinafter defined Closing (the “Authority’s Tax Certificate”) and any and all other agreements relating thereto (collectively, the “Authority Documents”).

(c) The information and statements in the Preliminary Official Statement and the Official Statement relating to the Authority under the captions “INTRODUCTORY STATEMENT,” “THE AUTHORITY” and “LITIGATION - The Authority” were, as of the date of the Preliminary Official Statement are, as of the date hereof, and will be at all times up to and including the date of Closing, true and correct in all material respects and did not and do not contain any untrue statement of a material fact or omit to state any material fact necessary to make statements therein, in light of the circumstances under which they were made, not misleading.

(d) The Authority will advise the Underwriter and the University promptly of any proposal to amend or supplement the Official Statement pursuant to Section 12 hereof. The Authority will advise the Underwriter promptly of the institution of any proceedings known to it by any governmental agency prohibiting or otherwise affecting the use of the Official Statement in connection with the offering, sale or distribution of the Series 2021 Bonds.

(e) The Authority Documents constitute, legal, valid and binding obligations of the Authority enforceable in accordance with their respective terms except to the extent that (i) the enforcement thereof may be limited or affected by bankruptcy, insolvency, reorganization or other laws or equitable principles affecting creditors’ rights generally; and (ii) equitable remedies, such as specific performance and injunctive relief, being discretionary, may be denied in a particular instance, and the Series 2021 Bonds, when delivered to and paid for by the Underwriter at the Closing will be in conformity with the description thereof in the Official Statement and will be in conformance with, and entitled to the benefits of the provisions of the Act and the Authority Documents.

(f) Except as set forth in the Preliminary Official Statement and the Official Statement, to the knowledge of the Authority, as of the date hereof, there is not any action, suit, proceeding, inquiry or investigation, at law or in equity, or before or by any court, public board, governmental agency or body pending against the Authority, and, to the knowledge of the Authority, no such action is threatened against the Authority, in any way contesting or questioning the due organization and lawful existence of the Authority or the title of any of the officers or members of the Authority to their offices, or seeking to restrain or to enjoin the sale, issuance or delivery of the Series 2021 Bonds, or the pledging of revenues and other funds of the Authority referred to in the Indenture thereto, or in any way contesting or affecting the validity or enforceability of the Authority Documents, or contesting the powers of the Authority or its authority with respect to the Authority Documents.

(g) The execution or adoption, as applicable, and delivery of, and performance of the Authority's obligations under the Authority Documents and the other agreements contemplated thereby; the execution and delivery of the Official Statement; the sale, execution, issuance and delivery of the Series 2021 Bonds; and the consummation of all transactions to which the Authority is a party contemplated by the Authority Documents, and the Official Statement have been duly authorized by all necessary action on the part of the Authority and do not and will not conflict with the Act or constitute on the Authority's part a breach of or a default under any existing law or administrative regulation, decree or order or any agreement, indenture, mortgage, loan or other instrument to which the Authority is subject or by which the Authority is or may be bound.

(h) Any certificate signed by any of the Authority's Authorized Officers (as defined in the Lease Agreement) and delivered to the Underwriter shall be deemed a representation and warranty by the Authority to the Underwriter as to the statements made therein with the same effect as if such representation or warranty was set forth herein.

(i) The Authority will pay or cause to be paid only from the proceeds of the Series 2021 Bonds, other available funds or other moneys provided by the University, all expenses incident to the performance of its obligations under this Purchase Agreement and the fulfillment of the conditions imposed hereunder, including but not limited to, the cost of preparing, executing, printing, engraving, photocopying, mailing and delivery of the Series 2021 Bonds in the form required hereby, the Preliminary Official Statement, the Official Statement (not to exceed 250 copies) and the Indenture; the fees and disbursements of the Trustee and its counsel in connection with the issuance of the Series 2021 Bonds; the fees and expenses of Bond Counsel; and the fees and expenses of obtaining credit ratings, if any, or any attorneys, auditors, consultants or other parties retained by the Authority or University in connection with the transactions contemplated herein; any expenses incurred on behalf of the Authority's or the University's employees which are incidental to the issuance of the Series 2021 Bonds, including but not limited to meals, transportation and lodging of those employees; and all other expenses relating to the sale and delivery of the Series 2021 Bonds, except those expressly provided for in the following sentence. The Authority shall be under no obligation to pay any expenses incident to the performance of the obligations of the Underwriter hereunder, including fees and disbursements of Connell Foley LLP ("Counsel to the Underwriter"), "Blue Sky" filing fees or advertising expenses in connection with the public offering of the Series 2021 Bonds. If the Closing does not occur as a result of the failure

of the University to meet its obligations under this Purchase Agreement, the University shall pay all expenses incurred by the Authority and the Underwriter.

(j) None of the officers, members, agents or employees of the Authority shall be personally liable for the performance of any obligation under this Purchase Agreement.

6. REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE UNIVERSITY. The University represents to and agrees with the Authority and the Underwriter that:

(a) The University is a public institution of higher education validly existing and in good standing under the laws of the State. The University has all necessary licenses and permits, if any, required to carry on its business and to operate all of its properties. The University has not received any notice of an alleged violation and, to the best knowledge of the University, it is not in violation of any zoning, land use or other similar law or regulation applicable to any of its properties which could materially adversely affect the operations or financial condition of the University.

(b) The members of the Board of Trustees of the University, as set forth in Appendix A of the Official Statement, are the duly appointed, qualified and presently acting members of the Board of Trustees of the University.

(c) The University has complied with all applicable laws of the State and has full power and authority to carry out and to consummate all transactions contemplated to be performed by it pursuant to the Lease Agreement, the Tax Certificate of the University dated the date of Closing (the "University's Tax Certificate"), the Disclosure Agreement, this Purchase Agreement and any and all other agreements relating hereto and thereto (collectively, the "University Documents") and the Official Statement.

(d) The (i) execution and delivery by the University of the University Documents, (ii) approval by the University of the Official Statement, (iii) the application of the proceeds of the Series 2021 Bonds, together with other available moneys, for the purposes described in the Official Statement, and (iv) the compliance with the provisions of any and all of the foregoing documents, do not and will not constitute a default under any agreement or instrument to which the University is a party or by which the University or any of its properties is or may be bound, nor will such action result in any violation of the By-Laws of the University, any statute, order, rule or regulation applicable to the University, or any order of any federal, state or other regulatory agency or other governmental body having jurisdiction over the University, and all consents, approvals, authorizations and orders of any governmental or regulatory agency or any canonical approvals that are required for the execution and delivery of the University Documents and the consummation of the transactions contemplated thereby and hereby, insofar as they may relate to the University, have been obtained or will be obtained prior to the delivery of the Series 2021 Bonds and are or will be in full force and effect at the Closing.

(e) No default, Event of Default or event which, with notice or lapse of time, or both, would constitute a default or an Event of Default under the Indenture, any of the University Documents or any other material agreement or material instrument to which the University is a

party or by which the University is or may be bound or to which any properties of the University are or may be subject, has occurred and is continuing.

(f) The audited financial statements of the University as set forth in Appendix B to the Preliminary Official Statement and the Official Statement present fairly the financial position of the University as of the date indicated and, constitute the full, complete and latest audited financial information relating to the University, and the information contained therein is accurate and complete and is not misleading in any material respect. There has been no material adverse change in the condition, financial or otherwise, of the University as of the date set forth in the audited financial statements, as of and for the period ended that date, except as may be disclosed in the Preliminary Official Statement and the Official Statement.

(g) By official action of the University taken prior to or concurrent with the acceptance hereof, the University has duly authorized all necessary action to be taken by it for: (i) the execution of the University Documents and this Purchase Agreement and the approval by the University of the Official Statement and any amendment thereof or supplement thereto, as permitted hereby, by an authorized officer of the University; (ii) the execution, the delivery and the due performance by the University of the obligations contained in this Purchase Agreement, the University Documents and any and all other agreements and instruments that may be required to be executed, delivered and performed by the University in order to carry out, give effect to and consummate the transactions contemplated by each of such documents and the Official Statement; and (iii) the University has duly authorized and approved the performance by the University of its obligation contained in each of such documents or agreements.

(h) [Reserved].

(i) The descriptions and information contained in the Preliminary Official Statement and the Official Statement relating to (i) the University and its properties, (ii) the University's operations and financial and other affairs, (iii) the application of the proceeds to be received by the University from the sale of the Series 2021 Bonds, and (iv) the material contained under the caption "LITIGATION – The University" and contained in Appendices A and B to the Preliminary Official Statement and the Official Statement were, as of the date of the Preliminary Official Statement and will be as of the date of the Official Statement and at all times up to and including the date of Closing, true and correct in all material respects; and, based on the University's participation in the preparation of the Preliminary Official Statement and the Official Statement but without having independently verified the information contained therein, other than as stated above, nothing has come to the University's attention that would cause the University to believe that the Preliminary Official Statement or the Official Statement, as of their respective dates, and the Official Statement as of the Closing Date, as it relates to the University, contain any untrue statement of material fact or omit to state any material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

(j) Except as described in the Preliminary Official Statement and the Official Statement, there is no action, suit, proceeding, inquiry or investigation at law or in equity or before or by any public board or body pending or, to the knowledge of the University, threatened against or affecting the University or any of its properties (or, to the best of the University's knowledge after due inquiry, dated the date hereof, any basis therefor) wherein an unfavorable decision, ruling

or finding would have a material adverse effect on (i) the title of the University's officers to their respective offices, (ii) the existence or the organization of the University or any power of the University, (iii) the validity of the proceedings for the adoption, authorization, execution, or repayment of the Series 2021 Bonds or its performance in connection with this Purchase Agreement, the Official Statement or any University Documents, (iv) the validity or the enforceability of the Series 2021 Bonds, the Resolution, this Purchase Agreement, the other University Documents or of any agreement or instrument to which the University is a party and which is used or contemplated for use in consummation of the transactions contemplated by this Purchase Agreement, the Indenture, the Official Statement or the University Documents, or (v) the tax-exempt status of the Series 2021 Bonds or the University.

(k) The University Documents are the legal, valid and binding obligations of the University enforceable in accordance with their respective terms, except as the same may be limited by (i) applicable insolvency, reorganization, liquidation, moratorium, receivership, readjustment of debt, or other similar laws affecting the enforcement of creditor's rights generally, as such laws may be applied in the event of an insolvency, reorganization, liquidation, moratorium, receivership, readjustment of debt or other similar proceedings, and (ii) equitable principles (whether in a proceeding in equity or at law).

(l) Any certificate signed by an authorized officer of the University delivered to the Authority and the Underwriter shall be deemed a representation and warranty by the University to the Authority and the Underwriter as to the statements made therein with the same effect as if such representation or warranty was set forth herein.

(m) The University agrees to cooperate reasonably with the Underwriter and Counsel to the Underwriter in any endeavor to qualify the Series 2021 Bonds for offering and sale under the securities or "blue sky" laws of such jurisdiction of the United States as the Underwriter may request, provided that the University shall not be required to qualify to do business in any jurisdiction where it is not now so qualified, or to take any action which would subject it to general service of process in any jurisdiction where it is not now so subject. The University ratifies and consents to the use of the Official Statement by the Underwriter in obtaining such qualification.

(n) Neither the University nor anyone acting on its behalf has, directly or indirectly, offered the Series 2021 Bonds for sale to, or solicited any offer to buy the same from, anyone other than the Underwriter.

(o) Between the date of this Purchase Agreement and the Closing, the University will not, without the prior written consent of the Underwriter, amend or modify the Lease Agreement in any respect.

(p) If the Closing shall not occur as a result of the failure of the University to meet its obligations under this Purchase Agreement for such reasons within the control of the University, the University shall pay all of the reasonable and documented expenses of the Authority and the Underwriter as described in Section 5(i) above.

(q) Except as otherwise noted in the Preliminary Official Statement and in the Official Statement, the University has not failed during the previous five (5) years to comply in all

material respects with any previous undertakings in a written continuing disclosure agreement under Rule 15c2-12.

(r) The University hereby ratifies and consents to the use by the Underwriter, prior to the date hereof, of the Preliminary Official Statement in connection with the public offering of the Series 2021 Bonds and confirms that it deems the Preliminary Official Statement to be “final” as of its date for purposes of Rule 15c2-12, except for the information not required to be included therein under Rule 15c2-12.

(s) The University hereby authorizes the use and distribution of the Official Statement by the Underwriter in connection with the public offering and sale of the 2021 Series 2021 Bonds.

7. REPRESENTATIONS, WARRANTIES AND AGREEMENTS OF THE UNDERWRITER. By its acceptance hereof, the Underwriter hereby represents and warrants to, and agrees with, the Authority and the University that:

(a) The Underwriter is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, having all requisite corporate power and authority to carry on its business as now constituted, and has been duly authorized to execute this Purchase Agreement.

(b) The Series 2021 Bonds, the Indenture, the Lease Agreement, the Disclosure Agreement, the Preliminary Official Statement, the Official Statement and this Purchase Agreement have been reviewed by the Underwriter and contain terms acceptable to, and agreed to by, the Underwriter.

(c) For itself, that it has the requisite authority to enter into this Purchase Agreement and this Purchase Agreement has been duly authorized, executed and delivered by the Underwriter and, assuming the due authorization, execution and delivery by the Authority and the University, is the legal, binding and valid obligation of the Underwriter, enforceable against the Underwriter in accordance with its terms, except that the enforceability hereof may be limited by applicable bankruptcy, insolvency, moratorium or other similar laws or equitable principles affecting creditors’ rights or remedies generally.

(d) That it has not entered into any undisclosed financial or business relationships, arrangements or practices required to be disclosed in the Official Statement pursuant to Securities and Exchange Commission Release No. 33-7049; 3433741; FR-42; File No. S7-4-94 (March 9, 1994) or required to be disclosed in the Official Statement pursuant to MSRB rules.

(e) That it is in compliance with the provisions of Rules G-37 and G-38 of the MSRB.

(f) That (x) all information, certifications and disclosure statements previously provided in connection with L. 2005, c. 51, and Executive Order No. 117 (Corzine 2008) (“Executive Order No. 117”) and as required by law, are true and correct as of the date hereof and (y) all such statements have been made with full knowledge that the Authority shall rely upon the

truth of the statements contained therein in engaging the Underwriter in connection with this transaction. The Underwriter agrees to execute and deliver at Closing a “L. 2005, c. 51 and Executive Order No. 117 Certification of No Change” in the form attached hereto as Exhibit B, and to continue to comply with the provisions of L. 2005, c. 51 and Executive Order No. 117 and as required by law, during the term of this Purchase Agreement and for so long as the Underwriter has any obligations under this Purchase Agreement.

(g) In accordance with Executive Order No. 9 (Codey 2004), dated and effective as of December 6, 2004, the Underwriter certifies that it has not employed or retained, directly or indirectly, any consultant who will be paid on a contingency basis if the Authority engages such firm to provide such underwriting services in connection with the Series 2021 Bonds.

(h) At or prior to the Closing, the Underwriter agrees to deliver to the Authority, in the form and substance satisfactory to Bond Counsel, a certificate, substantially in the form attached hereto as Exhibit C, and such other information reasonably requested by Bond Counsel.

(i) The Underwriter has not entered into any financial or business relationships, arrangements or practices with the Financial Advisor, or any other participant concerning or relating to the Series 2021 Bonds.

(j) That the Underwriter has complied with the requirements of N.J.S.A. 52:32-58 and has filed a certification with the Authority that it is not identified on the list of persons engaging in investment activities in Iran.

## 8. CLOSING.

At 10:30 A.M., Eastern Time, on \_\_\_\_\_, 2021, or at such other time or date as the Underwriter, the Authority and the University may mutually agree upon as the date and time of the Closing (the “Closing Date”), the Authority will deliver or cause to be delivered to the Underwriter, at the offices of GluckWalrath LLP (“Bond Counsel”), Freehold, New Jersey, or at such other place as the parties may mutually agree upon, the Series 2021 Bonds, through the facilities of The Depository Trust Company, New York, New York (“DTC”), duly executed and authenticated, and the other documents specified in Section 9 (the “Closing”). At the Closing, (a) upon satisfaction of the conditions herein specified, the Underwriter shall accept the delivery of the Series 2021 Bonds, and pay the purchase price therefor in federal funds payable to the order of the Trustee for the account of the Authority and (b) the Authority shall deliver or cause to be delivered the Series 2021 Bonds to the Underwriter through the facilities of DTC in definitive or temporary form, duly executed by the Authority and in the authorized denominations as specified by the Underwriter at the Closing and the Authority and the University shall deliver the other documents hereinafter mentioned. The Series 2021 Bonds shall be made available to the Underwriter at least one business day before the Closing Date for purposes of inspection.

## 9. CONDITIONS PRECEDENT.

The Underwriter has entered into this Purchase Agreement in reliance upon the respective warranties, representations and agreements of the Authority and the University contained herein and the performance by the Authority and the University of their respective obligations hereunder,

both as of the date hereof and as of the Closing Date. The Underwriter's obligations under this Purchase Agreement are and shall be subject to the following further conditions:

(a) The respective representations and warranties of the Authority and the University contained herein shall be true, complete and correct in all material respects on the date of acceptance hereof and on and as of the Closing Date.

(b) At the time of the Closing, the Official Statement, the Resolution, the Authority Documents and the University Documents shall be in full force and effect and shall not have been amended, modified or supplemented except as may have been agreed to in writing by the Underwriter.

(c) The Authority shall perform or have performed all of its obligations required under or specified in the Resolution, the Authority Documents and the Official Statement to be performed at or prior to the Closing.

(d) The University shall perform or have performed all of its obligations required under or specified in the Resolution, the University Documents and the Official Statement to be performed at or prior to the Closing.

(e) The Authority and the University shall have delivered to the Underwriter final Official Statements by the time, and in the numbers, required by Section 3 of this Purchase Agreement.

(f) As of the date hereof and at the time of Closing, all necessary official action of the Authority and the University relating to the Authority Documents, the University Documents and the Official Statement shall have been taken and shall be in full force and effect and shall not have been amended, modified or supplemented in any material respect.

(g) After the date hereof, up to and including the time of the Closing, there shall not have occurred any change in or particularly affecting the Authority, the University, the Act, the Resolution, the Authority Documents, the University Documents or the security for the Series 2021 Bonds as the foregoing matters are described in the Preliminary Official Statement and the Official Statement, which in the reasonable professional judgment of the Underwriter materially impairs the investment quality of the Series 2021 Bonds.

(h) At or prior to the Closing, the Underwriter shall receive the following documents (in each case with only such changes as the Underwriter shall approve):

i. The approving opinion of Bond Counsel relating to the Series 2021 Bonds, dated the Closing Date, substantially in the form attached as Appendix E to the Official Statement, and, if not otherwise directly addressed to the Underwriter, a reliance letter with respect thereto addressed to the Underwriter;

ii. The supplemental opinion of Bond Counsel, addressed to the Authority and the Underwriter, dated the Closing Date, to the effect that the statements contained in the Preliminary Official Statement and the Official Statement in the sections captioned

“INTRODUCTORY STATEMENT,” “THE AUTHORITY,” “THE SERIES 2021 PROJECT,” “DESCRIPTION OF THE SERIES 2021 BONDS” (excluding the subsections captioned “Book-Entry-Only System”), “SECURITY FOR THE SERIES 2021 BONDS,” “CONTINUING DISCLOSURE,” “LEGALITY FOR INVESTMENT,” “PLEDGE OF STATE NOT TO AFFECT RIGHTS OF BONDHOLDERS” and in APPENDIX C – “FORMS OF CERTAIN LEGAL DOCUMENTS” and in APPENDIX D – “FORM OF CONTINUING DISCLOSURE AGREEMENT” thereto, insofar as such statements purport to summarize certain provisions of the Act, the Series 2021 Bonds, the Resolution, the Indenture, the Lease Agreement and the Disclosure Agreement are fair and accurate summaries of such provisions, and the statements on the cover page relating to tax matters and under the section in the Preliminary Official Statement and the Official Statement captioned “TAX MATTERS,” insofar as such statements purport to summarize certain provisions of tax law, regulations, rulings and notices, are fair and accurate summaries of the provisions so summarized; (B) based upon the participation of Bond Counsel in the preparation of the Preliminary Official Statement and the Official Statement and without having undertaken to determine independently the accuracy or completeness of the statements contained in the Preliminary Official Statement and the Official Statement (except for the sections referred to specifically in clause (A) above), Bond Counsel has no reason to believe that, as of the date of the Official Statement and as of the date of Closing, the Preliminary Official Statement and the Official Statement (except for the financial, tabular and other statistical information included therein and except for the information under the headings “DESCRIPTION OF THE SERIES 2021 BONDS-Book-Entry-Only System,” “LITIGATION,” “RATINGS,” “FINANCIAL ADVISOR TO THE AUTHORITY,” “FINANCIAL ADVISOR TO THE UNIVERSITY,” “UNDERWRITING,” “CERTAIN RELATIONSHIPS,” “INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS” and in “APPENDIX A – CERTAIN INFORMATION REGARDING THE WILLIAM PATERSON UNIVERSITY OF NEW JERSEY,” and “APPENDIX B – AUDITED FINANCIAL STATEMENTS OF THE WILLIAM PATERSON UNIVERSITY OF NEW JERSEY AS OF AND FOR THE YEARS ENDED JUNE 30, 2020 AND 2019” as to which no view need be expressed) contained or contains any untrue statement of a material fact or omitted or omits to state a material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading; (C) the Series 2021 Bonds are not required to be registered under the Securities Act of 1933, as amended, and the Resolution and the Indenture are not required to be qualified under the Trust Indenture Act of 1939, as amended; (D) this Purchase Agreement has been duly authorized, executed and delivered by the Authority, is valid and binding upon the Authority and is enforceable in accordance with its terms, except to the extent that the enforceability thereof may be limited by any applicable bankruptcy, moratorium or similar laws or equitable principles relating to the enforcement of creditors’ rights; and (E) the Official Statement has been duly approved and executed by the Authority.

iii. The Authority shall have received an opinion of the Attorney General of the State.

iv. An opinion of Counsel to the Underwriter, addressed to the Underwriter and dated the date of the Closing, substantially in the form of the opinion attached hereto as Exhibit D;

v. A certificate, dated the Closing Date, signed by an Authorized Officer of the Authority, to the effect that, except as disclosed in the Official Statement, no litigation is

pending or, to the knowledge of the signer of such certificate, threatened: (A) in any way attempting to restrain or enjoin the issuance, sale, execution or delivery of any of the Series 2021 Bonds, the application of the proceeds thereof, the payment, collection or application of payments under the Lease Agreement or the pledge thereof, or of the other moneys, rights and interest pledged pursuant to the Resolution or the Indenture, or the execution, delivery or performance of the Indenture, the Lease Agreement or this Purchase Agreement; (B) in any way contesting or otherwise affecting the authority for or the validity of the Series 2021 Bonds, the Indenture, the Lease Agreement or this Purchase Agreement, any of the matters referred to in clause (A) above or any other proceedings of the Authority taken with respect to the sale or issuance of the Series 2021 Bonds; (C) in any way contesting the powers of the Authority; or (D) in any way contesting the payment, collection or application of payments under the Lease Agreement or the pledge thereof pursuant to the Indenture;

vi. A certificate, dated the Closing Date, signed by an Authorized Officer of the Authority, to the effect that: (A) each of the representations and warranties of the Authority contained in this Purchase Agreement is true and correct in all material respects as of the Closing Date as though made at the Closing, the Authority has duly complied with all agreements and satisfied all conditions on its part to be performed or satisfied at or prior to the Closing Date, and no default or event of default (as defined in the Indenture and in the Lease Agreement) or event which with the lapse of time or the giving of notice or both, would constitute such an event of default has occurred and is continuing on the part of the Authority; and (B) there has been no material adverse change in the condition and affairs of the Authority, financial or otherwise, during the period from the date of the Official Statement to the Closing Date which was not disclosed in or contemplated by the Official Statement, such certificate being in form and substance satisfactory to the Underwriter;

vii. A certificate executed by an authorized officer of the University with respect to its affairs and matters relating to the documents or instruments to be executed, delivered, accepted or approved by it, addressed to the Underwriter and dated the Closing Date, in form and substance satisfactory to the Underwriter, to the effect that (A) the descriptions and information contained in the Preliminary Official Statement and the Official Statement under the headings “INTRODUCTORY STATEMENT,” “DESCRIPTION OF THE SERIES 2021 BONDS” (excluding the subsections captioned “Book-Entry-Only System”), “THE SERIES 2021 PROJECT,” “ESTIMATED SOURCES AND USES OF FUNDS,” “SECURITY FOR THE SERIES 2021 BONDS,” “ESTIMATED ANNUAL DEBT SERVICE REQUIREMENTS,” “LITIGATION – The University,” “RATINGS,” “CONTINUING DISCLOSURE,” “OTHER LEGAL MATTERS,” “INDEPENDENT AUDITORS” and “MISCELLANEOUS” and in Appendices A and B, as of their respective dates and on the Closing Date, are true and correct in all material respects; (B) the descriptions and information in clause (A) above as of the date of the Preliminary Official Statement and the Official Statement did not, and as of the Closing Date do not, contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading; (C) since June 30, 2020, no material adverse change has occurred in the financial position of the University or in its results of operations, except as set forth in or contemplated by the Preliminary Official Statement and the Official Statement; (D) the University has not, since June 30, 2020, incurred any material liabilities other than in the ordinary course of business or as

set forth or contemplated in the Preliminary Official Statement and the Official Statement; (E) no litigation or proceeding is pending or, to the best of such officer's knowledge, threatened in any court, tribunal or administrative body, nor is there any basis for any litigation which would (1) contest the due organization, corporate existence or corporate powers of the University, (2) contest or affect the validity or execution of the University Documents, this Purchase Agreement or any other agreement, certificate, document or instrument, (3) limit, enjoin or prevent the University from making payments under the Lease Agreement, or (4) restrain or enjoin the execution or delivery of this Purchase Agreement and/or any of the University Documents; (F) the representations and warranties of the University in this Purchase Agreement and the University Documents have remained true and correct in all material respects from the date thereof through the Closing Date and are true and correct in all material respects as of the Closing Date as though made at the Closing; (G) at the time of the Closing, on the part of the University, no default or event of default has occurred and is continuing, and no event has occurred and is continuing which, with the lapse of time or the giving of notice, or both, would constitute a default or an event of default under any of the University Documents, the Series 2021 Bonds, this Purchase Agreement or any other material agreement or material instrument which the University is a party or by which it is or may be bound or to which any of its properties or other assets is or may be subject; (H) the resolutions of the Board of Trustees of the University authorizing and approving the transactions described or contemplated in this Purchase Agreement, the University Documents, the Preliminary Official Statement and the Official Statement, and the execution of or approval of, as the case may be, the respective forms of this Purchase Agreement and each of the University Documents have been duly adopted by the Board of Trustees of the University, are in full force and effect and have not been modified, amended or re-pealed; (I) the executed copies of this Purchase Agreement and each of the University Documents are true, correct and complete copies of such documents and have not been modified, amended, superseded or rescinded, and remain in full force and effect as of the date of the Closing; (J) this Purchase Agreement, the University Documents, the Preliminary Official Statement, the Official Statement and any and all other agreements, certificates, documents and instruments required to be executed and delivered by the University in order to carry out, to give effect to and to consummate the transactions contemplated by this Purchase Agreement and by the Official Statement have been duly authorized, executed and delivered by the University, and, as of the date of the Closing, are in full force and effect; (K) no further authorization, approval, consent or other order of any governmental authority or agency or of any other entity or person (or persons) is required for the adoption, authorization, execution and delivery of, or performance un-der, the University Documents, the Official Statement or any other agreement, certificate, document or instrument to which the University is a party and which is used in the consummation of the transactions contemplated by this Purchase Agreement and the Official Statement; (L) the authorization, execution and delivery of the University Documents, the Official Statement, this Purchase Agreement and any other agreement, certificate, document or instrument to which the University is a party and which is used in consummation of the transactions contemplated by this Purchase Agreement and the fulfillment of the terms and the provisions of such agreements, certificates, documents and instruments by the University will not (1) conflict with, violate or result in a breach of any law or any administrative regulation or decree applicable to the University or (2) conflict with or result in a breach of or constitute a default under any indenture, mortgage, deed of trust, agreement or other instrument to which the University is a party or by which it is bound or any order, rule or regulation applicable to the University of any court or other governmental body; and (M) except as may be disclosed in the Official Statement, the

University is in compliance with all of its prior continuing disclosure undertakings entered into pursuant to the Rule;

viii. The Authority shall have received: (i) consent letters from Baker Tily, LLP (the “Auditor”) dated the date of the Preliminary Official Statement and the Official Statement, respectively, stating that the Auditor agrees to the inclusion of its report regarding the financial statements of the University contained in APPENDIX B to the Preliminary Official Statement and the Official Statement, respectively, (ii) on the date of the Preliminary Official Statement, a privity letter from the Auditor in a form acceptable to the Attorney General of the State of New Jersey and Bond Counsel, addressed to the University and copied to the Authority, which acknowledges that the Authority intends to rely on its financial statements in connection with the issuance of the Series 2021 Bonds and waiving the provisions of *N.J.S.A. 2A:53A-25* with respect to its professional accounting services;

ix. Specimen Series 2021 Bonds;

x. [evidence that \_\_\_\_\_. (the “Insurer”) has issued its municipal bond insurance policy (the “Policy”) with respect to the Series 2021 Bonds as well as appropriate opinions and certifications from the Insurer relating to the Policy;]

xi. evidence that Fitch Ratings (“Fitch”) and Moody’s Investors Service, Inc. (“Moody’s”), have assigned to the Series 2021 Bonds (i) underlying ratings of not less than “\_\_\_” and “\_\_\_,” respectively, [ and (ii) Fitch and Moody’s have assigned to the Series 2021 Bonds a rating of “\_\_\_” and “\_\_\_,” respectively, based on issuance of the Policy; ]

xii. Form 8038-G, for the Series 2021 Bonds, executed by the Authority;

xiii. Executed or certified copies of the Authority Documents and the University Documents;

xiv. An executed Letter of Representations to DTC from the Authority, as accepted and received by such organization;

xv. Evidence of either (A) the approval by the Governor of the State of New Jersey (the “Governor”) of the minutes of the Authority authorizing the adoption of the Resolution by the Authority and the sale of the Series 2021 Bonds pursuant thereto and the transactions contemplated hereby or (B) expiration of the period during which the Governor may veto such action by the Authority and the absence of any such veto;

xvi. An opinion of counsel to the Trustee dated the Closing Date stating that (a) the Trustee is a state banking association organized and existing under the laws of the State of New York, with trust and fiduciary powers in the State and qualified to accept and administer the trusts, (b) the Trustee is duly authorized and empowered to discharge the duties and responsibilities imposed upon it under the provisions of and to accept the trusts contemplated by the Indenture and the Disclosure Agreement (the “Bank Documents”); (c) the Trustee has duly accepted the trusts contemplated by the Bank Documents; (d) the Trustee has duly (i) authorized all necessary action to be taken by it for the performance of its duties and responsibilities under the Bank Documents,

(ii) executed and delivered the Bank Documents and (iii) authenticated and delivered the Series 2021 Bonds; (e) the Bank Documents are legal, valid and binding obligations of the Trustee and, assuming the due authorization, execution and delivery thereof by the other parties thereto, are enforceable against the Trustee in accordance with their respective terms except as such enforceability may be limited by bankruptcy, insolvency, reorganization or other similar laws, judicial decisions and principles of equity relating to or affecting the rights of creditors generally; (f) the duties and responsibilities of the Trustee under the Bank Documents do not require authorization or approval of any federal or New Jersey banking regulatory agency having jurisdiction over the Trustee which have not been obtained; and (g) neither the consummation of the transactions on the part of the Trustee contemplated by the Bank Documents nor compliance with the terms, conditions or provisions thereof, contravenes any provision of the Trustee's Charter or by-laws;

xvii. The Official Statement, executed on behalf of the Authority by an Authorized Officer and executed on behalf of the University by an authorized officer of the University;

xviii. A certified copy of the Resolution;

xix. A copy of a Blue Sky Memorandum with respect to the Series 2021 Bonds;

xx. Certificates, dated the Closing Date, of authorized officers of the Trustee and the University and such additional documentation of organization, authority and incumbency as may be reasonably satisfactory to the Underwriter and Bond Counsel;

xxi. Certified copies of the resolutions of the Board of Trustees of the University relating to the Series 2021 Bonds, and executed copies of the Lease Agreement and the Disclosure Agreement, all in form and substance satisfactory to the Underwriter; and

xxii. Such additional legal opinions, certificates, proceedings, instruments and other documents as the Underwriter, Counsel to the Underwriter or Bond Counsel may reasonably request to evidence compliance by the Authority and the University with legal requirements, the truth and accuracy, as of the time of the Closing, of the representations and warranties of the Authority and the University herein and in the Resolution and the Indenture contained and the due performance or satisfaction by the Authority and the University at or prior to such time of all agreements then to be performed and all conditions then to be satisfied by the Authority and the University.

#### 10. TERMINATION.

If the Authority or the University shall be unable to satisfy the conditions of the Underwriter's obligations contained in this Purchase Agreement or if the Underwriter's obligations shall be terminated for any reason permitted by this Purchase Agreement, this Purchase Agreement may be cancelled by the Underwriter at, or at any time before, the time of the Closing. Notice of such cancellation shall be given by the Underwriter to the Authority and the University in writing, or by telephone confirmed in writing. The performance by the Authority of any and all conditions

contained in this Purchase Agreement for the benefit of the Underwriter may be waived by the Underwriter.

(a) The Underwriter shall also have the right, before the time of Closing, to cancel their obligations to purchase the Series 2021 Bonds, by written notice by the Underwriter to the Authority and the University, if between the date hereof and the time of Closing:

(i) Any event or circumstance occurs or information becomes known, which, in the professional judgment of the Underwriter, makes untrue any statement of a material fact set forth in the Preliminary Official Statement or the Official Statement or results in an omission to state a material fact necessary to make the statements made therein, in the light of the circumstances under which they were made, not misleading; or

(ii) The market for the Series 2021 Bonds or the market prices of the Series 2021 Bonds or the ability of the Underwriter to enforce contracts for the sale of the Series 2021 Bonds shall have been materially and adversely affected, in the professional judgment of the Underwriter, by:

(1) An amendment to the Constitution of the United States or the State shall have been passed or legislation shall have been introduced in or enacted by the Congress of the United States or the legislature of any state having jurisdiction of the subject matter or legislation pending in the Congress of the United States shall have been amended or legislation (whether or not then introduced) shall have been recommended to the Congress of the United States or to any state having jurisdiction of the subject matter or otherwise endorsed for passage (by press release, other form of notice or otherwise) by the President of the United States, the Treasury Department of the United States, the Internal Revenue Service or the Chairman or ranking minority member of the Committee on Finance of the United States Senate or the Committee on Ways and Means of the United States House of Representatives, or legislation shall have been proposed (whether or not then introduced) for consideration by either such Committee by any member thereof or presented as an option for consideration (whether or not then introduced) by either such Committee by the staff of such Committee or by the staff of the joint Committee on Taxation of the Congress of the United States, or legislation shall have been favorably reported for passage to either House of the Congress of the United States by a Committee of such House to which such legislation has been referred for consideration, or a decision shall have been rendered by a court of the United States or of the State or the Tax Court of the United States, or a ruling shall have been made or a regulation or temporary regulation shall have been proposed or made or any other release or announcement shall have been made by the Treasury Department of the United States, the Internal Revenue Service or other federal or State authority, with respect to federal or State taxation upon revenues or other income of the general character to be derived by the Authority or upon interest received on obligations of the general character of the Series 2021 Bonds which, in the judgment of the Underwriter, may have the purpose or effect, directly or, indirectly, of affecting the tax status of the University, its property or income, its

securities (including the Series 2021 Bonds) or the interest thereon, or any tax exemption granted or authorized by State legislation; or

(2) The declaration of war or engagement in or escalation of military hostilities by the United States or the occurrence of any other national emergency or calamity or terrorism affecting the operation of the government of, or the financial community in, the United States; or

(3) The declaration of a general banking moratorium by federal, New York or the State authorities; or

(4) The occurrence of a major financial crisis, a material disruption in commercial banking or securities settlement or clearance services, or a material disruption or deterioration in the fixed income or municipal securities market; or

(5) Additional material restrictions not in force or being enforced as of the date hereof shall have been imposed upon trading in securities generally by any governmental authority or by any national securities exchange; or

(6) The general suspension of trading on any national securities exchange; or

(iii) Legislation enacted, introduced in the Congress or recommended for passage (whether or not then introduced) by the President of the United States, or a decision rendered by a court established under Article III of the Constitution of the United States or by the Tax Court of the United States, or an order, ruling, regulation (final, temporary or proposed) or official statement issued or made by or on behalf of the SEC, or any other governmental agency having jurisdiction of the subject matter shall have been made or issued to the effect that the Series 2021 Bonds, other securities of the University or obligations of the general character of the Series 2021 Bonds are not exempt from registration under the 1933 Act, or that the Indenture is not exempt from qualification under the Trust Indenture Act; or

(iv) Any change in or particularly affecting the Authority, the University the Act, the Resolution, the Authority Documents, the University Documents or the security for the Series 2021 Bonds as the foregoing matters are described in the Preliminary Official Statement or the Official Statement, which in the professional judgment of the Underwriter materially impairs the investment quality of the Series 2021 Bonds; or

(v) An order, decree or injunction of any court of competent jurisdiction, issued or made to the effect that the issuance, offering or sale of obligations of the general character of the Series 2021 Bonds, or the issuance, offering or sale of the Series 2021 Bonds, including any or all underlying obligations, as contemplated hereby or by the Preliminary Official Statement or the Official Statement, is or would be in violation of any applicable law, rule or regulation, including (without limitation) any provision of applicable federal securities laws as amended and then in effect; or

(vi) A stop order, ruling, regulation or official statement by the SEC or any other governmental agency having jurisdiction of the subject matter shall have been issued or made or any other event occurs, the effect of which is that the issuance, offering or sale of the Series 2021 Bonds, or the execution and delivery of any of the Authority Documents or the University Documents, as contemplated hereby or by the Preliminary Official Statement or the Official Statement, is or would be in violation of any applicable law, rule or regulation, including (without limitation) any provision of applicable federal securities laws, including the 1933 Act, the Securities Exchange Act of 1934 or the Trust Indenture Act, each as amended and as then in effect; or

(vii) Any change or any development involving a prospective change in or affecting the business, properties or financial condition of the University, except for changes which the Preliminary Official Statement and Official Statement discloses are expected to occur.

(viii) Any litigation shall be instituted or be pending at the time of the Closing to restrain or enjoin the issuance, sale or delivery of the Series 2021 Bonds, or in any way contesting or affecting any authority for or the validity of the proceedings authorizing and approving the Act, the Resolution, the Authority Documents, University Documents or the existence or powers of the University with respect to its obligations thereunder; or

(ix) A reduction or withdrawal in any of the following assigned ratings, or, as of the Closing Date, the failure by any of the following rating agencies to assign the following ratings, to the Series 2021 Bonds: the long-term ratings assigned by Fitch and Moody's.

#### 11. INDEMNIFICATION.

(a) The University shall indemnify and hold harmless, to the extent permitted by law, the Authority, the Underwriter and their respective directors, officers, employees and agents and each person who controls the Underwriter within the meaning of Section 15 of the 1933 Act (any such person being therein sometimes called an "Indemnatee"), against any and all losses, claims, damages or liabilities, joint or several, (a) to which any such Indemnatee may become subject, under any statute or regulation at law or in equity or otherwise, insofar as such losses claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any untrue statement of a material fact set forth in the Preliminary Official Statement or the Official Statement or any amendment or supplement to either, or arise out of or are based upon the omission to state therein a material fact which is necessary in order to make the statements made therein, in the light of the circumstances in which they were made, not misleading, except such indemnification shall not extend to statements in the Preliminary Official Statement or the Official Statement based upon information relating to the Authority (in the case of the Authority) furnished to the University in writing by the Authority expressly for use therein, or (in the case of the Underwriter) under the caption "UNDERWRITING," and (b) to the extent of the aggregate amount paid in any settlement of any litigation commenced or threatened arising from a claim based upon any such untrue statement or omission if such settlement is effected with the written consent of the University (which consent shall not be unreasonably withheld); and will reimburse any legal or other expenses reasonably incurred by any such Indemnatee in connection with investigating or defending any such loss, claim, damage, liability or action. This indemnity agreement shall not be construed as a limitation on any other liability which the University may otherwise have to any Indemnatee.

(b) The Underwriter shall indemnify and hold harmless, to the extent permitted by law, the Authority and the University and their respective directors, officers, members, employees and agents and each person who controls the Authority and the University within the meaning of Section 15 of the 1933 Act, against any and all losses, claims, damages or liabilities, joint or several, to which such Authority or the University indemnitee may become subject under any statute or at law or in equity or otherwise, and shall promptly reimburse any such indemnitee for any reasonable legal or other expenses incurred by it in connection with investigating any claims against it and defending any actions, but only to the extent that such losses, claims, damages, liabilities or actions arise out of or are based upon any untrue statement of a material fact contained in, or the omission to state therein a material fact necessary to make the statements therein in light of the circumstances under which they were made not misleading, the Preliminary Official Statement or the Official Statement, or any amendment or supplement thereof, under the caption “UNDERWRITING.” This indemnity agreement shall not be construed as a limitation on any other liability which the Underwriter may otherwise have to any indemnitee. The liability of any Underwriter obligations under this Section 11 shall not exceed the amount of its *pro rata* compensation under this Purchase Agreement.

(c) For purposes of subsection (a) or (b) above, an “Indemnified Party” means an Underwriter indemnitee, Authority indemnitee, or a University indemnitee as the context dictates and an “Indemnifying Party” means the University or an Underwriter who is under the obligation to indemnify an Indemnified Party under this Section 11. An Indemnified Party shall, promptly after the receipt of notice of the commencement of any action against such Indemnified Party in respect of which indemnification may be sought against an Indemnifying Party, notify the Indemnifying Party in writing of the commencement thereof, but the omission to notify the Indemnifying Party of any such action shall not relieve the Indemnifying Party from any liability that it may have to such Indemnified Party otherwise than under the indemnity agreement contained herein. In case any such action shall be brought against an Indemnified Party and such Indemnified Party shall notify the Indemnifying Party of the commencement thereof, the Indemnifying Party may, or if so requested by such Indemnified Party shall, participate therein or assume the defense thereof, with counsel satisfactory to such Indemnified Party, and after notice from the Indemnifying Party to such Indemnified Party of an election so to assume the defense thereof, the Indemnifying Party will not be liable to such Indemnified Party under this paragraph for any legal or other expenses subsequently incurred by such Indemnified Party in connection with the defense thereof other than reasonable costs of investigation. If the Indemnifying Party shall not have employed counsel to manage the defense of any such action or if the Indemnified Party shall have reasonably concluded that there may be defenses available to it or them that are different from or additional to those available to the Indemnifying Party (in which case the Indemnifying Party shall not have the right to direct the defense of such action on behalf of such Indemnified Party), such Indemnified Party shall have the right to retain legal counsel of its own choosing and the reasonable legal and other expenses incurred by such Indemnified Party shall be borne by the Indemnifying Party.

An Indemnifying Party shall not be liable for any settlement of any such action effected without its consent by any Indemnified Party, which consent shall not be unreasonably withheld, but if settled with the consent of the Indemnifying Party or if there be a final judgment for the plaintiff in any such action against the Indemnifying Party or any Indemnified Party, with or

without the consent of the Indemnifying Party, the Indemnifying Party agrees to indemnify and hold harmless such Indemnified Party to the extent provided herein.

(d) If the indemnification provided for in this Section is unavailable or insufficient to hold harmless an Indemnified Party under subsection (a) or (b) above, then each Indemnifying Party shall contribute to the amount paid or payable by such Indemnified Party as a result of the losses, claims, damages, liabilities or expenses referred to in subsection (a) or (b) above (i) in such proportion as is appropriate to reflect the relative benefits received by the University on the one hand and the Underwriter on the other from the offering of the Series 2021 Bonds or (ii) if the allocation provided by clause (i) above is not permitted by applicable law in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the University and the Underwriter in connection with the statements or omissions which resulted in such losses, claims, damages, liabilities or expenses as well as any other relevant equitable considerations. The relative benefits received by the University on the one hand and the Underwriter on the other shall be deemed to be in the same proportion as the total net proceeds from the offering (before deducting expenses) received by the University relative to the total underwriting discounts and commissions received by the Underwriter. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied the Underwriter and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such untrue statement or omission. The amount paid by an Indemnified Party as a result of the losses, claims, damages, liabilities or expenses referred to in the first sentence of this subsection (d) shall be deemed to include any legal or other expenses reasonably incurred by such Indemnified Party in connection with investigating or defending any action or claim which is the subject to this subsection (d). Notwithstanding the provisions of this subsection (d), the Underwriter shall not have any obligation under this subsection (d) to contribute an amount in excess of the amount of its compensation under this Purchase Agreement. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the 1933 Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriter's obligations in this subsection (d) to contribute are several in proportion to their respective underwriting obligations and not joint.

## 12. AMENDMENTS TO OFFICIAL STATEMENT.

During the period commencing on the Closing Date and ending 25 days from the end of the underwriting period, the Authority and the University shall advise the Underwriter if any event relating to or affecting the Official Statement shall occur as a result of which it may be necessary or appropriate to amend or supplement the Official Statement in order to make the Official Statement not misleading in light of the circumstances existing at the time it is delivered to a purchaser or "potential customer" (as defined for purposes of Rule 15c2-12). If the Official Statement is supplemented or amended, at the time of each supplement or amendment thereto and at all times subsequent thereto up to and including that date that is 25 days from the end of the "underwriting period" (as defined in Rule 15c2-12), the Official Statement as supplemented or amended will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading and shall amend or supplement the

Official Statement (not to exceed 250 copies and in form and substance satisfactory to counsel for the Underwriter) so that the Official Statement will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The cost of any copies of such amendment or supplement to the Official Statement in excess of 250 shall be borne by the Underwriter.

For purposes of this Section 12, the Authority will furnish such information that the Underwriter may from time to time reasonably request with respect to itself or the University, and the University will cooperate with the Authority in furnishing such information.

13. USE OF DOCUMENTS.

The Authority and the University hereby authorize the Underwriter to use, in connection with the public offering and sale of the Series 2021 Bonds, this Purchase Agreement, the Preliminary Official Statement, the Official Statement, the Authority Documents and the University Documents, and the information contained herein and therein.

14. QUALIFICATION OF SECURITIES.

The Authority and the University will furnish such information, execute such instruments and take such other action in cooperation with the Underwriter may reasonably request to qualify the Series 2021 Bonds for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States as the Underwriter may designate and to provide for the continuance of such qualification; *provided, however*, that neither the Authority nor the University will not be required to qualify as a foreign corporation or to file any general or special consents to service of process under the laws of any state.

15. NOTICES.

Any notice or other communication to be given to the Authority or the University under this Purchase Agreement may be given by delivering the same in writing to the Authority or the University, as applicable, at their respective addresses set forth on the first page hereof, and any such notice or other communication to be given to the Underwriter may be given by delivering the same in writing to BofA Securities, Inc., c/o Ted O. Matozzo, Vice President, Public Finance Investment Banking, Four Penn Center, Suite 1210, Philadelphia, PA 19103.

16. BENEFIT.

This Purchase Agreement is made solely for the benefit of the Authority or the University and the Underwriter (including their successors or assigns) and no other person, partnership, association or corporation shall acquire or have any right hereunder or by virtue hereof. Except as otherwise expressly provided herein, all of the agreements and representations of the Authority and the University contained in this Purchase Agreement and in any certificates delivered pursuant hereto shall remain operative and in full force and effect regardless of: (i) any investigation made by or on behalf of the Underwriter; (ii) delivery of and payment for the Series 2021 Bonds hereunder; or (iii) any termination of this Purchase Agreement, other than pursuant to Section 10 (and in all events the agreements of the Authority pursuant to Sections 5(i) and 11 hereof shall

remain in full force and effect notwithstanding the termination of this Purchase Agreement under Section 10 hereof).

17. GOVERNING LAW. This Purchase Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey without regard for conflict of law principles.

18. WAIVER OF JURY TRIAL. THE AUTHORITY AND THE UNIVERSITY HEREBY IRREVOCABLY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS PURCHASE AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

19. MISCELLANEOUS.

(a) This Purchase Agreement contains the entire agreement between the parties relating to the subject matter hereof and supersedes all oral statements, prior writings and representations with respect thereto.

(b) This Purchase Agreement may be executed in several counterparts, each of which shall be deemed an original hereof.

20. COMPLIANCE WITH L. 2005, C. 271 REPORTING REQUIREMENTS.

The Underwriter is advised of its responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (“ELEC”) pursuant to N.J.S.A. 19:44A-20.13 (L. 2005, c. 271, section 3) if the Underwriter enters into agreements or contracts such as this Purchase Agreement, with a public entity, such as the Authority, and receives compensation or fees in excess of \$50,000 or more in the aggregate from public entities, such as the Authority, in a calendar year. It is the Underwriter’s responsibility to determine if filing is necessary. Failure to so file can result in the imposition of financial penalties by ELEC. Additional information about this requirement is available from ELEC at 888-313-3532 or at [www.elec.state.nj.us](http://www.elec.state.nj.us).

By:

**BOFA SECURITIES, INC.,**  
as Representative of the Underwriter

By: \_\_\_\_\_  
Name: Ted O. Matozzo  
Title: Director

Accepted and agreed to as of the  
date first above written:

**NEW JERSEY EDUCATIONAL FACILITIES  
AUTHORITY**

By: \_\_\_\_\_  
Name: Eric D. Brophy, Esq.  
Title: Executive Director

**THE WILLIAM PATERSON UNIVERSITY OF NEW JERSEY**

By: \_\_\_\_\_  
Name: Stephen O. Bolyai  
Title: Vice President for Administration and Finance

**SCHEDULE I**

\$ \_\_\_\_\_

**New Jersey Educational Facilities Authority  
Revenue Bonds, The William Paterson University of New Jersey Issue,  
Series 2021 C**

<b><u>Maturity Date (July 1)</u></b>	<b><u>Principal Amount</u></b>	<b><u>Interest Rate</u></b>	<b><u>Yield</u></b> *	<b><u>Price</u></b> *	<b><u>CUSIP</u></b> <sup>†</sup>
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\* Priced\_\_.

<sup>†</sup> None of the Authority, the University, or the Underwriter is responsible for the use of CUSIP Numbers, nor is a representation made as to their correctness. The CUSIP Numbers are included solely for the convenience of the readers of this Purchase Agreement and are copyright 2020 by the American Bankers Association. CUSIP data herein is provided by CUSIP Global Services, which is managed on behalf of the American Bankers Association by S&P Global Market Intelligence. This data is not intended to create a database and does not serve in any way as a substitute for the CUSIP services.

## Redemption Provisions

[The Series 2021 Bonds are subject to optional redemption, extraordinary optional redemption and mandatory sinking fund redemption, as applicable and as described below.

### Optional Redemption

The Series 2021 Bonds maturing on or after July 1, \_\_\_\_\_ are subject to optional redemption on any date on or after July 1, \_\_\_\_\_ at the option of the Authority with the written consent of the University, in whole or in part, at a redemption price equal to 100% of the principal amount to be redeemed, together with accrued interest to the date of redemption.

### Extraordinary Optional Redemption

The Series 2021 Bonds shall be subject to redemption prior to maturity, in whole or in part at the option of the Authority, upon the written direction of the University, at any time, and from time to time, with written notice to the University, at a redemption price equal to 100% of the principal amount thereof, plus accrued interest thereon to the redemption date, without redemption premium, in the event that any one or more of the following events shall have occurred: (i) title to, or the temporary use of, all or a material portion of the Project Facilities (as defined in the Lease Agreement) shall have been taken under the exercise of the power of eminent domain by, or sold in lieu thereof to, any governmental authority or person, firm or corporation acting under governmental authority, which taking or sale prevents or is likely to prevent the carrying on of normal operations of the Project Facilities for a period of at least twelve months; or (ii) the Project Facilities are rendered untenable or unusable in the normal operations of the University by any cause whatsoever, including, but not limited to, a hazard against which insurance is required to be maintained in accordance with the Lease Agreement.

### Mandatory Sinking Fund Redemption

The Series 2021 Bonds maturing on July 1, \_\_\_ shall be retired by sinking fund installments, which shall be accumulated in the Debt Service Fund, at a redemption price equal to 100% of the principal amount redeemed, plus accrued interest thereon to the redemption date. The sinking fund installments shall be sufficient to redeem the principal amount of the Series 2021 Bonds on July 1 in each of the years and in the principal amounts as follows:

<u>Year</u>	<u>Amount</u>
	\$

\*Final maturity

The Series 2021 Bonds subject to mandatory sinking fund redemption are subject, however, to the provision that the principal amount of any partial redemption of the Series 2021 Bonds pursuant to any optional redemption (the "Prior Non-Mandatory Redemptions") shall at the election of the Authority, with the consent of the University, be credited against and reduce the

obligation of the Authority to effect mandatory scheduled sinking fund redemption requirements for the Series 2021 Bonds. Such election shall be exercised by delivery to the Trustee of written notice from the Authority, with the consent of the University, that the Authority elects to credit Prior Non-Mandatory Redemptions that have not been previously credited against mandatory sinking fund redemption requirements for the Series 2021 Bonds, which notice shall designate the mandatory sinking fund redemption installments to be reduced by date and the principal amount of such reductions.]

**Exhibit B**

**L. 2005, c. 51 AND EXECUTIVE ORDER NO. 117 CERTIFICATION OF NO CHANGE**

Reference is hereby made to that certain Bond Purchase Agreement, dated \_\_\_\_\_, 2021 (the “Bond Purchase Agreement”), by and among BofA Securities, Inc., as Underwriter (the “Underwriter”), the New Jersey Educational Facilities Authority (the “Authority”) and The William Paterson University of New Jersey ( the University”), relating to the Authority’s Revenue Bonds, The William Paterson University of New Jersey Issue, Series 2021 C, in the aggregate principal amount of \$\_\_\_\_\_ (the “Series 2021 Bonds”).

I, Ted O. Matozzo, Vice President of BofA Securities, Inc., as Underwriter, the “Underwriter”) identified in the Bond Purchase Agreement, hereby certify that all information, certifications and disclosure statements previously provided by the Underwriter in connection with L. 2005, c.51 and Executive Order No. 117 (Corzine 2008) and as required by law, are true and correct as of the date hereof and that all such statements have been made with full knowledge that the Authority and the State of New Jersey will rely upon the truth of the statements contained herein and in the Bond Purchase Agreement in engaging the Underwriter in connection with the sale and issuance of the Series 2021 Bonds.

IN WITNESS WHEREOF, I have executed this Certificate this \_\_\_\_ day of \_\_\_\_, 2021.

**BOFA SECURITIES, INC., the Underwriter**

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

Name: Ted O. Matozzo

Title: Vice President



(e) *Sale Date* means the first day on which there is a binding contract in writing for the sale of a Maturity of the Bonds. The Sale Date of the Bonds is \_\_\_\_\_, 2021.

(f) *Underwriter* means (i) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph to participate in the initial sale of the Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents the Underwriter's interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer and The William Paterson University of New Jersey (the "University") with respect to certain of the representations set forth in their respective Tax Certificates and with respect to compliance with the federal income tax rules affecting the Bonds, and by GluckWalrath LLP in connection with rendering its opinion that the interest on the Bonds is excluded from gross income for federal income tax purposes, the preparation of Internal Revenue Service Form 8038, and other federal income tax advice it may give to the Issuer and the University from time to time relating to the Bonds. The representations set forth herein are not necessarily based on personal knowledge and, in certain cases, the undersigned is relying on representations made by the other members of the Underwriting Group.

Very truly yours,

**BOFA SECURITIES, INC., the Underwriter**

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

Name: Ted O. Matozzo

Title: Vice President

Dated: \_\_\_\_\_, 2021

**SCHEDULE A**

**SALE PRICES OF THE GENERAL RULE MATURITIES**

**Exhibit D**  
**FORM OF COUNSEL TO THE UNDERWRITER'S OPINION**

\_\_\_\_\_, 2021

BofA Securities, Inc.  
Four Penn Center, Suite 1210  
Philadelphia, Pennsylvania 19103

Re: New Jersey Educational Facilities Authority Revenue Bonds, The William Paterson University of New Jersey Issue, Series 2021 C

We have acted as your counsel in connection with the offering and sale of the above-captioned bonds (the "Bonds") as contemplated under a Bond Purchase Agreement dated \_\_\_\_\_, 2021 (the "Bond Purchase Agreement"), by and among the New Jersey Educational Facilities Authority (the "Authority"), The William Paterson University of New Jersey (the "University"), and BofA Securities, Inc. (the "Underwriter"). Unless otherwise defined herein, capitalized terms have the meanings ascribed to them in the Bond Purchase Agreement.

In connection with our engagement, we have examined originals or copies, certified or otherwise identified to our satisfaction as being true copies, of the documents delivered on this date pursuant to the Bond Purchase Agreement, and such other matters and law as we deemed necessary. We have also reviewed, and believe you may reasonably rely upon, the opinions delivered to you today pursuant to the Bond Purchase Agreement, including the opinions delivered to you today by GluckWalrath, LLP, Bond Counsel.

Based upon the foregoing, we are of the opinion that:

1. The offer and sale of the Bonds is exempt from registration under the Securities Act of 1933, as amended, and the Indenture is not required to be qualified under the Trust Indenture Act of 1939, as amended.
2. The Disclosure Agreement complies with the requirements of paragraph (b)(5) of Rule 15c2-12 promulgated pursuant to the Securities Exchange Act of 1934, as amended, in effect as of the date hereof.

We are not passing upon and do not assume any responsibility for the accuracy, completeness or fairness of any of the statements in the Preliminary Official Statement and the Official Statement and make no representation that we have independently verified the accuracy, completeness or fairness of any such statements. However, to assist the Underwriter in its investigation concerning the Preliminary Official Statement and the Official Statement, certain of our lawyers responsible for this matter have reviewed certain documents and have participated in teleconferences with you, the Authority, the University, its financial advisor, auditor and counsel, and Bond Counsel in which the contents of the Preliminary Official Statement and the Official

Statement and related matters were discussed. During the course of our work on this matter, nothing has come to our attention that causes us to believe that the Preliminary Official Statement, as of its date or the date of the Bond Purchase Agreement, or the Official Statement, as of its date or the date hereof, contained or contains any untrue statement of a material fact or omitted or omits to state any material fact necessary in order to make the statements made in the Preliminary Official Statement and the Official Statement, in light of the circumstances under which they were made, not misleading; provided, however, we express no opinion as to (a) expressions of opinion, assumptions, projections, financial statements, or other financial, numerical, economic, demographic, statistical or accounting data, or information or assessments of or reports on the effectiveness of internal control over financial reporting contained in the Preliminary Official Statement and the Official Statement, including in any Appendices thereto, (b) any information or statements relating to the book-entry-only system and The Depository Trust Company, or (c) the audited financial statements of the University included as Appendix B.

Reference in this letter to “our lawyers responsible for this matter” refers only to those lawyers now with this firm who rendered legal services in connection with our representation of you in this matter.

We are furnishing this letter to you solely for your benefit. We disclaim any obligation to update this letter. This letter is not to be used, circulated, quoted or otherwise referred to or relied upon by any other person. This letter is not intended to, and may not, be relied upon by holders of the Bonds or any party who is not the Underwriter.

Notwithstanding anything to the contrary contained herein, the undersigned acknowledges that this opinion is a government record subject to release under the Open Public Records Act (N.J.S.A. 47:1A-1 et seq.).

Very truly yours,

**LEASE AND AGREEMENT**

**BY AND BETWEEN**

**NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY**

**AND**

**THE WILLIAM PATERSON UNIVERSITY OF NEW JERSEY**

**DATED AS OF**

**MARCH 1, 2021**

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## LEASE AND AGREEMENT

### NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY TO THE WILLIAM PATERSON UNIVERSITY OF NEW JERSEY

THIS LEASE AND AGREEMENT (THIS “AGREEMENT”), MADE AS OF MARCH 1, 2021, BY AND BETWEEN THE NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY (THE “AUTHORITY”) AND THE WILLIAM PATERSON UNIVERSITY OF NEW JERSEY (THE “PUBLIC UNIVERSITY”)

#### WITNESSETH:

WHEREAS, the Public University has determined it is necessary and advisable to undertake a capital project consisting of (i) the renovation and equipping of the building located at 1800 Valley Road, for use by the School of Continuing Education and also to house a Child Development Center, (ii) the renovation and equipping of the Speert Hall dining room and other food service venues on the campus of the Public University, (iii) the renovation and equipping of the Carriage House to house a catering kitchen on the first floor and administrative offices on the second floor, (iv) the renovation and equipping of the University Commons, including replacement of granite walls and elevator lobby surrounds, (v) the renovation and equipping of various residence halls, including installation of kitchen counters, windows and screens at Pioneer and Heritage Halls, installation of a compressor and heat exchanger at High Mountain West Hall, renovation of bathrooms at White and Matelson Halls, façade restoration at White Hall, renovations to the cooling tower at Overlook South Hall, and interior renovations at the various residence halls, (vi) the demolition of Overlook North Residence Hall, and (vii) the replacement of the roof of the Power Arts Building (collectively, the “Series 2021 C Project”); and

WHEREAS, the Public University has requested that the Authority issue, and the Authority has determined that it is necessary and in keeping with its authorized purposes to issue, the hereinafter-defined Bonds for the purpose of providing funds to (i) pay the cost of the Series 2021 C Project, (ii) fund capitalized interest on the Bonds, if any, (iii) fund a debt service reserve fund for the Bonds, if any, and (iv) pay certain costs incidental to the issuance, sale and delivery of the Bonds (collectively, the “Project”); and

WHEREAS, pursuant to a Resolution duly adopted on January 26, 2021, the Authority determined that it was necessary and in keeping with its authorized purposes to authorize the issuance of a series of bonds to be designated “New Jersey Educational Facilities Authority Revenue Bonds, The William Paterson University of New Jersey Issue, Series 2021 C” (the “Bonds”) pursuant to the terms of a Trust Indenture dated as of March 1, 2021 (the “Indenture”) by and between the Authority and U.S. Bank National Association, as trustee, for the purpose of providing funds, together with other available funds, to finance all or a portion of the Project; and

WHEREAS, the repayment of the Bonds will be secured by this Agreement pursuant to which the Authority will lease the Leased Facilities (as hereinafter defined) to the Public

University; *provided*, that this Agreement shall be subject to certain provisions of the hereinafter defined Prior Agreements, as described herein; and

WHEREAS, in order to provide for the financing of the Project, it is necessary and desirable to enter into this Agreement relating to certain property, title to which the Public University has conveyed or caused to be conveyed to the Authority (as more fully described in Exhibit A attached hereto; and

WHEREAS, the Leased Facilities constitute a portion (but not all) of the Project Facilities (as hereinafter defined); and

WHEREAS, the Authority desires to let the Leased Facilities to the Public University and provide for the financing of the Project in accordance with the terms of this Agreement;

NOW, THEREFORE, in consideration of the rents, covenants and agreements herein reserved, mentioned and contained on the part of the Public University, its successors and assigns, to be paid, kept and performed, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Authority by these presents does lease, demise and let the Leased Facilities to the Public University, and the Public University does hereby consent to said leasing and hereby takes the Leased Facilities upon and subject to the conditions hereinafter expressed.

## ARTICLE I

### DEFINITIONS

#### SECTION 1.01 Definitions.

The words and terms used in this Agreement shall have the same meanings as set forth in Section 1.01 of the Indenture, and unless the context shall otherwise require, the following words and terms, as used in this Agreement shall mean:

**“Additional Lease Payments”** means the payments so designated and required to be made by the Public University pursuant to Section 4.06 hereof.

**“Administrative Expenses”** means those reasonable expenses of the Authority which are properly chargeable to the Public University on account of the Bonds and the Bond Documents as administrative expenses under GASB and include, without limiting the generality of the foregoing, the following: (a) fees and expenses of the Trustee and the Authority, including the Authority’s Initial Fee and Annual Administrative Fee; and (b) reasonable fees and expenses of counsel to the Authority and the Trustee.

**“Agreement”** means this Lease and Agreement dated as of March 1, 2021, executed by and between the Authority and the Public University, in connection with the issuance of the Bonds and relating to the Leased Facilities and the Project Facilities, as from time to time may be amended and supplemented by Supplemental Lease Agreements.

**“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 aggregate principal amount of each series of Bonds to commence on the Closing Date.

**“Applicable Environmental Laws”** means (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. 9601 *et seq.* (“CERCLA”); (ii) the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6901 *et seq.* (“RCRA”); (iii) the New Jersey Industrial Site Recovery Act, as amended, N.J.S.A. 13:1K-6 *et seq.* (“ISRA”); (iv) the New Jersey Spill Compensation and Control Act, as amended, N.J.S.A. 58:10-23.11b *et seq.* (“Spill Act”); (v) the New Jersey Underground Storage of Hazardous Substances Act, as amended, N.J.S.A. 58:10A-21 *et seq.* (“UST”); (vi) the New Jersey Solid Waste Management Act, as amended, N.J.S.A. 13:1E-1 *et seq.*; (vii) the New Jersey Toxic Catastrophe Prevention Act, as amended, N.J.S.A. 13:1K-19 *et seq.*; (viii) the New Jersey Water Pollution Control Act, as amended, N.J.S.A. 58:10A-1 *et seq.*; (ix) the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*; (x) the New Jersey Air Pollution Control Act, as amended, N.J.S.A. 26:2C-1 *et seq.*; and (xi) any and all federal, regional, State, county and local laws, regulations, executive orders, rules, ordinances, codes, guidance, consent decrees, orders, judgments and directives pertaining to pollution or protection of the Environment (including laws, regulations and other requirements relating to Environmental Conditions and Releases or threatened Releases of Hazardous Substances into the Environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, Release, transport or

handling of Hazardous Substances), as the same may be amended or supplemented from time to time. Any capitalized terms referred to in Section 5.11 hereof not otherwise defined herein 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.

**“Approvals”** shall have the meaning ascribed thereto in Section 5.08 hereof.

**“Basic Lease Payments”** means an amount of money payable in accordance with this Agreement, as more fully provided for in Section 4.05 hereof.

**“Basic Lease Payment Date”** means (i) with respect to the Principal Portion of a Basic Lease Payment, December 20 and June 20 prior to any regularly scheduled Principal Payment Date or, if such date is not a Business Day, the Business Day next preceding such date, (ii) with respect to the Interest Portion of a Basic Lease Payment, December 20 and June 20, as applicable, prior to any regularly scheduled Interest Payment Date or, if such date is not a Business Day, the Business Day next preceding such date, (iii) with respect to Swap Payment Obligations and any Swap Termination Payments, two (2) Business Days prior to any payment dates therefor set forth in the Swap Agreement and (iv) with respect to a prepayment, redemption or acceleration, the date of payment of the Purchase Option Price or Mandatory Purchase Price, as the case may be.

**“Bond Insurance Policy”** means the municipal bond insurance policy issued by the Bond Insurer that guarantees the scheduled payment of principal of and interest on the Insured Bonds.

**“Bond Insurer”** means \_\_\_\_\_, or any successor thereto or assignee thereof.

**“Bond Payment Obligations”** means, for any period or payable at any time, the principal of (whether on a Principal Payment Date, at stated maturity, by mandatory sinking fund redemption, if any, by acceleration or otherwise) and redemption premium, if any, and interest on the Bonds for that period or due and payable at that time as the case may be.

**“Bond Year”** means a period of twelve (12) consecutive months beginning on July 1 in any calendar year and ending on June 30 of the succeeding calendar year.

**“Bonds”** means the Bonds (as defined in the Recitals hereto) issued in the aggregate principal amount of \$\_\_\_\_\_.

**“Business Day”** means a day other than a day (i) on which banks located in the City of New York, New York, the State of New Jersey, or the city in which the Principal Office of the Trustee is located, are required or authorized by law or executive order to close, and (ii) on which the New York Stock Exchange is closed.

**“Construction Fund”** means the fund created and established by the Indenture, to be used for the purpose of paying (i) from the “Costs of Issuance Account” therein, the costs of

issuance relating to the Bonds, and (ii) the costs of acquiring, constructing, renovating and/or equipping the Series 2021 C Project.

**“Continuing Disclosure Agreement”** means the Continuing Disclosure Agreement executed by and between the Public University and the Trustee, as dissemination agent, pertaining to the Bonds, as may be amended or supplemented.

**“Cost”** of the Project shall include, together with any other proper item of cost not specifically mentioned herein, the cost of acquisition, construction, development and financing thereof, including capitalized interest on the Bonds, if any, issued by the Authority to finance the cost of the Series 2021 C Project, the cost of any indemnity and surety bonds and premiums for insurance during construction, the Initial Fee, Administrative Expenses of the Authority, legal fees, fees and expenses of the Trustee and other fiduciaries, depositories, and paying agents, the costs of issuance of the Bonds by the Authority and fees and expenses of financial advisors and consultants in connection therewith properly chargeable to the Series 2021 C Project, the cost of insurance or other financial facility securing the payment of the Bonds, the cost of audits, the cost of all machinery, apparatus and equipment, the cost of engineering and architectural services, plans, specifications and surveys, estimates of costs, the reimbursement of all moneys advanced or applied by the State, or any agency, instrumentality, commission or officer thereof, or otherwise, if required, for the payment of any item or items of cost of the Series 2021 C Project, and all other expenses necessary or incidental to determining the feasibility or practicability of the Series 2021 C Project, and such other expenses not specified herein as may be necessary or incident to the acquisition, construction and development of the Series 2021 C Project, the financing thereof and the placing of the same in operation.

**“Environment”** means ambient air, surface water, groundwater, surface or subsurface soil or other geologic media, sediment and all plants and wildlife present therein or thereon.

**“Environmental Conditions”** means any environmental contamination or pollution or threatened contamination or pollution of, or the Release or threatened Release of Hazardous Substances into, the Environment.

**“Financing Documents”** means, collectively, the Indenture, the Resolution, this Agreement, any Swap Agreement, the Bond Insurance Policy, the Continuing Disclosure Agreement, the Purchase Contract and the Tax Certificate.

**“Governmental Authority”** means any nation or government, any state, city, locality, municipality or political subdivision thereof, any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government and any government authority, agency, department, board, commission or instrumentality, including, without limitation, the United States Environmental Protection Agency (“USEPA”), the New Jersey Department of Environmental Protection (“NJDEP”) and all other federal, State, regional, county or local government authorities authorized or having jurisdiction to enforce Applicable Environmental Laws.

**“Hazardous Substances”** means and includes: (i) any “hazardous substance,” “pollutant” or “contaminant” as defined in Applicable Environmental Laws, including without

limitation CERCLA and the Spill Act; (ii) any “hazardous waste” as such term is defined in Applicable Environmental Laws; (iii) any substance containing “petroleum,” as such term is defined in Section 9001(8) of RCRA, Section 6991 (8) of RCRA or in 40 C.F.R. Section 280.1; and (iv) any substance, material or waste which is defined, listed or regulated under any Applicable Environmental Laws or with respect to which any Governmental Authority with jurisdiction over the Public University requires special handling in its generation, handling, use, collection, storage, treatment, disposal or Release.

“**Indenture**” means the Trust Indenture dated as of March 1, 2021, by and between the Authority and the Trustee, as from time to time may be amended and supplemented by Supplemental Indentures.

“**Initial Fee**” means the per series 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 aggregate principal amount of each series of Bonds, with a maximum initial fee of \$125,000 payable by the Public University on the Closing Date.

“**Insured Bonds**” means the Bonds maturing on July 1 in the years 20\_\_ through 20\_\_, inclusive.

“**Interest Payment Date**” means each January 1 and July 1, commencing [July 1, 2021] [January 1, 2022], though and including the maturity date for the Bonds, and for Bonds subject to redemption on any date, the date of such redemption.

“**Interest Portion**” means, with respect to Basic Lease Payments due on any regularly scheduled Basic Lease Payment Date, the interest on the Bonds due and owing on the immediately succeeding regularly scheduled Interest Payment Date thereof, less any credits thereto as contemplated by this Agreement.

“**Lease Payments**” means Basic Lease Payments and Additional Lease Payments.

“**Leased Facilities**” means certain educational facilities located on the Leased Facilities Site identified in Exhibit A of this Agreement, including any additions, improvements, modifications, substitutions and renewals thereof, and further includes other facilities and uses as are permitted by the Act and this Agreement. The Leased Facilities include the Leased Facilities Site.

“**Leased Facilities Site**” means certain real property upon which the Leased Facilities are located, as more fully described in Exhibit A hereto.

“**Losses**” means all actions, suits, claims, liabilities, losses, damages, penalties, fines, fees, costs and expenses, including, without limitation, sampling, monitoring and remediation costs, natural resource damages, damages on account of personal injuries, death or property damages, attorneys’, consultants’ and engineering fees and disbursements, costs of defense and interest.

“**Mandatory Purchase Price**” shall have the meaning ascribed thereto in Section 4.08(c) hereof.

**“Opinion of Bond Counsel”** means an opinion in writing signed by nationally recognized bond counsel acceptable to the Public University and the Authority.

**“Permitted Money Market Funds”** means money market funds registered under the Investment Company Act of 1940, whose shares are registered under the Securities Act of 1933, including funds for which the Trustee, its parent, its affiliates or its subsidiaries provide investment advisory or other management services, and which are rated at least “AA-“ by Fitch, or “Aa3” by Moody’s, or “AA-“ by S&P.

**“Principal Payment Date”** means the dates on which the principal or any mandatory sinking fund redemption installment of the Bonds is required to be paid to the Holders thereof as set forth in the Indenture or the date of any redemption or acceleration of the Bonds.

**“Principal Portion”** means, with respect to any Basic Lease Payments due on any regularly scheduled Basic Lease Payment Date, one half (1/2) of the principal or any mandatory sinking fund redemption installment, if any, of the Bonds due and owing on the immediately succeeding regularly scheduled Principal Payment Date thereof, less any credits thereto as contemplated by this Agreement.

**“Prior Agreements”** means, collectively, (i) the Series 2015 C Agreement, (ii) the Easement Agreement, dated January 8, 2010, by and between the Public University and the Authority, as grantors, and Nautilus Solar WPU, LLC, as grantee, and (iii) the Solar Energy Agreement No. 3, dated as of December 8, 2009, by and between Nautilus Solar WPU, LLC, as system owner, and the Public University, as host customer.

**“Project”** shall have the meaning set forth in the Recitals hereto, as it may be amended pursuant hereto.

**“Project Facilities”** means the facilities comprising the Series 2021 C Project, including any additions, improvements, modifications, substitutions and renewals thereof, and further includes other facilities and uses as are permitted by the Act and this Agreement.

**“Public University”** means the public institution for higher education authorized and created pursuant to State law, the name of which is The William Paterson University of New Jersey.

**“Purchase Contract”** means the Contract of Purchase dated February \_\_, 2021 by and among the Authority, the Public University and BofA Securities, Inc., on behalf of itself and any other underwriters named therein, in respect of the initial purchase of the Bonds.

**“Purchase Option Price”** shall have the meaning ascribed thereto in Section 4.08(a) hereof.

**“Rebate Amount”** shall have the meaning ascribed thereto in the Indenture.

**“Release”** means the intentional or unintentional spilling, leaking, disposing, discharging, emitting, depositing, injecting, leaching, escaping, release or threatened release, burial, pumping, pouring, emptying or dumping into the Environment.

**“Remediate” or “Remediation”** means (i) all investigations of Environmental Conditions of any kind or nature whatsoever, including site assessments, site investigations, remedial investigations, soil, groundwater, surface water, sediment sampling or monitoring, or (ii) actions of any kind or nature whatsoever taken to remove, abate or remediate Environmental Conditions, including the use, implementation, application, installation, operation or maintenance of removal actions, in-situ or ex-situ remediation technologies applied to surface or subsurface soils, encapsulation or stabilization of soils, excavation and off-site treatment or disposal of soils, systems for recovery and/or treatment of groundwater or free product, Engineering Controls or Institutional Controls (as such terms are defined under N.J.S.A. 58:10B-1 *et seq.*).

**“Rental Pledge Account”** shall have the meaning ascribed thereto in Section 4.04 hereof.

**“Series 2015 C Agreement”** means the Lease and Agreement, dated as of August 1, 2015, by and between the Authority and the Public University, as the same may have been and may be amended or supplemented from time to time.

**“Series 2021 C Project”** shall have the meaning set forth in the Recitals hereto, as it may be amended pursuant hereto.

**“State”** means the State of New Jersey.

**“Swap” or “Swap Agreement”** means any agreement between the Authority and a Swap Provider in respect of all or a portion of the Bonds, entered into on behalf of the Public University, confirming a transaction which is a rate swap transaction, basis swap, forward rate transaction, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, corridor transaction, currency swap transaction, cross-currency rate swap transaction, currency option or other similar transaction (including any option with respect to any of the foregoing transactions) or any combination of these transactions and any related agreement.

**“Swap Payment Obligations”** means all net amounts payable by the Authority under any Swap (excluding any Swap Termination Payment payable by the Authority).

**“Swap Provider”** means the Authority’s counterparty under a Swap Agreement, which counterparty must be rated at least A-/A3 or better by S & P and Moody’s, respectively.

**“Swap Revenues”** means all amounts received by the Authority or the Trustee pursuant to any Swap, including without limitation any Swap Termination Payment, whether such amounts are paid by the Public University or by the Swap Provider.

**“Swap Termination Payment”** means, with respect to any Swap, any settlement amount payable by the applicable Swap Provider or the Authority by reason or on account of the early termination of such Swap either in whole or in part.

**“Tax Certificate”** means, collectively, the Tax Representation Letter executed and delivered by the Public University and the Certificate as to Arbitrage executed and delivered by the Authority at the time of issuance and delivery of the Bonds.

**“Trustee”** means U.S. Bank National Association, a national banking association organized and existing under the laws of the United States of America, with fiduciary and trust powers in the State of New Jersey, and its successors and any entity resulting from or surviving any consolidation or merger to which it or its successors may be a party, and any successor trustee at the time serving as successor trustee pursuant to the Indenture.

Any references herein to any “Swap”, “Swap Agreement”, “Swap Payment Obligations”, “Swap Provider”, “Swap Revenues” and “Swap Termination Payments” shall be disregarded at any time during which there is no Swap Agreement in effect.

Words importing persons include firms, associations and corporations, and words importing the singular number include the plural number and vice versa.

**ARTICLE II**  
**THE PROJECT**

**SECTION 2.01      Payment of Costs.**

It is hereby understood and agreed that the cost of the Project shall be paid solely from the proceeds of the Bonds issued by the Authority in connection with such portion of the Project in accordance with the Indenture and the Resolution, and other funds made available to the Authority for such purpose under the provisions of this Agreement or said Resolution. It is acknowledged that the Project includes only a portion of the cost of the Series 2021 C Project, and that the remaining cost of the Series 2021 C Project will be paid by the Public University from other funds of the Public University to be applied for such purpose by the Public University.

**SECTION 2.02      Use of Project Facilities and Leased Facilities.**

The Authority agrees that the Leased Facilities may be, and the Public University agrees that said Leased Facilities, the site of which is described in Exhibit A attached hereto, and the Project Facilities, shall be used by the Public University as educational facilities permitted under the Act and which, in the opinion of the Public University, are necessary, desirable and to the benefit and best interest of the Public University. The Public University further covenants and agrees, however, that at no time shall the Leased Facilities, the Project Facilities, or any part thereof, be used or be allowed to be used for sectarian instruction or as a place for religious worship.

The Public University also covenants and agrees, to the extent it is able, to enforce and require to be enforced, for the term of this Agreement, reasonable rules and regulations governing the use of the Leased Facilities and the Project Facilities and the operation thereof; that it will maintain and operate the Leased Facilities and the Project Facilities in an efficient and economical manner; that it will at all times maintain the same in good repair and in sound operating condition and will make all necessary repairs, renewals and replacements; and that it will comply with all valid acts, rules and regulations, orders and directions of any legislative, executive, administrative or judicial body, applicable to the Public University, the Leased Facilities and the Project Facilities.

The Public University covenants and agrees that it shall use and/or operate or cause the Leased Facilities and the Project Facilities to be used for or operated as educational facilities constituting an authorized "Project" under the Act. The Public University's failure to comply with this covenant shall constitute an Event of Default under Article VII of this Agreement. The Authority reserves the right to request that the Public University, at its expense, deliver to the Authority an Opinion of Bond Counsel, acceptable to an Authorized Officer of the Authority, to the effect that all or any portion of the Leased Facilities or the Project Facilities are being used and/or operated as educational facilities constituting an authorized "Project" under the Act.

**SECTION 2.03 Cost of the Project.**

The Public University represents that the proceeds of the sale of the Bonds to be issued by the Authority for the purpose of financing the Cost of the Project will be sufficient, together with investment earnings thereon (if any) and certain moneys to be made available for the Project by the Public University, if any, to pay such Cost of the Project and to complete the Series 2021 C Project.

The Public University hereby agrees that it will provide the difference, if any, between the proceeds from the sale of the Bonds and the actual amount required for the Cost of the Project pursuant to the above paragraph.

**SECTION 2.04 Conveyance of Real Property.**

The Authority and the Public University agree and acknowledge that the Public University has, prior to or contemporaneously with the delivery of the Bonds, conveyed or caused to be conveyed to the Authority the real property described in Exhibit A attached hereto and referred to herein as the Leased Facilities Site and included as part of the Leased Facilities.

**SECTION 2.05 Copies of Reports.**

The Public University agrees that it will make available to the Authority copies of such progress reports, audit reports, Completion Certificate of the Series 2021 C Project and other reports pertaining to the Project and the completion of the Project that from time to time may be required to be submitted to the Authority and/or the Trustee pursuant to the Indenture and this Agreement.

**SECTION 2.06 Completion of the Project Facilities; Additional Bonds; Additional Funds.**

The Public University agrees that in the event that the proceeds of the Bonds shall not be sufficient to pay in full the Cost of the Series 2021 C Project, the Public University shall provide promptly, but in no event later than twenty (20) days after receipt of written notice from the Authority, such additional moneys as may be required to pay the Cost of the Series 2021 C Project, unless the Public University requests the Authority to issue additional bonds to pay the Cost of completing the Series 2021 C Project in excess of the funds available therefor and the Authority determines that the Public University has sufficient income available to pay the principal of, interest on and other costs of the additional bonds issued to complete the Series 2021 C Project, in which event the Authority may, but shall not be required to, issue such additional bonds.

The Public University agrees to provide the respective In-Service Certificates and the Completion Certificate in the manner and at the times provided in the Indenture, including specifically Section 4.05 thereof.

**SECTION 2.07      Modification of Project Scope.**

The Authority agrees that the scope of the Series 2021 C Project may be modified, upon the mutual agreement of the Authority and the Public University, subsequent to the issuance of the Bonds, provided such modification will not adversely affect the tax exemption of the Bonds.

**SECTION 2.08      Modification of Leased Facilities and/or Leased Facilities Site.**

(a) The Public University may, at any time during the term of this Agreement, request that the Authority release all or a portion of the Leased Facilities and/or Leased Facilities Site from the terms of this Agreement (each, a “Property Release”). Subject to the provisions of this Section 2.08, the Authority, in consultation with Bond Counsel, may consider such request and may negotiate with the Public University regarding the terms and conditions of such proposed Property Release. Any such Property Release shall be at the sole discretion of the Authority, and the Authority may condition its approval upon such terms (in addition to the specific requirements set forth in this Section 2.08) as it may, in its sole discretion, deem appropriate.

(b) In all cases, the Public University shall certify to the Authority that (1) the portion of the Leased Facilities and/or Leased Facilities Site subject to the Property Release (the “Releasable Real Estate”) is not necessary for the construction or completion of any portion of the Project Facilities, or for the continuing use of any of the remaining Leased Facilities, (2) the overall value and utility of the Leased Facilities and Leased Facilities Site will not be materially reduced by the release of the Releasable Real Estate, and (3) the Leased Facilities and Leased Facilities Site to be subject to this Agreement immediately following the Property Release (the “Resulting Real Estate”) shall, in their totality, constitute essential facilities of the Public University, and the Public University acknowledges and agrees that the full amount of Lease Payments payable under this Agreement shall remain payable by the Public University notwithstanding such Property Release. The above certification may take into account such additional real estate (if any) as the Public University may, with the consent of the Authority, choose to simultaneously add to the Leased Facilities and/or Leased Facilities Site, if deemed necessary and appropriate in order to offset, in whole or in part, the Property Release (such newly added real estate, the “Added Real Estate”).

(c) If at the time of the proposed Property Release any tax-exempt Authority bonds (including, but not limited to, the Bonds) which financed or refinanced any costs of or relating to the Releasable Real Estate (the “Related Bonds”) shall remain unpaid (which for purposes of this paragraph includes Bonds that have been economically or legally defeased, but have not yet been actually paid to the holders thereof), then in addition to the requirements contained in paragraph (b) above, there shall be delivered to the Authority and the Trustee an Opinion of Bond Counsel to the effect that the Property Release and the addition of any Added Real Estate, if deemed necessary and appropriate, shall not, in and of itself, adversely affect the tax-exempt status of the Bonds or of any of the Related Bonds. If, in the Opinion of Bond Counsel, such Opinion of Bond Counsel cannot be issued without certain remedial actions having been taken (which may include, inter alia, the redemption and/or purchase of all or a portion of the Related Bonds, whether by the defeasance escrow, tender offer or otherwise), then the implementation of such

remedial actions by the Public University shall be an additional condition to such Property Release.

(d) In order to effectuate any Property Release, the Authority and the Public University shall execute and deliver an amendment to this Agreement and shall cause such amendment (or an abstract thereof) to be recorded in the applicable real estate records. The Public University shall also obtain or cause to be obtained such consents (if any) as may be required by the terms of the Indenture, and shall file or cause to be filed such notices as may be required by the terms of the Continuing Disclosure Agreement or this Agreement. Upon completion of the above-referenced transactions, the “Leased Facilities” and the “Leased Facilities Site” shall thereafter be deemed to refer to the Resulting Real Estate (including any Added Real Estate), and the Releasable Real Estate shall no longer constitute part of the “Leased Facilities” or the “Leased Facilities Site”. The Authority shall thereupon, at the request of the Public University, transfer all of its rights, title and interest in and to the Releasable Real Estate to the appropriate State entity by deed or deeds in form satisfactory to the Authority.

(e) The Public University agrees to bear all costs associated with any actual or proposed Property Release, including costs associated with the Added Real Estate, and including, but not limited to, all legal fees of the Authority, the Trustee and Bond Counsel.

## **ARTICLE III**

### **THE BONDS**

#### **SECTION 3.01 Sale of the Bonds.**

The Authority agrees to use its best efforts to sell, issue and deliver the Bonds. The proceeds of the Bonds shall be used to finance the Costs of the Project, all as more fully provided for in this Agreement, the Resolution and the Indenture.

#### **SECTION 3.02 Official Statement.**

The Public University agrees, whenever requested by the Authority, to provide and certify such information concerning the Public University, its operations and finances, and other matters the Authority considers necessary or advisable to enable the Authority to complete and publish (by print or electronically) a preliminary official statement or an official statement or statements relating to the Bonds, or to enable it to make any reports required by law, regulation, the Indenture or any Supplemental Indenture.

#### **SECTION 3.03 Swap Agreement.**

The Authority and the Public University acknowledge and agree that pursuant to the Indenture, the Authority may be authorized to enter into, on behalf of the Public University, one or more Swap Agreements with respect to the Bonds in order to manage its interest rate risk relating to the Bonds and that if such Swap Agreement is entered into, the Authority may owe moneys to the Swap Provider. The Public University agrees that as provided in Section 4.05 hereof, it shall be responsible for the payment of all amounts payable by the Authority in respect of any such Swap Agreement(s) including any Swap Termination Payment due with respect to such Swap Agreement(s) including, without limitation, any Swap Termination Payment caused by a redemption of the Bonds. All Swap Payment Obligations and Swap Termination Payments due to a Swap Provider shall be included in Basic Lease Payments due hereunder. The Authority and the Public University agree that no Swap Agreement entered into with respect to the Bonds may restrict the ability of the Authority to redeem the Bonds pursuant to any mandatory, extraordinary optional or optional redemption as set forth in the Indenture.

## **ARTICLE IV**

### **OBLIGATIONS OF THE PUBLIC UNIVERSITY, TERM AND LEASE PAYMENTS**

#### **SECTION 4.01 Nature of the Obligation.**

The obligations of the Public University under this Agreement shall be general obligations, payable from any legally available funds of the Public University.

#### **SECTION 4.02 Site of the Leased Facilities.**

In addition to the terms, covenants and agreements contained herein, the Public University agrees that it will take, accept and rent the Leased Facilities from the Authority subject to the following:

(a) all covenants, easements, encumbrances, subleases, licenses, defects of title, reservations, restrictions and conditions, if any, acceptable to an Authorized Officer of the Authority affecting the whole or any part of the Leased Facilities Site acquired or to be acquired by the Authority for the Series 2021 C Project which exist at the time of closing of the Bonds, including (without limitation) the Prior Agreements; and

(b) all present and future federal, State, county or municipal laws, ordinances, regulations, orders, assessments and levies, if any, affecting all or any part of the Leased Facilities or the use thereof.

#### **SECTION 4.03 Term of Agreement.**

The term of this Agreement shall continue until at least July 1, 20\_\_, unless the Authority and the Public University shall sooner terminate this Agreement by mutual consent; provided, however, that the end of said term shall not be advanced nor shall this Agreement be terminated so long as the Authority shall have Outstanding and unpaid, without provision for such payment duly provided for, any of the Bonds issued for the purpose of providing moneys to pay the Cost of the Project, or any obligations under any Financing Documents.

#### **SECTION 4.04 Rental Pledge Account.**

To secure payment of the Basic Lease Payments and Additional Lease Payments hereunder, the Public University has caused to be created the "The William Paterson University of New Jersey Rental Pledge Account" (the "Rental Pledge Account") to be maintained with the Trustee. For purposes of internal accounting, the Rental Pledge Account may contain one or more subaccounts, as an Authorized Officer of the Authority or the Trustee may deem proper. The Public University covenants and agrees that it will deposit or cause to be deposited on June 1 and December 1 in each Bond Year (commencing [June 1] [December 1], 2021) into the Rental Pledge Account, the amounts set forth in Sections 4.05 and 4.06 hereof.

In the event that the balance remaining in the Rental Pledge Account on January 2 and July 2 of each Bond Year is in excess of the sums payable to the Trustee for or on account of the Authority in accordance with the Indenture, such balance shall be transferred by the Trustee to the Public University.

The moneys in the Rental Pledge Account may be invested at the direction of the Public University and with the approval of an Authorized Officer of the Authority, in direct obligations of the United States of America, in obligations the principal of and interest of which are guaranteed by the United States of America, in Permitted Money Market Funds or in certificates of deposit or time deposits of banks or trust companies, including the Trustee, secured by the aforesaid obligations, provided, however, that moneys shall be available in the Rental Pledge Account in the appropriate amounts on each Basic Lease Payment Date to make the payments required by Sections 4.05 and 4.06 of this Agreement.

#### **SECTION 4.05      Basic Lease Payments.**

The Public University agrees to pay the Basic Lease Payments for the use and occupancy of the Leased Facilities from any legally available funds of the Public University.

The Public University agrees to pay from any legally available funds of the Public University "Basic Lease Payments" in an amount sufficient to enable the Trustee to make the transfers and deposits required at the times and in the amounts pursuant to Section 4.06 of the Indenture (including without limitation all Swap Payment Obligations, if any, and Swap Termination Payments, if any). Each payment shall be made in immediately available funds.

The Principal Portion of Basic Lease Payments shall be due on each Basic Lease Payment Date in the amount of one half (1/2) of the principal or scheduled mandatory sinking fund installment, if any, due and payable on the Bonds (a) on the immediately succeeding Principal Payment Date, with respect to regularly scheduled Principal Payment Dates, and (b) on the Principal Payment Date that coincides with the Basic Lease Payment Date, in the amount of the principal or redemption price due and payable on the Bonds in the case of redemption or acceleration of the Bonds.

The Interest Portion of Basic Lease Payments shall be due (a) on each Basic Lease Payment Date, in the amount of the interest due and payable on the Bonds on the immediately succeeding Interest Payment Date, with respect to regularly scheduled Interest Payment Dates, and (b) on the Interest Payment Date that coincides with the Basic Lease Payment Date, in the amount of interest due and payable on the Bonds in the case of redemption or acceleration of the Bonds.

Notwithstanding the foregoing, the Public University agrees to make payments, or cause payments to be made, at the times and in the amounts required to be paid as principal or redemption price of, redemption premium, if any, and interest on the Bonds from time to time Outstanding under the Indenture and other amounts required to be paid under the Indenture, as the same shall become due whether at maturity, upon redemption, by declaration of acceleration or otherwise.

Except as otherwise expressly provided herein, all amounts payable hereunder by the Public University to the Authority shall be paid to the Trustee or other parties entitled thereto as assignee of the Authority and this Agreement and all right, title and interest of the Authority in any such payments are hereby assigned and pledged to the Trustee or other parties entitled thereto as assignee of the Authority so long as any Bonds remain Outstanding.

Notwithstanding anything to the contrary contained herein, the Public University covenants and agrees that it will pay the Basic Lease Payments at such times and in such amounts as to assure that the Authority will not be in default in the payment of the principal of, redemption premium, if any, and interest on the Bonds, or any Swap Payment Obligations and Swap Termination Payments under any Swap Agreement, and nothing herein shall be deemed to modify the date on which any payment obligation becomes payable under any Swap Agreement or the consequences following from the nonpayment of any such obligation.

Unless otherwise provided in any Swap Agreement, on each Basic Lease Payment Date with respect to any Swap Payment Obligations and any Swap Termination Payments required to be made by the Authority pursuant to the Swap Agreement, the Public University shall pay such amount to the Trustee for deposit pursuant to Section 4.06 of the Indenture.

#### **SECTION 4.06      Additional Lease Payments.**

In addition to Basic Lease Payments, the Public University shall also pay to the Authority, the Trustee, or the Swap Provider (if any), as the case may be, "Additional Lease Payments," as follows:

(a) All taxes and assessments of any type or character charged to the Authority or to the Trustee affecting the amount available to the Authority or the Trustee from payments to be received hereunder or in any way arising due to the transactions contemplated hereby (including taxes and assessments assessed or levied by any public agency or Governmental Authority of whatsoever character having power to levy taxes or assessments) but excluding franchise taxes based upon the capital and/or income of the Trustee and taxes based upon or measured by the net income of the Trustee; provided, however, that the Public University shall have the right to protest any such taxes or assessments and to require the Authority or the Trustee, at the Public University's expense, to protest and contest any such taxes or assessments levied upon them and that the Public University shall have the right to withhold payment of any such taxes or assessments pending disposition of any such protest or contest unless such withholding, protest or contest would adversely affect the rights or interests of the Authority or the Trustee;

(b) All reasonable fees, charges, expenses and indemnities of the Authority, the Trustee and the Swap Provider (if any) hereunder, under the Indenture and under the Swap Agreement, if any, as and when the same become due and payable;

(c) The reasonable fees and expenses of such accountants, consultants, attorneys and other experts as may be engaged by the Authority or the Trustee to prepare audits, financial statements, reports, opinions or provide such other services required under this Agreement or the Indenture;

(d) The Annual Administrative Fee of the Authority and any other expenditures for insurance, fees and expenses of auditing, and fees and expenses of the Bond Insurer, if any, and fees and expenses as required by the Indenture and not otherwise paid or provided for by the Public University and all other expenditures reasonably and necessarily incurred by the Authority by reason of the ownership, financing and leasing of the Leased Facilities and the financing of the Project, including, without limitation, performance under the Indenture, expenses incurred by the Authority to compel full and punctual performance of all of the provisions of this Agreement in accordance with the terms hereof; and

(e) All other reasonable and necessary fees and expenses attributable to the Bonds, the Indenture, this Agreement, including without limitation all payments required pursuant to the Tax Certificate (including payments of all amounts required to be deposited in the Rebate Fund and any fees of the Authority in connection with any rebate calculations performed or caused to be performed by the Authority).

Such Additional Lease Payments shall be billed to the Public University by the Authority, the Trustee or the Swap Provider (if any) from time to time, together with a statement certifying that the amount billed has been incurred or paid for one or more of the above items. After such a demand, amounts so billed shall be paid by the Public University within thirty (30) days after receipt of the bill by the Public University. Payment of the Annual Administrative Fee (or ratable portion thereof) shall be made in each Bond Year while the Bonds are Outstanding.

Payments required to be made under this Section shall be made in legally available funds to the Trustee unless otherwise directed in an agreement (including, but not limited to, any Swap Agreement) pursuant to which such payments are required.

#### **SECTION 4.07 Credits for Payments.**

The Public University shall receive credit against its payments required to be made under Section 4.05, in addition to any credits resulting from payment or repayment from other sources as set forth below, on the portion of Basic Lease Payments allocable to interest in an amount equal to moneys on deposit in the applicable subaccount (if any) in the Rental Pledge Account, which amounts are available to pay interest on the Bonds, to the extent such amounts have not previously been credited against such payments. The Public University may, in the sole discretion of an Authorized Officer of the Authority, receive credit against its payments required to be made under Section 4.05, in addition to any credits resulting from payment or repayment from other sources, as follows:

(a) (1) On the portion of Basic Lease Payments allocable to interest in an amount equal to moneys on deposit in the Debt Service Fund, which amounts are available to pay interest on the Bonds, to the extent such amounts have not previously been credited against such payments; and (2) On the portion of Basic Lease Payments allocable to Swap Payment Obligations and Swap Termination Payments, if any, an amount equal to moneys deposited in the Debt Service Fund, which amounts are available to pay Swap Payment Obligations and Swap Termination Payments to the extent such amounts have not previously been credited against or are required to make payment of interest on the Bonds;

(b) On the portion of Basic Lease Payments allocable to installments of principal in an amount equal to moneys deposited in the Debt Service Fund, which amounts are available to pay principal of the Bonds, to the extent such amounts have not previously been credited against such payments;

(c) On the portion of Basic Lease Payments installments of principal and interest in an amount equal to the principal amount of Bonds for the payment at maturity or redemption of which sufficient amounts (as determined by Section 11.01 of the Indenture) in cash or Government Obligations are on deposit as provided in Section 11.01 of the Indenture to the extent such amounts have not previously been credited against such payments, and the interest on such Bonds from and after the date fixed for payment at maturity or redemption thereof. Such credits shall be made against the installments of principal and interest which would have been used, but for such call for redemption, to pay principal of and interest on such Bonds when due; and

(d) On the portion of Basic Lease Payments allocable to installments of principal and interest in an amount equal to the principal amount of Bonds acquired by the Public University and surrendered to the Trustee for cancellation or purchased by the Trustee on behalf of the Public University and canceled, and the interest on such Bonds from and after the date interest thereon has been paid prior to cancellation. Such credits shall be made against the installments of principal and interest which would have been used, but for such cancellation, to pay principal of and interest on such Bonds when due.

#### **SECTION 4.08      Prepayment.**

(a) The Public University shall have the right, so long as all amounts which have become due hereunder have been paid, at any time or from time to time, to prepay all or any part of the Basic Lease Payments and the Authority agrees that the Trustee shall accept such prepayments when the same are tendered. Any partial prepayment shall not affect the Authority's right, title and interest in and to the Leased Facilities, but shall be credited to the Principal Portion of Basic Lease Payments due from the Public University as determined by an Authorized Officer of the Authority. Subject to the Prior Agreements, the Public University is further hereby granted the option to prepay and purchase all of the Authority's right, title and interest in and to the Leased Facilities in whole, at the time set forth in Section 4.08(b) hereof, by paying to the Trustee the "Purchase Option Price", which for any date of calculation shall be the sum of (i) the aggregate amount of unpaid principal of the Bonds to their redemption date under the terms of the Indenture and as set forth in the Public University's notice to the Trustee of such prepayment, (ii) any interest accrued on the Bonds from the last Interest Payment Date thereof on which interest thereon was paid to the redemption date set forth in clause (i) above, (iii) the redemption premium, if any, applicable to the payment of the Bonds on the redemption date set forth in clause (i) above, and (iv) any costs of redemption or defeasance or other expenses incurred by any party to the Financing Documents in implementing such prepayment. The Purchase Option Price shall be deposited upon receipt by the Trustee in the Debt Service Fund (or in such other Trustee escrow account as may be specified by the Public University) and, at the request of and as determined by the Public University, credited against payments due hereunder or used for the redemption or purchase of Outstanding Bonds in the manner and subject to the terms and conditions set forth in the Indenture. Notwithstanding any such

prepayment, as long as any Bonds remain Outstanding or any Additional Lease Payments required to be made hereunder remain unpaid or any Swap Agreement remains outstanding, the Public University shall not be relieved of its obligations hereunder.

(b) Said option may be exercised by the Public University at any time by (i) giving written notice to the Trustee and the Authority of the exercise of such option at least sixty (60) days prior to the redemption date set forth in such notice, and (ii) complying with any other requirements of Article XI of the Indenture that may be required by the Trustee or the Authority to defease the Bonds in accordance with the terms of the Indenture, including, without limitation, a verification report from a nationally recognized accounting firm approved by an Authorized Officer of the Authority to the effect that the amount so prepaid will equal the Purchase Option Price (for a full prepayment) and will therefore be sufficient to defease the Bonds (in whole or in part, as the case may be) by paying all of the principal thereof and redemption premium, if any, thereon through and including the final maturity thereof, plus all interest accruing thereon to such redemption date. Such option shall be exercised by depositing with said notice cash and/or Government Obligations described in paragraph A of the “List of Investment Obligations”, as contained in Exhibit B attached to the Indenture, which shall not be subject to redemption prior to their maturity, in such amount as shall be sufficient, together with interest to accrue thereon, to pay the Bonds to be defeased on said redemption date.

(c) The Public University shall also have the right at any time or from time to time to prepay all or any part of the Basic Lease Payments from moneys derived from condemnation awards or the proceeds of hazard insurance relating to the Leased Facilities of the Public University, and the Authority agrees that the Trustee shall accept such prepayments when the same are tendered. Upon the acceleration of the Bonds, the Public University shall forthwith prepay and purchase all of the Leased Facilities by paying to the Trustee, immediately upon receipt of notice of such acceleration, the “Mandatory Purchase Price”, which for any date of calculation shall be the sum of (i) the aggregate amount of the unpaid principal of the Bonds, (ii) any interest accrued on the Bonds from the last Interest Payment Date thereof on which interest thereon was paid to the date that the amount in clause (i) above has been paid in full, and (iii) any costs of acceleration. The Mandatory Purchase Price shall be deposited upon receipt by the Trustee in the Debt Service Fund (or in such other Trustee escrow account as may be specified by the Public University) and used for the redemption or purchase of Outstanding Bonds in the manner and subject to the terms and conditions set forth in the Indenture. Notwithstanding any such prepayment or surrender of Bonds, as long as any Bonds remain Outstanding or any Additional Lease Payments required to be made hereunder remain unpaid or any Swap Payment Obligations or Swap Termination Payments remain unpaid or the Swap Agreement remains outstanding, the Public University shall not be relieved of its obligations hereunder.

Notwithstanding anything to the contrary, the application of insurance proceeds or condemnation awards as set forth in this Section 4.08 or elsewhere in this Agreement with respect to the Leased Facilities is subject to the terms of the Prior Agreements.

#### **SECTION 4.09            Obligations Unconditional.**

The obligations of the Public University hereunder are absolute and unconditional, regardless of whether the Project Facilities (or any portion thereof) are completed or are

available for occupancy by the Public University, and notwithstanding any other provision of this Agreement or the Indenture. Until this Agreement is terminated and all payments hereunder are made, the Public University:

(a) will pay all amounts required hereunder without abatement, deduction or setoff except as otherwise expressly provided in this Agreement;

(b) will not suspend or discontinue any payments due hereunder for any reason whatsoever, including, without limitation, any right of setoff or counterclaim;

(c) will perform and observe all its other agreements contained in this Agreement; and

(d) except as provided herein, will not terminate this Agreement for any cause, including, without limiting the generality of the foregoing, damage, destruction or condemnation of the Project Facilities financed or refinanced with the proceeds of the Bonds or any part thereof, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State, or any political subdivision of either thereof or any 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 Agreement. Nothing contained in this Section 4.09 shall be construed to release the Authority from the performance of any of the agreements on its part contained herein, and in the event the Authority should fail to perform any such agreement on its part, the Public University may institute such action against the Authority as the Public University may deem necessary to compel performance.

Notwithstanding the foregoing, the indemnification provisions set forth in Section 11.11(d) hereof shall survive any termination of this Agreement.

The rights of the Trustee or any party or parties on behalf of whom the Trustee is acting shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever, whether arising out of any breach of any duty or obligation of the Authority or the Trustee owing to the Public University, or by reason of any other indebtedness or liability at any time owing by the Authority or the Trustee to the Public University.

The obligations of the Public University to make payments required under this Agreement shall be absolute and unconditional without defense or set-off for any reason whatsoever, it being the intention of the parties that the payments required of the Public University under this Agreement will be paid in full when due without any credit, delay or diminution whatsoever. The Public University hereby agrees that it will take all budgetary actions necessary to enable it to make all required payments under this Agreement.

## **ARTICLE V**

### **COVENANTS OF THE PUBLIC UNIVERSITY**

#### **SECTION 5.01      Liens and Encumbrances.**

The Public University covenants and agrees that the Leased Facilities shall be free and clear of all liens and encumbrances which would materially affect the value or usefulness of the Leased Facilities and the Leased Facilities Site for the intended use thereof, and that it will not enter into any lease, licensing agreement or other arrangement with any other party in respect of the use and occupancy of all or any part of the Leased Facilities. The parties acknowledge that the Public University may, without violating the provisions of this Section 5.01, enter into (i) leases or contracts for the occupancy of student and/or faculty housing with individual occupants, (ii) leases or management agreements of a customary nature with third-party service providers in connection with the provision of utilities or services to the Public University, and (iii) subject to the covenants contained in Section 11.04 hereof, any other leases, licensing agreements or other arrangements with the prior written consent of an Authorized Officer of the Authority (which may be granted or withheld in his or her sole discretion).

#### **SECTION 5.02      Additions.**

All buildings and improvements erected or constructed upon the Leased Facilities Site and all buildings, improvements, fixtures, machinery and equipment installed or placed thereon by the Authority or the Public University shall be and become a part of the realty of the Leased Facilities. Any moveable equipment for the Leased Facilities paid for by the Authority, to the extent it does not become realty, shall nevertheless, be deemed to be a part of the Leased Facilities Site.

#### **SECTION 5.03      Repairs.**

The Public University covenants that it shall at all times maintain, preserve and keep the Leased Facilities, with the appurtenances and every part and parcel thereof, in good repair, working order and condition.

#### **SECTION 5.04      Utilities.**

The Public University agrees to pay, or cause to be paid, all charges for gas, electricity, light, water, sewer, heat or power, telephone or other communication service, or any other service used, rendered or supplied upon or in connection with the Leased Facilities during the term of this Agreement and to protect the Authority and save it harmless against any liability or damages on such account. At all times during the use and occupancy of the Leased Facilities, the Public University shall also at its sole cost and expense procure any and all necessary permits, licenses or other authorizations thereafter required for the lawful and proper construction, installation, operation and maintenance of the Leased Facilities of wires, pipes, conduits, tubes and other equipment and appliances for use in supplying any such services to and upon the Leased Facilities.

## **SECTION 5.05 Insurance.**

The Public University shall, at the times specified in the following subparagraphs, procure and maintain or cause to be procured and maintained, to the extent reasonably obtainable in the opinion of an Authorized Officer of the Authority, the following insurance:

(a) At all times, 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 an Authorized Officer of the Authority (the "Deductible Amount"), on the plant, structure, machinery, equipment and apparatus comprising the Leased Facilities, plus Boiler and Machinery coverage, and Flood Insurance if the Leased Facilities are located within a Special Flood Hazard Area, each with deductible clauses and coverage sub limits acceptable to an Authorized Officer of 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 the obligations of the Authority issued with respect to the Project are outstanding and shall be in an amount not less than one hundred percent (100%) of the current estimated replacement value thereof, exclusive of excavations and foundations, or such other amount as may be approved in writing by an Authorized Officer of the Authority. The inclusion of the Leased Facilities under a blanket insurance policy or policies of such Public University insuring against the above hazards shall be complete compliance with the provisions of this subparagraph. Any such policy shall provide that the insurance company shall give at least sixty (60) days' notice in writing to the Authority 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; provided, however, notwithstanding the foregoing, in the event that the insurance company is no longer required by law to provide such notices to the Authority, the Public University shall at all times give the Authority notice in writing within two (2) Business Days of receipt of notice from the insurer of any cancellation or non-renewal of the policy. In any event each such policy shall be in an amount sufficient to prevent such Public University and the Authority from becoming co-insurers under the applicable terms of such policy. In the event that such Public University or the Authority is unable to procure insurance with a loss deductible clause of not exceeding the Deductible Amount, the deposit with the Trustee on behalf of the Authority or 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 complete compliance with the provisions of this subparagraph establishing a Deductible Amount;

(b) At all times, workmen's compensation insurance, disability benefits insurance and each other form of employee insurance covering loss resulting from injury, sickness, disability or death of employees which the Authority or such Public University is required by law to provide;

(c) At all times, insurance protecting the Authority and such Public University 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 for bodily injury and property damage. The Public University's coverage status under the New

Jersey Tort Claims Act may, in the sole judgment of an Authorized Officer of the Authority, be deemed to be compliance with the requirements of this subparagraph with respect to the Public University;

(d) Fidelity insurance, in such amounts and under such terms as shall be determined by an Authorized Officer of the Authority with due regard to each of the Public University's funds and accounts; and

(e) In the event that the Authority shall re-enter the Leased Facilities, the Authority may, at its sole option, maintain business income insurance, or the current equivalent, on the Leased Facilities, covering the loss of revenues attributable to the Leased Facilities by reason of necessary interruption, total or partial, in the use of the Leased Facilities, resulting from direct physical loss or damage thereto from causes customarily insured.

If any of such insurance provided for in paragraphs (a), (b) and (c) of this Section is under a blanket insurance policy or policies of the Public University, then the Public University shall deliver to the Authority in lieu of the original policy or policies a Certificate thereof, and such delivery shall be complete compliance with the provisions of this paragraph.

The proceeds of all such property insurance (i) may be applied or cause to be applied by the Authority, in consultation with the Public University, to the repair and replacement of the damaged portions of the Leased Facilities, (ii) may be deposited by the Authority with the Trustee for payment into the Debt Service Fund, relating to the Bonds, accompanied by a certificate of an Authorized Officer of the Authority stating that such deposit is being made pursuant to this Section, or (iii) if there is substantial damage to the Leased Facilities rendering such facilities, in the opinion of an Authorized Officer of the Authority, unsuitable for use for its intended purposes, deposited by the Authority, with the consent of the Public University, in the Debt Service Fund to be applied to the "extraordinary optional redemption" of the Bonds as provided in the Indenture. Such deposit in the Debt Service Fund shall be made in amounts representing Authorized Denominations of the Bonds and accrued interest thereon to the date of redemption. The proceeds of any business income insurance policies shall be deposited by the Authority with the Trustee for payment into the Debt Service Fund under the Indenture accompanied by a certificate of an Authorized Officer of the Authority stating that such deposit is being made pursuant to this Section.

All policies of insurance shall be payable to the Public University and the Authority as their interests may appear. The Authority shall have the sole right to receive, for the purposes of this Agreement, the proceeds of such policy or policies affecting the Leased Facilities and receipt for claims thereunder.

All insurance prescribed by this Section shall be procured from financially sound and reputable insurers qualified to do business in the State or insurers approved in writing by an Authorized Officer of the Authority. The policies shall be open to inspection by the Authority, the Swap Provider and the Trustee at all reasonable times, and a list prepared as of June 30 of each year describing such policies shall be furnished by the Authority to the Trustee annually within sixty (60) days after the beginning of each Bond Year, together with a certificate of an Authorized Officer of the Authority certifying that such insurance meets all the requirements of

this Agreement. The Trustee shall have no responsibility with respect to any such insurance except to receive such Certificates and hold the same for inspection by any Bondholders.

Notwithstanding anything herein to the contrary, the application of insurance proceeds as set forth in Section 5.05 or elsewhere in this Agreement with respect to the Leased Facilities is subject to the terms of the Prior Agreements.

Nothing in this Section 5.05 shall be deemed to limit the Public University from obtaining insurance in excess of the requirements set forth herein.

**SECTION 5.06 Compliance with Laws and Regulations.**

The Public University agrees that throughout the term of this Agreement, at the Public University's sole cost and expense, it will promptly comply with (or cause to be complied with) all laws and ordinances and the orders, rules, regulations and requirements of all federal, State and local governments and agencies and departments thereof which are applicable to the Public University and the Leased Facilities, or, and whether or not the same requires structural repairs and alterations, which may be applicable to the Leased Facilities, the fixtures or equipment thereof, or the sidewalks and curbs adjoining the Leased Facilities, or the use or manner of use of the Leased Facilities. The Public University will also observe and comply with (or cause to be observed and complied with) the requirements of all policies and arrangements of insurance at any time in force with respect to the Leased Facilities and the fixtures and equipment thereof.

**SECTION 5.07 Alterations and Additions to Leased Facilities.**

The Public University shall have the right at any time and from time to time during the term of this Agreement, with the approval of an Authorized Officer of the Authority, to make such changes, alterations and additions, structural or otherwise, to the Leased Facilities, and the fixtures and equipment thereof, now or hereafter on or at the Leased Facilities, as they shall deem necessary or desirable in connection with the use of the Leased Facilities. All such changes, alterations and additions when completed shall be of such a character as not to reduce or otherwise adversely affect the value of the Leased Facilities or the rental value thereof. Any Authorized Officer of the Authority may, on behalf of the Authority, consent to any such changes, alterations or additions upon receipt of such documentation and assurance from the Public University as such Authorized Officer deems appropriate. The cost of any such change, alteration or addition shall be promptly paid and discharged by the Public University, so that the Leased Facilities shall at all times be free of liens for labor and materials supplied to the Leased Facilities. All alterations, additions and improvements to the Leased Facilities shall be and become a part of the Leased Facilities and shall be owned by the Authority; *provided*, that, except as provided in the last sentence of Section 5.02 hereof, any moveable equipment and any communications fixtures (*e.g.*, cell towers) installed on or in the Leased Facilities shall not be deemed to become part of the Leased Facilities.

**SECTION 5.08 Permits and Approvals.**

The Public University agrees that it will obtain all consents, authorizations and permits from municipal, county and State entities for the construction, use, occupancy and operation of the Project Facilities and the Leased Facilities (collectively, the "Approvals"). The Public

University will also observe and comply with the Approvals throughout the term of this Agreement. The Public University agrees that it shall remain obligated under the terms of this Agreement irrespective of whether all Approvals are granted. The Public University may use the proceeds of the Bonds to pay for the costs associated with obtaining the Approvals.

**SECTION 5.09 Future Liens.**

The Public University covenants to keep the Leased Facilities, and the fixtures and equipment constituting part thereof, at all times during the term of this Agreement, free and clear of mechanics' liens and other liens of like nature, and the Public University shall at all times duly protect the Authority against any and all attorneys' fees, costs and expenses which may accrue, grow out of or be incurred by reason of or on account of any such liens or claims.

**SECTION 5.10 Covenants Against Waste.**

The Public University covenants not to do or suffer or permit any waste or damage to the Leased Facilities or any building or improvement now or hereafter constituting the Leased Facilities or any fixture or equipment constituting part thereof.

**SECTION 5.11 Affirmative and Negative Environmental Covenants.**

(a) The Public University shall obtain all permits, licenses and other authorizations required under Applicable Environmental Laws with respect to the construction, use, occupancy and operation of the Leased Facilities.

(b) As of the date hereof, neither the Public University nor any of the Leased Facilities is in violation of any Applicable Environmental Laws or subject to any existing, pending or, to the knowledge of the Public University (after due inquiry), threatened investigation or inquiry by any Governmental Authority pursuant to any Applicable Environmental Laws.

(c) The Public University shall cause the Project Facilities to be constructed and maintained in accordance with all Applicable Environmental Laws. To the knowledge of the Public University after due inquiry, the activities, properties and assets of the Public University, including the Project Facilities and the Leased Facilities, are in substantial and material compliance with all terms and conditions of all required permits, licenses and authorizations, and are in substantial and material compliance with all limitations, restrictions, conditions, standards, prohibitions, requirements, obligations, schedules and timetables contained in Applicable Environmental Laws. Except as otherwise disclosed in Schedule 5.11 hereof, there are no past or present events, conditions, including without limitation Environmental Conditions, circumstances, activities, practices, incidents, actions or plans which may (i) interfere with or prevent continued substantial and material compliance on the part of the Public University with Applicable Environmental Laws; (ii) give rise to any liability on the part of the Public University under Applicable Environmental Laws; or (iii) otherwise form the basis of any claim, action, suit, proceeding, request or demand for information or investigation against the Public University based on or related to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of, or the Release or threatened Release into the Environment of, any Hazardous Substances. The Public University shall not cause or permit any of the Project

Facilities and Leased Facilities to be in violation of, nor shall the Public University by act or omission cause or permit any of the Leased Facilities to be subject to any Remediation obligations, under Applicable Environmental Laws. The Public University shall promptly notify the Authority in writing of any existing, pending or, to the knowledge of the Public University (after due inquiry), threatened investigation or inquiry by any Governmental Authority pursuant to or under any Applicable Environmental Laws relating to any of the Leased Facilities.

(d) The Public University covenants that it will not install or cause to be installed in, on or at any of the Leased Facilities any materials containing any Hazardous Substances, including without limitation any asbestos containing materials. In the event any such materials are found to be present in, on or at any of the Leased Facilities (to the extent installed therein or permitted to be installed therein by the Public University), the Public University shall, promptly upon discovery and at its sole cost and expense, Remediate such materials in accordance with the requirements of law, including without limitation Applicable Environmental Laws, and shall have such Remediation performed by licensed and qualified environmental engineering firms, contractors and consultants.

(e) The Public University has taken all steps necessary (including without limitation all actions necessary to meet the “all appropriate inquiry” standard set forth in N.J.S.A. 58:10-23.11g, as amended) to determine, and has determined, that there are no Environmental Conditions on, at, under or emanating from any of the Leased Facilities except as disclosed in Schedule 5.11 hereof. The use which the Public University makes and intends to make of the Leased Facilities shall not result in the Release of any Hazardous Substance on, at, under or from any of the Leased Facilities.

(f) The Public University has not received any communication, written or oral, from any Governmental Authority, including without limitation the NJDEP or the USEPA, concerning any intentional or unintentional action or omission on the Public University’s part resulting in the Release of any Hazardous Substances on, at, under or from any of the Leased Facilities, except as disclosed in Schedule 5.11 hereof.

(g) None of the Leased Facilities has been used in the past, or is now being used, as a Major Facility (as such term is defined in N.J.S.A. 58:10-23.11b) and the Public University shall not use any of the Leased Facilities as a Major Facility in the future without the prior express written consent of an Authorized Officer of the Authority, which consent may be given or withheld at the Authority’s sole discretion. If any of the Leased Facilities is determined to be a Major Facility in the State, then the Public University shall furnish the NJDEP with all the information required by N.J.S.A. 58:10-23.11d1 to -23.11d15, and shall duly file with the Director of the Division of Taxation in the New Jersey 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.

(h) The Public University shall not conduct or cause or permit to be conducted on or at any of the Leased Facilities any activity, use or operation which constitutes an “Industrial Establishment” (as such term is defined under ISRA), without the prior express written consent of an Authorized Officer of the Authority, which consent may be given or withheld at the Authority’s sole discretion. In the event the provisions of ISRA become applicable to any of the Leased Facilities subsequent to the date hereof, the Public University shall give prompt written

notice thereof to the Authority and the Public University shall take all requisite action, including the performance of Remediation, to ensure full compliance with ISRA. The Public University shall promptly deliver to the Authority copies of all correspondence, notices, reports, workplans, laboratory and field data and all other submissions that the Public University generates, or sends to or receives from the NJDEP, in connection with such ISRA compliance.

(i) No lien has been attached to any revenue or any personal property owned by the Public University and located in the State, including, without limitation, any of the Leased Facilities, as a result of (i) the Administrator of the New Jersey Spill Compensation Fund expending moneys from said fund to pay for Damages and/or Cleanup and Removal Costs; or (ii) the Administrator of the United States Environmental Protection Agency expending moneys from the Hazardous Substance Superfund for Damages and/or Response Action Costs. In the event any such lien has been filed, then the Public University shall, within thirty (30) days from the date the Public University is given such notice of such lien (or within such shorter period of time in the event the State or the United States has commenced steps to have any of the Leased Facilities sold), either: (i) pay the claim and remove the lien from the Leased Facilities; or (ii) furnish (a) a bond satisfactory to an Authorized Officer of the Authority in the amount of the claim out of which the lien arises, (b) a cash deposit in the amount of the claim out of which the lien arises, or (c) other security satisfactory to an Authorized Officer of the Authority in an amount sufficient to discharge the claim out of which the lien arises.

(j) During the term of this Agreement, the Public University shall take all steps necessary to determine whether any Hazardous Substances have been Released on, at, under or from any of the Leased Facilities and the Public University shall promptly upon discovery Remediate such Release in accordance with the requirements of Applicable Environmental Laws. Without in any way limiting the generality of the foregoing, in the event the Public University performs any Remediation at any of the Leased Facilities pursuant to this Section 5.11, the Public University agrees to:

- (i) Perform and cause all consultants and contractors retained by the Public University to perform all such Remediation in a workmanlike manner and consistent with all Applicable Environmental Laws;
- (ii) Comply with all Applicable Environmental Laws in connection with the implementation of such Remediation at the Leased Facilities and obtain all permits, authorizations and consents required under Applicable Environmental Laws or by any Governmental Authority in order to implement such Remediation at the Leased Facilities;
- (iii) Select and propose to the Governmental Authority Remediation that shall not interfere with the current use of any of the Leased Facilities or the operations currently conducted by the Public University nor interfere with, preclude or prevent the future use of any of the Leased Facilities for the same use or any use similar to the current use of the Leased Facilities. Without in any way limiting the generality of the foregoing, the Public University shall not select, propose or use at any of the Leased Facilities any Engineering Controls or Institutional Controls (as such terms are

defined under N.J.S.A. 58:10B-1 *et seq.*), or any remediation standards applicable to non-residential properties, without the prior written consent of an Authorized Officer of the Authority, which consent shall not be unreasonably withheld;

- (iv) Promptly upon the completion of the Remediation, restore the Leased Facilities to substantially the same condition they were in prior to the performance of the Remediation;
- (v) Provide the Authority with copies of all documents that the Public University (i) submits to any Governmental Authority in connection with the Leased Facilities at the same time the Public University submits such documents to the Governmental Authority, and (ii) receives from any Governmental Authority in connection with the Leased Facilities within three (3) Business Days of the Public University's receipt of same; and
- (vi) Obtain and provide to the Authority a No Further Action Letter/Covenant Not to Sue issued by the NJDEP pursuant to N.J.S.A. 58:10B-13.1 or, if the Remediation is under the supervision of a Governmental Authority other than the NJDEP, obtain a comparable determination from such other Governmental Authority.

#### **SECTION 5.12      Municipal Property Taxes.**

The Public University agrees to pay, or cause to be paid, any and all local municipal assessments for property taxes, including farmland rollback assessments, directly related to the Leased Facilities. The Public University, if applicable, shall provide the Authority with copies of all applications for exemption from municipal property taxes filed with the local municipality.

#### **SECTION 5.13      Compliance with Prevailing Wage Act.**

In connection with the Leased Facilities, the Public University hereby acknowledges that the provisions of N.J.S.A. 18A:72A-5.1 to 5.4 relating to the payment of the prevailing wage rate determined by the Commissioner of the State 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 taken in connection with Authority financial assistance and the Public University covenants to comply with such provisions.

#### **SECTION 5.14      P.L. 2005, c. 92.**

In accordance with P.L. 2005, c. 92, the Public University covenants and agrees that all services performed under this Agreement shall be performed within the United States of America.

#### **SECTION 5.15      Consent to Authority's Use of Photographs and Videos.**

The Public University agrees that the Authority may use photographs or videos taken on the Public University's campus (whether taken by the Authority or other person) on the

Authority's website and in the Authority's newsletters, reports or other publications or materials (including PowerPoint presentations) in connection with the Authority's operations.

## **ARTICLE VI**

### **CHARACTER OF AGREEMENT**

#### **SECTION 6.01 Net Lease.**

It is mutually agreed by the parties hereto that this is a net lease and notwithstanding any language herein to the contrary, it is intended, and the Public University expressly covenants and agrees, that all rentals and other payments herein required to be made by the Public University to the Authority shall be net payments to the Authority, meaning that the Authority is not and shall not be required to expend any money or do any acts or take any steps affecting or with respect to the maintenance, preservation, repair, restoration, reconstruction, or protection of the Leased Facilities Site or the Leased Facilities or any part thereof.

## ARTICLE VII

### RIGHTS ON DEFAULT

#### SECTION 7.01 Entry.

The Authority and the Public University agree that, if an Event of Default (as hereinafter defined) occurs and is continuing, the Authority shall have the right to and may enter the Leased Facilities without being liable for any prosecution or damages therefor, and may relet the Leased Facilities for such term of years, which may exceed the term of this Agreement, and receive the rent therefor, upon such terms as shall be satisfactory to the Authority. Such entry by the Authority shall not relieve the Public University of its obligations under this Agreement nor operate to release the Public University from any Basic Lease Payments to be paid or covenants to be performed under this Agreement during the full term of this Agreement. For the purpose of reletting, the Authority shall be authorized to make such repairs or alterations in or to the Leased Facilities as it may deem necessary to place the same in good order and condition. The Public University shall be liable to the Authority for the cost of such repairs or alterations and all expenses of such reletting. If the sum realized or to be realized from the reletting is insufficient to satisfy the Basic Lease Payments provided in this Agreement, the Authority, at its option, may require the Public University to pay such deficiency month by month, or may hold the Public University liable in advance for the entire deficiency to be realized during the term of the reletting of the Leased Facilities in excess of the Basic Lease Payments reserved in this Agreement. Notwithstanding such entry by the Authority, the Public University agrees that: (i) all rights-of-way, easements or other rights in land conveyed or otherwise provided in accordance with this Agreement shall be continued in full force and effect; and (ii) any utility services shall be furnished by the Public University to the Leased Facilities at the expense of the Public University. Furthermore, upon such entry by the Authority, any sublease of the Leased Facilities shall immediately terminate and be of no further force and effect.

Upon entering the Leased Facilities, the Authority shall as soon as practicable, inspect the Leased Facilities and make inventories of all fixtures, furniture, equipment and effects in the Leased Facilities. The Public University shall pay to the Authority upon receipt of the properly executed vouchers therefor all sums owing to the Authority by the Public University in connection therewith.

If entry upon the Leased Facilities (or any portion thereof) is permitted under this Section 7.01, the Authority may enter upon the Leased Facilities or any portion thereof. Notwithstanding the foregoing, the Authority shall not enter upon the Leased Facilities if any Prior Agreements remain in effect unless (i) such entry is consented to by the trustees for bonds of the Authority secured by lease payments of the Public University under the Prior Agreements and (ii) such trustees and the Trustee shall have agreed upon the allocation of any revenues realized by the Authority as a result of such entry.

For purposes of this Agreement, an Event of Default shall exist if a "Lease Default Event" shall exist hereunder. The following are Lease Default Events:

(a) Upon failure by the Public University to pay in full any Lease Payments required hereunder, whether at maturity, upon a date fixed for prepayment, by declaration, upon termination of the Swap Agreement, if any, or otherwise pursuant to the terms hereof or thereof;

(b) If any material representation or warranty made by the Public University herein or made by the Public University in any document, instrument or Certificate furnished to the Trustee or the Authority in connection with the issuance of the Bonds shall at any time prove to have been incorrect in any respect as of the time made;

(c) If the Public University shall fail to observe or perform any other covenant, condition, agreement or provision in this Agreement on its part to be observed or performed, or shall breach any warranty herein contained, for a period of sixty (60) days after written notice, specifying such failure or breach and requesting that it be remedied, has been given to the Public University by the Authority or the Trustee; except that, if such failure or breach can be remedied but not within such sixty-day period and if the Public University has taken all action reasonably possible to remedy such failure or breach within such sixty-day period, such failure or breach shall not become a Lease Default Event for so long as the Public University shall diligently proceed to remedy such failure or breach in accordance with and subject to any directions or limitations of time established by the Trustee; or

(d) Any Event of Default as defined in and under the Indenture.

## **ARTICLE VIII**

### **INSPECTIONS**

#### **SECTION 8.01 Authority's Right to Inspect.**

The Public University covenants and agrees to permit the Authority and the authorized agents and representatives of the Authority to enter the Leased Facilities at all times during business hours for the purpose of inspecting the same.

#### **SECTION 8.02 Annual Inspection.**

The Public University covenants and agrees that at its own expense it will upon the request from time to time of the Authority, and at least annually, cause an inspection of the Leased Facilities to be made by a professional engineer or architectural firm employed by the Public University or by the officer or employee of the Public University in charge of the grounds and plant of the Public University and that it will file with the Authority such inspection report upon completion. Said report shall set forth in its findings whether the Leased Facilities has been maintained in good repair, working order and condition as well as any recommendations as to the proper maintenance and repair of the Leased Facilities and the estimate of money necessary for such purpose.

## **ARTICLE IX**

### **INTEREST IN THE PROJECT**

#### **SECTION 9.01 No Merger.**

It is mutually agreed by the parties hereto that so long as any of the Bonds issued by the Authority for the purpose of providing moneys to pay the cost of the Project are Outstanding and unpaid, or any Swap Payment Obligations or Swap Termination Payments are unpaid, without provision for such payment duly provided for, the leasehold interest and estate created by this Agreement shall not be merged or deemed to be merged with any reversionary interest and estate of the Public University, if any, in the Leased Facilities.

#### **SECTION 9.02 Conveyance Requirement.**

When the term of this Agreement has expired and the Authority has certified that all of the Outstanding Bonds have been paid or provision for payment duly made, and the Trustee has certified to the Authority that all of the Outstanding Bonds, including the principal, redemption premium, if any, and interest, all Swap Payment Obligations, all Swap Termination Payments and all other obligations incurred by the Authority in connection with the Project have been paid, or that sufficient funds for such payment in full are held in trust by the Trustee, an Authorized Officer of the Authority shall transfer all its rights, title and interest in and to the Leased Facilities to the appropriate State entity by deed or deeds in form satisfactory to an Authorized Officer of the Authority. Notwithstanding the foregoing, in the event any of the Prior Agreements are still then in effect, the respective Leased Facilities shall not be so transferred until permitted by the terms of such Prior Agreement.

## **ARTICLE X**

### **ASSIGNMENTS**

#### **SECTION 10.01      Assignments.**

Except as permitted by Section 5.01 above, the Public University shall not assign this Agreement or any interest therein or sublet the Leased Facilities Site or any part thereof without the prior consent of the Authority; provided, however, that nothing in this Article X shall prohibit the licensing, to students of the Public University or other use of the Leased Facilities, or any part thereof, so long as the Public University does not grant an interest in or over the Leased Facilities Site without the consent of the Authority.

## **ARTICLE XI**

### **REPRESENTATIONS**

#### **SECTION 11.01      Condition of Premises.**

The Public University shall fully familiarize itself with the physical condition of the Leased Facilities and the improvements, fixtures and equipment constituting part thereof. The Authority makes no representations whatsoever in connection with the condition of the Leased Facilities or the improvements, fixtures or equipment constituting part thereof, and the Authority shall not be liable for any latent or patent defects therein.

#### **SECTION 11.02      Limitation of Liability**

The Public University covenants that all actions heretofore taken by the Public University in connection with the Leased Facilities and the Project Facilities, including the making of contracts, and all actions hereafter taken by the Authority in connection with the Leased Facilities and the Project Facilities upon the recommendation or request of any Authorized Officer of the Public University have been and will be in full compliance with the Indenture, the Resolution, this Agreement and with all pertinent laws applicable to the Public University or the Authority. The Public University acknowledges that any review of any such actions heretofore or hereafter taken by the Authority's staff or counsel has been or will be solely for the protection of the Authority to carry out the Project and shall not estop the Authority from enforcing the foregoing covenant.

The ownership of the Leased Facilities shall not impose any other liability on the Authority, whether contractual or otherwise. Neither the carrying out of the Project nor the ownership of the Leased Facilities by the Authority shall impose any liability on the members, officers, employees, consultants or agents of the Authority. The Public University agrees to indemnify the Authority and all such other parties and save them harmless against any liability intended to be precluded herein.

In the exercise of the powers of the Authority and the Trustee by their members, officers, employees, consultants and agents (other than the Public University) under the Indenture, the Resolution, the Financing Documents and this Agreement, including (without limiting the foregoing) the carrying out of the Project, the application of moneys, the investment of funds and reletting the Leased Facilities in the Event of Default by the Public University, the Authority, the Trustee and their members, officers, employees, consultants and agents shall not be accountable to the Public University 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 the Trustee and all such other parties shall be protected in its or their acting upon any paper or document believed by it or them to be genuine, and it or 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.

Pursuant to *N.J.S.A. 18A:72A-6*, all payment obligations of the Authority whatsoever arising under the Financing Documents shall constitute special and limited obligations of the Authority payable solely from amounts, if any, paid by the Public University pursuant to this Agreement or otherwise available for such purpose under the Indenture and Resolution.

**SECTION 11.03      Covenant as to Arbitrage.**

The Authority and the Public University hereby covenant that they will make no use of the proceeds of the Bonds which would cause the Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the “Code”), Treasury Regulations Sections 1.148-0 through 1.148-11 and 1.149(d)-1, and all other applicable regulations of the Internal Revenue Service.

**SECTION 11.04      Tax Covenants.**

(a) The Authority and the Public University covenant that they will take no action which would cause the Bonds to be “private activity bonds” within the meaning of Section 141 of the Code. Accordingly, not more than ten percent (10%) of the proceeds of the Bonds will be used directly or indirectly in any trade or business carried on by any person other than a state or local governmental unit or instrumentality thereof (within the meaning of Section 141 of the Code). Not more than five percent (5%) of the proceeds of the Bonds will be used directly or indirectly in any trade or business carried on by any person other than a state or local governmental unit or instrumentality thereof (within the meaning of Section 141 of the Code) for any use unrelated to any governmental use of such proceeds or used or to be used in any “disproportionate related business use” (as defined in Section 141 of the Code). Not more than the lesser of five percent (5%) of the proceeds of the Bonds or \$5,000,000 of the Bonds will be used directly or indirectly to make or finance loans to any person other than a state or local governmental unit or instrumentality thereof (within the meaning of Section 141 of the Code). Not more than ten percent (10%) of the proceeds of the Bonds will be (i) secured directly or indirectly by any interest in property used or to be used for a private business use (within the meaning of Section 141(b) of the Code) or by payments in respect of such property, or (ii) derived directly or indirectly from payments (whether or not to the Authority) in respect of property, or borrowed money, used or to be used for a private business use.

(b) The Public University 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 Section 141 of the Code, including but not limited to (i) the allocation and use of the proceeds of the Bonds and (ii) the ownership and use of all the property financed or refinanced with proceeds of the Bonds, as such records are further described in the Tax Certificate. The Authority covenants to create and retain records with respect to: (x) all investments made with Gross Proceeds of the Bonds (including without limitation records required under Treasury Regulations Section 1.148-5(d)(6)); (y) 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 Section 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; and (z) all information necessary to establish any exception to arbitrage rebate (within the

meaning of Treasury Regulations Section 1.148-7) has been met with respect to proceeds of the Bonds, as such records are further described in the Authority's Certificate as to Arbitrage with respect to the Bonds. The Authority and the Public University covenant 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) The Authority and the Public University covenant that they will take no action which would cause the Bonds to be federally guaranteed (within the meaning of Section 149(b) of the Code).

(d) The Authority and the Public University covenant to comply with the provisions of the Code applicable to the Bonds and covenant that they will 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.

(e) The Public University 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 (the "Authority Written Procedures"). The Public University represents that it has adopted written Post-Issuance Compliance Procedures intended to meet the guidelines set forth in Internal Revenue Manual Section 7.2.3.4.4 (the "University Written Procedures" and, together with the Authority Written Procedures, the "Written Procedures"). The Public University agrees to comply with the Written Procedures and at least once a year review the use of the Bonds and any other outstanding bonds of the Authority that have financed facilities for the Public University (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, the Public University shall, with respect to any of the Authority's Bonds, provide prompt written notice to the Authority of any of the acts or events listed on Exhibit D that may jeopardize the tax exempt status of such bonds, attached hereto and made a part hereof (a "Special Notice Event"). The Public University will use its best efforts to provide advance notice, but will in any event provide notice no later than thirty (30) days after the occurrence of such Special Notice Event, whether the Public University 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 has occurred, by its receipt of any oral or written advice from the Internal Revenue Service that a Special Notice Event has occurred, or otherwise. The Public University agrees that, in consultation with the Authority, at the expense of the Public University, it shall take such actions, if any, as may be necessary or appropriate to remediate such Special Notice Event, including without limitation such actions required under Section 1.141-12 of the Treasury Regulations or a closing agreement with the Internal Revenue Service 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 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 Public University, to conduct its own investigation and at the sole cost of expense of the Public University, retain Bond Counsel to determine any and all actions required to remediate such Special Notice Event.

**SECTION 11.05 Rebate Requirement.**

(a) The Authority and the Public University covenant and agree that no Prohibited Investments or Dispositions (as described in the Tax Certificate) will be made with respect to gross proceeds of the Bonds and that the Authority shall calculate or cause to be calculated the Rebate Amount at the times and in the manner set forth in the Tax Certificate and shall pay or direct in writing the Trustee to pay (but only from amounts received from the Public University under this Agreement) the Rebate Amount from the Rebate Account to the United States, in the percentage, at the times and in the manner set forth in the Tax Certificate.

(b) Notwithstanding any other provision of this Agreement, to the extent that funds and accounts held by the Trustee are less than the amount required to be caused to be deposited by the Authority in the Rebate Fund for the Bonds, the Public University will pay to the Authority the amount equal to the Rebate Amount.

**SECTION 11.06 Agreement Not to Purchase Bonds.**

The Public University agrees that neither it nor any person related to it, within the meaning of Treasury Regulations Section 1.150-1(b), pursuant to an arrangement, formal or informal, shall purchase the Bonds in an amount related to the amount of the payments to be made pursuant to this Agreement.

**SECTION 11.07 Right to Obtain Bond Counsel Opinion.**

The Authority and the Public University shall not be required to comply with any one or more requirements of Sections 11.04, 11.05 and 11.06 hereof to the extent that an Opinion of Bond Counsel, reasonably acceptable to the Authority, is obtained to the effect that failure to comply with such requirements or compliance with other requirements in lieu of Sections 11.04, 11.05 and 11.06 hereof will not impair the exclusion from gross income of interest on the Bonds for purposes of federal income taxation under Section 103 of the Code.

**SECTION 11.08 Continuing Disclosure.**

The Public University hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement. Notwithstanding Section 7.01 or any other provision of this Agreement, failure of the Public University to comply with or perform its obligations under this Section 11.08 or under the Continuing Disclosure Agreement shall not be considered an Event of Default hereunder; however, the Authority may take such actions as may be necessary or desirable, including seeking specific performance by court order, to cause the Public University to comply with its obligations under this Section 11.08 or under the Continuing Disclosure Agreement.

**SECTION 11.09 Review and Execution of Financing Documents.**

The Public University hereby represents and warrants to the Authority, and the Swap Provider, if any, that the Public University has reviewed and has a full understanding of all the terms, conditions and risks (economic and otherwise) of each of the Financing Documents, that it is capable of assuming and willing to assume (financially and otherwise) all such risks, that it has

consulted with its own legal and financial advisors (to the extent it has deemed necessary) and is not relying upon any advice, counsel or representations (whether written or oral) of the Authority, the Authority's legal and financial advisors, or the Swap Provider, if any, and that it has made its own investment, hedging and trading decisions (including decisions relating to the suitability of each of the Financing Documents) based upon its own judgment and upon any advice from its own legal and financial advisors as it has deemed necessary. Notwithstanding the foregoing, the Authority acknowledges that the New Jersey Office of the Attorney General has provided legal counsel to both the Authority and the Public University. The Public University hereby acknowledges that the Authority is entering into the Financing Documents at the request of, and as an accommodation to, the Public University, and that the terms of the Financing Documents have been negotiated by, and are acceptable to, the Public University.

#### **SECTION 11.10 Additional Representations and Warranties.**

The Public University hereby makes the following representations and warranties to the Authority as of the Closing Date:

(a) Revised Article 9. The Public University covenants and agrees to cooperate with the Authority in complying with the provisions of revised Article 9 of the Uniform Commercial Code enacted by the New Jersey Legislature or by any other jurisdiction whose laws govern the perfection and enforceability of any security for the Bonds to the extent that the Authority determines that compliance therewith is required.

(b) Financial Statements. The audited financial statements of the Public University for the most recent fiscal year, including its balance sheets as of such date, correctly and fairly present, in all material respects, the financial condition of the Public University as of said dates and the results of the operations of the Public University for such period, and have been prepared in accordance with generally accepted accounting principles consistently applied except as stated in the notes thereto; and there has been no material adverse change in the condition, financial or otherwise, of the Public University since the date of such financial statements, from that set forth in said financial statements as of, and for the period ended on that date.

(c) Existence and Standing. The Public University is a public institution for higher education existing under the laws of the State, and has the necessary power and authority to execute and deliver this Agreement and any other Financing Documents to which the Public University is a party, and to perform its obligations hereunder and thereunder.

(d) Authorization and Validity. The execution and delivery by the Public University of this Agreement and any other Financing Documents to which the Public University is a party have been duly authorized by proper proceedings of the Public University, and no further approval, authorization or consents are required by law or otherwise. This Agreement and the other Financing Documents to which the Public University is a party, constitute the legal, valid and binding obligations of the Public University enforceable in accordance with their respective terms, except as future enforceability may be limited by bankruptcy, insolvency, or similar laws affecting the rights of creditors, and by general equitable principles.

(e) Compliance with Laws and Contracts. Neither the execution and delivery by the Public University of this Agreement and any other Financing Documents to which the Public University is a party, nor the consummation of the transactions herein and therein contemplated, nor compliance with the provisions hereof or thereof will violate any law, rule, regulation, order, writ, judgment, injunction, decree or award binding on the Public University, the Public University's organizational documents or the provisions of any indenture, instrument or agreement to which the Public University is a party or is subject, or by which it or its property is bound, or conflict with or constitute a default under or result in the creation or imposition of any lien pursuant to the terms of any such indenture, instrument or agreement.

(f) Litigation. There is no action, suit, proceeding, inquiry or investigation at law or in equity or before or by any court, public board or body pending or, to the knowledge of the Public University, threatened against or affecting the Public University (x) wherein an unfavorable decision, ruling or finding would materially adversely affect (i) the transactions contemplated by or the validity of this Agreement or any other Financing Documents to which the Public University is a party, (ii) the tax exempt status of the Public University or of the interest on the Bonds, or (iii) the Public University's property, assets, operations or conditions, financial or otherwise, or its ability to perform its obligations hereunder or under such other Financing Documents; or (y) which in any way contests the existence, organization or powers of the Public University the titles of the officers of the Public University to their respective offices, except as disclosed in the Official Statement relating to the Bonds.

(g) Swap Agreements. To the extent that the obligations of the Public University hereunder relate to a Swap Agreement, the Public University represents that the Authority will be entering into such Swap Agreement on behalf of the Public University to assist it in managing its borrowings or investments, and not for purposes of speculation. The Public University agrees to cooperate with the Authority in order to permit the Authority to comply with the Swap Agreement and agrees that in addition to its payment obligations hereunder, the Public University will provide the Authority (or the Swap Provider, if directed by an Authorized Officer of the Authority) any information about the Public University which is required to be provided, including, without limitation, audited or unaudited financial statements of the Public University at the times such information is required and to confirm that the representations of the Public University made herein are true and correct at such future times as are necessary to permit the Authority to comply with the Swap Agreement. The Public University acknowledges that the Authority may make representations, warranties and agreements in the Swap Agreement in reliance on the representations, warranties and agreements provided by the Public University herein and expressly authorizes the Authority to rely on such agreements, warranties and representations of the Public University in so doing. The Public University agrees that if a Swap Agreement is terminated and/or any Swap Agreement is entered into with respect to the Bonds, that it will amend this Agreement as may be necessary to reflect such Swap Agreement and to make such other amendments as are necessary to implement such Swap Agreement.

## **SECTION 11.11 Additional Covenants.**

During the term of this Agreement, and until the Public University has paid in full all of its obligations hereunder, the Public University hereby covenants and agrees as follows:

(a) Existence. The Public University shall maintain its existence as a public institution of higher education formed under the laws of the State of New Jersey, and shall not merge, consolidate, liquidate or sell substantially all of its assets.

(b) Compliance With Laws. The Public University shall comply with all laws, rules and regulations, and with all final orders, writs, judgments, injunctions, decrees or awards to which it may be subject and which are material to the Bonds, this Agreement or any other Financing Documents to which the Public University is a party, or the operations, affairs, properties, condition (financial or otherwise) or prospects of the Public University; provided, however, that the Public University may contest the validity or application thereof and appeal or otherwise seek relief therefrom, and exercise any and all of the rights and remedies which it may have with regard thereto, so long as such acts do not affect the Public University's power and authority to execute and deliver this Agreement and such other Financing Documents, and to perform its obligations and pay all amounts payable by it hereunder and thereunder.

(c) Maintain Existence of Authority "Project". The Public University shall operate and use or cause the Project Facilities and the Leased Facilities and each portion thereof to be operated and used as educational facilities constituting an authorized "Project" under the Act.

(d) Indemnification. The Public University shall indemnify the Authority as follows:

(i) The Public University shall protect, exonerate, defend, indemnify and save the Authority and its members, directors, officers, employees, agents, consultants and attorneys (collectively, the "Indemnified Parties") harmless from and against any and all losses, including, but not limited to personal injury, death, loss or damage to property suffered or incurred by any person, entity, firm or corporation arising out of or attributable to the financing of the Project, the use, operation or maintenance of the Project Facilities, Leased Facilities and/or the Project, arising from the use or occupancy of the Project Facilities, Leased Facilities and the Project by the Public University, its agents, contractors, servants, employees, licensees, invitees or sublessees, if any; and from and against any and all losses incurred in or about the defense of any such claims, actions or proceedings brought thereon.

(ii) The Public University's obligations hereunder shall survive the payment of the sums due hereunder and the expiration of the term of this Agreement. In addition, the Public University shall release the Indemnified Parties from, agrees that the Indemnified Parties shall not be liable for, and agrees to hold the Indemnified Parties harmless against any losses because of any action taken by an Indemnified Party in good faith

with respect to this Agreement, the Project, the Leased Facilities and the Project Facilities.

- (iii) The Indemnified Parties, respectively, will give prompt written notice to the Public University of any claim asserted against it or them, as the case may be, which claim, if sustained, may result in liability on the part of an Indemnified Party which is indemnified hereunder; provided, however, that the failure on the part of the Indemnified Party to give such notice shall not relieve the Public University from its obligation under this Section. Upon receipt of such notification, the Public University shall assume the defense thereof, with full power to litigate, compromise or settle the same in its sole discretion, but with the Indemnified Party's consent, all without cost to the Indemnified Parties, including any costs incurred by any Indemnified Party prior to such notification. Any Indemnified Party shall have the right to employ separate counsel in any such claim and to participate in the defense thereof.
- (iv) The Authority shall be protected in its acting upon any paper or documents believed by it to be genuine, and it 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.

(e) Compliance With Bond Insurer Provisions of Indenture. The Public University acknowledges the provisions of the Indenture pertaining to the Bond Insurer, and agrees, so long as the Insured Bonds are outstanding and the Bond Insurer is not in default under the Bond Insurance Policy (subject to any rights of the Bond Insurer to the extent it has become subrogated to the Holders of any Insured Bonds), to comply with the provisions thereof, including, without limitation, providing the notices and information required under Section 12.11(f) of the Indenture, making the payments that may be required under Section 12.11(h), (i) and (j) of the Indenture, and complying with the prohibition on purchasing the Insured Bonds set forth in Section 12.11(m) of the Indenture.

**SECTION 11.12 Reports and Records Furnished by Public University.** The Public University shall, if and when reasonably requested by the Authority, provide the following reports and records to the Trustee and the Authority concerning the Project Facilities and the condition of the Public University:

(a) The Public University shall deliver to the Authority any records required by Section 11.04(b) of this Agreement and the Tax Certificate. The Public University also shall furnish annually to the Authority a certification to the effect that the Public University has retained such records. The Public University will 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.

(b) The Public University acknowledges that the Authority shall have the right at any time, and in the sole and absolute discretion of the Authority, to redetermine the particular records required under Section 11.04(b) of this Agreement. The Public University also

acknowledges that if, in the judgment of the Authority, the records retained by the Public University are insufficient, the Authority shall have the right to obtain from the Public University all information necessary to construct the records necessary to demonstrate compliance with Sections 141 of the Code. Additionally, the Authority may, with reasonable cause, retain counsel to construct or review such records. The Public University hereby agrees to be bound by any such records or review, absent manifest error, and to pay the reasonable expenses of the Authority and the reasonable fees and expenses of counsel retained by the Authority as Additional Lease Payments.

**SECTION 11.13 Additional Reporting Requirements of the Public University.**

The Public University shall furnish or cause to be furnished to the Bond Insurer, if any:

(a) As soon as practicable after they are available but in no event more than one hundred eighty (180) days after the last day of each fiscal year, the audit report and audited financial statements of the Public University for such fiscal year certified by an independent certified public accountant, covering the operations of the Public University for such fiscal year and containing a statement of net assets as of the end of such fiscal year, a statement of revenues, expenses and changes in net assets, and a statement of cash flows for such fiscal year, showing in each case in comparative form the financial figures for the preceding fiscal year;

(b) Any notice, report or certificate required to be delivered by the Public University to the Trustee under the Indenture and/or this Agreement;

(c) Prior to issuing additional debt, a copy of any disclosure document pertaining to such additional debt, which disclosure document shall include, without limitation, the applicable maturity schedule, interest rate or rates, and redemption and security provisions pertaining to any such additional debt; and

(d) Notice of any material adverse change in the financial condition of the Public University, including notice of any litigation or investigation that may have a material adverse effect on the financial position of the Public University, within sixty (60) days following notice of such litigation or investigation.

## ARTICLE XII

### MISCELLANEOUS

#### **SECTION 12.01 Severability.**

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

#### **SECTION 12.02 Paragraph Headings.**

The paragraph headings contained herein are for convenience and reference and are not intended to define or limit the scope of any provision of this Agreement.

#### **SECTION 12.03 Notices.**

All notices required to be given or authorized to be given by any party pursuant to this Agreement shall be in writing and shall be sent by registered or certified mail to the office of the other party or parties as set forth in the Indenture. All notices required to be given or authorized to be given to the Trustee by either party pursuant to this Agreement shall be in writing and shall be sent by registered or certified mail to the Principal Office of the Trustee at the address of such Principal Office.

#### **SECTION 12.04 Rights Cumulative.**

All rights and remedies herein given or granted to the Authority are cumulative, nonexclusive and in addition to any and all rights and remedies that the Authority may have or be given by reason of any law, statute, ordinance or otherwise.

#### **SECTION 12.05 Amendments or Modification.**

This Agreement shall not be amended or modified in any manner without the written consent of the Authority and the Public University and in accordance with the provisions of the Indenture.

#### **SECTION 12.06 Resolution and Indenture Controlling.**

In the event any provisions of this Agreement shall be incompatible with the Resolution or the Indenture, the provisions of said Resolution and the Indenture shall be controlling.

#### **SECTION 12.07 Swap Provider and Bond Insurer as Beneficiaries.**

(a) To the extent this Agreement confers upon or gives or grants to a Swap Provider, if any, right, remedy or claim under or by reason of this Agreement, the Swap Provider, if any, is hereby explicitly recognized as being a third-party beneficiary hereunder, and may enforce any such right, remedy or claim conferred, given or granted to it hereunder.

(b) To the extent this Agreement confers upon or gives or grants to the Bond Insurer any, right, remedy or claim under or by reason of this Agreement, the Bond Insurer is hereby explicitly recognized as being a third-party beneficiary hereunder, and may enforce any such right, remedy or claim conferred, given or granted to it hereunder.

**SECTION 12.08 Counterparts.**

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

**SECTION 12.09 Governing Law.**

This Agreement shall be governed exclusively by and construed in accordance with the laws of the State of New Jersey without regard to conflict of law principles.

IN WITNESS WHEREOF, the New Jersey Educational Facilities Authority has caused these presents to be executed by its Executive Director and The William Paterson University of New Jersey has caused these presents to be executed by the Chair of the Public University, all as of the day and year first hereinabove set forth.

NEW JERSEY EDUCATIONAL  
FACILITIES AUTHORITY

Attest:

\_\_\_\_\_  
Steven P. Nelson  
Assistant Secretary

By: \_\_\_\_\_  
Eric D. Brophy, Esq.  
Executive Director

Attest:

THE WILLIAM PATERSON UNIVERSITY  
OF NEW JERSEY

\_\_\_\_\_  
Stephen O. Bolyai  
Senior Vice President for Administration  
and Finance

By: \_\_\_\_\_  
Richard J. Helldobler  
President

STATE OF NEW JERSEY            )  
  )  
COUNTY OF PASSAIC            )        SS.

BE IT REMEMBERED that on March \_\_, 2021 before me the subscriber, a Notary Public of the State of New Jersey, personally appeared Richard J. Helldobler, who being by me duly sworn according to law on his oath, says that he is the President of THE WILLIAM PATERSON UNIVERSITY OF NEW JERSEY, the Public University named in the within instrument; and that this person thereupon acknowledged that the instrument signed and delivered by said President, as and for his voluntary act and deed and as and for the voluntary act and deed of said Public University

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Notary Public

STATE OF NEW JERSEY            )  
  )  
COUNTY OF MIDDLESEX        )        SS.

BE IT REMEMBERED that on March \_\_, 2021 before me the subscriber, a Notary Public of the State of New Jersey, personally appeared Eric D. Brophy, Esq., who being by me duly sworn according to law on his oath, says that he is the Executive Director of the NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY, the Authority named in the within instrument; and that this person thereupon acknowledged that the instrument signed and delivered by said Executive Director, as and for his voluntary act and deed and as and for the voluntary act and deed of said Authority.

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Notary Public

**EXHIBIT A**

**PROPERTY DESCRIPTION OF THE LEASED FACILITIES SITE**

University Commons, consisting of Machuga Student Center, The Ballroom and Speert Hall

## **EXHIBIT B**

### **DESCRIPTION OF THE PROJECT FACILITIES**

The Series 2021 C Project consists of of (i) the renovation and equipping of the building located at 1800 Valley Road, for use by the School of Continuing Education and also to house a Child Development Center, (ii) the renovation and equipping of the Speert Hall dining room and other food service venues on the campus of the Public University, (iii) the renovation and equipping of the Carriage House to house a catering kitchen on the first floor and administrative offices on the second floor, (iv) the renovation and equipping of the University Commons, including replacement of granite walls and elevator lobby surrounds, (v) the renovation and equipping of various residence halls, including installation of kitchen counters, windows and screens at Pioneer and Heritage Halls, installation of a compressor and heat exchanger at High Mountain West Hall, renovation of bathrooms at White and Matelson Halls, façade restoration at White Hall, renovations to the cooling tower at Overlook South Hall, and interior renovations at the various residence halls, (vi) the demolition of Overlook North Residence Hall, and (vii) the replacement of the roof of the Power Arts Building

**EXHIBIT C**

**Schedule of Basic Lease Payments**

(Included for Informational Purposes Only)

## EXHIBIT D

### SPECIAL NOTICE EVENTS

The following events shall be considered Special Notice Events:

1. **Private business use of the Bond Financed Property** -- if any portion of the financed and/or refinanced projects will be used by anyone other than a State or local governmental unit 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). Use of bond financed facilities by the federal government or a 501(c)(3) corporation, or with respect to solar facilities, or a cell tower by a private entity are considered private business use;
2. **Private Loans of Bond Proceeds** -- if any portion of the proceeds of the Bonds (including any investment earnings thereon) are to be loaned by the Public University;
3. **Naming rights agreements for the Bond Financed Property** -- if any portion of the financed and/or refinanced projects will become subject to a naming rights agreement, other than a “brass plaque” dedication;
4. **Research using the Bond Financed Property** -- if any portion of the financed and/or refinanced projects has been or will be used for the conduct of research under the sponsorship, or for the benefit of, any entity other than a State or local governmental unit, other than a qualified research contract described in Rev. Proc. 2007-47;
5. **Management agreement or service agreement** -- if any portion of the financed and/or refinanced projects is to be used under a management contract (e.g., food service, bookstore, or parking management) or service contract, other than (i) a contract for services that are solely incidental to the primary function of the financed and/or refinanced projects, such as janitorial services or office equipment repair, or (ii) a qualified management contract described in Rev. Proc. 2017-13 (and to the extent provided in Rev. Proc. 2017-13, Rev. Proc. 97-13, as amended and supplemented) (Note: a contract that results in the payment of a concession or similar fee to the Public University is not a qualified contract);
6. **Joint Ventures** -- if any portion of the financed and/or refinanced projects will be or has been used in any joint venture arrangement with any person other than a State or local governmental unit;
7. **Sinking fund or pledge fund** -- if the Public University, or any organization related to the Public University, 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 the bond documents for the Bonds; or

8. **Unexpected Payments or Proceeds** -- if the Public University receives funds related to the Bond financed and/or refinanced property or the Bonds, including without limitation, charitable gifts, insurance payments and settlements of litigation or other disputes.

**Schedule 5.11**

The following items are disclosed pursuant to Section 5.11(c), 5.11(e) and 5.11(f) hereof:

None.

This Preliminary Official Statement and certain of the information contained herein is in a form deemed final for purposes of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (except for the omission of certain information permitted to be omitted under Rule 15c2-12(b)(1)). The information herein is subject to revision, completion or amendment in a final Official Statement. The Bonds may not be sold, nor may an offer to buy be accepted prior to the time the Official Statement is delivered in final form. Under no circumstances shall this Preliminary Official Statement constitute an offer to sell or a solicitation of an offer to buy nor shall there be any sale of these securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction.

CONNELL FOLEY, LLP  
DATED: January 13, 2021

Preliminary Official Statement Dated \_\_\_\_, 2021

NEW ISSUE  
BOOK-ENTRY ONLY

RATINGS: See "RATINGS" herein

In the opinion of Bond Counsel, assuming continuing compliance with the provisions of the Internal Revenue Code of 1986, as amended (the "Code") applicable to the Series 2021 Bonds and subject to certain provisions of the Code which are described herein, under laws, regulations, rulings and judicial decisions existing on the date of the original delivery of the Series 2021 Bonds, interest on the Series 2021 Bonds is excluded from gross income of the owners thereof for federal income tax purposes under Section 103 of the Code. In the further opinion of Bond Counsel, interest on the Series 2021 Bonds is not treated as a preference item for purposes of the alternative minimum tax imposed by the Code on individuals. Further, in the opinion of Bond Counsel, under the laws of the State of New Jersey, as enacted and construed on the date of original delivery of the Series 2021 Bonds, interest on the Series 2021 Bonds and any gain from the sale thereof are not includable in gross income under the New Jersey Gross Income Tax Act. See "TAX MATTERS" herein.



\$ \_\_\_\_\_ \*

**NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY  
REVENUE BONDS,  
THE WILLIAM PATERSON UNIVERSITY  
OF NEW JERSEY ISSUE, SERIES 2021 C**



Dated: Date of Delivery

Due: July 1, as shown on the inside cover

The New Jersey Educational Facilities Authority (the "Authority") \$ \_\_\_\_\_ \* Revenue Bonds, The William Paterson University of New Jersey Issue, Series 2021 C (the "Series 2021 Bonds") are issuable only as fully registered bonds and, when issued, will be registered in the name of Cede & Co., as nominee for The Depository Trust Company ("DTC"), New York, New York. DTC will act as securities depository for the Series 2021 Bonds. Individual purchases of the Series 2021 Bonds will be made in book-entry form, in denominations of \$5,000 and any integral multiple thereof. Purchasers ("Beneficial Owners") will not receive certificates representing their interest in Series 2021 Bonds purchased. So long as DTC or its nominee is the registered owner of the Series 2021 Bonds, payments of principal, of redemption premium, if any, and interest on the Series 2021 Bonds will be made by U.S. Bank National Association, Edison, New Jersey, as trustee (the "Trustee"), directly to DTC. Disbursements of such payments to the DTC participants is the responsibility of DTC and disbursements of such payments to the Beneficial Owners is the responsibility of the DTC participants and the indirect participants. See "DESCRIPTION OF THE SERIES 2021 BONDS -- Book-Entry-Only System" herein.

Interest on the Series 2021 Bonds will be payable on January 1 and July 1 of each year until maturity or earlier redemption, commencing on [July 1, 2021.]

The Series 2021 Bonds are subject to redemption prior to maturity as described herein.

The Series 2021 Bonds are being issued pursuant to the New Jersey Educational Facilities Authority Law (N.J.S.A. 18A:72A-1 et seq.), as amended and supplemented, a resolution of the Authority adopted January 26, 2021 (the "Resolution") and a Trust Indenture dated as of March 1, 2021 by and between the Authority and the Trustee (the "Indenture"). The Series 2021 Bonds are being issued to finance, together with other available funds: (i) the renovation and equipping of the building located at 1800 Valley Road, for use by the School of Continuing Education and also to house a Child Development Center, (ii) the renovation and equipping of the Speert Hall dining room and other food service venues on the campus of the University, (iii) the renovation and equipping of the Carriage House to house a catering kitchen on the first floor and administrative offices on the second floor, (iv) the renovation and equipping of the University Commons, including replacement of granite walls and elevator lobby surrounds, (v) the renovation and equipping of various residence halls, including installation of kitchen counters, windows and screens at Pioneer and Heritage Halls, installation of a compressor and heat exchanger at High Mountain West Hall, renovation of bathrooms at White and Matelson Halls, façade restoration at White Hall, renovations to the cooling tower at Overlook South Hall, and interior renovations at the various residence halls, (vi) the demolition of Overlook North Residence Hall, and (vii) the replacement of the roof of the Power Arts Building, and (viii) the payment of certain costs incidental to the issuance and sale of the Series 2021 Bonds (collectively, the "Series 2021 Project").

The principal and redemption premium, if any, and of interest on the Series 2021 Bonds are payable solely from payments to be received by the Authority pursuant to a Lease and Agreement dated as of March 1, 2021 (the "Agreement") by and between the Authority and The William Paterson University of New Jersey (the "University") and from funds and accounts held by the Trustee under the Indenture.

**THE SERIES 2021 BONDS ARE SPECIAL AND LIMITED OBLIGATIONS OF THE AUTHORITY AND ARE NOT A DEBT OR LIABILITY OF THE STATE OF NEW JERSEY OR ANY OTHER POLITICAL SUBDIVISION THEREOF, OTHER THAN THE AUTHORITY (TO THE LIMITED EXTENT SET FORTH IN THE INDENTURE), OR A PLEDGE OF THE FAITH AND CREDIT OR THE TAXING POWER OF THE STATE OF NEW JERSEY OR OF ANY POLITICAL SUBDIVISION THEREOF, OTHER THAN THE AUTHORITY (TO THE LIMITED EXTENT SET FORTH IN THE INDENTURE). THE AUTHORITY HAS NO TAXING POWER. SEE "SECURITY FOR THE SERIES 2021 BONDS" HEREIN FOR A DESCRIPTION OF THE SECURITY FOR THE SERIES 2021 BONDS.**

This cover page, including the inside cover page, contains certain information for quick reference only. It is not intended to be a summary of this issue or of all factors relevant to an investment in the Series 2021 Bonds. For a discussion of certain factors that should be considered, in addition to the other matters set forth on this cover page, in evaluating the investment quality of the Series 2021 Bonds, Investors must read the entire Official Statement, including, but not limited to, APPENDIX A and APPENDIX B, to obtain information essential to the nature of an informed decision in the Series 2021 Bonds.

The Series 2021 Bonds are offered when, as and if issued by the Authority, subject to prior sale, withdrawal or modification of the offer without notice and the approval of their legality by GluckWalrath, LLP, Bond Counsel. Certain legal matters will be passed upon for the Underwriter by its counsel, Connell Foley, LLP, Roseland, New Jersey. The Series 2021 Bonds are expected to be available for delivery to DTC in New York, New York on or about \_\_\_\_\_, 2021.

**BofA Securities**

Dated: \_\_\_\_\_, 2021

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\*Preliminary, subject to change

\$ \_\_\_\_\_ \*

**NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY  
REVENUE BONDS,  
THE WILLIAM PATERSON UNIVERSITY  
OF NEW JERSEY ISSUE, SERIES 2021 C**

**MATURITIES, PRINCIPAL AMOUNTS, INTEREST RATES,  
YIELDS AND CUSIPS**

<b>Maturity (July 1)*</b>	<b>Principal Amount*</b>	<b>Interest Rate</b>	<b>Yield</b>	<b>CUSIP No.**</b>
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\$ \_\_\_\_\_ % Term Bond due July 1, \_\_\_\_\_,\* Yield \_\_\_\_\_%, Price \_\_\_\_\_, CUSIP No. \_\_\_\_\_

\*Preliminary, subject to change.

\*\* Registered trademark of American Bankers Association. CUSIP numbers are provided by CUSIP Global Services, which is managed on behalf of the American Bankers Association by Standard & Poor's, Global Market Intelligence. The CUSIP numbers listed above are being provided solely for the convenience of Bondholders only at the time of issuance of the Series 2021 Bonds and the Authority does not make any representation with respect to such numbers or undertake any responsibility for their accuracy now or at any time in the future. The CUSIP number for a specific maturity is subject to being changed after the issuance of the Series 2021 Bonds as a result of various subsequent actions including, but not limited to, a refunding in whole or in part of such maturity or as a result of the procurement of secondary market portfolio insurance or other similar enhancement by investors that is applicable to all or a portion of certain maturities of the Series 2021 Bonds.

THE ORDER AND PLACEMENT OF MATERIALS IN THIS OFFICIAL STATEMENT, INCLUDING THE APPENDICES, ARE NOT TO BE DEEMED TO BE A DETERMINATION OF RELEVANCE, MATERIALITY OR IMPORTANCE, AND THIS OFFICIAL STATEMENT, INCLUDING THE APPENDICES, MUST BE CONSIDERED IN ITS ENTIRETY. THE OFFERING OF THE SERIES 2021 BONDS IS MADE ONLY BY MEANS OF THIS ENTIRE OFFICIAL STATEMENT.

The purchase of the Series 2021 Bonds involves certain investment risks. Accordingly, each prospective purchaser of the Bonds should make an independent evaluation of the entirety of the information presented in the Official Statement, including, its appendices, to obtain information essential to the nature of an informed investment decision in the Series 2021 Bonds.

The information contained herein relating to the Authority under the headings, “THE AUTHORITY” and “LITIGATION - The Authority”, has been obtained from the Authority (as hereinafter defined). All other information herein has been obtained by the Underwriter (as hereinafter defined) from the University (as hereinafter defined), the Underwriter and other sources deemed by the Underwriter to be reliable, and is not to be construed as a representation of the Authority or the Underwriter. The Authority has not participated in the making of the statements contained within this Official Statement other than the information under the headings, “THE AUTHORITY” and “LITIGATION - The Authority”, and does not represent that any such statements are accurate or complete for purposes of investors making an investment decision with respect to the Series 2021 Bonds.

University, in APPENDIX A, has provided the description of the University and certain relevant financial and operating data with respect thereto. It is noted that some of the financial information has been derived from the audited financial statements of the University. This information should be read in conjunction with the audited financial statements and related notes which are included as APPENDIX B to this Official Statement.

The information herein is subject to change without notice, and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances create any implication that there has been no change in the affairs of the Authority or the University since the date hereof.

No dealer, broker, salesman or other person has been authorized by the Authority or the University to give any information or to make any representations with respect to the Series 2021 Bonds, other than those contained in this Official Statement, and, if given or made, such other information or representations must not be relied upon as having been authorized by either of the foregoing. This Official Statement does not constitute an offer to sell or the solicitation of any offer to buy, nor shall there be any sale of the Series 2021 Bonds by any person in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale. Certain information contained herein has been obtained from the University and other sources which are believed to be reliable, but it is not guaranteed as to accuracy or completeness, and it is not to be construed as a representation of the Authority. The information set forth herein relative to The Depository Trust Company, New York, New York (“DTC”) and DTC’s book-entry only system has been supplied to the Authority by DTC for inclusion herein. Such information has not been independently

verified by the Authority and the Authority does not make any representation as to the accuracy or completeness of such information provided by DTC.

The Series 2021 Bonds have not been registered under the Securities Act of 1933, as amended, and neither the Resolution nor the Indenture has been qualified under the Trust Indenture Act of 1939, as amended, in reliance upon exemptions contained in such federal laws. In making an investment decision, investors must rely upon their own examination of the Series 2021 Bonds and the security therefore, including an analysis of the risk involved. The Series 2021 Bonds have not been recommended by any federal or state securities commission or regulatory authority. The registration, qualification or exemption of the Series 2021 Bonds in accordance with applicable provisions of securities laws of the various jurisdictions in which the Series 2021 Bonds have been registered or qualified and the exemption from registration or qualification in the various jurisdictions cannot be regarded as a recommendation thereof. Neither such jurisdictions nor any of their agencies have passed upon the merits of the Series 2021 Bonds or the accuracy or completeness of this Official Statement. Any representation to the contrary may be a criminal offense.

References in this Official Statement to statutes, laws, rules, regulations, resolutions, agreements, reports and documents do not purport to be comprehensive or definitive, and all such references are qualified in their entirety by reference to the particular document, the full text of which may contain qualifications of and exceptions to statements made herein. This Official Statement is submitted in connection with the sale of the Series 2021 Bonds and may not be reproduced or used, in the whole or in part, for any other purpose.

Certain statements included or incorporated by reference in this Official Statement constitute “forward-looking statements.” Such statements generally are identifiable by the terminology used, such as “plan,” “expect,” “estimate,” “budget” or other similar words.

The achievement of certain results or other expectations contained in such forward-looking statements involves known and unknown risks, uncertainties and other factors that may cause actual results, performance or achievements described to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. Neither the Authority nor the University plans to issue any updates or revisions to those forward-looking statements if or when its expectations or events, conditions or circumstances on which such statements are based occur.

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**NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY**

**OFFICIAL STATEMENT**

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**NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY  
REVENUE BONDS,  
THE WILLIAM PATERSON UNIVERSITY OF NEW JERSEY ISSUE,  
SERIES 2021 C**

**INTRODUCTORY STATEMENT**

**General**

The purpose of this Official Statement (the “Official Statement”), which includes the cover page, inside cover page and the Appendices hereto, is to furnish information concerning the New Jersey Educational Facilities Authority (the “Authority”), and its \$ \_\_\_\_\_ Revenue Bonds, The William Paterson University of New Jersey Issue, Series 2021 C (the “Series 2021 Bonds” or the “Bonds”). The Series 2021 Bonds are being issued pursuant to (i) the Act (as defined herein); (ii) a Resolution adopted by the Authority on January 26, 2021 (the “Resolution”); and (iii) a Trust Indenture dated as of March 1, 2021 (the “Indenture”) by and between the Authority and U.S. Bank National Association, as trustee for the Series 2021 Bonds (the “Trustee”). The Series 2021 Bonds are being issued and will bear interest at the rates set forth on the inside front cover and shall be payable as set forth herein. See “SECURITY FOR THE SERIES 2021 BONDS” herein. The Series 2021 Bonds will be subject to optional, extraordinary optional, and mandatory sinking fund redemption prior to maturity as described herein. See “DESCRIPTION OF THE SERIES 2021 BONDS – Redemption” herein. Capitalized terms used herein but not defined herein shall have the terms ascribed to them in “APPENDIX C – FORM OF CERTAIN LEGAL DOCUMENTS” attached hereto.

The information contained in this Official Statement has been prepared under the direction of the Authority for use in connection with the sale and delivery of the Series 2021 Bonds.

**Authority for Issuance**

The Series 2021 Bonds are being issued pursuant to 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”).

The Act, among other things, empowers the Authority to issue bonds, notes and other obligations to obtain funds to finance an eligible educational facility as such may be required or convenient for the purpose of a public or private participating institution of higher education, such as The William Paterson University of New Jersey, located in Wayne, New Jersey, organized and existing under and by virtue of the laws of the State of New Jersey (hereinafter referred to as the “University”). For information concerning the University, see “APPENDIX A – CERTAIN

INFORMATION REGARDING THE WILLIAM PATERSON UNIVERSITY OF NEW JERSEY” hereto, and “APPENDIX B – AUDITED FINANCIAL STATEMENTS OF THE WILLIAM PATERSON UNIVERSITY OF NEW JERSEY AS OF AND FOR THE YEARS ENDED JUNE 30, 2020 AND 2019” hereto.

## **Purpose**

The Series 2021 Bonds are being issued to provide funds to finance, together with other available funds: (i) the renovation and equipping of the building located at 1800 Valley Road, for use by the School of Continuing Education and also to house a Child Development Center, (ii) the renovation and equipping of the Speert Hall dining room and other food service venues on the campus of the University, (iii) the renovation and equipping of the Carriage House to house a catering kitchen on the first floor and administrative offices on the second floor, (iv) the renovation and equipping of the University Commons, including replacement of granite walls and elevator lobby surrounds, (v) the renovation and equipping of various residence halls, including installation of kitchen counters, windows and screens at Pioneer and Heritage Halls, installation of a compressor and heat exchanger at High Mountain West Hall, renovation of bathrooms at White and Matelson Halls, façade restoration at White Hall, renovations to the cooling tower at Overlook South Hall, and interior renovations at the various residence halls, (vi) the demolition of Overlook North Residence Hall, and (vii) the replacement of the roof of the Power Arts Building, and (viii) the payment of certain costs incidental to the issuance and sale of the Series 2021 Bonds (collectively, the “Series 2021 Project”). See “ESTIMATED SOURCES AND USES OF FUNDS” herein.

## **Certain Outstanding Obligations**

The University has repayment obligations in respect of various bonds of the Authority issued for the benefit of the University, and certain other capital leases. All of such repayment obligations are general obligations of the University payable from any legally available funds of the University. The Authority may from time to time in the future issue other series of its revenue bonds to finance or refinance projects of the University. See “SECURITY FOR THE BONDS – Certain Outstanding Obligations” and “Appendix A – THE WILLIAM PATERSON UNIVERSITY OF NEW JERSEY– INDEBTEDNESS” herein.

## **Security**

The Series 2021 Bonds are special and limited obligations of the Authority payable solely from amounts paid by the University under the Agreement (as defined herein) and from certain funds and accounts held under the Indenture. See “SECURITY FOR THE SERIES 2021 BONDS – General” herein.

Pursuant to a Lease and Agreement, dated as of March 1, 2021 (the “Agreement”), by and between the Authority and the University, the University will, upon the issuance of the Series 2021 Bonds, have a general obligation to pay to the Authority the Basic Lease Payments (as defined therein) and certain Additional Lease Payments (as defined therein) for the use and occupancy of

certain of the Project Facilities (referred to herein as the “Leased Facilities”). The Basic Lease Payments under the Agreement are payable by the University from any legally available funds of the University, and shall be in an amount sufficient to enable the Trustee to make the transfers and deposits required at the times and in the amounts required by Section 4.06 of the Indenture. The Basic Lease Payments shall be due on each Basic Lease Payment Date (in the case of regularly scheduled debt service, being December 20 in the case of interest payable on the following January 1 and one-half of the principal or scheduled mandatory sinking fund redemption installment payable on the following July 1, and June 20 in the case of interest payable on the following July 1 and one-half of the principal or scheduled mandatory sinking fund redemption installment payable on July 1). To secure the payment of the Basic Lease Payments and the Additional Lease Payments, the University will establish a “Rental Pledge Account” under the Agreement, into which the University is required to deposit or cause to be deposited amounts sufficient to pay the Basic Lease Payments and Additional Lease Payments on each December 1 (in the case of the December 20 Basic Lease Payment) and June 1 (in the case of the June 20 Basic Lease Payment). No specific pledge of University revenues is made in the Agreement with respect to the Series 2021 Bonds.

The Authority has previously issued other series of its revenue refunding bonds to finance projects for the University, each of which projects is leased to the University pursuant to a separate lease and agreement with the Authority. All of the existing lease and agreements constitute a general obligation of the University, payable from any legally available moneys of the University. The Basic Lease Payments and Additional Lease Payments under the Agreement are general obligations of the University. See “SECURITY FOR THE SERIES 2021 BONDS – Certain Outstanding Obligations-Additional Bonds and Other Obligations”.

The Authority may from time to time in the future issue other series of its revenue refunding bonds to finance or refinance projects of the University. See “SECURITY FOR THE SERIES 2021 BONDS – Certain Outstanding Obligations-Additional Bonds and Other Obligations” and “APPENDIX A – CERTAIN INFORMATION REGARDING THE WILLIAM PATERSON UNIVERSITY OF NEW JERSEY–INDEBTEDNESS” herein.

**THE SERIES 2021 BONDS ARE SPECIAL AND LIMITED OBLIGATIONS OF THE AUTHORITY AND ARE NOT A DEBT OR LIABILITY OF THE STATE OF NEW JERSEY OR ANY OTHER POLITICAL SUBDIVISION THEREOF, OTHER THAN THE AUTHORITY (TO THE LIMITED EXTENT SET FORTH IN THE INDENTURE), OR A PLEDGE OF THE FAITH AND CREDIT OR THE TAXING POWER OF THE STATE OF NEW JERSEY OR OF ANY POLITICAL SUBDIVISION THEREOF, OTHER THAN THE AUTHORITY (TO THE LIMITED EXTENT SET FORTH IN THE INDENTURE). THE AUTHORITY HAS NO TAXING POWER. SEE “SECURITY FOR THE SERIES 2021 BONDS” HEREIN.**

### **THE SERIES 2021 PROJECT**

The Series 2021 Bonds are being issued to provide funds to finance, together with the available funds: (i) the renovation and equipping of the building located at 1800 Valley Road, for use by the School of Continuing Education and also to house a Child Development Center, (ii) the renovation and equipping of the Speert Hall dining room and other food service venues on the campus of the Public University, (iii) the renovation and equipping of the Carriage House to house a catering kitchen on the first floor and administrative offices on the second floor, (iv) the renovation and equipping of the University Commons, including replacement of granite walls and elevator lobby surrounds, (v) the renovation and equipping of various residence halls, including installation of kitchen counters, windows and screens at Pioneer and Heritage Halls, installation of a compressor and heat exchanger at High Mountain West Hall, renovation of bathrooms at White and Matelson Halls, façade restoration at White Hall, renovations to the cooling tower at Overlook South Hall, and interior renovations at the various residence halls, (vi) the demolition of Overlook North Residence Hall, and (vii) the replacement of the roof of the Power Arts Building, and (viii) the payment of certain costs incidental to the issuance and sale of the Series 2021 Bonds.

**ESTIMATED SOURCES AND USES OF FUNDS**

The proceeds to be received from the sale of the Series 2021 Bonds (together with other available funds) shall be applied approximately as follows:

<b>SOURCES:</b> .....		
Par Amount of the Series 2021 Bonds.....		\$
[Net] Original Issue Premium.....		
<b>TOTAL SOURCES</b> .....		\$
 <b>USES:</b> .....		
Deposit to Construction Fund.....		\$
Underwriter's Discount.....		
Costs of Issuance (1).....		
<b>TOTAL USES</b> .....		\$

- (1) Includes fees and expenses of legal fees, Trustee fees, Financial Advisor fees, rating agency fees, and other issuance costs associated with the Series 2021 Bonds.

## DESCRIPTION OF THE SERIES 2021 BONDS

### General

The Series 2021 Bonds will initially be dated and will bear interest from the date of delivery. Interest will be payable on January 1 and July 1 of each year until maturity or earlier redemption, commencing July 1, 2021. The Series 2021 Bonds will bear interest at the interest rates per annum, and will mature on July 1 in each of the years and in the principal amounts shown on the inside cover of this Official Statement.

The Series 2021 Bonds will be issued in fully registered form, without coupons, in the denomination of \$5,000 or any integral multiple thereof. In the event that the Series 2021 Bonds are no longer held in book-entry form (as described in “Book-Entry-Only System” below) (i) the principal or redemption price of the Series 2021 Bonds shall be payable upon surrender at a designated corporate trust office of the Trustee and (ii) interest on the Bonds will be paid by check or draft mailed by the Trustee to Holders thereof at their addresses as it appears on the registration books of the Authority, or upon the written request of any Holder of at least \$1,000,000 in aggregate principal amount of Bonds submitted to the Trustee at least ten (10) business days prior to the record date of such interest, by wire transfer in immediately available funds to an account in the continental United States of America.

### Book-Entry-Only System

This section describes how ownership of the Bonds is to be transferred and how the principal of and interest on the Bonds are to be paid to and credited by DTC while the Series 2021 Bonds are registered in the name of Cede & Co., its nominee name. The information in this section concerning DTC and the Book-Entry-Only-System has been provided by DTC for use in disclosure documents such as this Official Statement. The Authority believes the source of such information to be reliable, but takes no responsibility for the accuracy or completeness thereof.

The Authority cannot and does not give any assurance that (1) DTC will distribute payments of debt service on the Series 2021 Bonds, or redemption or other notices, to DTC Participants, (2) DTC Participants or others will distribute debt service payments paid to DTC or its nominee (as the registered owner of the Series 2021 Bonds), or redemption or other notices, to the Beneficial Owners, or that they will do so on a timely basis, or (3) DTC will serve and act in the manner described in this Official Statement. The current rules applicable to DTC are on file with the Securities and Exchange Commission, and the current procedures of DTC to be followed in dealing with DTC Participants are on file with DTC.

***DTC and its Participants.*** DTC, the world’s largest depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing

agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity, corporate and municipal debt issues, and money market instruments from over 100 countries that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has Standard & Poor’s rating: AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. So long as the Series 2021 Bonds are maintained in book-entry form, the following procedures will be applicable with respect to the Bonds.

***Purchase of Ownership Interests.*** Purchases of Series 2021 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2021 Bonds on DTC’s records. The ownership interest of each actual purchaser of each Bond (“Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Series 2021 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Series 2021 Bonds, except in the event that use of the book-entry system for the Series 2021 Bonds is discontinued.

***Payments of Principal, Premium, if any, and Interest.*** Redemption proceeds and principal and interest payments on the Series 2021 Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC’s practice is to credit Direct Participants’ accounts upon DTC’s receipt of funds and corresponding detail information from the Authority or Trustee on payable date in accordance with their respective holdings shown on DTC’s records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in “street name”, and will be the responsibility of such Participant and not of DTC (nor its nominee), the Trustee or the Authority, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds and principal and interest payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Authority

or the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of the Direct and Indirect Participants.

**Notices.** Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Series 2021 Bonds may wish to take certain steps to augment transmission to them of notices of significant events with respect to the Series 2021 Bonds, such as redemptions, tenders, defaults, and proposed amendments to the bond documents. Beneficial Owners of Series 2021 Bonds may wish to ascertain that the nominee holding the Series 2021 Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners, or in the alternative, Beneficial Owners may wish to provide their names and addresses to the Trustee and request that copies of the notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the Series 2021 Bonds within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Series 2021 Bonds unless authorized by a Direct Participant in accordance with DTC's procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Authority as soon as practicable after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Series 2021 Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

NONE OF THE AUTHORITY, THE TRUSTEE OR THE UNIVERSITY WILL HAVE ANY RESPONSIBILITY OR OBLIGATION TO SUCH PARTICIPANTS OR THE PERSONS FOR WHOM THEY ACT AS NOMINEES WITH RESPECT TO THE PAYMENT TO, OR THE PROVIDING OF NOTICE FOR, SUCH PARTICIPANTS OR THE PERSONS FOR WHOM THEY ACT AS NOMINEES.

**Transfers of Bonds.** To facilitate subsequent transfers, all Series 2021 Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co. or such other name as may be requested by an authorized representative of DTC. The deposit of the Series 2021 Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in Beneficial Ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2021 Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Series 2021 Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Neither the Authority nor the Trustee will have any responsibility or obligation, legal or otherwise, to any party other than to the registered owners of any Series 2021 Bonds on the registration books of the Trustee.

***Discontinuance of Book-Entry-Only System.*** In the event (i) DTC determines not to continue to act as securities depository for the Series 2021 Bonds, or (ii) the Authority, determines in accordance with the terms of the Trust Indenture that (a) DTC is incapable of discharging its duties, or (b) it is in the best interests of the holders of the Series 2021 Bonds not to continue the Book-Entry-Only System, or (iii) the Trustee receives written notice from Participants having interests in not less than 50% of the Series 2021 Bonds that the continuation of a book-entry system is no longer in the best interests of the beneficial Owners of the Series 2021 Bonds, then the Authority will discontinue the Book-Entry-Only system with DTC. Upon the occurrence of the event described in (i) or (ii)(a) above, the Authority will attempt to locate another qualified securities depository. If the Authority fails to identify another qualified securities depository to replace DTC or makes the determination noted in (ii)(b) above, or if the Trustee receives the notice described in (iii) above, the Trustee will authenticate and deliver the Series 2021 Bonds in accordance with the Trust Indenture.

The information in this section concerning DTC and DTC’s book-entry-only system has been obtained from sources that the Authority believes to be reliable, but the Authority does not take any responsibility for the accuracy thereof.

**Redemption**

The Series 2021 Bonds are subject to optional, mandatory sinking fund, and extraordinary optional redemption as described below.

Optional Redemption. The Series 2021 Bonds maturing prior to July 1, \_\_\_\_\_ are not subject to optional redemption prior to maturity. The Series 2021 Bonds maturing on or after July 1, \_\_\_\_\_ are subject to redemption prior to maturity on or after July 1, \_\_\_\_\_ at the option of the Authority with the consent of the University, in whole or in part at any time or from time to time at a redemption price equal to 100% of the principal amount to be redeemed, together with accrued interest to the date of redemption.

Mandatory Sinking Fund Redemption. The Series 2021 Bonds maturing on July 1, \_\_\_\_\_ shall be retired by Sinking Fund Installments as hereinafter described, at a redemption price equal to one hundred percent (100%) of the principal amount to be redeemed, plus accrued interest to the redemption date. The Sinking Fund Installments shall be sufficient to redeem the principal amount of the Series 2021 Bonds on July 1 in each of the years and in the principal amounts as follows:

<u>Year</u>	<u>Bonds maturing July 1, _____</u>	<u>Principal Amount</u>
_____		

\*Final Maturity.

Extraordinary Optional Redemption. If all or a substantial portion of the Project Facilities are damaged or destroyed by fire or other casualty, or title to or the temporary use of all or a substantial portion of such facilities is condemned or taken for any public or quasi-public use by any governmental entity exercising or threatening the exercise of the power of eminent domain, or title thereto is found to be deficient, to such extent that in the determination of the University (i) such facilities cannot be reasonably restored or replaced to the condition thereof preceding such event, or (ii) the University is thereby prevented from carrying on its normal operations, or (iii) the cost of restoration or replacement thereof would exceed the Net Proceeds of any casualty insurance, title insurance, condemnation awards or sale under threat of condemnation with respect thereto, the Series 2021 Bonds are subject to extraordinary optional redemption prior to maturity, in whole or in part at any time or from time to time, from and to the extent of any condemnation or insurance proceeds deposited in the Debt Service Fund pursuant to the Lease Agreement, at the election of the Authority with the consent of the University. Any such redemption shall be made on the earliest practicable date at a redemption price equal to 100% of the principal amount to be redeemed, plus accrued interest to the date of redemption.

### **Notice of Redemption**

Notice of redemption will be given by the Trustee on behalf of the Authority by mailing a copy of an official redemption notice by first class mail at least (30) days and not more than sixty (60) days prior to the redemption date to each Registered Owner of the respective Series 2021 Bonds to be redeemed at the address shown on the Bond Register or at such other address as is furnished in writing by such Registered Owner to the Trustee, and such mailing shall be a condition precedent to such redemption.

All official notices of redemption shall be dated and shall state: (i) the redemption date; (ii) the redemption price; (iii) if less than all Outstanding Bonds are to be redeemed, the identification number and the respective principal amounts to be redeemed of the respective Series 2021 Bonds to be redeemed; (iv) that on the redemption date the redemption price will become due and payable upon each such Series 2021 Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date; and (v) the place where such Series 2021 Bonds are to be surrendered for payment of the redemption price, which place of payment shall be the Principal Office of the Trustee for the payment of Series 2021 Bonds.

Any notice of redemption of any Series 2021 Bonds pursuant to an optional or extraordinary optional redemption may specify that the redemption is contingent upon the deposit of moneys with the Trustee in an amount sufficient to pay the redemption price of all the Series 2021 Bonds or portions thereof which are to be redeemed on that date.

Official notice of redemption having been given as aforesaid, the Series 2021 Bonds or portions thereof so to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date (unless the Authority shall default in the payment of the redemption price) such Series 2021 Bonds, or portions thereof shall cease to bear interest. Upon surrender of such Series 2021 Bonds for redemption in accordance with said notice, such Series 2021 Bonds shall be paid by the Trustee at the redemption price. Installments

of interest due on or prior to the redemption date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Series 2021 Bond, there shall be prepared for the Registered Owner a new Series 2021 Bond or Series 2021 Bonds of the same maturity in the amount of the unpaid principal. All Series 2021 Bonds which have been redeemed shall be canceled and destroyed by the Trustee in accordance with the Indenture and shall not be reissued.

Upon the payment of the redemption price of Series 2021 Bonds being redeemed, each check or other transfer of funds issued for such purpose shall bear the CUSIP number identifying, by issue and maturity, the Series 2021 Bonds being redeemed with the proceeds of such check or other transfer.

For so long as the Securities Depository is effecting book-entry transfers of the Series 2021 Bonds, the Trustee shall provide the notices specified above only to the Securities Depository. It is expected that the Securities Depository shall, in turn, notify its Participants and that the Participants, in turn, will notify or cause to be notified the Beneficial Owners. Any failure on the part of the Securities Depository or a Participant, or failure on the part of a nominee of a Beneficial Owner of a Series 2021 Bond (having been mailed notice from the Trustee, a Participant or otherwise) to notify the Beneficial Owner of the Series 2021 Bond so affected, shall not affect the validity of the redemption of such Series 2021 Bond.

Failure of any Owner to receive a copy of such notice, or any defect therein, shall not affect the validity of any proceedings for the redemption of any other Series 2021 Bonds. Any notice mailed shall be conclusively presumed to have been duly given and shall become effective upon mailing, whether or not any Owner receives the notice.

### **Negotiable Instruments**

The Series 2021 Bonds issued pursuant to the Act are negotiable within the meaning of the Uniform Commercial Code of the State, subject only to the provisions for registration contained in the Series 2021 Bonds.

### **Estimated Annual Debt Service Requirements for the University**

The following table sets forth for each 12 month period ending on June 30 in the years \_\_\_\_ through \_\_\_\_, the amounts required for the payment of debt service by the University on the Series 2021 Bonds, other debt service and the total debt service. In accordance with the Indenture, the principal and interest requirements for the Series 2021 Bonds for each 12 month period ending on June 30 are defined to include the respective amounts required to provide for the payment of interest on each January 1 and July 1, and for the payment of principal on each July 1.

## ESTIMATED ANNUAL DEBT SERVICE REQUIREMENTS

Year Ending June 30 <sup>1</sup>	Series 2021 Bonds - <u>Principal</u>	Series 2021 Bonds - <u>Interest</u>	Series 2021 Bonds - <u>Debt Service</u>	Other Existing Debt Service of the University <sup>2</sup>	<u>Total Debt Service</u> <sup>3</sup>
2021					
2022					
2023					
2024					
2025					
2026					
2027					
2028					
2029					
2030					
2031					
2032					
2033					
2034					
2035					
2036					
2037					
2038					
2039					
2040					
2041					
2042					
<b>Totals<sup>3</sup></b>	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

<sup>1</sup> Principal and interest payable on July 1 of each year is included in the preceding year ending June 30.

<sup>2</sup> Existing debt service of the University includes the Authority’s outstanding Series 2012 C, Series 2012 D, Series 2015 C, Series 2016 E Bonds, Series 2017 B Bonds and Series 2019 A issued on behalf of the University and the University’s portion of debt service for the following State Contract Bonds: New Jersey Educational Facilities Authority, Higher Education Capital Improvement Fund Issue, Series 2002 A, Series 2016 A and Series 2016 B. [Does not include Bank of America Public Capital Corp. loan.] See “APPENDIX B – AUDITED FINANCIAL STATEMENTS OF THE WILLIAM PATERSON UNIVERSITY OF NEW JERSEY AS OF AND FOR THE YEARS ENDED JUNE 30, 2020 AND 2019” for more information.

<sup>3</sup> Totals may not add due to rounding.

## SECURITY FOR THE SERIES 2021 BONDS

### General

The Series 2021 Bonds are special and limited obligations of the Authority payable solely from the Trust Estate. Trust Estate is defined in the Indenture as (i) all right, title and interest of the Authority in and to all payments received or receivable by the Authority from the University under the Agreement (but excluding the Authority's rights to payment of its fees and expenses and to indemnification and as otherwise set forth in the Agreement), and any amount pledged by the University thereunder to the extent provided in the Agreement, (ii) all money and securities held by the Trustee from time to time under the terms of the Indenture (except moneys and securities held in the Rebate Fund), (iii) all Swap Revenues (as defined in the Indenture) paid by the University or by the Swap Provider (as defined in the Indenture), if any, and (iv) any and all other property pledged to secure the Series 2021 Bonds.

Pursuant to the Agreement, the University agrees to pay to the Authority the Basic Lease Payments (as defined therein) and certain Additional Lease Payments (as defined therein) for the use and occupancy of the Leased Facilities. The Basic Lease Payments shall be in an amount sufficient to enable the Trustee to make the transfers and deposits required at the times and in the amounts required by Section 4.06 of the Indenture. The Basic Lease Payments shall be due on each Basic Lease Payment Date (in the case of regularly scheduled debt service, being December 20 in the case of interest payable on the following January 1 and one-half of the principal or scheduled mandatory sinking fund redemption installment payable on the following July 1, and June 20 in the case of interest payable on the following July 1 and one-half of the principal or scheduled mandatory sinking fund redemption installment payable on July 1).

To secure the payment of the Basic Lease Payments and the Additional Lease Payments, the University will establish a "Rental Pledge Account" under the Agreement, into which the University is required to deposit or cause to be deposited amounts sufficient to pay the Basic Lease Payments and Additional Lease Payments on each December 1 (in the case of the December 20 Basic Lease Payment) and June 1 (in the case of the June 20 Basic Lease Payment). In the event that the balance remaining in the Rental Pledge Account on June 30 of each Bond Year is in excess of the sums payable to the Trustee for or on account of the Authority in accordance with the Indenture, such balance shall be transferred to the University.

The University has agreed that its obligation to make the payments required under the Agreement, including the Basic Lease Payments and the Additional Lease Payments, shall constitute a general obligation of the University, payable from any legally available funds of the University. No specific pledge of University revenues is made in the Agreement with respect to the Series 2021 Bonds.

Upon the payment or defeasance of the Series 2021 Bonds, the Leased Facilities shall no longer be subject to the Agreement.

The Indenture establishes various funds and accounts and provides for the application of the proceeds of the Series 2021 Bonds, the Lease Payments received pursuant to the Agreement, and other moneys which, by any of the provisions of the Indenture, are required to be deposited in such funds and accounts. For a further description of the Indenture, see “APPENDIX C - FORM OF CERTAIN LEGAL DOCUMENTS” hereto.

THE SERIES 2021 BONDS ARE SPECIAL AND LIMITED OBLIGATIONS OF THE AUTHORITY AND ARE NOT A DEBT OR LIABILITY OF THE STATE OF NEW JERSEY OR OF ANY OTHER POLITICAL SUBDIVISION THEREOF, OTHER THAN THE AUTHORITY (TO THE LIMITED EXTENT SET FORTH IN THE INDENTURE), OR A PLEDGE OF THE FAITH AND CREDIT OR THE TAXING POWER OF THE STATE OF NEW JERSEY OR OF ANY POLITICAL SUBDIVISION THEREOF, OTHER THAN THE AUTHORITY (TO THE LIMITED EXTENT SET FORTH IN THE INDENTURE). THE AUTHORITY HAS NO TAXING POWER. THE SERIES 2021 BONDS ARE PAYABLE SOLELY FROM AND SECURED BY A PLEDGE OF THE BASIC LEASE PAYMENTS PAYABLE BY THE UNIVERSITY UNDER THE AGREEMENT AND AMOUNTS HELD IN THE FUNDS AND ACCOUNTS (EXCEPT THE REBATE FUND) (AS DEFINED IN THE INDENTURE) PURSUANT TO THE INDENTURE.

### **Certain Outstanding Obligations**

The Authority has previously issued other series of its revenue bonds to finance and refinance projects for the University, each of which projects is leased to the University pursuant to a separate lease and agreement with the Authority. The payment of the annual rentals under each existing lease and agreement constitutes a general obligation of the University, payable from any legally available moneys of the University.

[Specifically, as of December 31, 2020, there were outstanding the following obligations issued for the benefit of the University: (i) \$29,690,000 in aggregate principal amount of the Authority’s Revenue Bonds and Revenue Refunding Bonds, The William Paterson University of New Jersey Issue, Series 2012 C and \$10,640,000 in aggregate principal amount of the Series 2012 D (collectively, the “Series 2012 Bonds”), (ii) \$27,810,000 of the Authority’s Revenue Bonds, The William Paterson University of New Jersey Issue, Series 2015 C (the “Series 2015 Bonds”) (iii) \$56,100,000 in aggregate principal amount of the Authority’s Revenue Refunding Bonds, The William Paterson University Issue, Series 2016 E (the “Series 2016 Bonds”); (iv) \$25,775,000 in aggregate principal amount of the Authority’s Revenue Bonds, The William Paterson University Issue, Series 2017 B (the “Series 2017 Bonds”); and (v) \$4,860,000 in aggregate principal amount of the Authority’s Revenue Refunding Bonds. The William Paterson University Issue, Series 2019 A (the “Series 2019 Bonds”).

The Series 2012 Bonds, the 2015 Series Bonds, the Series 2016 Bonds and the Series 2017 Bonds and Series 2019 Bonds are collectively referred to herein as the “Prior Bonds”.

In addition, as of December 31, 2020, the Authority has issued the following outstanding bonds for the benefit of the University: a portion of the Authority’s Higher Education Capital

Improvement Fund Issues, Series 2002 A, Series 2016 A and Series 2016 B that are allocable to the University. The lease payment obligations of the University in respect of such bonds are collectively referred to herein as “Other Existing Debt Service.” Other Existing Debt Service constitutes a general obligation of the University. As of December 31, 2020, the University has also entered into various capital leases. See “APPENDIX B - AUDITED FINANCIAL STATEMENTS OF THE WILLIAM PATERSON UNIVERSITY OF NEW JERSEY AS OF AND FOR THE YEARS ENDED JUNE 30, 2020 AND 2019.”]

The Authority may from time to time in the future issue other series of its revenue bonds to finance or refinance projects for the University, each of which is to be leased to the University pursuant to a separate lease and agreement with the Authority.

### **Additional Bonds and Other Obligations**

The repayment obligation of the University with respect to the Series 2021 Bonds pursuant to the Agreement is a general obligation of the University, and no specific revenues of the University are pledged as additional security for such repayment obligation. Payments by the University under the Agreement do not secure any other obligations of the University.

Although additional bonds may not be issued under the Indenture on parity with the Series 2021 Bonds, the Indenture permits the Authority to enter into Swap Agreements on behalf of the University (as defined in the Agreement) with respect to the Series 2021 Bonds. As of the date of issuance of the Series 2021 Bonds, the Authority has not entered into, and is not currently contemplating entering into, any Swap Agreement with respect to the Series 2021 Bonds.

In the event that any Swap Agreement is hereafter entered into, the Indenture and the Agreement may each be amended, without notice to or consent by the holders of the Series 2021 Bonds, to effectuate such Swap Agreement, including (but not limited to) providing that the Trust Estate shall also secure the counterparties to any such Swap Agreement on a parity with the Series 2021 Bonds.

Further, although additional bonds may not be issued on a parity with the Series 2021 Bonds under the Indenture, there are no covenants or restrictions which prohibit or limit the incurrence of debt or additional obligations by the University. Accordingly, the Authority may from time to time issue bonds or other obligations on behalf of the University, and the University may from time to time incur additional obligations (whether to the Authority or otherwise).

Payments by the University under the Agreement do not secure any of the Prior Bonds or other obligations of the University.

## THE AUTHORITY

### Powers of the Authority

The Authority was duly created under the Act (N.J.S.A. 18A:72A-1 et seq.) as a public body corporate and politic constituting an instrumentality exercising public and essential governmental functions of the State of New Jersey (the “State”). The Act empowers the Authority, among other things, to make loans to public and private colleges and universities for the construction, improvement, acquisition and refinancing of eligible projects in accordance with a lease agreement, a loan agreement or a mortgage approved by the Authority. The Authority is also authorized to provide financing for capital improvements at qualified public libraries.

The Act provides that the Authority shall not be required to pay taxes or assessments upon any of the property acquired or used by it or under its jurisdiction, control, possession or supervision, or upon its activities in the operation and maintenance of the facilities acquired or constructed for any participating college or university or upon any moneys, revenues or other income received therefrom by the Authority.

### Authority Organization and Membership

Under the Act and pursuant to Reorganization Plan 005-2011, the Authority membership consists of the State Treasurer, the Secretary of Higher Education, both *ex officio*, and five citizen members appointed by the Governor of the State (the “Governor”) with the advice and consent of the Senate for terms of five years each. The Act provides that deputies of the *ex officio* members may be designated to act on their behalf. Members of the Authority whose terms have expired continue to serve on the Authority until their successors are appointed and qualified. The members of the Authority serve without compensation but are entitled to reimbursement of actual and necessary expenses incurred in the discharge of their official duties.

The present members and officers of the Authority, the dates of expiration of their terms as members and their business affiliations are as follows:

Joshua E. Hodes, Chair; term as a member expired April 30, 2014; Partner, Public Strategies Impact; Trenton, New Jersey.

Ridgeley Hutchinson, Vice Chair; term as a member expired April 30, 2015; Executive Director, New Jersey Carpenters Apprentice Training and Educational Fund; Trenton, New Jersey.

The Honorable Elizabeth Maher Muoio, Treasurer; Treasurer, State of New Jersey, *ex officio*.

The Honorable Brian Bridges, Ph.D., Acting Secretary of Higher Education, *ex officio*.

Louis A. Rodriguez, P.E.; term as a member expired April 30, 2016; Engineering Consultant; Marlboro, New Jersey.

Eric D. Brophy, Esq., Executive Director, serves as the Secretary to the Authority.

Sheryl A. Stitt, Deputy Executive Director, serves as an Assistant Secretary to the Authority.

Steven P. Nelson, Director of Project Management, serves as an Assistant Secretary to the Authority.

Ellen Yang, Director of Compliance Management, serves as an Assistant Secretary to the Authority.

Brian Sootkoos, Director of Finance/Controller, serves as the Assistant Treasurer to the Authority

### **Outstanding Obligations of the Authority**

As of December 31, 2019, the Authority has heretofore authorized and issued its obligations in a total outstanding amount of \$4,742,324,053 to finance eligible projects at certain of the participating public and private colleges and universities and public libraries located in the State.

The Authority has never defaulted in payment of the maturing principal of or interest on any of its obligations.

## **STATE OF NEW JERSEY HIGHER EDUCATION**

Pursuant to Governor Christie's Reorganization Plan 005-2011, the Commission on Higher Education (the "Commission") has been abolished and the responsibilities, duties and authorities of the former Commission have been transferred to the Secretary of Higher Education.

The former Commission, established by the Higher Education Restructuring Act of 1994, provided coordination, planning, policy development and advocacy for the State's higher education system. The Commission was also responsible for institutional licensure and the administration of the Educational Opportunity Fund and other programs.

The New Jersey Higher Education system serves as the principal advocate for an integrated system of higher education which provides a broad scope of higher education programs and services. The system includes both thirty (30) public and fifty-nine (59) independent institutions and enrolls over 420,000 full-time and part-time credit seeking students Statewide.

The thirty (30) public colleges and universities are comprised of Rutgers, The State University of New Jersey (“Rutgers University”); Rowan University; the New Jersey Institute of Technology; and Montclair State University; two (2) state colleges and five (5) state universities; and nineteen (19) community colleges. Pursuant to the New Jersey Medical and Health Services Restructuring Act, effective July 1, 2013, all liabilities and debt of the University of Medicine and Dentistry of New Jersey (“UMDNJ”) and its assets were transferred to Rutgers University, Rowan University and University Hospital, and UMDNJ, as a legal entity, ceased to exist. The fifty-nine (59) independent institutions include fifteen (15) senior colleges and universities with a public mission, one (1) independent two-year religious college, thirty (30) rabbinical schools and theological seminaries and twelve (12) proprietary institutions with degree-granting authority, and one independent three-year college.

## **RATINGS**

Fitch Ratings (“Fitch”) and Moody’s Investors Service, Inc. (“Moody’s”) have provided ratings for the Series 2021 Bonds of “\_\_” and “\_\_”, respectively. These ratings reflect only the view of such rating agencies at the time such ratings were given and the Authority makes no representation as to the appropriateness of the ratings. Any desired explanation of the significance of such ratings may be obtained only from the rating agency furnishing such rating. There is no assurance that a particular rating will pertain for any given period of time or that it will not be lowered or withdrawn entirely if, in the judgment of the rating agency furnishing such rating, circumstances so warrant. Any downward revision or withdrawal of any such ratings could have an adverse effect on the market price of the Series 2021 Bonds.

## **CONTINUING DISCLOSURE**

Pursuant to the requirements of paragraph (b)(5) of Rule 15c2-12 (the “Rule”) adopted by the Securities and Exchange Commission (the “SEC”) under the Securities Exchange Act of 1934, as amended, on the date of delivery of the Series 2021 Bonds, the University will enter into a Continuing Disclosure Agreement with the Trustee, acting as Dissemination Agent, substantially in the form set forth in “APPENDIX D - FORM OF CONTINUING DISCLOSURE AGREEMENT” for the benefit of the holders of the Series 2021 Bonds.

Specifically, the University will covenant in the Continuing Disclosure Agreement to provide certain financial information and operating data relating to the University not later than one hundred eighty (180) days after the end of its fiscal year (which fiscal year currently ends on June 30 of each year) commencing with the fiscal year of the University ending June 30, 2021, and provide notice of certain enumerated events to the Municipal Securities Rulemaking Board. The financial information to be provided generally will be consistent with the information set forth in “APPENDIX B – AUDITED FINANCIAL STATEMENTS OF THE WILLIAM PATERSON UNIVERSITY OF NEW JERSEY AS OF AND FOR THE YEARS ENDED JUNE 30, 2020 AND 2019”. The operating data to be provided will be similar to the statistical information set forth in

## “APPENDIX A – CERTAIN INFORMATION REGARDING THE WILLIAM PATERSON UNIVERSITY OF NEW JERSEY”.

The Underwriter’s obligation to purchase and accept delivery of the Series 2021 Bonds is conditioned upon its receiving, at or prior to the delivery of the Series 2021 Bonds, evidence that the University has made the continuing disclosure undertaking set forth in the Continuing Disclosure Agreement.

A failure by the University to observe, perform or comply with any covenant, condition or agreement on its part to be observed or performed in the Continuing Disclosure Agreement will not constitute an Event of Default under the Indenture or the Agreement, and the holders of the Series 2021 Bonds are limited to the remedies set forth in the Continuing Disclosure Agreement.

The Authority and the holders of the Series 2021 Bonds are recognized under the Continuing Disclosure Agreement as being third-party beneficiaries thereunder and may enforce any such right, remedy or claim conferred, given or granted thereunder in favor of the Trustee or the holders of the Series 2021 Bonds, as the case may be.

[TO BE UPDATED] The University entered into previous undertakings in respect of various other bond issues. The University is in compliance with all previous undertakings to provide continuing disclosure in compliance with the requirements of Rule 15c2-12.

### **TAX MATTERS**

#### **Federal Income Taxation**

The Internal Revenue Code of 1986, as amended (the "Code") imposes certain requirements that must be met at and subsequent to the issuance and delivery of the Series 2021 Bonds for interest thereon to be and remain excluded from gross income of the owners thereof for federal income tax purposes. Noncompliance with such requirements could cause the interest on the Series 2021 Bonds to be included in gross income for federal income tax purposes retroactive to the date of issuance of the Series 2021 Bonds. The Authority and the Public University have covenanted to comply with the provisions of the Code applicable to the Series 2021 Bonds, and have covenanted not to take any action or permit any action that would cause the interest on the Series 2021 Bonds to be included in gross income under Section 103 of the Code or cause interest on the Series 2021 Bonds to be treated as an item of tax preference for purposes of the alternative minimum tax imposed by the Code on individuals. GluckWalrath LLP, Freehold, New Jersey (“Bond Counsel”), will not independently verify the accuracy of those certifications and representations.

Assuming the Authority and the University observe their covenants with respect to compliance with the Code, Bond Counsel is of the opinion that, under laws, regulations, rulings and judicial decisions existing on the date of the original delivery of Series 2021 Bonds, interest on the Series 2021 Bonds is excluded from gross income of the owners thereof for federal income tax purposes under Section 103 of the Code. Bond Counsel is further of the opinion that interest on the Series 2021 Bonds is not treated as a preference item for purposes of the alternative

minimum tax imposed by the Code on individuals. See “Certain Federal Tax Considerations” below.

### **Original Issue Premium**

The initial public offering price of certain Series 2021 Bonds may be greater than the stated redemption price thereof at maturity (each a “Premium Bond”). The difference between the initial public offering price for the Premium Bonds and the stated redemption price at maturity is “original issue premium”. For federal income tax purposes original issue premium is amortizable periodically over the term of a Premium Bond through reductions in the holder’s tax basis for the Premium Bonds for determining gain or loss from the sale or redemption prior to maturity. Amortizable premium is accounted for as reducing the tax-exempt interest on the Premium Bonds rather than crediting a deductible expense or loss. Purchasers of Series 2021 Bonds should consult their tax advisors for an explanation of the accrual rules for original issue premium and any other federal, state or local tax consequences of the purchase of the Premium Bonds.

### **Original Issue Discount**

The initial public offering price of certain Series 2021 Bonds may be less than the stated redemption price thereof at maturity (each a “Discount Bond”). The difference between the initial public offering price for any such Discount Bond and the stated redemption price at maturity is “original issue discount”. For federal income tax purposes, original issue discount of a Discount Bond accrues to the original holder of the Discount Bond over the period of its maturity based on the constant yield method compounded annually as interest with the same tax exemption and alternative minimum tax status (if applicable) as regular interest. The accrual of original issue discount increases the holder’s tax basis in the Discount Bond for determining taxable gain or loss on the maturity, redemption, prior sale or other disposition of a Discount Bond. Purchasers of the Series 2021 Bonds should consult their tax advisors for an explanation of the accrual rules for original issue discount and any other federal, state or local tax consequences of the purchase of Series 2021 Bonds with original issue discount.

### **Certain Federal Tax Considerations**

Ownership of the Series 2021 Bonds may result in collateral federal tax consequences to certain taxpayers, including, without limitation, financial institutions, S corporations with excess net passive income, property and casualty companies, individual recipients of social security or railroad retirement benefits, individuals otherwise eligible for the earned income tax credit, foreign corporations that may be subject to the foreign branch profits tax, and taxpayers who may be deemed to have incurred indebtedness to purchase or carry the Series 2021 Bonds. Bond Counsel will express no opinion with respect to these or any other collateral tax consequences of the ownership of the Series 2021 Bonds. The nature and extent of the tax benefit to a taxpayer of ownership of the Series 2021 Bonds will generally depend upon the particular nature of such taxpayer or such

taxpayer's own particular circumstances, including other items of income or deduction. Accordingly, prospective purchasers of the Series 2021 Bonds should consult their own tax advisors with respect to these and other collateral federal tax consequences resulting from ownership of the Series 2021 Bonds.

Bond Counsel has not undertaken to advise in the future whether any events after the date of issuance and delivery of the Series 2021 Bonds may affect the tax status of interest on the Series 2021 Bonds. Bond Counsel expresses no opinion as to any federal, state or local tax law consequences with respect to the Series 2021 Bonds, or the interest thereon, if any action is taken with respect to the Series 2021 Bonds or the proceeds thereof upon the advice or approval of other counsel.

### **Backup Withholding**

Commencing with interest paid in 2006, interest paid on tax-exempt obligations such as the Series 2021 Bonds is subject to information reporting to the Internal Revenue Service ("IRS") in a manner similar to interest paid on taxable obligations. In addition, interest on the Series 2021 Bonds may be subject to backup withholding if such interest is paid to a registered owner that (a) fails to provide certain identifying information (such as the registered owner's taxpayer identification number) in the manner required by the IRS, or (b) has been identified by the IRS as being subject to backup withholding.

### **Changes in Law and Post-Issuance Events**

Legislative or administrative actions and court decisions, at either the federal or state level, could have an adverse impact on the potential benefits of the exclusion from gross income of the interest on the Series 2021 Bonds for federal or state income tax purposes, and thus on the value or marketability of the Series 2021 Bonds. This impact could result from changes to federal or state income tax rates, changes in the structure of federal or state income taxes (including replacement with another type of tax), repeal of the exclusion of interest on the Series 2021 Bonds from gross income of the owners thereof for federal or state income tax purposes, or otherwise. It is not possible to predict whether any legislative or administrative actions or court decisions having an adverse impact on the federal or state income tax treatment of holders of the Series 2021 Bonds may occur. Prospective purchasers of Series 2021 Bonds should consult their own tax advisors regarding such matters.

### **State Taxes**

In the opinion of Bond Counsel, under the laws of the State, as enacted and construed on the date of original delivery of the Series 2021 Bonds, interest on the Series 2021 Bonds and gain from the sale thereof are not includible in gross income under the New Jersey Gross Income Tax Act.

## **General**

Bond Counsel is not rendering any opinion on any federal tax matters other than those described under the caption "TAX MATTERS." Prospective investors, particularly those who may be subject to special rules described above, are advised to consult their own tax advisors regarding the federal tax consequences of owning and disposing of the Series 2021 Bonds, as well as any tax consequences arising under the laws of any state or other taxing jurisdiction.

**ALL POTENTIAL PURCHASERS OF THE BONDS SHOULD CONSULT WITH THEIR TAX ADVISORS IN ORDER TO UNDERSTAND THE IMPLICATIONS OF THE CODE.**

**THE FOREGOING IS NOT INTENDED AS AN EXHAUSTIVE RECITAL OF THE POTENTIAL TAX CONSEQUENCES OF HOLDING THE SERIES 2021 BONDS. PROSPECTIVE PURCHASERS OF THE BONDS SHOULD CONSULT THEIR TAX ADVISORS WITH RESPECT TO THE FEDERAL, STATE AND LOCAL TAX CONSEQUENCES OF OWNERSHIP OF THE SERIES 2021 BONDS.**

## **LEGALITY FOR INVESTMENT**

Pursuant to the Act, all bonds, notes and other obligations issued by the Authority under the provision of the Act, including the Series 2021 Bonds, are securities in which the State and all political subdivisions of the State, their officers, boards, commissions, departments or other agencies, all banks, bankers, savings banks, trust companies, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees and other fiduciaries, and all other persons whatsoever who are authorized to invest in bonds or other obligations of the State, may properly and legally invest any funds, including capital belonging to them or within their control. Bonds, notes or other securities or obligations of the Authority are also securities which may properly and legally be deposited with and received by any State or municipal officer or agency of the State for any purpose for which the deposit of bonds or other obligations of the State are authorized by law.

## **PLEDGE OF STATE NOT TO AFFECT RIGHTS OF BONDHOLDERS**

Pursuant to the provisions of the Act, the State has pledged to and agrees with the holders of the Series 2021 Bonds issued pursuant to authority contained in the Act, and with those parties who may enter into contracts with the Authority pursuant to the provisions of the Act, that the State will not limit, alter or restrict the rights vested by the Act in the Authority and the participating colleges (as defined in the Act) to maintain, construct, reconstruct and operate any project (as defined in the Act) or to establish and collect such rents, fees, receipts or other charges

as may be convenient or necessary to produce sufficient revenues to meet the expenses of maintenance and operation thereof and to fulfill the terms of any agreements made with the bondholders authorized by the Act, and with the parties who may enter into contracts with the Authority pursuant to the provisions of the Act, or in any way impair the rights or remedies of such bondholders or such parties until the Series 2021 Bonds, together with interest thereon, are fully paid and discharged and such other contracts are fully performed on the part of the Authority.

### **OTHER LEGAL MATTERS**

All legal matters incident to the authorization and issuance of the Series 2021 Bonds are subject to the approval of Gluck Walrath, LLP, Freehold, New Jersey, Bond Counsel to the Authority, whose approving legal opinion, in substantially the form included as APPENDIX E - FORM OF APPROVING OPINION OF BOND COUNSEL to this Official Statement, will be available at the time of the delivery of the Series 2021 Bonds. Certain legal matters will be passed upon for the Underwriter by Connell Foley LLP, Roseland, New Jersey.

### **FINANCIAL ADVISOR TO THE AUTHORITY**

The Authority has engaged PFM Financial Advisors LLC (“PFM”) to act as its financial advisor for this issue and as its Independent Registered Municipal Advisor for purposes of SEC Rule 15B1-1(d)(3)(vi). PFM’s role has been limited to the final structuring and pricing of the Bonds. PFM did not participate in the preparation of this Offering Memorandum. PFM’s fee is not contingent upon the sale and close of the Series 2021 Bonds.

### **FINANCIAL ADVISOR TO THE UNIVERSITY**

Acacia Financial Group, Inc. (the “Financial Advisor”) has acted as financial advisor to the University concerning the Series 2021 Bonds, and will receive compensation contingent upon the sale and delivery of the Series 2021 Bonds. The Financial Advisor is not obligated to undertake, and has not undertaken, either to make an independent verification of, or to assume responsibility for the accuracy, completeness, or fairness of the information contained in the Official Statement and the Appendices hereto. The Financial Advisor is an independent firm and is not engaged in the business of underwriting, trading or distributing municipal securities or other public securities.

### **LITIGATION**

#### **The Authority**

There is not now pending nor, to the knowledge of the Authority, threatened, any litigation restraining or enjoining the issuance or delivery of the Series 2021 Bonds or questioning or affecting the validity of the Series 2021 Bonds or the proceedings or authority under which the Series 2021 Bonds are to be issued. There is no litigation pending or, to the Authority’s

knowledge, threatened which in any manner questions the right of the Authority to adopt the Resolution to enter into the Indenture or to enter into the Agreement or to secure Series 2021 Bonds in the manner herein described.

## **The University**

There is not now pending nor, to the knowledge of the University, threatened, any proceeding or litigation contesting the Series 2021 Project or the Agreement, or the Series 2021 Bonds, or the ability of the University to perform its obligations under the Agreement, nor is there any litigation now pending, or to the knowledge of the University, threatened litigation which, if adversely determined would materially adversely affect the financial condition or operations of the University, the transactions described in this Official Statement or the validity of the Series 2021 Bonds, or the Agreement.

## **UNDERWRITING**

BofA Securities Inc., (the “Underwriter”), has agreed to purchase the Series 2021 Bonds pursuant to the terms of a contract of purchase, by and among the Authority, the University and the Underwriter, at an aggregate purchase price of \$\_\_\_\_\_ (said aggregate purchase price reflecting the par amount of the Series 2021 Bonds, plus a [net] original issue premium of \$\_\_\_\_\_ and less an Underwriter’s discount of \$\_\_\_\_\_). The Underwriters will be obligated to purchase all of the Series 2021 Bonds if any Bonds are purchased. The Underwriter intends to offer the Series 2021 Bonds to the public initially at the offering prices set forth on the inside cover page of this Official Statement, which may subsequently change without any requirement of prior notice. The Underwriter may offer and sell Series 2021 Bonds to certain dealers (including depositing Bonds into investment trusts) at prices lower than the public offering price.

The Underwriter has provided the following paragraph for inclusion in the Official Statement.

The following three sentences have been provided by BofA Securities, Inc., the Underwriter of the Series 2019 Bonds, for inclusion in this Official Statement. BofA Securities, Inc. has entered into a distribution agreement (the “MLPF&S Distribution Agreement”) with its affiliate Merrill Lynch, Pierce, Fenner & Smith Incorporated (“MLPF&S”). As part of this arrangement, BofA Securities, Inc. may distribute securities to MLPF&S, which may in turn distribute such securities to investors through the financial advisor network of MLPF&S. As part of this arrangement, BofA Securities, Inc. may compensate MLPF&S as a dealer for their selling efforts with respect to the Series 2021 Bonds.

The Authority has not been furnished with any documents relating to the MLPF&S Distribution Agreement and makes no representation of any kind with respect thereto. The Authority is not a party to the MLPF&S Distribution Agreement and has not entered into any agreement with MLPF&S with respect to the offering and sale of the Series 2021 Bonds.

## **INDEPENDENT AUDITORS**

The financial statements of the business-type activities and the discretely presented component unit of The William Paterson University of New Jersey as of and for the years ended June 30, 2020 and 2019, which collectively comprise the University's basic financial statements, included in APPENDIX B to this Official Statement, have been audited by Baker Tilly Virchow Krause, LLP, independent auditors, as stated in their report appearing in APPENDIX B to this Official Statement.

Baker Tilly Virchow Krause, LLP did not audit the financial statements of William Paterson University of New Jersey Foundation, Inc. (the "Foundation"), the discretely presented component unit of The William Paterson University of New Jersey. The Foundation is a legally separate New Jersey non-profit corporation with an independent board of trustees which acts primarily as a fund raising entity to provide additional funding to support the educational goals of the University. Those financial statements were audited by other auditors, whose report thereon has been furnished to Baker Tilly Virchow Krause, LLP, and Baker Tilly Virchow Krause, LLP's opinion, insofar as it related to the amounts included for the Foundation, is based on the report of the other auditors. Notwithstanding the inclusion of the Foundation in the University's basic financial statements, only the University is obligated to make payments under the Agreement.

## **MISCELLANEOUS**

The references herein to the provisions of the Act, the Indenture, the Resolution, the Series 2021 Bonds, the Agreement, and the Continuing Disclosure Agreement do not purport to be complete and are made subject to the detailed provisions thereof to which reference is hereby made. Copies of the above referenced documents are available for inspection at the office of the Authority.

The information contained herein relating to the Authority under the headings, "THE AUTHORITY" and "LITIGATION - The Authority", has been obtained from the Authority (as hereinafter defined). All other information herein has been obtained by the Underwriter from the University, the Underwriter and other sources deemed by the Underwriter to be reliable, and is not to be construed as a representation of the Authority or the Underwriter. The Authority has not reviewed or approved any information in this Official Statement except the information under the headings, "THE AUTHORITY" and "LITIGATION - The Authority." The information herein is subject to change without notice, and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances create any implication that there has been no change in the affairs of the Authority or the University since the date hereof.

Any statements made in this Official Statement involving matters of opinion, whether or not expressly so stated, are intended merely as opinions and not as representations of fact. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances,

create any implication that there has been no changes in the affairs of the University or the Authority since the date hereof.

Appendices A, B, C, D and E, attached to this Official Statement are hereby expressly incorporated as a part hereof. The Authority has not participated in the making of statements contained with this Official Statement other than the information under the headings, “THE AUTHORITY” and “LITIGATION – The Authority”, and does not represent that any such statement are accurate or complete for purposes of investors making an investment decision with respect to the Bonds. Except as otherwise stated, the Authority makes no representations or warranties whatsoever with respect to the information contained herein. The Official Statement is not to be construed as a contract or agreement between or among the Authority, the University, the Underwriter or the Beneficial Owners of the Series 2021 Bonds.

The information regarding the University contained in APPENDIX A attached hereto has been provided by the University.

The consolidated financial statements of the University and independent auditors’ report contained in APPENDIX B attached hereto have been furnished by the University.

Information herein regarding DTC has been provided by DTC.

This Official Statement has been executed and delivered by the Authority and the University.

NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY

By:

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Eric D. Brophy, Esq.  
Executive Director

THE WILLIAM PATERSON UNIVERSITY OF NEW JERSEY

By:

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Stephen O. Bolyai  
Vice President for Administration and Finance

\_\_\_\_\_, 2021

**APPENDIX A**

**CERTAIN INFORMATION REGARDING THE WILLIAM  
PATERSON UNIVERSITY OF NEW JERSEY**

**APPENDIX B**

**AUDITED FINANCIAL STATEMENTS OF THE WILLIAM  
PATERSON UNIVERSITY OF NEW JERSEY AS OF AND FOR  
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**APPENDIX C**  
**FORM OF CERTAIN LEGAL DOCUMENTS**

**APPENDIX D**  
**FORM OF CONTINUING DISCLOSURE AGREEMENT**

**APPENDIX E**  
**FORM OF APPROVING OPINION OF BOND COUNSEL**

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TRUST INDENTURE

*by and between*

NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY

*and*

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

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*Dated as of March 1, 2021*

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*Relating to*

\$\_\_\_\_\_ New Jersey Educational Facilities Authority Revenue Bonds,  
The William Paterson University of New Jersey Issue, Series 2021 C

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EXHIBIT A            FORM OF BOND

EXHIBIT B            LIST OF INVESTMENT OBLIGATIONS

## **TRUST INDENTURE**

This **TRUST INDENTURE** (this “Indenture”), dated as of March 1, 2021, by and between the **NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY**, a public body corporate and politic of the State of New Jersey (the “Authority”), and **U.S. BANK NATIONAL ASSOCIATION**, a national banking association organized and existing under the laws of the United States of America with trust and fiduciary powers in the State of New Jersey, and being duly qualified to accept and administer the trusts created hereby (the “Trustee”),

### **WITNESSETH:**

**WHEREAS**, the Authority is a public body corporate and politic of the State of New Jersey (the “State”), created under 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 William Paterson University of New Jersey (the “Public University”) has determined it is necessary and advisable to undertake a capital project consisting of (i) the renovation and equipping of the building located at 1800 Valley Road, for use by the School of Continuing Education and also to house a Child Development Center, (ii) the renovation and equipping of the Speert Hall dining room and other food service venues on the campus of the Public University, (iii) the renovation and equipping of the Carriage House to house a catering kitchen on the first floor and administrative offices on the second floor, (iv) the renovation and equipping of the University Commons, including replacement of granite walls and elevator lobby surrounds, (v) the renovation and equipping of various residence halls, including installation of kitchen counters, windows and screens at Pioneer and Heritage Halls, installation of a compressor and heat exchanger at High Mountain West Hall, renovation of bathrooms at White and Matelson Halls, façade restoration at White Hall, renovations to the cooling tower at Overlook South Hall, and interior renovations at the various residence halls, (vi) the demolition of Overlook North Residence Hall, and (vii) the replacement of the roof of the Power Arts Building (collectively, the “Series 2021 C Project”); and

**WHEREAS**, the Public University has requested that the Authority issue, and the Authority has determined that it is necessary and in keeping with its authorized purposes to issue, the hereinafter-defined Bonds for the purpose of providing funds to (i) pay the cost of the Series 2021 C Project, (ii) fund capitalized interest on the Bonds, if any, (iii) fund a debt service reserve fund for the Bonds, if any, and (iv) pay certain costs incidental to the issuance, sale and delivery of the Bonds, all as presented, submitted and approved by the Public University Board (collectively, the “Project”); and

**WHEREAS**, pursuant to a Resolution of the Authority adopted on January 26, 2021, the Authority determined that it was necessary and in keeping with its authorized purposes to issue a series of bonds to be designated “New Jersey Educational Facilities Authority Revenue Bonds, The William Paterson University of New Jersey Issue, Series 2021 C” (the “Bonds”), 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 a Lease and Agreement dated the date hereof by and between the Authority and the Public University (the “Lease Agreement”) pursuant to which the Authority will lease the Leased Facilities (as defined therein) to the Public University; and

**WHEREAS**, all things necessary to make the Bonds, when authenticated by the Trustee and issued as provided in this Indenture, the valid, legal and binding, special and limited obligations of the Authority and to constitute this Indenture a valid, legal and binding agreement and pledge of the property, rights, interests and revenues herein pledged and assigned, have been done and performed, and the execution and delivery of this Indenture and the issuance and delivery of the Bonds, subject to the terms hereof, have in all respects been duly authorized.

**NOW, THEREFORE**, in consideration of the premises, the acceptance by the Trustee of the trusts hereby created, the purchase and acceptance of the Bonds by the Owners thereof, and of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in order to secure the payment of the principal of, redemption premium, if any, and interest on all of the Bonds issued and Outstanding under this Indenture from time to time according to their tenor and effect, and to secure the performance and observance by the Authority of all the covenants, agreements and conditions herein and in the Bonds contained, the payment of all Swap Payment Obligations, if any, and Swap Termination Payments, if any, the Authority does hereby transfer, pledge and assign to the Trustee and its successors and assigns in trust forever, and does hereby grant a security interest unto the Trustee and its successors in trust and its assigns, in the property described in the Granting Clauses below (said property being herein referred to as the “Trust Estate”), to wit:

**GRANTING CLAUSE FIRST**

All right, title and interest of the Authority in and to all payments received or receivable by the Authority from the Public University under the Lease Agreement (but excluding the Authority’s rights to payment of its fees and expenses, to indemnification and as otherwise expressly set forth in the Lease Agreement), and any amounts pledged by the Public University thereunder to the extent provided in the Lease Agreement.

**GRANTING CLAUSE SECOND**

All moneys and securities from time to time held by the Trustee under the terms of this Indenture, including but not limited to those amounts held in the Construction Fund and the Debt Service Fund (except moneys and securities held in the Rebate Fund).

**GRANTING CLAUSE THIRD**

All Swap Revenues paid by the Public University or by the Swap Provider, if any.

**GRANTING CLAUSE FOURTH**

Any and all other property (real, personal or mixed) of every kind and nature from time to time hereafter by delivery or by writing of any kind, pledged, assigned or transferred as and for additional security hereunder by the Authority or by anyone on its behalf or with its written

consent, to the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

**TO HAVE AND TO HOLD**, with all rights and privileges hereby transferred, pledged, assigned and/or granted or agreed or intended so to be, to the Trustee and its successors and assigns in trust forever;

**IN TRUST NEVERTHELESS**, for the equal and ratable benefit and security of all Swap Payment Obligations and Swap Termination Payments, if any, and all present and future holders of the Bonds, without preference, priority or distinction as to participation in the lien, benefit and protection hereof of one bond over or from the others, by reason of priority in the issue or negotiation or maturity thereof, or for any other reason whatsoever, except as herein otherwise expressly provided;

**PROVIDED, NEVERTHELESS**, and these presents are upon the express condition that, if the Authority or its successors or assigns shall well and truly pay or cause to be paid the principal of such Bonds with interest, according to the provisions set forth in the Bonds or shall provide for the payment or redemption of such Bonds by depositing or causing to be deposited with the Trustee the entire amount of funds or securities requisite for payment or redemption thereof when and as authorized by the provisions hereof, and shall also pay or cause to be paid all other sums payable hereunder by the Authority, and shall pay or cause to be paid all Swap Payment Obligations, if any, and Swap Termination Payments, if any, then these presents and the estate and rights hereby granted shall cease, determine and become void, and thereupon the Trustee, on payment of its lawful charges and disbursements then unpaid, on demand of the Authority and upon the payment of the costs and expenses thereof, shall duly execute, acknowledge and deliver to the Authority such instruments of satisfaction or release as may be necessary or proper to discharge this Indenture of record, and if necessary shall grant, reassign and deliver to the Authority, its successors or assigns, all the property, rights, privileges and interests by it hereby granted, conveyed and assigned, and all substitutes therefor, or any part thereof, not previously disposed of or released as herein provided; otherwise this Indenture shall be and remain in full force and effect.

**NOW, THEREFORE**, it is hereby expressly declared, covenanted and agreed by and between the parties hereto, that all Bonds issued and secured hereunder are to be issued, authenticated and delivered and that all the Trust Estate is to be held and applied under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the Authority does hereby agree and covenant with the Trustee and with the respective Owners from time to time of the Bonds, and the Swap Provider, if any, as their interests may appear, as follows:

**ARTICLE I**  
**DEFINITIONS, RULES OF CONSTRUCTION**

**Section 1.01 Definitions of Words and Terms.** In addition to words and terms elsewhere defined herein, the following words and terms as used in this Indenture and in the Lease Agreement shall have the following meanings, unless some other meaning is plainly intended:

**“Act”** means 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.).

**“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 aggregate principal amount of each series of Bonds to commence on the Closing Date.

**“Authority”** means the New Jersey Educational Facilities Authority, a public body corporate and politic, with corporate succession, constituting a political subdivision of the State, organized and existing under and by virtue of the Act.

**“Authorized Denominations”** means \$5,000 or any integral multiple of \$1,000 in excess thereof.

**“Authorized Officer”** means (i) in the case of the Authority, the Chair, Vice Chair, Treasurer, Executive Director, Deputy Executive Director, Director of Project Management, Director of Compliance Management, Secretary, Assistant Treasurer or any Assistant Secretary, and when used with reference to any act or document also means any other person authorized by resolution of the Authority to perform such act or execute such document or serving in an interim or acting capacity; (ii) in the case of the Public University, the Chair or Vice Chair of the Public University Board, the President or the Vice President for Administration and Finance, and when used in reference to any act or document also means any other person or persons authorized by a resolution of the Public University Board to perform any act or execute any document; and (iii) in the case of the Trustee, means the President, Executive Vice President, Senior Vice President, any Vice President, any Assistant Vice President, any Corporate Trust Officer, any Trust Officer, any Assistant Trust Officer or any Assistant Secretary of the Trustee, and when used with reference to any act or document also means any other person authorized to perform any act or sign any document by or pursuant to a resolution of the Board of Directors of the Trustee.

**“Basic Lease Payments”** means an amount of money payable in accordance with the Lease Agreement, as more fully provided for in Section 4.05 of the Lease Agreement.

**“Basic Lease Payment Date”** means (i) with respect to the Principal Portion of a Basic Lease Payment, December 20 and June 20 prior to any regularly scheduled Principal Payment Date or, if such date is not a Business Day, the Business Day next preceding such date, (ii) with respect to the Interest Portion of a Basic Lease Payment, December 20 and June 20, as applicable, prior to any regularly scheduled Interest Payment Date, (iii) with respect to Swap Payment Obligations and any Swap Termination Payments, two (2) Business Days prior to any

payment dates therefor set forth in the Swap Agreement and (iv) with respect to a prepayment or acceleration, the date of payment of the Purchase Option Price or Mandatory Purchase Price, as the case may be.

**“Bond Documents”** means, collectively, this Indenture, the Resolution, the Bonds, the Lease Agreement and the Tax Certificate and any and all future renewals and extensions or restatements of, or amendments or supplements to, any of the foregoing.

**“Bond Insurance Policy”** means the municipal bond insurance policy issued by the Bond Insurer that guarantees payment of principal of and interest on the Insured Bonds.

**“Bond Insurer”** means \_\_\_\_\_, or any successor thereto or assignee thereof.

**“Bond Payment Obligations”** means, for any period or payable at any time, the principal of (whether on a Principal Payment Date, at stated maturity, by mandatory sinking fund redemption, if any, by acceleration or otherwise) and premium, if any, and interest on the Bonds for that period or due and payable at that time as the case may be.

**“Bond Register”** means the registration books of the Authority kept by the Trustee to evidence the registration and transfer of the Bonds.

**“Bond Registrar”** means the Trustee when acting as such, and any other bank or trust company designated and at the time serving as bond registrar under this Indenture.

**“Bondowner” “Holder” “Owner” or “Registered Owner”** means the Person in whose name a Bond is registered on the Bond Register.

**“Bond Year”** shall have the meaning assigned to such term in the Tax Certificate.

**“Bonds”** means the Series 2021 C Bonds.

**“Business Day”** means a day other than a day (i) on which banks located in the City of New York, New York, the State of New Jersey or the city in which the Principal Office of the Trustee is located, are required or authorized by law or executive order to close, and (ii) on which the New York Stock Exchange is closed.

**“Cede & Co.”** means Cede & Co., as nominee for The Depository Trust Company.

**“Certificate”** means a certificate or report, in form and substance satisfactory to the Authority (such satisfaction to be assumed if such certificate or report is mailed to the Authority and it does not object in writing within ten (10) days after such mailing), executed: (a) in the case of an Authority Certificate, by the Chair, Vice Chair, Treasurer, Executive Director, Deputy Executive Director, Director of Project Management, Director of Compliance Management, Secretary, Assistant Treasurer or any Assistant Secretary, including those serving in an interim or acting capacity; (b) in the case of a Public University Certificate, by the Chair or Vice Chair of the Public University Board, the President or the Vice President for Administration and Finance and by its Secretary or Assistant Secretary; and (c) in the case of a Certificate of any

other Person, by such Person, if an individual, and otherwise by an officer, partner or other authorized representative of such Person; provided that in no event shall any individual be permitted to execute any Certificate in more than one capacity.

**“Certified Public Accountant”** or **“Accountant”** shall mean any firm of certified public accountants (not an individual) who shall be Independent, appointed by the Public University Board or the Authority, as the case may be, actively engaged in the business of public accounting, and duly certified as a certified public accountant under the laws of the State.

**“Certified Resolution”** means, as the context requires: (a) one or more resolutions of the Authority, certified by the Secretary, an Assistant Secretary or the Assistant Treasurer of the Authority under its official common seal, to have been duly adopted and to be in full force and effect as of the date of certification; or (b) one or more resolutions of the Public University Board or duly authorized committee thereof, certified by the Secretary of the Public University Board or any authorized officer of the Public University as authorized by resolution of the Public University Board, under its corporate seal, to have been duly adopted and to be in full force and effect as of the date of certification.

**“Closing Date”** means the date of initial delivery of and payment for the Bonds.

**“Completion Certificate”** shall have the meaning assigned to that term in Section 4.05 hereof.

**“Construction Fund”** means the fund by that name created pursuant to Section 4.01(a) hereof.

**“Costs of Issuance”** means issuance costs with respect to the Bonds described in Section 147(g) of the Internal Revenue Code, including but not limited to the following: (a) underwriters’ spread (whether realized directly or derived through purchase of the Bonds at a discount below the price at which they are expected to be sold to the public); (b) counsel fees (including bond counsel, underwriters’ counsel, the Public University’s counsel, if any, Trustee’s counsel, as well as any other specialized counsel fees incurred in connection with the borrowing); (c) financial advisor fees of any financial advisor to the Authority or the Public University incurred in connection with the issuance of the Bonds; (d) rating agency fees; (e) trustee, registrar and paying agent fees; (f) accountant fees and other expenses related to issuance of the Bonds; (g) printing costs (for the Bonds and of the preliminary and final official statements relating to the Bonds); and (h) fees and expenses of the Authority incurred in connection with the issuance of the Bonds.

**“Costs of Issuance Account”** means the account so designated, created and established in the Construction Fund pursuant to Section 4.01(a) hereof.

**“Counsel”** shall mean an attorney at law or law firm duly authorized to engage in the practice of law (which may include counsel to the Public University) satisfactory to the Authority.

**“Debt Service Fund”** means the Fund by that name created by Section 4.01(b) hereof.

**“Event of Default”** means (a) with respect to this Indenture, any “Event of Default” as defined in Section 7.01, and (b) with respect to the Lease Agreement, any “Lease Default Event” as defined in Section 7.01 of the Lease Agreement.

**“Extraordinary Services”** and **“Extraordinary Expenses”** means all services rendered and all reasonable expenses properly incurred by the Trustee or any of its agents under this Indenture, other than Ordinary Services and Ordinary Expenses.

**“Final Computation Date”** shall have the meaning assigned to that term in Section 4.08(b) hereof.

**“Financing Documents”** shall have the meaning assigned to that term in the Lease Agreement.

**“Fiscal Year”** means the fiscal year of the Public University, currently the 12-month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year, or such other period of 12 months as may be adopted by the Public University Board from time to time as its Fiscal Year.

**“Fitch”** means Fitch Ratings, a division of Fitch Group, and its successors and assigns.

**“GASB”** means those accounting principles applicable in the preparation of financial statements of institutions of higher learning, as promulgated by the Governmental Accounting Standards Board or such other body recognized as authoritative by the American Institute of Certified Public Accountants or any successor body.

**“Government Obligations”** shall mean any of the investment types identified in paragraphs A, B and C of the “List of Investment Obligations”, as contained in Exhibit B attached hereto.

**“Holder”** shall have the same meaning as the term “Bondowner.”

**“Indenture”** means this Trust Indenture as originally executed by the Authority and the Trustee, as from time to time may be amended and supplemented by Supplemental Indentures.

**“Independent”** shall mean, with respect to any Person, one which is not a member of the Authority, a member of the Public University Board, a corporate officer or employee of the Authority or a corporate officer or employee of the Public University, or which is not a partnership, corporation or association having a partner, director, corporate officer, member or substantial stockholder who is a member of the Authority or a member of the Public University Board, a corporate officer or employee of the Authority or a corporate officer or employee of the Public University; provided, however, that the fact that such Person is retained regularly by or transacts business with the Authority or the Public University shall not make such Person an employee within the meaning of this definition.

**“Initial Fee”** means the per series 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 aggregate

principal amount of each series of Bonds, with a maximum initial fee of \$125,000 payable by the Public University on the Closing Date.

**“In Service Certificate”** shall have the meaning assigned to such term in Section 4.05 hereof.

**“Insured Bonds”** means the Bonds maturing on July 1 in the years 20\_\_ through 20\_\_, inclusive.

**“Interest Payment Date”** means each January 1 and July 1, commencing [July 1, 2021] [January 1, 2022], through and including the maturity date for the Bonds and for Bonds subject to redemption on any date, the date of such redemption.

**“Internal Revenue Code”** or **“Code”** means the Internal Revenue Code of 1986, as amended, and, when appropriate, any statutory predecessor or successor thereto, and all applicable regulations (whether proposed, temporary or final) thereunder and any applicable official rulings, announcements, notices, procedures and judicial determinations relating to the foregoing.

**“Investment Obligations”** means any of the investment types identified in Exhibit B attached hereto.

**“Lease Agreement”** means the Lease and Agreement dated as of the date hereof relating to the Bonds, by and between the Authority and the Public University, and as from time to time may be amended by Supplemental Lease Agreements.

**“Leased Facilities”** shall have the meaning ascribed to that term in the Lease Agreement.

**“Letter of Instructions”** means the Letter of Instructions provided by GluckWalrath LLP in connection with the execution of this Indenture and attached to the Certificate as to Arbitrage as Exhibit A, as such letter may be amended from time to time, as a source of guidance for compliance with the Internal Revenue Code.

**“Moody’s”** means Moody’s Investors Service, Inc. and its successors and assigns.

**“Net Proceeds”** when used with respect to any insurance proceeds or any condemnation award, means the amount remaining after deducting all expenses (including attorneys’ fees and disbursements) incurred in the collection of such proceeds or award from the gross proceeds thereof.

**“Obligations”** shall have the meaning assigned to that term in Section 12.06 hereof.

**“Official Statement”** means the Official Statement dated February \_\_, 2021 with respect to the Bonds, including all Appendices thereto.

**“Opinion of Counsel”** means an opinion in writing signed by legal counsel, which legal counsel may be an employee of or counsel to the Public University, acceptable to the Public

University and, to the extent the Authority is asked to take action in reliance thereon, to an Authorized Officer of the Authority.

**“Ordinary Services”** and **“Ordinary Expenses”** means those services normally rendered and those expenses normally incurred, by a trustee under instruments similar to this Indenture, but not those services rendered and those expenses incurred following the occurrence and during the continuation of an Event of Default under Section 7.01 hereof.

**“Original Purchaser”** means BofA Securities, Inc.

**“Outstanding”** means, when used with reference to Bonds, as of a particular date, all Bonds theretofore authenticated and delivered, except: (a) Bonds theretofore canceled by the Trustee or delivered to the Trustee for cancellation pursuant to Section 2.11; (b) Bonds which are deemed to have been paid in accordance with Article XI; and (c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to Article II.

**“Owner”** has the same meaning as the term “Bondowner.”

**“Participants”** means those financial institutions for whom the Securities Depository effects book-entry transfers and pledges of securities deposited with the Securities Depository, as such listing of Participants exists at the time of such reference.

**“Paying Agent”** means the Trustee and any other commercial bank or trust institution organized under the laws of any state of the United States of America or any national banking association designated by this Indenture or any Supplemental Indenture as paying agent for the Bonds at which the principal of and redemption premium, if any, and interest on such Bonds shall be payable.

**“Payment Default”** means an Event of Default described in Section 7.01(a) or (b).

**“Person”** means any natural person, firm, joint venture, association, partnership, business, trust, corporation, public body, agency or political subdivision thereof or any other similar entity.

**“Prime Rate”** means the rate from time to time publicly announced by the Trustee’s primary commercial banking affiliate as its “prime rate” or “base rate.”

**“Principal Office”** means, with respect to any entity performing functions under any Bond Document, the designated office of that entity or its affiliate at which those functions are performed.

**“Prior Agreements”** shall have the meaning provided therefor in the Lease Agreement.

**“Project Facilities”** shall have the meaning assigned to that term in the Lease Agreement.

**“Public University”** means the public institution for higher education authorized and created pursuant to State law, the name of which is The William Paterson University of New Jersey, located in Wayne, New Jersey.

**“Public University Board”** means the Board of Trustees of the Public University, as the governing body vested with the power of management of the Public University, or a duly authorized committee thereof.

**“Rating Agency”** shall mean each nationally recognized securities rating agency then maintaining a rating on the Bonds at the request of an Authorized Officer of the Authority, and initially means [Fitch, Moody’s and S&P].

**“Rebatable Arbitrage”** shall have the meaning assigned to that term in Section 4.08(b) hereof.

**“Rebate Fund”** means the fund by that name created by Section 4.01(c).

**“Rebate Computation Date”** shall have the meaning assigned to that term in Section 4.08(b) hereof.

**“Record Date”** means the fifteenth day of the month immediately preceding such Interest Payment Date.

**“Registered Owner”** shall have the same meaning as the term “Bondowner.”

**“Rental Pledge Account”** means The William Paterson University of New Jersey Rental Pledge Account created by the Public University to be maintained with the Trustee pursuant to Section 4.04 of the Lease Agreement.

**“Replacement Bonds”** means Bonds issued to the beneficial Owners of the Bonds in accordance with Section 2.12(b).

**“Resolution”** means the resolution of the Authority, adopted January 26, 2021, authorizing, among other things, the execution and delivery of this Indenture and the Lease Agreement and the issuance of the Bonds.

**“S&P”** means Standard & Poor’s Global Ratings, a Standard & Poor’s Financial Services LLC business, and its successors and assigns.

**“Securities Depository”** means, initially, The Depository Trust Company and its successors and assigns, and any successor Securities Depository appointed pursuant to Section 2.12(c).

**“Series 2021 C Bonds”** means the New Jersey Educational Facilities Authority Revenue Bonds, The William Paterson University of New Jersey Issue, Series 2021 C, in the original principal amount of \$\_\_\_\_\_, issued pursuant to the Resolution and this Indenture.

**“Sinking Fund Installment”** means, with respect to the Bonds, the amount of money necessary to redeem the Bonds in the principal amounts, at the times and in the manner set forth in Section 3.02(c) hereof.

**“State”** means the State of New Jersey.

**“Supplemental Indenture”** means any indenture supplemental or amendatory to this Indenture entered into by the Authority and the Trustee pursuant to Article IX hereof.

**“Supplemental Lease Agreement”** means any agreement supplemental or amendatory to the Lease Agreement entered into by the Authority and the Public University pursuant to Article X hereof.

**“Swap” or “Swap Agreement”** means any agreement between the Authority and a Swap Provider in respect of all or a portion of the Bonds, entered into on behalf of the Public University, confirming a transaction which is a rate swap transaction, basis swap, forward rate transaction, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, corridor transaction, currency swap transaction, cross-currency rate swap transaction, currency option or other similar transaction (including any option with respect to any of the foregoing transactions) or any combination of these transactions and any related agreement.

**“Swap Payment Obligations”** means all net amounts payable by the Authority under any Swap (excluding any Swap Termination Payment payable by the Authority).

**“Swap Provider”** means the Authority’s counterparty under a Swap Agreement, which counterparty must be rated at least A-/A3 or better by S&P and Moody’s, respectively.

**“Swap Revenues”** means all amounts received by the Authority or the Trustee pursuant to any Swap, including without limitation any Swap Termination Payment, whether such amounts are paid by the Public University or by the Swap Provider.

**“Swap Termination Payment”** means, with respect to any Swap, any settlement amount payable by the applicable Swap Provider or the Authority by reason or on account of the early termination of such Swap either in whole or in part.

**“Tax Certificate”** means, collectively, the Tax Representation Letter executed and delivered by the Public University and the Certificate as to Arbitrage executed and delivered by the Authority at the time of issuance and delivery of the Bonds.

**“Trustee”** means U.S. Bank National Association, a national banking association organized and existing under the laws of the United States of America with fiduciary and trust powers in the State of New Jersey, and its successors and any entity resulting from or surviving any consolidation or merger to which it or its successors may be a party, and any successor trustee at the time serving as successor trustee hereunder.

**“Trust Estate”** means the Trust Estate described in the Granting Clauses of this Indenture.

**“Value”** as of any particular time of determination, means:

- (a) For securities:
  - (1) the closing bid price quoted by Interactive Data Systems, Inc.; or
  - (2) a valuation performed by a nationally recognized and accepted pricing service whose valuation method consists of the composite average of various bid price quotes on the valuation date; or
  - (3) the lower of two dealer bids on the valuation date; the dealers or their parent holding companies must be rated at least investment grade by Moody’s and S&P and must be market makers in the securities being valued; or
  - (4) a valuation performed by a pricing service acceptable to the Trustee; or
  - (5) for any security maturing within 30 days of the valuation date, the maturity value of the security including interest to be paid on the maturity date.
- (b) As to certificates of deposit and bankers’ acceptances, the face amount thereof, plus accrued interest;
- (c) With respect to any investment agreement, the total amount that may be withdrawn therefrom for the purposes of the fund in which it is held; and
- (d) As to any investment not specified above, the value thereof established by prior agreement between the Authority, the Public University and the Trustee.

**“Written Request”** means a request in writing signed by an Authorized Officer of the Authority or Public University, as applicable.

**“Yield”** shall have the meaning assigned to that term in the Tax Certificate.

**Section 1.02 Rules of Construction.** For all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires, the following rules of construction apply in construing the provisions of this Indenture:

- (a) The terms defined in this Article I include the plural as well as the singular.
- (b) All accounting terms not otherwise defined herein shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with GASB to the extent applicable.
- (c) The words “herein,” “hereof,” “hereunder,” “hereto” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision.

(d) The Article and Section headings herein and in the Table of Contents are for convenience only and shall not affect the construction hereof.

(e) Whenever an item or items are listed after the word “including,” such listing is not intended to be a listing that excludes items not listed.

(f) Any references herein to any “Swap Provider” or “Swap Agreement” shall be disregarded at any time during which there is no Swap Provider or Swap Agreement in effect.

**ARTICLE II  
THE BONDS**

**Section 2.01 Amount of Bonds; Purpose.** No Bonds may be issued under this Indenture except in accordance with this Article. The Bonds shall be issued and secured under this Indenture for the purposes set forth in the Recitals. The total principal amount of Bonds that may be issued as provided in Section 2.02 is hereby expressly limited to \$\_\_\_\_\_.

**Section 2.02 Issuance of the Bonds.**

The Bonds are hereby authorized to be issued and secured hereunder as follows:

(a) Designation, Denominations, Numbering and Dating. The Bonds shall be designated “New Jersey Educational Facilities Authority Revenue Bonds, The William Paterson University of New Jersey Issue, Series 2021 C”. The Bonds shall be issuable as fully registered Bonds without coupons in Authorized Denominations and shall be numbered consecutively from 1 upward in the order of their issuance. The Bonds shall initially be dated the date of their initial issuance and delivery, and thereafter shall be dated the date of authentication; provided, however, that if, as shown by the records of the Trustee, interest on the Bonds shall be in default, Bonds issued in lieu of Bonds surrendered for transfer or exchange may be dated as of the date to which interest has been paid in full on the Bonds surrendered.

(b) Principal Amount, Maturity and Interest. The Bonds shall be issued in an aggregate principal amount of \$\_\_\_\_\_, shall bear interest payable on [July 1, 2021] [January 1, 2022] and thereafter semiannually on January 1 and July 1 of each year, at the rates per annum set forth below and shall mature on July 1 (subject to prior redemption as provided in Article III) of each year in the years and in the principal amounts as follows:

<b>Due July 1</b>	<b>Principal Amount</b>	<b>Interest Rate</b>	<b>Due July 1</b>	<b>Principal Amount</b>	<b>Interest Rate</b>
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**Section 2.03 Determination of Interest Rates.**

The Bonds shall bear interest from the most recent Interest Payment Date next preceding the date of such Bonds to which interest has been paid, unless the date of such Bond is an Interest Payment Date, in which case interest shall be payable from such date, or unless the date of such Bond is prior to the first Interest Payment Date of the Bonds, in which case interest shall

be payable from the dated date of the Bonds, or unless the date of such Bond is between a Record Date and the next succeeding Interest Payment Date, in which case from such Interest Payment Date.

#### **Section 2.04 Conditions To Delivery of Bonds.**

(a) The Bonds shall be executed substantially in the form and manner set forth in Section 2.07 and furnished to the Trustee for authentication, but prior to or simultaneously with the authentication and delivery of the Bonds by the Trustee there shall be filed or deposited with the Trustee the following:

(i) A copy, certified as true and correct by the Secretary or Assistant Secretary of the Authority, of the Resolution adopted by the Authority authorizing the issuance of the Bonds and the execution of this Indenture, the Lease Agreement and any other Bond Documents to which it is a party.

(ii) A copy, duly certified as true and correct by the Secretary of the Public University Board (or other officer serving in a similar capacity), of the resolution(s) adopted and approved by the Public University Board authorizing the execution and delivery of the Lease Agreement, and any other Bond Documents to which it is a party, and approving this Indenture and the issuance and sale of the Bonds.

(iii) An original executed counterpart of this Indenture, the Lease Agreement and each of the other Bond Documents.

(iv) A request and authorization to the Trustee on behalf of the Authority, executed by an Authorized Officer of the Authority, to authenticate the Bonds and deliver the Bonds to the Original Purchaser upon payment to the Trustee, for the account of the Authority, of the purchase price thereof. The Trustee shall be entitled to rely conclusively upon such request and authorization as to the name of the Original Purchaser and the amount of such purchase price.

(v) An opinion or opinions of bond counsel, dated as of the Closing Date, in substantially the form(s) attached as an appendix to the Official Statement.

(vi) Such other certificates, statements, receipts, opinions and documents as the Authority shall reasonably require for the delivery of the Bonds.

(b) When the documents specified in subsection (a) shall have been filed with the Trustee, and when the Bonds shall have been executed and authenticated as required by this Indenture, the Trustee shall deliver the Bonds to or upon the order of the Original Purchaser thereof, but only upon payment to the Trustee of the purchase price of the Bonds as specified in the request and authorization by the Authority. The net proceeds of the sale of the Bonds shall be immediately paid over to the Trustee, and the Trustee shall deposit and apply such proceeds as provided in Article IV.

## **Section 2.05 Forms and Denominations of Bonds.**

(a) The Bonds and the Trustee's Certificate of Authentication to be endorsed thereon shall be in substantially the form set forth in Exhibit A hereto, with such necessary or appropriate variations, omissions and insertions as are permitted or required by this Indenture or any Supplemental Indenture. The Bonds may have endorsed thereon such legends or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any custom, usage or requirement of law with respect thereto.

(b) The Bonds shall be issuable in the form of fully registered Bonds without coupons in Authorized Denominations.

## **Section 2.06 Method and Place of Payment of Bonds.**

(a) The Trustee is hereby designated as the Authority's Paying Agent for the payment of the principal of, redemption premium, if any, and interest on the Bonds.

(b) The principal of, redemption premium, if any, and interest on the Bonds shall be payable in any coin or currency of the United States of America which on the respective dates of payment thereof is legal tender for the payment of public and private debts.

(c) The principal of and the redemption premium, if any, on all Bonds shall be payable by check or draft at maturity or upon earlier redemption to the Persons in whose names such Bonds are registered on the Bond Register at the maturity or redemption date thereof, upon the presentation and surrender of such Bonds at the Principal Office of the Trustee or of any Paying Agent named in the Bonds.

(d) The interest payable on each Bond on any Interest Payment Date shall be paid by the Trustee to the Person in whose name such Bond is registered on the Bond Register at the close of business on the Record Date for such interest, (i) by check or draft mailed on the applicable Interest Payment Date to such Registered Owner at his address as it appears on such Bond Register or at such other address as is furnished to the Trustee in writing by such Owner or (ii) by electronic transfer in immediately available funds, if the Bonds are held by a Securities Depository, or at the written request addressed to the Trustee by any Owner of Bonds in the aggregate principal amount of at least \$1,000,000, such request to be signed by such Owner, containing the name of the bank (which shall be in the continental United States), its address, its ABA routing number, the name and account number to which credit shall be made and an acknowledgment that an electronic transfer fee is payable, and to be filed with the Trustee no later than ten Business Days before the applicable Record Date preceding such Interest Payment Date.

## **Section 2.07 Execution and Authentication of Bonds.**

(a) The Bonds shall be executed on behalf of the Authority by the manual or facsimile signature of its Chair, Vice Chair, Executive Director or Deputy Executive Director and attested by the manual or facsimile signature of its Executive Director, Secretary or any Assistant Secretary or Assistant Treasurer, including those serving in an interim or acting capacity (provided that the person executing the Bonds may not also make its attestation), and

shall have the official common seal of the Authority or a facsimile thereof affixed thereto or imprinted thereon. In case any officer whose signature or facsimile thereof appears on any Bonds shall cease to be such officer before the delivery of such Bonds, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such Person had remained in office until delivery. Any Bond may be signed by such Persons as at the actual time of the execution of such Bond shall be the proper officers to sign such Bond although at the date of such Bond such Persons may not have been such officers.

(b) The Bonds shall have endorsed thereon a Certificate of Authentication substantially in the form set forth in Exhibit A hereto, which shall be manually executed by the Trustee. No Bond shall be entitled to any security or benefit under this Indenture or shall be valid or obligatory for any purpose unless and until such Certificate of Authentication shall have been duly executed by the Trustee. Such executed Certificate of Authentication upon any Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Indenture. The Certificate of Authentication on any Bond shall be deemed to have been duly executed if signed by any Authorized Officer or signatory of the Trustee, but it shall not be necessary that the same officer or signatory sign the Certificate of Authentication on all of the Bonds that may be issued hereunder at any one time.

#### **Section 2.08 Registration, Transfer and Exchange of Bonds.**

(a) The Trustee is hereby appointed Bond Registrar and as such shall keep the Bond Register at its Principal Office.

(b) Any Bond may be transferred only upon the Bond Register upon surrender thereof to the Trustee duly endorsed for transfer or accompanied by an assignment duly executed by the Registered Owner or his attorney or legal representative in such form as shall be satisfactory to the Trustee. Upon any such transfer, the Authority shall execute and the Trustee shall authenticate and deliver in exchange for such Bond, a new Bond or Bonds registered in the name of the transferee, of any Authorized Denomination or Denominations, in an equal aggregate principal amount and of the same maturity and bearing interest at the same rate.

(c) Any Bonds, upon surrender thereof at the Principal Office of the Trustee, together with an assignment duly executed by the Registered Owner or his attorney or legal representative in such form as shall be satisfactory to the Trustee, may, at the option of the Registered Owner thereof, be exchanged for an equal aggregate principal amount of Bonds of the same maturity, of any Authorized Denomination or Denominations, and bearing interest at the same rate.

(d) In all cases in which Bonds shall be exchanged or transferred hereunder, the Authority shall execute and the Trustee shall authenticate and deliver at the earliest practicable time Bonds in accordance with this Indenture. All Bonds surrendered in any such exchange or transfer shall forthwith be canceled by the Trustee.

(e) The Authority, the Trustee or the Securities Depository may make a charge against the Bondowner requesting the same for every such transfer or exchange of Bonds sufficient to reimburse it for any tax or other governmental charge required to be paid with

respect to such transfer or exchange, and such charge shall be paid before any such new Bond shall be delivered. The reasonable fees and charges of the Trustee for making any transfer or exchange hereunder and the expense of any bond printing necessary to effect any such transfer or exchange shall be paid by the Public University. In the event any Bondowner fails to provide a correct taxpayer identification number to the Trustee, the Trustee may impose a charge against such Bondowner sufficient to pay any governmental charge required to be paid as a result of such failure. In compliance with Section 3406 of the Internal Revenue Code, such amount may be deducted by the Trustee from amounts otherwise payable to such Bondowner hereunder or under the Bonds.

(f) The Trustee shall not be required to transfer or exchange (i) any Bond during a period beginning at the opening of business 15 days before the day of mailing of any notice of redemption of Bonds and ending at the close of business on the day of such mailing, (ii) any Bond so selected for redemption in whole or in part, or (iii) any Bond during a period beginning at the opening of business on any Record Date and ending at the close of business on the relevant Interest Payment Date.

(g) The Person in whose name any Bond shall be registered on the Bond Register shall be deemed and regarded as the absolute Owner of such Bond for all purposes, and payment of or on account of the principal of and redemption premium, if any, and interest on any such Bond shall be made only to or upon the order of the Registered Owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

(h) At reasonable times upon prior Written Request and under reasonable regulations established by the Trustee, the Bond Register may be inspected and copied by the Public University, the Authority or by the Owners (or a designated representative thereof) of 10% or more in principal amount of Bonds then Outstanding, such ownership and the authority of any such designated representative to be evidenced to the satisfaction of the Trustee.

### **Section 2.09 Temporary Bonds.**

(a) Until definitive Bonds are ready for delivery, the Authority may execute, and upon the Written Request of the Authority, the Trustee shall authenticate and deliver, in lieu of definitive Bonds, but subject to the same limitations and conditions as definitive Bonds, temporary printed, engraved, lithographed or typewritten Bonds.

(b) If temporary Bonds shall be issued, the Authority shall cause the definitive Bonds to be prepared and to be executed and delivered to the Trustee, and the Trustee, upon presentation to it at its Principal Office of any temporary Bond shall cancel the same and authenticate and deliver in exchange therefor, without charge to the Owner thereof, a definitive Bond in the same aggregate principal amount and of the same maturity and bearing interest at the same rate as the temporary Bond surrendered. Until so exchanged the temporary Bonds shall in all respects be entitled to the same benefit and security of this Indenture as the definitive Bonds to be issued and authenticated hereunder.

**Section 2.10 Mutilated, Lost, Stolen or Destroyed Bonds.** In the event any Bond shall become mutilated, or be lost, stolen or destroyed, the Authority shall execute and the Trustee shall authenticate and deliver a new Bond of like date and tenor as the Bond mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Trustee, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the Authority and the Trustee evidence of such loss, theft or destruction satisfactory to the Trustee, together, in either such case, with such security or indemnity as may be required by the Trustee to save the Authority, the Public University and the Trustee harmless. In the event any such Bond shall have matured or shall have been selected for redemption, instead of issuing a substitute Bond, the Trustee in its discretion may pay, with funds available under this Indenture for such purpose, such Bond without surrender thereof (except in the case of a mutilated Bond). Upon the issuance of any substitute Bond, the Authority and the Trustee may require the payment of an amount by the Bondowner sufficient to reimburse the Authority and the Trustee for any tax or other governmental charge that may be imposed in relation thereto and any other reasonable fees and expenses incurred in connection therewith.

**Section 2.11 Cancellation and Destruction of Bonds Upon Payment.** All Bonds which have been paid or redeemed or which the Trustee has purchased or which have otherwise been surrendered to the Trustee under this Indenture, either at or before maturity, shall be canceled and destroyed by the Trustee in compliance with all applicable laws and regulations and the record retention requirements of the Trustee upon the payment, redemption or purchase of such Bonds and the surrender thereof to the Trustee. The Trustee shall execute a certificate in triplicate describing the Bonds so canceled and destroyed, and shall file executed counterparts of such certificate with the Authority and the Public University.

**Section 2.12 Book-Entry; Securities Depository.**

(a) The Bonds shall initially be registered to Cede & Co., the nominee for the Securities Depository, and no beneficial Owners will receive certificates representing their respective interests in the Bonds, except in the event the Trustee issues Replacement Bonds as provided in subsection (b). It is anticipated that during the term of the Bonds, the Securities Depository will make book-entry transfers among its Participants and receive and transmit payment of principal of, redemption premium, if any, and interest on the Bonds to the Participants until and unless the Trustee authenticates and delivers Replacement Bonds to the beneficial Owners as described in subsection (b).

(b) If (i) the Authority determines (A) that the Securities Depository is unable to properly discharge its responsibilities or is no longer qualified to act as a securities depository and registered clearing agency under the Securities Exchange Act of 1934, as amended, or (B) that the continuation of a book-entry system to the exclusion of any Bonds being issued to any Bondowner other than Cede & Co. is no longer in the best interests of the beneficial Owners of the Bonds of a series, or (ii) the Trustee receives written notice from Participants having interests in not less than 50% of the Bonds of a series Outstanding, as shown on the records of the Securities Depository (and certified to such effect to the Trustee by the Securities Depository), that the continuation of a book-entry system to the exclusion of any Bonds of such series being issued to any Bondowner other than Cede & Co. is no longer in the best interests of

the beneficial Owners of the Bonds of such series, then the Trustee, based on information provided to it by the Securities Depository, shall notify the beneficial Owners of the Bonds of such series of such determination or such notice and of the availability of certificates to beneficial Owners of the Bonds requesting the same, and the Trustee shall register in the name of and authenticate and deliver Bonds (the "Replacement Bonds") to the beneficial Owners or their nominees in principal amounts representing the interest of each, making such adjustments as it may find necessary or appropriate as to accrued interest and previous calls for redemption; provided, that in the case of a determination under (i)(A) of this subsection (b), the Authority with the consent of the Trustee may select a successor Securities Depository in accordance with subsection (c) to effect book-entry transfers. In such event, all references to the Securities Depository herein shall relate to the period of time when the Securities Depository or its nominee is the Registered Owner of at least one Bond. Upon the issuance of Replacement Bonds, all references herein to obligations imposed upon or to be performed by the Securities Depository shall be deemed to be imposed upon and performed by the Trustee, to the extent applicable with respect to such Replacement Bonds. If the Securities Depository resigns and the Authority, the Trustee or the Public University is unable to locate a qualified successor Securities Depository in accordance with subsection (c) below, then the Trustee shall authenticate and cause delivery of Replacement Bonds, as provided herein. The Trustee may rely on information from the Securities Depository and its Participants as to the names, addresses, taxpayer identification numbers of and principal amount held by the beneficial Owners of the Bonds. The cost of printing Replacement Bonds shall be paid for by the Public University.

(c) In the event the Securities Depository resigns or is no longer qualified to act as a securities depository and registered clearing agency under the Securities Exchange Act of 1934, as amended, the Authority may appoint a successor Securities Depository provided the Trustee receives written evidence satisfactory to the Trustee with respect to the ability of the successor Securities Depository to discharge its responsibilities. Any such successor Securities Depository shall be a registered clearing agency under the Securities Exchange Act of 1934, as amended, or other applicable statute or regulation that operates a securities depository upon reasonable and customary terms. The Trustee upon its receipt of a Bond or Bonds for cancellation shall cause the delivery of Bonds to the successor Securities Depository in Authorized Denominations and form as provided herein.

**ARTICLE III  
REDEMPTION OF BONDS**

**Section 3.01 Redemption of Bonds Generally.** The Bonds shall be subject to redemption prior to maturity in accordance with the terms and provisions set forth in this Article.

**Section 3.02 Redemption of Bonds.**

(a) Optional Redemption. The Bonds maturing before July 1, 20\_\_ are not subject to optional redemption prior to maturity. The Bonds maturing on or after July 1, 20\_\_ are subject to redemption prior to maturity on or after July 1, 20\_\_, at the option of the Authority with the consent of the Public University, in whole or in part at any time or from time to time at a redemption price equal to 100% of the principal amount to be redeemed, together with accrued interest to the date of redemption.

(b) Extraordinary Optional Redemption. If all or a substantial portion of the Leased Facilities are damaged or destroyed by fire or other casualty, or title to or the temporary use of all or a substantial portion of such facilities is condemned or taken for any public or quasi-public use by any governmental entity exercising or threatening the exercise of the power of eminent domain, or title thereto is found to be deficient, to such extent that in the determination of the Public University (A) such facilities cannot be reasonably restored or replaced to the condition thereof preceding such event, or (B) the Public University is thereby prevented from carrying on its normal operations, or (C) the cost of restoration or replacement thereof would exceed the Net Proceeds of any casualty insurance, title insurance, condemnation awards or sale under threat of condemnation with respect thereto, the Bonds are subject to extraordinary optional redemption prior to maturity, in whole or in part at any time or from time to time, from and to the extent of any condemnation or insurance proceeds deposited in the Debt Service Fund pursuant to the Lease Agreement, at the election of the Authority with the consent of the Public University. Any such redemption shall be made on the earliest practicable date at a redemption price equal to 100% of the principal amount to be redeemed, plus accrued interest to the date of redemption.

(c) Mandatory Sinking Fund Redemption. The Bonds maturing on July 1, 20\_\_ shall be retired by Sinking Fund Installments as hereinafter described, which shall be accumulated in the Principal Account at a redemption price equal to one hundred percent (100%) of the principal amount to be redeemed, plus accrued interest to the redemption date. The Sinking Fund Installments shall be sufficient to redeem the principal amount of the Bonds on July 1 in each of the years and in the principal amounts as follows:

<u>Bonds Maturing July 1, 20__</u>	
<u>Year</u>	<u>Amount</u>

\* Final maturity.

The Bonds maturing on July 1, 20\_\_ shall be retired by Sinking Fund Installments as hereinafter described, which shall be accumulated in the Principal Account at a redemption price equal to one hundred percent (100%) of the principal amount to be redeemed, plus accrued interest to the redemption date. The Sinking Fund Installments shall be sufficient to redeem the principal amount of the Bonds on July 1 in each of the years and in the principal amounts as follows:

<u>Bonds Maturing July 1, 20__</u>	
<u>Year</u>	<u>Amount</u>

\* Final maturity.

The Bonds maturing on July 1, 20\_\_ shall be retired by Sinking Fund Installments as hereinafter described, which shall be accumulated in the Principal Account at a redemption price equal to one hundred percent (100%) of the principal amount to be redeemed, plus accrued interest to the redemption date. The Sinking Fund Installments shall be sufficient to redeem the principal amount of the Bonds on July 1 in each of the years and in the principal amounts as follows:

<u>Bonds Maturing July 1, 20__</u>	
<u>Year</u>	<u>Amount</u>

\* Final maturity.

The Bonds maturing on July 1, 20\_\_ shall be retired by Sinking Fund Installments as hereinafter described, which shall be accumulated in the Principal Account at a redemption price equal to one hundred percent (100%) of the principal amount to be redeemed, plus accrued interest to the redemption date. The Sinking Fund Installments shall be sufficient to redeem the principal amount of the Bonds on July 1 in each of the years and in the principal amounts as follows:

<u>Bonds Maturing July 1, 20__</u>	
<u>Year</u>	<u>Amount</u>

\* Final maturity.

The principal amount of the Bonds required to be redeemed from Sinking Fund Installments may be reduced by the principal amount of such Bonds theretofore delivered to the Trustee by the Public University in lieu of cash payments under the Lease Agreement or purchased by the Trustee out of moneys in the Debt Service Fund that have not theretofore been applied as a credit against any Sinking Fund Installment.

### **Section 3.03 Selection of Bonds to be Redeemed.**

(a) Bonds shall be redeemed only in Authorized Denominations. If less than all of the Bonds of a series are to be redeemed prior to maturity, such Bonds shall be called for redemption in any order of maturity and in any principal amount within a maturity as the Authority may designate with the consent of the Public University, and in the case of any Bond subject to mandatory sinking fund redemption, the Authority may designate, with the consent of the Public University, whether such partial redemption shall be credited against the principal amount due at maturity or against particular scheduled Sinking Fund Installments with respect to such Bond. Bonds to be redeemed within any maturity shall be selected by the Trustee by lot or by any other method.

(b) In the case of a partial redemption of Bonds when such Bonds of denominations greater than the minimum Authorized Denomination are then Outstanding, then for all purposes in connection with such redemption each principal amount equal to the minimum Authorized Denomination shall be treated as though it was a separate Bond of the minimum Authorized Denomination. If it is determined that a portion, but not all, of the principal amount represented by any Bond is to be selected for redemption, then upon notice of intention to redeem such portion, the Owner of such Bond or such Owner's attorney or legal representative shall forthwith present and surrender such Bond to the Trustee (i) for payment of the redemption price (including the premium, if any, and interest to the date fixed for redemption) of the principal amount called for redemption, and (ii) for exchange, without charge to the Owner thereof for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the Owner of any such Bond shall fail to present such Bond to the Trustee for payment and exchange as aforesaid, said Bond shall, nevertheless, become due and payable on the redemption date to the extent of the principal amount called for redemption (and to that extent only).

(c) The Trustee shall call Bonds for redemption and payment as herein provided upon receipt by the Trustee at least 60 days prior to the redemption date of a Written Request of the Authority. Such request shall specify the principal amount of the Bonds and their series and principal maturities so to be called for redemption, the applicable redemption price or prices and the provision or provisions above referred to pursuant to which such Bonds are to be called for redemption. The foregoing provisions of this paragraph shall not apply in the case of any mandatory sinking fund redemption of Bonds pursuant to Section 3.02(c), and such Bonds, subject to the exercise by the Authority of its rights under Section 3.02(c), shall be called by the Trustee for redemption pursuant to such mandatory sinking fund redemption requirements without the necessity of any action by the Authority and whether or not the Trustee shall hold in the Debt Service Fund moneys available and sufficient to effect the required redemption.

(d) In the event any term Bonds for which Sinking Fund Installments have been established are to be called for both mandatory sinking fund redemption and redemption other than by mandatory sinking fund redemption, the Trustee shall identify Bonds to their respective Sinking Fund Installments or maturity dates prior to making such other redemption.

**Section 3.04 Notice and Effect of Call for Redemption.** Official notice of any such redemption shall be given by the Trustee on behalf of the Authority by mailing a copy of an official redemption notice by first class mail at least 30 days and not more than 60 days prior to the redemption date to each Registered Owner of the Bonds to be redeemed at the address shown on the Bond Register or at such other address as is furnished in writing by such Registered Owner to the Trustee, and such mailing shall be a condition precedent to such redemption.

All official notices of redemption shall be dated and shall state: (i) the redemption date; (ii) the redemption price; (iii) if less than all Outstanding Bonds are to be redeemed, the identification number and the respective principal amounts to be redeemed of the Bonds to be redeemed; (iv) that on the redemption date the redemption price will become due and payable upon each such Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date; and (v) the place where such Bonds are to be surrendered for payment of the redemption price, which place of payment shall be the Principal Office of the Trustee for the payment of Bonds.

Any notice of redemption of any Bonds pursuant to Section 3.02(a) or (b) may specify that the redemption is contingent upon the deposit of moneys with the Trustee in an amount sufficient to pay the redemption price of all the Bonds or portions thereof which are to be redeemed on that date.

Official notice of redemption having been given as aforesaid, the Bonds or portions thereof so to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date (unless the Authority shall default in the payment of the redemption price) such Bonds, or portions thereof shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with said notice, such Bonds shall be paid by the Trustee at the redemption price. Installments of interest due on or prior to the redemption date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the Registered Owner a new Bond or Bonds of the same maturity in the amount of the unpaid principal. All Bonds which have been redeemed shall be canceled and destroyed by the Trustee in accordance with Section 2.11 and shall not be reissued.

Upon the payment of the redemption price of Bonds being redeemed, each check or other transfer of funds issued for such purpose shall bear the CUSIP number identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

For so long as the Securities Depository is effecting book-entry transfers of the Bonds, the Trustee shall provide the notices specified in this Section only to the Securities Depository. It is expected that the Securities Depository shall, in turn, notify its Participants and that the Participants, in turn, will notify or cause to be notified the beneficial Owners. Any failure on the part of the Securities Depository or a Participant, or failure on the part of a nominee of a

beneficial Owner of a Bond (having been mailed notice from the Trustee, a Participant or otherwise) to notify the beneficial Owner of the Bond so affected, shall not affect the validity of the redemption of such Bond.

Failure of any Owner to receive a copy of such notice, or any defect therein, shall not affect the validity of any proceedings for the redemption of any other Bonds. Any notice mailed shall be conclusively presumed to have been duly given and shall become effective upon mailing, whether or not any Owner receives the notice.

**ARTICLE IV  
CREATION OF FUNDS AND ACCOUNTS;  
APPLICATION OF BOND PROCEEDS AND OTHER MONEYS**

**Section 4.01 Creation of Funds and Accounts.** There are hereby created and ordered to be established in the custody of the Trustee the following special trust funds in the name of the Authority to be designated as follows:

(a) “New Jersey Educational Facilities Authority Construction Fund, The William Paterson University of New Jersey Series 2021 C” (the “Construction Fund”) from which moneys deposited into the Construction Fund shall be expended in accordance with the provisions of the Lease Agreement, and which Fund shall have the following accounts therein: (i) a “Costs of Issuance Account”.

(b) “New Jersey Educational Facilities Authority Debt Service Fund, The William Paterson University of New Jersey Series 2021 C” (the “Debt Service Fund”), and which Fund shall have the following accounts therein: (i) an “Interest Account” (which shall be used to pay interest on the Bonds and any Swap Payment Obligations) and (ii) a “Principal Account” (which shall be used to pay principal or redemption price of the Bonds and any Swap Termination Payments).

(c) “New Jersey Educational Facilities Authority Rebate Fund, The William Paterson University of New Jersey Series 2021 C” (the “Rebate Fund”).

(d) The Trustee shall establish such additional accounts or subaccounts within such funds as are called for by the provisions hereof at such time or times as such accounts or subaccounts are required or become applicable or as directed by the Authority.

**Section 4.02 Deposit of Bond Proceeds.** The aggregate principal amount of the Bonds, plus an aggregate net original issue premium of \$\_\_\_\_\_, less an aggregate underwriter’s discount of \$\_\_\_\_\_ and less the premium for the Bond Insurance Policy in the amount of \$\_\_\_\_\_ (which shall be paid by the Original Purchaser directly to the Bond Insurer, on behalf of the Authority), shall be applied as follows:

(a) \$\_\_\_\_\_ from the proceeds of the Bonds shall be deposited in the Costs of Issuance Account of the Construction Fund; and

(b) \$\_\_\_\_\_ from the proceeds of the Bonds shall be deposited into the Construction Fund.

**Section 4.03 Application of Moneys in Construction Fund.** (a) As soon as practicable after the delivery of the Bonds, the Authority shall direct, in writing, the Trustee to pay from the Costs of Issuance Account to the firms, corporations or Persons entitled thereto the Costs of Issuance, including but not limited to the legal, administrative, financing and incidental expenses of the Authority and the Public University relating to the issuance of the Bonds.

(b) Except as otherwise provided in this Article IV, any moneys deposited in the Construction Fund shall be used only to pay the costs of the Series 2021 C Project, and to the

necessary incidental expenses and reimbursement to the Public University for such costs and expenses paid by the Public University in connection with the Series 2021 C Project as are approved by an Authorized Officer of the Authority. For purposes of internal accounting, the Construction Fund may contain one or more subaccounts, as an Authorized Officer of the Authority, or the Trustee with the consent of the Authority, may deem proper.

(c) Payments pursuant to paragraph (a) of this Section 4.03 shall be made in accordance with a Certificate or Certificates signed by an Authorized Officer of the Authority stating the names of the payees, the purpose of each payment in terms sufficient for identification and the respective amounts of each such payment. Payments pursuant to paragraph (b) of this Section 4.03 shall be made in accordance with a Certificate or Certificates signed by an Authorized Officer of the Authority, substantiated by a Certificate filed with the Authority by the Public University describing in reasonable detail the purpose for which such moneys were used and the amount thereof, and further stating the opinion that such purposes constitute a necessary part of the cost of the Series 2021 C Project, such substantiating Certificate to be signed by an Authorized Officer of the Public University. If the Public University requests a copy of any Certificate issued by the Authority under this subparagraph, the Authority shall comply with such request.

**Section 4.04 Use of Money in the Construction Fund Upon Default.** If the Bonds shall be accelerated pursuant to Section 7.02 hereof, any balance remaining in the Construction Fund shall, without further authorization, be transferred into the Debt Service Fund, for deposit into the Principal Account therein (unless otherwise directed by an Authorized Officer of the Authority).

**Section 4.05 Completion of Series 2021 C Project.** Not later than the one hundred eightieth (180<sup>th</sup>) day following the issuance of the Bonds (which date may be extended by notice from an Authorized Officer of the Authority to the Trustee), the Authority shall, by a Certificate filed with the Trustee, specify the amount of moneys, if any, to be retained by the Trustee in the Costs of Issuance Account for the payment of any Costs of Issuance of the Bonds not then due and payable, which amounts shall be applied to the payment of such costs as soon as practicable after delivery to the Trustee of such Certificate.

The completion and placement into service of each individual component of the Series 2021 C Project (i.e., each of the 7 components identified in the definition thereof) shall be evidenced by a Certificate in a form satisfactory to an Authorized Officer of the Authority (the "In Service Certificate"). The completion of the entire Series 2021 C Project shall be evidenced by a Certificate in a form satisfactory to an Authorized Officer of the Authority (the "Completion Certificate"). The Completion Certificate shall specify the amount of moneys, if any, to be retained by the Trustee in the Construction Fund for the payment of any costs of the Series 2021 C Project not then due and payable, which amounts shall be applied to the payment of such costs as soon as practicable after delivery to the Trustee of the Completion Certificate, but in any event not later than 90 days after such delivery.

Any amount not to be retained in the Costs of Issuance Account or the Construction Fund for payment of Costs of Issuance or costs of the Series 2021 C Project, as applicable, and any amount retained but not subsequently applied to the payment of Costs of Issuance or costs of the

Series 2021 C Project, as applicable, as provided in the foregoing paragraphs, shall be transferred by the Trustee to the Debt Service Fund, for deposit into such account therein as shall be directed by an Authorized Officer of the Authority. Written advice of the transfer of such amount to the Debt Service Fund shall be provided by the Trustee to the Authority, and, at the written direction of an Authorized Officer of the Authority with the consent of the Public University and subject to the conditions hereinafter set forth, such amount shall be applied by the Trustee as follows: (i) to pay principal and interest on the Bonds as the same becomes due, (ii) to redeem, or to cause the redemption of, Bonds on the earliest redemption date permitted by this Indenture without a premium, (iii) to purchase Bonds on the open market prior to such redemption date at prices not in excess of the principal amount of such Bonds, or (iv) for any other purpose, *provided* that the Trustee is furnished with an opinion of bond counsel to the effect that such use is lawful under the Act and, in the case of amounts attributable to the Bonds, will not cause the interest on said Bonds to be included in gross income for federal income tax purposes. Until used for one or more of the foregoing purposes, such segregated amount may only be invested as permitted by this Indenture at a Yield not in excess of the Yield on the applicable Bonds.

#### **Section 4.06 Debt Service Fund.**

(a) The Trustee shall make deposits and credits to the applicable accounts in the Debt Service Fund, as and when received, as set forth below and in accordance with the written direction of an Authorized Officer of the Authority.

(i) To the Interest Account and/or the Principal Account, as applicable, on each Basic Lease Payment Date, from the applicable subaccount in the Rental Pledge Account established with the Trustee pursuant to the Lease Agreement, such Basic Lease Payments on deposit therein payable by the Public University to the Authority specified in Section 4.04 of the Lease Agreement, sufficient to pay the amounts when due described in Section 4.06(c) below;

(ii) To the Principal Account (unless otherwise directed by an Authorized Officer of the Authority), the balance of the Net Proceeds of condemnation awards, sale under threat of condemnation or insurance received by the Trustee pursuant to the Lease Agreement.

(iii) To the Interest Account (unless otherwise directed by an Authorized Officer of the Authority), interest earnings and other income on Investment Obligations required to be deposited in the Debt Service Fund pursuant to Section 5.02.

(iv) To the Principal Account and/or the Interest Account, as applicable, all other moneys received by the Trustee under the Lease Agreement or any other Bond Document, when accompanied by directions from the Person depositing such moneys that such moneys are to be paid into the Debt Service Fund.

(b) Except as otherwise provided in Article VII or elsewhere herein, moneys in each account in the Debt Service Fund shall be expended solely as follows: (i) to pay interest on the Bonds as the same becomes due; (ii) to pay principal of the applicable Bonds as the same mature or become due upon mandatory sinking fund redemption, if any, (iii) to pay principal of

and redemption premium, if any, on the Bonds as the same become due upon redemption (other than mandatory sinking fund redemption, if any) prior to maturity, (iv) to pay applicable Swap Payment Obligations, if any as they become due; and (v) to pay an applicable Swap Termination Payment, if any; provided, however, that a Swap Termination Payment shall only be paid on a regularly scheduled payment date and after full satisfaction of, and on a subordinate basis to, those payments listed in the foregoing (i), (ii), (iii) and (iv) of this subsection (b).

(c) The Authority hereby authorizes and directs the Trustee to withdraw sufficient funds from the applicable account(s) in the Debt Service Fund to pay (i) principal of and redemption premium, if any, and interest on the Bonds as the same become due and payable at maturity or upon redemption; (ii) applicable Swap Payment Obligations as they become due; and (iii) an applicable Swap Termination Payment; provided, however, that a Swap Termination Payment shall only be paid on a regularly scheduled payment date and after full satisfaction of, and on a subordinate basis to, those payments listed in the foregoing (i), (ii), (iii) and (iv) of subsection (b) above, and to make said funds so withdrawn available to the Trustee and any Paying Agent for the purpose of paying said principal, redemption premium, if any, and interest and Swap Payment Obligations and Swap Termination Payments.

(d) Whenever there is on deposit in the Debt Service Fund moneys sufficient to redeem all or a portion of the Bonds Outstanding and to pay interest to accrue thereon prior to such redemption and redemption premium, if any, the Trustee shall, upon Written Request of the Authorized Officer of the Authority with the consent of the Public University, take and cause to be taken the necessary steps to redeem all such Bonds on the next succeeding redemption date for which the required redemption notice may be given or on such later redemption date as may be specified by the Public University. Any moneys in the Debt Service Fund may be used to redeem a part of the Bonds Outstanding, in accordance with Article III, so long as the Public University is not in default with respect to any payments under the Lease Agreement and to the extent said moneys are in excess of the amounts required to be on deposit therein pursuant to Section 4.05 of the Lease Agreement and the amount required for payment of Bonds theretofore matured or called for redemption and past due interest in all cases when such Bonds have not been presented for payment.

(e) After payment in full of the principal of and redemption premium, if any, and interest on the Bonds (or after provision has been made for the payment thereof as provided in this Indenture), payment in full of Swap Payment Obligations and Swap Termination Payments, if any, all rebatable arbitrage to the United States of America and the fees, charges and expenses of the Trustee, any Paying Agent and the Authority, and any other amounts required to be paid under this Indenture and the Lease Agreement, all amounts remaining in the Debt Service Fund shall be paid to the Public University upon the expiration or sooner termination of the Lease Agreement.

#### **Section 4.07 Rebate Fund.**

(a) The Rebate Fund shall be held for the benefit of the United States of America and not for the benefit of the Holders of the Bonds, which Holders shall have no rights in or to such fund.

(b) Subject to subsection (c) of this Section 4.07, as of the last day of each fifth Bond Year (the “Rebate Computation Date”), the Authority shall calculate, or cause to be calculated, the amount required to be paid to the United States of America (the “Rebatable Arbitrage”) pursuant to Section 148 of the Internal Revenue Code. On or before the sixtieth day after such date, the Trustee at the written direction of an Authorized Officer of the Authority, and upon the receipt of funds from the Public University shall deposit in the accounts (if any) in the Rebate Fund the amount, if any, needed to increase the amount in the accounts (if any) in such Rebate Fund to an amount equal to one-hundred percent (100%) of the Rebatable Arbitrage for the period from the date of issuance of the Bonds to the Rebate Computation Date at issue, or shall transfer from the Rebate Fund to the Debt Service Fund, for deposit into the Interest Account therein (unless otherwise directed by an Authorized Officer of the Authority), the amount, if any, needed to reduce the amount in the Rebate Fund to 90% of the amount of the Rebatable Arbitrage for such period.

Subject to subsection (c) of this Section 4.07, as of the last day on which the last Bond remaining Outstanding is retired (the “Final Computation Date”), the Authority shall calculate, or cause to be calculated, the amount required to be paid to the United States of America pursuant to Section 148 of the Internal Revenue Code. On or before the sixtieth day after such date, the Trustee, at the written direction of the Authority, and upon the receipt of funds from the Public University, shall deposit in the accounts (if any) in the Rebate Fund the amount, if any, needed to increase the amount in the accounts in such Rebate Fund to an amount equal to the Rebatable Arbitrage for the period from the date of issuance of the Bonds to the Final Computation Date, or shall transfer from the Rebate Fund to the Debt Service Fund, for deposit into the Interest Account therein (unless otherwise directed by an Authorized Officer of the Authority), the amount, if any, needed to reduce the amount in the Rebate Fund to the amount of the Rebatable Arbitrage for such period.

After making any transfer required for a Rebate Computation Date and the Final Computation Date, the Authority shall immediately pay or cause to be paid to the United States of America the amount in the Rebate Fund. The amounts in the Rebate Fund shall not be subject to the claim of any party, including any Holder, and shall not be paid to any party other than the United States of America.

All amounts in the Rebate Fund shall be used and withdrawn by the Authority or the Trustee solely for the purposes set forth in this Section. In the event the amount in the Rebate Fund is for any reason insufficient to pay to the United States of America the amounts due as calculated in this Section, the Public University, or the Trustee at the written direction of an Authorized Officer of the Authority and upon the receipt of funds from the Public University, shall deposit in the Rebate Fund the amount for such deficiency.

(c) Notwithstanding the provisions of this Section 4.07, the Authority hereby agrees to calculate or cause to be calculated the amount to be deposited in the Rebate Fund and the amount to be rebated to the United States of America pursuant to Section 148(f) of the Internal Revenue Code in a manner not inconsistent with its arbitrage covenants set forth in the Tax Certificate. Such calculation shall give regard to all regulations applicable to such Section 148(f) including any temporary regulations heretofore or hereafter released.

(d) The Authority and the Public University agree that the Trustee shall not be liable for any damages, costs or liabilities resulting from the performance of the Trustee's duties and obligations under this Section 4.07, except that the Trustee shall be liable for its negligence or willful misconduct. In making any deposit or transfer to or payment from the Rebate Fund, the Trustee shall be entitled to rely conclusively and solely on the written instructions of the Authority and shall have no duty to examine such written instruments to determine the accuracy of the Authority's calculation of the Rebateable Arbitrage or the amounts to be paid to the United States. In the event that the Public University or the Authority shall not comply with their respective obligations under this Section 4.07, the Trustee shall have no obligation to cause compliance on their respective behalf.

**Section 4.08 Payments Due on Saturdays, Sundays and Holidays.** In any case where the date of maturity of principal of or redemption premium, if any, or interest on the Bonds or the date fixed for redemption of any Bonds shall be a Saturday, a Sunday or a legal holiday or other day that is not a Business Day, then payment of principal, redemption premium, if any, or interest need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest shall accrue for the period after such date.

**Section 4.09 Nonpresentment of Bonds.** In the event any Bond shall not be presented for payment when the principal thereof becomes due, either at maturity or otherwise, or at the date fixed for redemption, if funds sufficient to pay such Bond shall have been made available to the Trustee, all liability of the Authority to the Owner thereof for the payment of such Bond, shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Trustee, to hold such funds in trust in a separate trust account, uninvested and without liability for interest thereon, for the benefit of the Owner of such Bond, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Indenture or on or with respect to said Bond. Thereupon it shall be the duty of the Trustee to comply with the Uniform Unclaimed Property Act, N.J.S.A. 46:30B-1 et seq. with respect to such funds in accordance with the Trustee's escheat policies and procedures, which must not be in conflict with the Uniform Unclaimed Property Act, N.J.S.A. 46:30B-1 et seq. Any money held by the Trustee pursuant to this Section 4.10 shall be held uninvested and without any liability for interest.

**Section 4.10 Reports From Trustee.** The Trustee shall furnish monthly to the Authority and the Public University a report on the status of each of the funds and accounts established under this Article which are held by the Trustee, showing at least the balance in each such fund or account as of the first day of the preceding month, the total of deposits to and the total of disbursements from each such fund or account, the dates of such deposits and disbursements, and the balance in each such fund or account on the last day of the preceding month.

**Section 4.11 Certain Verifications.** The Authority, from time to time, with notice to the Public University, may cause a firm of attorneys, consultants or Independent accountants or an investment banking firm acceptable to the Authority to supply the Authority or the Public University with such information as the Authority or the Public University may request in order to determine in a manner reasonably satisfactory to the Authority or the Public University all

matters relating to (a) the Yields on the Bonds as the same may relate to any data or conclusions necessary to verify that the Bonds are not “arbitrage bonds” within the meaning of Section 148 of the Internal Revenue Code, and (b) compliance with rebate requirements of Section 148(f) of the Internal Revenue Code. Payment for costs and expenses incurred in connection with supplying the foregoing information shall be paid by the Public University. The Authority and the Public University authorize the Trustee to provide to such firm(s) such information as may be required by such firm(s) to make such determinations which the Trustee has maintained on its records pursuant to this Indenture.

**ARTICLE V**  
**DEPOSITORIES OF MONEYS, SECURITY FOR DEPOSITS**  
**AND INVESTMENT OF FUNDS**

**Section 5.01 Moneys to be Held in Trust.** All moneys deposited with or paid to the Trustee for the funds and accounts held under this Indenture, and all moneys deposited with or paid to any Paying Agent under any provision of this Indenture shall be held by the Trustee or Paying Agent in trust and shall be applied only in accordance with this Indenture and the Lease Agreement, and, until used or applied as herein provided, shall (except for moneys in the Rebate Fund) constitute part of the Trust Estate and be subject to the lien, terms and provisions hereof and shall not be commingled with any other funds of the Authority or the Public University except as provided under Section 5.02 for investment purposes. Neither the Trustee nor any Paying Agent shall be under any liability for interest on any moneys received hereunder except such as may be agreed upon in writing.

**Section 5.02 Investment of Moneys.** Moneys held in each of the funds and accounts hereunder shall, pursuant to the written direction of an Authorized Officer of the Authority, be invested and reinvested by the Trustee in accordance with the provisions hereof in Investment Obligations which mature or are subject to redemption by the Owner thereof prior to the date such funds are expected to be needed. Notwithstanding any other provision of this Indenture, if the Trustee fails to receive written directions of the Authority regarding investment of funds pursuant to this Section, moneys held in any fund or account hereunder shall be invested or reinvested in shares of an open-end, diversified investment company which is registered under the Investment Company Act of 1940, as amended, and which invests its assets exclusively in obligations of or guaranteed by the United States of America or any instrumentality or agency thereof, and for which the Trustee may or may not act as the investment manager or advisor. The Trustee may make any investments permitted by this Section through its own or its affiliate's bond department or investment department and may pool moneys for investment purposes, except moneys held in the yield restricted portion of any fund or account, which shall be invested separately. Any such Investment Obligations shall be held by or under the control of the Trustee and shall be deemed at all times a part of the fund or account in which such moneys are originally held. The interest accruing on and any profit realized from such Investment Obligations (other than any amounts required to be deposited in the Rebate Fund pursuant to Section 4.07) shall be credited to such fund or account, and any loss resulting from such Investment Obligations shall be charged to such fund or account. The Trustee shall sell and reduce to cash a sufficient amount of such Investment Obligations whenever the cash balance in such fund or account is insufficient for the purposes of such fund or account. The Trustee shall not be responsible for any loss or decrease in value of the investments made pursuant to this Article V. The Trustee shall not be required to provide brokerage confirmations so long as the Trustee provides periodic statements that include investment activity to the Authority.

**Section 5.03 Record Keeping.** The Trustee shall maintain records of the investments made pursuant to this Article and Article IV for at least six years after the payment of all of the Outstanding Bonds.

**ARTICLE VI  
PARTICULAR COVENANTS AND PROVISIONS**

**Section 6.01 Special and Limited Obligations.** The Bonds and the interest thereon, Swap Payment Obligations, Swap Termination Payment (subject to the immediately succeeding sentence), if any (provided, that Swap Payment Obligations shall be payable equally and ratably with Bond Payment Obligations only to the extent so provided in the applicable Swap Agreement and provided further that Swap Payment Obligations may be subordinate but never prior to Bond Payment Obligations), each in accordance with their terms and the provisions of this Indenture shall be special and limited obligations of the Authority payable (except to the extent paid out of Bond proceeds or the income from the temporary investment thereof and under certain circumstances from insurance proceeds and condemnation awards) solely out of the Basic Lease Payments and other payments derived by the Authority under the Lease Agreement (except for fees and expenses payable to the Authority, the Authority's right to indemnification as set forth in the Lease Agreement and any payments made by the Trustee or the Public University to meet the rebate requirements of Section 148(f) of the Internal Revenue Code) as provided herein, and are secured by a transfer, pledge and assignment of and a grant of a security interest in the Trust Estate to the Trustee and in favor of the Owners of the Bonds and the Swap Provider, if any, as provided in this Indenture. Swap Termination Payments, if any, shall be secured by the Trust Estate on a wholly subordinate basis to the Bond Payment Obligations and Swap Payment Obligations. Notwithstanding anything to the contrary in the Resolution, the Bonds or this Indenture, the Bond Payment Obligations, Swap Payment Obligations and Swap Termination Payments, if any, shall not be deemed to constitute a debt or liability of the State or of any political subdivision thereof other than the Authority (to the limited extent set forth herein) within the meaning of any State constitutional provision or statutory limitation and shall not constitute a pledge of the faith and credit or the taxing power of the State or of any political subdivision thereof other than the Authority (to the limited extent set forth herein), and shall not, directly, indirectly or contingently, obligate the State or any political subdivision thereof to make any appropriation for their payment. The State or any political subdivision thereof other than the Authority (to the limited extent set forth herein) shall not in any event be liable for the payment of the principal of, redemption premium, if any, or interest on the Bonds, Swap Payment Obligations or Swap Termination Payments or for the performance of any pledge, mortgage, obligation or agreement of any kind whatsoever which may be undertaken by the Authority. No breach by the Authority of any such pledge, mortgage, obligation or agreement may impose any liability, pecuniary or otherwise, upon the State or any political subdivision thereof other than the Authority (to the limited extent set forth herein) or any charge upon its general credit or against its taxing power. The Authority has no taxing power.

**Section 6.02 Punctual Payment.** The Authority represents and warrants and agrees that it will deposit or cause to be deposited in the Debt Service Fund all Basic Lease Payments and any and all other payments and sums received under the Lease Agreement and this Indenture promptly to meet and pay the principal of, redemption premium, if any, and interest on the Bonds, Swap Payment Obligations and Swap Termination Payments, if any, as the same become due and payable at the place, on the dates and in the manner provided herein and in the Bonds according to the true intent and meaning thereof.

**Section 6.03 Authority to Issue Bonds and Execute Indenture.** The Authority represents and warrants that it is duly authorized under the Constitution and laws of the State to execute this Indenture and the other Bond Documents to which it is a party, to issue the Bonds and to pledge and assign the Trust Estate in the manner and to the extent herein set forth; that all action on its part for the execution and delivery of this Indenture and the issuance of the Bonds has been duly and effectively taken, and that the Bonds in the hands of the Owners thereof are and will be valid and enforceable, special and limited obligations of the Authority according to the import thereof.

**Section 6.04 Performance of Covenants.** The Authority covenants that it will (to the extent within its control) faithfully perform or cause to be performed at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in the Bonds and in all proceedings pertaining thereto.

**Section 6.05 Instruments of Further Assurance.** The Authority agrees that it will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such Supplemental Indentures and such further acts, instruments, financing statements and other documents as the Trustee may reasonably require for the better assuring, transferring, pledging and assigning to the Trustee, and granting a security interest unto the Trustee in and to the Trust Estate and the other property and revenues herein described to the payment of the principal of, redemption premium, if any, and interest on the Bonds, all at the expense of the Public University. The Lease Agreement, all Supplemental Lease Agreements and all other documents, instruments or policies of insurance required hereunder or under the Lease Agreement shall be delivered to and held by the Authority or its designee.

**Section 6.06 Inspection of Books.** The Authority agrees that all books and documents in its possession relating to this Indenture, the Lease Agreement, and any other Bond Documents and the transactions relating thereto shall at all times be open to inspection by such accountants or other agencies as the Trustee may from time to time designate.

**Section 6.07 Enforcement of Rights.** The Authority agrees that the Trustee, as assignee, transferee, pledgee, and owner of a security interest hereunder in its name or in the name of the Authority may enforce all rights of the Authority and/or the Trustee and all obligations of the Public University under and pursuant to the Lease Agreement for and on behalf of the Bondowners, whether or not the Authority is in default hereunder.

**Section 6.08 Tax Covenants.** The Authority covenants, and the Public University has covenanted in the Lease Agreement and the Tax Representation Letter, not to 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 and Sections 141 through 150, inclusive, of the Internal Revenue Code. The Authority and the Public University will not directly or indirectly use or permit the use of any proceeds of the Bonds or any other funds of the Authority or the Public University, 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 Internal Revenue Code. To that end, the Authority and the Public University will comply with all requirements of Section 148 of the Internal Revenue Code to the extent applicable to the Bonds. In the event that at any time the Authority or the Public University is of the opinion that for

purposes of this Section 6.08 it is necessary to restrict or limit the yield on the investment of any moneys held by the Trustee under this Indenture, the Lease Agreement or otherwise, the Authority or the Public University shall so instruct the Trustee, in writing, and the Trustee shall take such action as shall be set forth in such instructions. The covenants of the Authority contained in the Lease Agreement are fully incorporated herein by reference and are made a part of this Indenture as if fully set forth herein.

Without limiting the generality of the foregoing, the Authority and the Public University agree that there shall be paid from time to time all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Internal Revenue Code and any temporary, proposed or final Treasury Regulations as may be applicable to the Bonds from time to time. This covenant shall survive payment in full or defeasance of the Bonds. The Authority and the Public University specifically covenant to pay or cause to be paid to the United States of America at the times and in the amounts determined under Section 4.07 hereof the Rebutable Arbitrage, as described in the Tax Certificate.

Notwithstanding any provision of this Section and Section 4.07 hereof, if the Authority, at the expense of the Public University, shall provide to the Public University and the Trustee an opinion of nationally recognized bond counsel to the effect that any action required under this Section and Section 4.07 hereof is no longer required, or to the effect that some further action is required, to maintain the exclusion from gross income of interest on the Bonds, the Authority, the Trustee and the Public University may rely conclusively on such opinion.

**ARTICLE VII  
DEFAULT AND REMEDIES**

**Section 7.01 Events of Default.** If any one or more of the following events occur, it is hereby defined as and declared to be and to constitute an “Event of Default” under this Indenture:

(a) default in the due and punctual payment of any interest on any Bond when the same becomes due and payable;

(b) default in the due and punctual payment of the principal of or redemption premium, if any, on any Bond when the same becomes due and payable, whether at the stated maturity or accelerated maturity thereof, or upon proceedings for redemption thereof;

(c) default in the due and punctual payment of any Swap Payment Obligation or any Swap Termination Payment, if any (provided, with respect to such Swap Termination Payment, such default shall not be deemed to occur until the next regularly scheduled payment date if such payment has not been made by such date), when and as the same shall become due and payable;

(d) the Authority shall for any reason be rendered incapable of fulfilling its obligations hereunder, or 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 Indenture or any Supplemental Indenture on the part of the Authority to be performed, and such incapacity or default shall continue for 30 days after written notice specifying such default and requiring the same to be remedied shall have been given to the Authority and the Public University by the Trustee (which notice shall be given at the written request of the Owners of not less than 10% in aggregate principal amount of the affected Bonds then Outstanding); provided that, if any such default shall be correctable but is such that it cannot be corrected within such period, it shall not constitute an Event of Default if corrective action is instituted by the Authority or the Public University within such period and diligently pursued until the default is corrected;

(e) any Event of Default as specified in the Lease Agreement has occurred and is continuing and has not been waived or cured; or

(f) a default by either the Authority or the Swap Provider, if any, with respect to any payment obligations or in the observance of any of the other covenants, agreements or conditions or their respective parts under a Swap Agreement.

With regard to any alleged default concerning which notice is given to the Public University under this Section, the Authority hereby grants the Public University full authority for account of the Authority to perform any covenant or obligation, the nonperformance of which is alleged in said notice to constitute a default, in the name and stead of the Authority, with full power to do any and all things and acts to the same extent that the Authority could do and perform any such things and acts in order to remedy such default. Upon the occurrence of a default or Event of Default for which the Trustee has received notice pursuant to Section 8.03 or

under which Section the Trustee is required to take notice, the Trustee shall, within 30 days, give written notice thereof by first class mail to all Bondowners.

In determining whether a payment default has occurred or whether a payment on the Insured Bonds has been made hereunder, no effect shall be given to payments under the Bond Insurance Policy.

**Section 7.02 Acceleration of Maturity in Event of Default.** (a) If an Event of Default under Section 7.01(a) or (b) hereof occurs, then, without other further action, all Bonds Outstanding shall become and be immediately due and payable, anything in the Bonds or herein to the contrary notwithstanding. In addition, if any other Event of Default shall have occurred and be continuing, the Trustee may, and if requested by the Owners of not less than 25% in principal amount of the Bonds Outstanding or by the Swap Provider, the Trustee shall by notice in writing delivered to the Authority, the Swap Provider and the Public University, declare the principal of all Bonds then Outstanding and the interest accrued thereon immediately due and payable, and such principal and interest shall thereupon become and be immediately due and payable; provided that if at any time after the principal of the Bonds then Outstanding shall have so become due and payable, and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such acceleration or before the completion of the enforcement of any other remedy under this Indenture, all arrears of interest, with interest (to the extent permitted by law) at the rate borne by the Bonds on overdue installments of interest in respect to which such default shall have occurred, and all arrears of payments of principal when due, as the case may be, and all Swap Payment Obligations and Swap Termination Payments, if any, and all fees and expenses of the Trustee in connection with such default shall have been paid or provided for, then the acceleration of the Bonds then Outstanding and the consequences of such acceleration shall be annulled or rescinded, but no such annulment or rescission shall extend to or affect any subsequent acceleration of the Bonds then Outstanding, or impair any right consequent thereon.

(b) Notwithstanding any other provision of this Indenture to the contrary, (i) any acceleration of principal of the Insured Bonds shall be subject to the prior written consent of the Bond Insurer and (ii) any annulment of such declaration of acceleration of principal of the Insured Bonds shall be subject to the prior written consent of the Bond Insurer.

**Section 7.03 Appointment of Receivers in Event of Default.** If an Event of Default shall have occurred and be continuing, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Bondowners under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Trust Estate and of the Basic Lease Payments, pending such proceedings, with such powers as the court making such appointment shall confer.

**Section 7.04 Exercise of Remedies by the Trustee.**

(a) Upon the occurrence of an Event of Default, the Trustee may pursue any available remedy at law or equity by suit, action, mandamus or other proceeding (including any rights of a secured party under the State Uniform Commercial Code) to enforce the payment of the principal of, redemption premium, if any, and interest on the Bonds then Outstanding, Swap

Payment Obligations and Swap Termination Payments, to realize on or to foreclose any of its interests or liens hereunder or under any other of the Bond Documents, to exercise any rights or remedies available to the Trustee, to enforce and compel the performance of the duties and obligations of the Authority as herein set forth and to enforce or preserve any other rights or interests of the Trustee hereunder with respect to any of the Trust Estate or otherwise existing at law or in equity.

(b) If an Event of Default shall have occurred and be continuing, and if requested in writing so to do by the Owners of not less than 25% in aggregate principal amount of Bonds then Outstanding or the Swap Provider, if any, and if indemnified as provided in Section 8.02(e) or Section 8.04, the Trustee shall be obligated to exercise such one or more of the rights and powers conferred by this Article as the Trustee, being advised by counsel, shall deem most expedient in the interests of the Bondowners and the Swap Provider.

(c) All rights of action under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or Swap Agreement, if any, or the production thereof in any trial or other proceeding relating thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any Owners of the Bonds, and any recovery of judgment shall, subject to Section 7.07, be for the equal benefit of all the Owners of the Outstanding Bonds and the Swap Provider.

**Section 7.05 Limitation on Exercise of Remedies by Bondowners.** No Owner of any Bond shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereunder or for the appointment of a receiver or any other remedy hereunder, unless (a) a default has occurred of which the Trustee has been notified as provided in Section 8.03 or of which by said Section the Trustee is deemed to have notice, (b) such default shall have become an Event of Default, (c) the Owners of not less than 25% in aggregate principal amount of Bonds then Outstanding shall have made written request to the Trustee, shall have offered it reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, and shall have offered to the Trustee indemnity as provided in Section 8.02(e) or Section 8.04, and (d) the Trustee shall thereafter fail or refuse to exercise the powers herein granted or to institute such action, suit or proceeding in its own name; and such notification, request and offer of indemnity are hereby declared in every case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder, it being understood and intended that no one or more Owners of the Bonds shall have the right in any manner whatsoever to affect, disturb or prejudice this Indenture by its, his or their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided, and for the equal benefit of the Owners of all Bonds then Outstanding. Nothing in this Indenture contained shall, however, affect or impair the right of any Bondowner to payment of the principal of and interest on any Bond at and after the maturity thereof or the obligation of the Authority to pay the principal of, redemption premium, if any, and interest on each of the Bonds to their respective Owners at the time, place, from the

source and in the manner expressed herein and in the Bonds or affect or interfere with the right of any Owner to institute suit for the enforcement of any such payment.

**Section 7.06 Right of Bondowners to Direct Proceedings.** Notwithstanding Section 7.05, the Owners of a majority in aggregate principal amount of Bonds then Outstanding shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver, custodian or any other proceedings hereunder, provided that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture and provided, further, that the Trustee shall have the right to decline to follow any such direction if the Trustee in good faith shall determine that the proceedings so directed would involve it in personal liability for which it has not been indemnified.

**Section 7.07 Application of Moneys in Event of Default.** Any moneys held or received by the Trustee (after the deductions for payment of costs and expenses of proceedings resulting in the collection of such moneys) together with any other sums then held by the Trustee as part of the Trust Estate, shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such money on account of principal or redemption premium, if any, or interest, upon presentation of the Bonds and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

First: To the payment of all amounts due the Trustee hereunder or under the Lease Agreement;

Second: To the payment of the whole amount then due and unpaid upon the Outstanding Bonds for principal and redemption premium, if any, and interest, in respect of which or for the benefit of which such money has been collected, with interest (to the extent that such interest has been collected by the Trustee or a sum sufficient therefor has been so collected and payment thereof is legally enforceable at the respective rate or rates prescribed therefor in the Bonds) on overdue principal and redemption premium, if any, and on overdue installments of interest; and in case such proceeds shall be insufficient to pay in full the whole amount so due and unpaid upon such Bonds and Swap Payment Obligations, then to the payment of such principal, redemption premium, if any, and interest, and Swap Payment Obligations, without any preference or priority, ratably according to the aggregate amount so due;

Third: To the payment of a Swap Termination Payment, if any, and any amounts due and owing to the Bond Insurer hereunder or under the Lease Agreement; and

Fourth: To the payment of the remainder, if any, to the Public University or to whosoever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

Whenever moneys are to be applied pursuant to this Section, such moneys shall be applied at such times and from time to time as the Authority shall determine, having due regard to the amount of such moneys available and which may become available for such application in the future. Whenever the Trustee shall apply such moneys, it shall fix the date (which shall be an

Interest Payment Date unless the Authority shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such dates shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date and shall not be required to make payment to the Owner of any unpaid Bond until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Whenever all of the Bonds and interest thereon have been paid under this Section, all Swap Payment Obligations and Swap Termination Payments, if any, and all fees, expenses and charges of the Trustee and the Authority, including attorneys' fees and expenses, have been paid, and all amounts owing to the United States of America under Section 148 of the Internal Revenue Code have been paid, any balance remaining in the Debt Service Fund shall be paid to the Public University.

**Section 7.08 Remedies Cumulative.** No remedy by the terms of this Indenture conferred upon or reserved to the Trustee, the Swap Provider, or to the Bondowners is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee, the Swap Provider, or to the Bondowners hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right, power or remedy accruing upon any Event of Default shall impair any such right, power or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein; and every such right, power or remedy may be exercised from time to time and as often as may be deemed expedient. In case the Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver, by entry, or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every case the Authority, the Public University, the Trustee, the Swap Provider, and the Bondowners shall be restored to their former positions and all rights hereunder, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

**Section 7.09 Waivers of Events of Default.** The Trustee shall waive any Event of Default hereunder and its consequences and rescind any declaration of acceleration of principal upon the written direction of the Owners of at least a majority in aggregate principal amount of all Bonds then Outstanding, provided that there shall not be waived without the consent of the Owners of all the Bonds Outstanding (a) an Event of Default in the payment of the principal of any Outstanding Bonds at the date of maturity specified therein, or (b) any default in the payment when due of the interest on any such Bonds unless, prior to such waiver or rescission of the Event of Default referred to in clause (a) or (b) above, all arrears of interest, with interest (to the extent permitted by law) at the rate borne by the Bonds on overdue installments of interest in respect to which such default shall have occurred, and all arrears of payments of principal when due, as the case may be, and all expenses of the Trustee in connection with such default shall have been paid or provided for. In case of any such waiver or rescission, or in case any proceeding taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every case the Authority, the Public University, the Trustee and the Bondowners shall be restored to their former positions, rights and obligations hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon.

**Section 7.10 Cancellation of Bonds Owned by the Public University.** Upon the occurrence of any Event of Default, any Bonds owned by the Public University shall be deemed to be canceled and shall be surrendered to the Trustee, unless the Event of Default has been waived.

**ARTICLE VIII  
THE TRUSTEE**

**Section 8.01 Acceptance of Trusts; Certain Duties and Responsibilities.** The Trustee accepts and agrees to execute the trusts imposed upon it by this Indenture, but only upon the following terms and conditions:

(a) Except during the continuance of an Event of Default,

(i) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture.

(b) If an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent trustee would exercise or use under the circumstances.

(c) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that

(i) this subsection shall not be construed to limit the effect of subsection (a);

(ii) the Trustee shall not be liable for any error of judgment made in good faith by an Authorized Officer of the Trustee, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts;

(iii) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Owners of a majority in principal amount of the Outstanding Bonds relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture; and

(iv) no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(d) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section.

**Section 8.02 Certain Rights of Trustee.** Except as otherwise provided in Section 8.01:

(a) The Trustee may rely conclusively and shall be protected in acting or refraining from acting upon any resolution, Certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties.

(b) The Trustee shall be entitled to rely conclusively upon a Certificate of Authorized Officer of the Authority or a Certificate of an Authorized Officer of the Public University as to the sufficiency of any request or direction of the Public University or the Authority, as applicable, mentioned herein, the existence or non-existence of any fact or the sufficiency or validity of any instrument, paper or proceeding, or that a resolution in the form therein set forth has been adopted by the Public University Board or a resolution of the Authority has been duly adopted, and is in full force and effect.

(c) Whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, conclusively rely upon a Certificate of Authorized Officer of the Authority or a Certificate of an Authorized Officer of the Public University, as applicable.

(d) The Trustee may consult with counsel, and the advice or opinions of such counsel or any Opinion of Counsel may be conclusively relied upon by the Trustee and shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by the Trustee hereunder in good faith and in reliance thereon.

(e) Notwithstanding anything elsewhere in this Indenture contained, before taking any action under this Indenture, the Trustee may require that satisfactory indemnity be furnished to it for the payment or reimbursement of all reasonable fees, costs and expenses to which it may be put and to protect it against all liability which it may incur in or by reason of such action, including those arising in connection with any environmental claim and the fees and expenses of attorneys, except liability which is adjudicated to have resulted from its negligence or willful misconduct by reason of any action so taken.

(f) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, Certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Authority or the Public University, personally or by agent or attorney.

(g) The Trustee assumes no responsibility for the correctness of the recitals contained in this Indenture and in the Bonds, except the certificate of authentication on the Bonds. The Trustee makes no representations to the value or condition of the Trust Estate or any part thereof, or as to the title thereto or as to the security afforded thereby or hereby, or as to the validity or sufficiency of this Indenture or of the Bonds. The Trustee shall not be accountable for the use or application by the Authority or the Public University of any of the Bonds or the proceeds thereof or of any money paid to or upon the order of the Authority or the Public University under any provision of this Indenture.

(h) The Trustee or any of its affiliates, in its individual or any other capacity, may become the Owner or pledgee of Bonds and may otherwise deal with the Authority or the Public University with the same rights it would have if it were not Trustee.

(i) All money received by the Trustee shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received. Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law or by this Indenture. The Trustee shall be under no liability for interest on any money received by it hereunder except for accounting for earnings on Investment Obligations.

(j) The Trustee may execute any of the trusts and powers hereunder or perform any duties hereunder either directly or, to the extent that it may reasonably determine is necessary or appropriate to the conduct of its duties hereunder, by or through agents, attorneys or receivers, and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent, attorney or receiver appointed by it with due care hereunder, taking into account the duties with respect to which such Person is appointed, and the Trustee shall not be required to give any bond or surety in respect of the execution, delivery or administration of this Indenture. This subparagraph shall not be interpreted as absolving the Trustee of responsibility with respect to duties customarily performed by corporate trustees in the ordinary course of business without the employment of agents, attorneys or receivers.

(k) The Trustee may elect not to proceed in accordance with the directions of the Owners without incurring any liability to the Owners if in the opinion of the Trustee such direction may result in liability to the Trustee, in its capacity as Trustee or in an individual capacity for which the Trustee has not received indemnity pursuant to Section 8.02(e) from the Owners, and the Trustee may conclusively rely upon an Opinion of Counsel addressed to the Authority and the Trustee in determining whether any action directed by Owners or the Authority may result in such liability.

(l) Notwithstanding any other provision of this Indenture to the contrary, any provision intended to provide authority to act, right to payment of fees and expenses, protection or immunity to the Trustee shall be interpreted to include any action of the Trustee whether it is deemed to be in its capacity as Trustee, Bond Registrar or Paying Agent.

(m) Except as otherwise expressly provided hereunder, the Trustee shall not be required to give or furnish any notice, demand, report, reply, statement, advice or opinion to any Owner, the Public University, the Authority or any other Person, and the Trustee shall not incur

any liability for its failure or refusal to give or furnish the same unless obligated or required to do so by express provisions hereof.

(n) In acting or omitting to act pursuant to the Lease Agreement or any of the other Bond Documents, the Trustee shall be entitled to all of the rights and immunities accorded to it under this Indenture, including but not limited to this Article VIII.

(o) The Trustee shall have no responsibility with respect to any information in any offering memorandum or other disclosure material distributed with respect to the Bonds or for compliance with securities laws in connection with the sale and issuance of the Bonds.

(p) The Trustee shall have no responsibility with respect to compliance by the Authority or the Public University with Section 148 of the Internal Revenue Code or any covenant in this Indenture or in the Lease Agreement regarding yields on investments.

(q) The Trustee shall not be required to give a bond or surety to act under this Indenture.

(r) The Trustee shall have no duty or obligation to record or file the initial financing statements or any mortgage or similar document relating to this Indenture, the Lease Agreement, or the Project.

(s) The Trustee shall have no duty or obligation to expend its own funds in the administration of the trusts hereunder, provided the foregoing shall not be construed to permit the Trustee to delay or fail to take actions in the administration of the trusts hereunder for which the Trustee's fees and expenses associated therewith would customarily and in the ordinary course of business be paid on a reimbursement basis.

(t) The Trustee shall have no duty to review any evidence of insurance delivered to it pursuant to this Indenture or the Lease Agreement and shall not be responsible to determine the validity or sufficiency of same.

The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty, and the Trustee shall not be answerable for other than its negligence or willful misconduct.

**Section 8.03 Notice of Defaults.** The Trustee shall not be required to take notice or be deemed to have notice of any default or Event of Default hereunder except failure by the Authority to cause to be made any of the payments to the Trustee required to be made by Article IV, unless the Trustee shall be specifically notified in writing of such default or Event of Default by the Authority, the Public University, any Swap Provider or the Owners of at least 10% in principal amount of all Bonds Outstanding, and in the absence of such notice so delivered, the Trustee may conclusively assume there is no default except as aforesaid. Within 30 days after the occurrence of any Event of Default hereunder of which the Trustee is required to take notice or has received notice as provided in this Section, the Trustee shall give written notice of such Event of Default by first-class mail to all Owners of Bonds as shown on the Bond Register maintained by the Trustee, unless such Event of Default shall have been cured or waived; provided that, except in the case of a default in the payment of the principal of (or

redemption premium, if any) or interest on any Bond, the Trustee shall be protected in withholding such notice from Bondowners if and so long as the Trustee in good faith determines that the withholding of such notice is in the interests of the Bondowners. For the purpose of this Section, the term “default” means any event which is, or after notice or lapse of time or both would become, an Event of Default.

**Section 8.04 Compensation and Reimbursement.** The Trustee shall be entitled to payment or reimbursement:

(a) from time to time for reasonable compensation for Ordinary Services and Extraordinary Services (which in the case of compensation for the Trustee’s Ordinary Services shall be agreed upon by the Authority), which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust; and

(b) except as otherwise expressly provided herein, upon its request, for all Ordinary Expenses and Extraordinary Expenses (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to the Trustee’s negligence, willful misconduct or bad faith.

Pursuant to the Lease Agreement, the Public University has agreed to pay to the Trustee all reasonable fees, charges, advances and expenses of the Trustee, and the Trustee agrees to look only to the Public University for the payment of all reasonable fees, charges, advances and expenses of the Trustee and any Paying Agent as provided in the Lease Agreement. The Trustee agrees that the Authority shall have no liability for any fees, charges and expenses of the Trustee.

As security for the payment of such compensation, expenses, reimbursements and indemnity under this Section, the Trustee shall be secured under this Indenture by a lien prior to the Bonds, and shall have the right to use and apply any trust moneys held by it under Articles IV and VII except for funds and investments held pursuant to Section 4.07.

All indemnity provisions in favor of the Trustee under this Indenture shall survive the termination of this Indenture and the removal or resignation of the Trustee.

**Section 8.05 Corporate Trustee Required; Eligibility.** There shall at all times be a Trustee hereunder which shall be a bank, national banking association or trust company organized and doing business under the laws of the United States of America or of any state thereof, authorized under such laws to exercise corporate trust powers, subject to supervision or examination by federal or state authority, having a corporate trust office located in the State, and having a combined capital and surplus of at least \$75,000,000 or having its obligations hereunder guaranteed by an affiliated entity with a combined capital and surplus of at least \$75,000,000. If such corporation or association publishes reports of condition at least annually, pursuant to law or to the requirements of such supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such corporation or association shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with this Section, it shall resign immediately in the manner and with the effect specified in this Article.

## **Section 8.06 Resignation and Removal of Trustee.**

(a) The Trustee may resign at any time by giving written notice thereof to the Authority, the Public University, the Swap Provider, if any, the Bond Insurer and each Owner of Bonds Outstanding as their names and addresses appear in the Bond Register maintained by the Trustee. If an instrument of acceptance by a successor Trustee shall not have been delivered to the Trustee within 30 days after the giving of such notice of resignation, the resigning Trustee may, at the expense of the Public University, petition any State court of competent jurisdiction for the appointment of a successor Trustee.

(b) The Trustee may be removed at any time by an instrument or concurrent instruments in writing delivered to the Authority, the Swap Provider, if any, and the Trustee signed by the Owners of a majority in principal amount of the Outstanding Bonds. In addition, the Authority at the written direction of the Public University (so long as the Public University is not in default under this Indenture or the Lease Agreement and no condition exists that, with the giving of notice or the passage of time, or both, would constitute a default or an Event of Default) may remove the Trustee at any time for any reason. The Authority, the Public University or any Bondowner may at any time petition any State court of competent jurisdiction for the removal for cause of the Trustee.

(c) If at any time:

(i) the Trustee shall cease to be eligible under Section 8.05 and shall fail to resign after written request therefor by the Authority, the Public University or by any such Bondowner, or

(ii) the Trustee shall become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of the Trustee or of its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, (a) the Authority may remove the Trustee, or (b) the Public University or any Bondowner may petition any State court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(d) The successor Trustee shall give notice of such resignation or such removal of the Trustee and such appointment of a successor Trustee by mailing written notice of such event by first-class mail, postage prepaid, to the Registered Owners of Bonds as their names and addresses appear in the Bond Register maintained by the Trustee. Each notice shall include the name of the successor Trustee and the address of its Principal Office.

(e) No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee under Sections 8.07 and 8.08.

**Section 8.07 Appointment of Successor Trustee.** If the Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of the Trustee for any cause, the Authority with the written consent of the Public University (so long as no

Event of Default and no condition exists that, with the giving of notice or the passage of time, or both, would constitute a default or an Event of Default hereunder or under the Lease Agreement has occurred and is continuing) with the written consent of the Owners of a majority in principal amount of Bonds Outstanding (if an Event of Default hereunder or under the Lease Agreement has occurred and is continuing), by an instrument or concurrent instruments in writing delivered to the Authority, the Public University, the Swap Provider, if any, and the retiring Trustee, shall promptly appoint a successor Trustee acceptable to the Bond Insurer. In case all or substantially all of the Trust Estate shall be in the possession of a receiver or trustee lawfully appointed, such receiver or trustee, by written instrument, may similarly appoint a temporary successor to fill such vacancy until a new Trustee shall be so appointed by the Authority or the Bondowners. If a successor Trustee shall be appointed in the manner herein provided, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment, become the successor Trustee and supersede the retiring Trustee and any temporary successor Trustee appointed by such receiver or trustee. If, within 30 days after such resignation, removal or incapability or the occurrence of such vacancy, no successor Trustee shall have been so appointed and accepted appointment in the manner herein provided, the Authority (so long as no Event of Default hereunder or under the Lease Agreement has occurred and is continuing and no condition exists that, with the giving of notice or the passage of time, or both, would constitute a default or an Event of Default) or the Owners of a majority in principal amount of Bonds Outstanding may appoint, or the Authority, the Swap Provider, if any, the Public University or the retiring Trustee, at the expense of the Public University, or any Bondowner may petition any State court of competent jurisdiction for the appointment of, a temporary successor Trustee, until a successor shall have been appointed as above provided. The temporary successor so appointed shall immediately and without further act be superseded by any successor Trustee appointed as above provided. Every such successor Trustee appointed pursuant to this Section shall be a bank or national banking association with trust powers or trust company in good standing under the laws of the jurisdiction in which it was created and by which it exists, meeting the eligibility requirements of this Article.

**Section 8.08 Acceptance of Appointment by Successor.** Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to the Authority, the Public University and the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the estates, properties, rights, powers, trusts and duties of the retiring Trustee, but, on request of an Authorized Officer of the Authority, the Public University or the successor Trustee, such retiring Trustee shall, upon payment of its fees and charges, execute and deliver an instrument conveying and transferring to such successor Trustee upon the trusts herein expressed all the estates, properties, rights, powers and trusts of the retiring Trustee, and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder, subject nevertheless to its lien, if any, provided for in Section 8.04 and thereupon, all duties and obligations of the retiring Trustee hereunder shall cease and terminate. Upon request of any such successor Trustee, the Authority shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such estates, properties, rights, powers and trusts.

No successor Trustee shall accept its appointment unless at the time of such acceptance such successor Trustee shall be qualified and eligible under this Article.

**Section 8.09 Merger, Consolidation and Succession to Business.** Any corporation or association into which the Trustee may be merged or with which it may be consolidated, or any corporation or association resulting from any merger or consolidation to which the Trustee shall be a party, or any corporation or association succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided such corporation or association shall be otherwise qualified and eligible under this Article, and shall be vested with all of the title to the whole property or Trust Estate and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Bonds shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger or consolidation to such authenticating Trustee may adopt such authentication and deliver such Bonds so authenticated with the same effect as if such successor Trustee had itself authenticated such Bonds.

**Section 8.10 Designation of Paying Agents.** The Trustee is hereby designated and agrees to act as principal Paying Agent for and in respect to the Bonds. The Authority, or the Public University on behalf of the Authority, may cause the necessary arrangements to be made through the Trustee and to be thereafter continued for the designation of alternate Paying Agents, if any, and for the making available of funds hereunder for the payment of the principal of, redemption premium, if any, and interest on the Bonds, or at the Principal Office of said alternate Paying Agents. In the event of a change in the office of Trustee, the predecessor Trustee which has resigned or been removed shall cease to be trustee of any funds provided hereunder and Paying Agent for principal of, redemption premium, if any, and interest on the Bonds, and the successor Trustee shall become such Trustee and Paying Agent unless a separate Paying Agent or Agents are appointed in connection with the appointment of any successor Trustee.

**Section 8.11 Advances by Trustee.** If the Public University shall fail to make any payment or perform any of its covenants in the Lease Agreement, the Trustee may (but shall in no case be required), at any time and from time to time, use and apply any moneys held by it under this Indenture, or make advances, to effect payment or performance of any such covenant on behalf of the Public University. All moneys so used or advanced by the Trustee, together with interest at the Prime Rate plus 2%, shall be repaid by the Public University upon demand and such advances shall be secured under this Indenture prior to the Bond Payment Obligations. For the repayment of all such advances the Trustee shall have the right to use and apply any moneys at any time held by it (except the moneys in the Rebate Fund) under this Indenture but no such use of moneys or advance shall relieve the Public University from any default hereunder.

**Section 8.12 Notice to Rating Agencies.** The Trustee shall promptly give written notice to each Rating Agency by registered or certified mail, postage prepaid, of the occurrence of any of the following events: (a) the appointment of a successor Trustee hereunder, (b) the date that no Bonds remain Outstanding, (c) the Trustee becomes aware of any material change made in this Indenture or the Lease Agreement, (d) any redemption of Bonds pursuant to this Indenture other than mandatory sinking fund redemptions pursuant to Section 3.02(c) hereof, or (e) the acceleration of the Bonds in accordance with Article VII.

**Section 8.13 P.L. 2005, c. 92 Covenant.** In accordance with P.L. 2005, c. 92, the Trustee covenants and agrees that all services performed under this Indenture shall be performed within the United States of America.

**Section 8.14 Compliance with P.L. 2005, c. 51 and Executive Order No. 117.** The Trustee represents and warrants that all information, certifications and disclosure statements previously provided in connection with P.L. 2005, c. 51, and Executive Order No. 117 (Corzine, 2008) (“Executive Order 117”), are true and correct as of the date hereof and that all such statements have been made with full knowledge that the Authority has relied upon the truth of the statements contained therein in engaging the Trustee in connection with the Bonds. The Trustee agrees that it will maintain continued compliance with P.L. 2005, c. 51, Executive Order 117 and any regulations pertaining thereto. The Trustee acknowledges that upon its failure to make required filings thereunder or the making of a contribution prohibited thereunder the Authority may remove the Trustee as trustee under this Indenture and may exercise any remedies afforded to it at law or in equity.

**Section 8.15 Compliance with P.L. 2005, c. 271 Reporting Requirements.** The Trustee hereby acknowledges that it has been advised of its responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (“ELEC”) pursuant to *N.J.S.A. 19:44A-20.13* (P.L. 2005, c. 271, section 3) if the Trustee enters into agreements or contracts, such as this Indenture, with a New Jersey public entity, such as the Authority, and receives compensation or fees in excess of \$50,000 or more in the aggregate from New Jersey public entities, such as the Authority, in a calendar year. It is the Trustee’s responsibility to determine if filing is necessary. Failure to do so can result in the imposition of financial penalties by ELEC. Additional information about this requirement is available from ELEC at 888-313-3532 or at [www.elec.state.nj.us](http://www.elec.state.nj.us).

**Section 8.16 Compliance with N.J.S.A. 52:32-58.** The Trustee represents and warrants that it has complied with the requirements of N.J.S.A. 52:32-58 and has filed a certification with the Authority that it is not identified on the list of persons engaging in investment activities in Iran.

**ARTICLE IX  
SUPPLEMENTAL INDENTURES**

**Section 9.01 Supplemental Indentures Not Requiring Consent of Bondowners.** The Authority and the Trustee may from time to time, without the consent of or notice to any of the Bondowners or the Swap Provider, enter into one or more Supplemental Indentures, for any one or more of the following purposes:

- (a) To cure any ambiguity or formal defect or omission in this Indenture or to release property from the Trust Estate which was included by reason of an error or other mistake;
- (b) To grant to or confer upon the Trustee for the benefit of the Bondowners any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Bondowners or the Trustee or either of them;
- (c) To subject to this Indenture additional revenues, properties or collateral;
- (d) To modify, amend or supplement this Indenture or any indenture supplemental thereto in such manner as to permit the qualification of the Indenture under the Trust Indenture Act of 1939, as then amended, or any similar federal statute hereafter in effect or to permit the qualification of the Bonds for sale under the securities laws of any state of the United States;
- (e) To conform to the provisions of any Swap Agreement;
- (f) To evidence the appointment of a separate Trustee or the succession of a new Trustee hereunder; or
- (g) To make any other change which, in the sole judgment of the Trustee, does not materially adversely affect the interests of the Bondowners or Swap Provider (in making such determination, the Trustee shall be entitled to rely conclusively upon an opinion of bond counsel).

**Section 9.02 Supplemental Indentures Requiring Consent of Bondowners.** With the consent of the Owners of not less than a majority in principal amount of the Bonds then Outstanding, the consent of the Swap Provider (so long as a Swap Agreement is in effect and the Swap Provider is not then in default under its payment obligations thereunder), the Authority and the Trustee may from time to time enter into such other Supplemental Indenture or Supplemental Indentures as shall be deemed necessary or desirable by the Trustee for the purpose of modifying, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any Supplemental Indenture; provided that nothing in this Section contained shall permit or be construed as permitting without the consent of the Owners of all of the Bonds then Outstanding:

- (a) an extension of the maturity of the principal of or the scheduled date of payment of interest on any Bond, or

(b) a reduction in the principal amount, redemption premium, or any interest payable on any Bond, or

(c) a privilege or priority of any Bond or Bonds over any other Bond or Bonds, or

(d) a reduction in the aggregate principal amount of Bonds the Owners of which are required for consent to any such Supplemental Indenture.

If at any time the Authority shall request the Trustee to enter into any such Supplemental Indenture for any of the purposes of this Section, the Trustee shall cause notice of the proposed execution of such Supplemental Indenture to be mailed by first-class mail to each Bondowner. Such notice shall briefly set forth the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the Principal Office of the Trustee for inspection by all Bondowners. If within 60 days or such longer period as shall be prescribed by the Authority following the mailing of such notice, the Owners of not less than a majority in aggregate principal amount of the Bonds Outstanding at the time of the execution of any such Supplemental Indenture shall have consented to and approved the execution thereof as herein provided, no Owner of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Authority from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such Supplemental Indenture as in this Section permitted and provided, this Indenture shall be and be deemed to be modified and amended in accordance therewith.

**Section 9.03 Public University's Consent to Supplemental Indentures.** Anything herein to the contrary notwithstanding, so long as the Public University is not in default under the Lease Agreement, a Supplemental Indenture under this Article which affects any rights of the Public University shall not become effective unless and until the Public University shall have consented in writing to the execution and delivery of such Supplemental Indenture. In this regard, the Trustee shall cause notice of the proposed execution and delivery of any such Supplemental Indenture, together with a copy of the proposed Supplemental Indenture, to be mailed by first-class mail to the Public University at least 15 days prior to the proposed date of execution and delivery of any such Supplemental Indenture.

**Section 9.04 Opinion of Bond Counsel.** Notwithstanding anything to the contrary in Sections 9.01 or 9.02, concurrently with the entry by the Authority and the Trustee into any Supplemental Indenture pursuant to Section 9.01 or 9.02, there shall have been delivered to the Authority, the Swap Provider and the Trustee an opinion of bond counsel. The Trustee may conclusively rely on such opinion when consenting to such Supplemental Indenture, which shall, in addition to its other elements, opine to the effect that such Supplemental Indenture is permitted under this Article IX and is duly authorized, validly executed and delivered and is legally valid and binding upon the Authority, and that the execution and delivery of the Supplemental Indenture will not adversely affect the exclusion of interest on the Bonds from gross income of the owners thereof for purposes of federal income taxation.

**ARTICLE X  
SUPPLEMENTAL LEASE AGREEMENTS**

**Section 10.01 Supplemental Lease Agreements Not Requiring Consent of Bondowners.** The Authority and the Trustee may, without the consent of or notice to the Bondowners or the Swap Provider, consent to the execution of any Supplemental Lease Agreement by the Authority and the Public University as may be required:

(a) For the purpose of curing any ambiguity or formal defect or omission in the Lease Agreement, or

(b) For the purpose of modifying the scope of the Series 2021 C Project, the Leased Facilities and/or the Leased Facilities Site in accordance with the Lease Agreement, or

(c) In connection with any other change therein which, in the sole judgment of the Trustee, does not materially adversely affect the interests of the Bondowners or Swap Provider (in making such determination, the Trustee shall be entitled to rely conclusively upon an opinion of bond counsel).

Copies of any amendments, changes or modification of the Lease Agreement as provided in this Section must be provided to each Rating Agency by the Trustee.

**Section 10.02 Supplemental Lease Agreements Requiring Consent of Bondowners.** With the consent of the Owners of not less than a majority in principal amount of the Bonds then Outstanding and with the consent of the Swap Provider (so long as a Swap Agreement is in effect and the Swap Provider is not then in default under its payment obligations thereunder), the Authority and the Trustee may consent to the execution of any Supplemental Lease Agreements by the Authority and the Public University; provided that no such Supplemental Lease Agreement shall be entered into which permits without the consent of the Owners of all of the Bonds then Outstanding (a) an extension of the date of payment of any Basic Lease Payment under Section 4.05 of the Lease Agreement, or (b) a reduction in the amount of any Basic Lease Payment under Section 4.05 of the Lease Agreement.

If at any time the Authority and the Public University shall request the consent of the Trustee to any such proposed Supplemental Lease Agreement, the Trustee shall cause notice of such proposed Supplemental Lease Agreement to be mailed in the same manner as provided by Section 9.02 with respect to Supplemental Indentures. Such notice shall briefly set forth the nature of such proposed Supplemental Lease Agreement and shall state that copies of the same are on file at the Principal Office of the Trustee for inspection by all Bondowners.

Copies of any amendments, changes or modification of the Lease Agreement as provided in this Section must be provided to each Rating Agency by the Trustee.

**Section 10.03 Opinions.** Anything to the contrary in Sections 10.01 or 10.02 notwithstanding, concurrently with the entry by the Authority and the Public University into any Supplemental Lease Agreement, there shall have been delivered to the Authority, the Swap Provider and the Trustee an opinion of bond counsel; which shall, in addition to its other elements, opine to the effect that such Supplemental Lease Agreement is permitted under this

Article X and is duly authorized, validly executed and delivered and is legally valid and binding upon the Authority, and an Opinion of Counsel to the effect that such Supplemental Lease Agreement is duly authorized, validly executed and delivered and is legally valid and binding upon the Public University and that the execution and delivery of the Supplemental Lease Agreement will not adversely affect the exclusion of interest on the Bonds from gross income of the owners thereof for purposes of federal income taxation.

**ARTICLE XI**  
**SATISFACTION AND DISCHARGE OF INDENTURE**

**Section 11.01 Bonds Deemed To Be Paid.** Any Bond or Bonds shall be deemed to be paid and no longer Outstanding under this Indenture and shall cease to be entitled to any lien, benefit or security under this Indenture if the Authority shall pay or provide for the payment of such Bond or Bonds in any one or more of the following ways:

(a) by paying or causing to be paid the principal of (including redemption premium, if any) and interest on such Bond or Bonds, as and when the same become due and payable;

(b) by delivering and surrendering to the Trustee, for cancellation by it, such Bond or Bonds; or

(c) by depositing with the Trustee, in trust, (i) cash or noncallable Government Obligations or both in such amounts and with maturities which will be, together with other moneys deposited therein and together with the income or increment to accrue thereon, without consideration of any reinvestment thereof, fully sufficient to pay or redeem (when redeemable) and discharge the indebtedness on such Bond or Bonds at or before their respective maturity dates and to pay the interest thereon as it comes due, and (ii) in the case of Bonds which do not mature or will not be redeemed within 90 days of the deposit referred to in clause (i) above, a verification report of a nationally recognized Independent Certified Public Accountant or a nationally recognized firm providing verification services as to the adequacy of the trust funds to fully pay the Bonds deemed to be paid. For purposes of this subsection (c), Government Obligations shall mean and include only those investments of the type identified in paragraph A of the "List of Investment Obligations", as contained in Exhibit B attached hereto, which shall not be subject to redemption prior to their maturity.

Notwithstanding the foregoing, in the case of any Bonds which by their terms may be redeemed prior to the stated maturities thereof, no deposit under clause (i) or (ii) of the immediately preceding paragraph shall be deemed a payment of such Bonds as aforesaid until, as to all such Bonds which are to be redeemed prior to their respective stated maturities, proper notice of such redemption shall have been given in accordance with Article III or irrevocable instructions shall have been given to the Trustee to give such notice.

Notwithstanding any provisions of any other Section of this Indenture which may be contrary to this Section, all moneys or Government Obligations set aside and held in trust pursuant to this Section for the payment of Bonds (including redemption premium thereon, if any) shall be held irrevocably in trust for the Owners of such Bonds and applied to and used solely for the payment of the particular Bonds (including redemption premium thereon, if any) with respect to which such moneys and Government Obligations have been so set aside in trust.

**Section 11.02 Satisfaction and Discharge of the Indenture.** If the principal of, redemption premium, if any, and interest on all of the Bonds shall have been paid in accordance with their terms, or provision has been made for such payment as provided in Section 11.01, and provision shall also be made for paying all other sums payable hereunder, including the payment

of all Swap Payment Obligations and Swap Termination Payments, if any, any Rebatable Arbitrage to the United States of America, all amounts due and owing to the Bond Insurer, and the fees, charges and expenses of the Authority, the Trustee, any Paying Agent, including attorneys' fees and expenses, to the date of retirement of the Bonds, then the right, title and interest of the Trustee in respect hereof shall thereupon cease, determine and be void, and thereupon the Trustee, upon Written Request of the Public University, and upon receipt by the Trustee, the Swap Provider, the Bond Insurer and the Authority of a favorable opinion of bond counsel, which shall, in addition to its other elements, opine that all conditions precedent to the satisfaction and discharge of this Indenture have been complied with, shall cancel, discharge and release this Indenture and shall execute, acknowledge and deliver to the Authority, the Swap Provider, the Bond Insurer and the Public University such instruments of satisfaction and discharge or release as shall be reasonably requested to evidence such release and the satisfaction and discharge of this Indenture, and shall assign and deliver to the Authority, the Public University, the Swap Provider or other Person entitled thereto as their respective interests may appear, any property and revenues at the time subject to this Indenture which may then be in its possession, other than moneys or obligations held by the Trustee for the payment of the principal of and interest and redemption premium, if any, due or to become due on the Bonds.

Upon provision for the payment of all Outstanding Bonds in accordance with this Section, and compliance with the other payment requirements of Section 11.01, and subject to this Section, the Indenture may be discharged in accordance with the provisions hereof, provided that the obligation of the Authority in respect of such Bonds shall nevertheless continue but the Owners thereof shall thereafter be entitled to payment only out of the moneys or Government Obligations deposited with the Trustee as aforesaid.

Provision for payment of the Bonds Outstanding hereunder may not be made as aforesaid nor may this Indenture be discharged if under any circumstances the interest on such Bonds is thereby made subject to federal income taxation. In determining the foregoing, the Trustee may conclusively rely upon a favorable opinion of bond counsel.

**Section 11.03 Payment of Bonds After Discharge.** Notwithstanding the discharge of the lien hereof as in this Article provided, the Trustee shall nevertheless retain such rights, powers and duties hereunder as may be necessary and convenient for the payment of amounts due or to become due on the Bonds and the registration, transfer, exchange and replacement of Bonds as provided herein. Thereupon it shall be the duty of the Trustee to comply with the Uniform Unclaimed Property Act, N.J.S.A. 46:30B-1 et seq. with respect to such funds in accordance with the Trustee's escheat policies and procedures, which must not be in conflict with the Uniform Unclaimed Property Act, N.J.S.A. 46:30B-1 et seq. Any such delivery shall be in accordance with the customary practices and procedures of the Trustee and the State escheat laws. Any money held by the Trustee pursuant to this Section 11.03 shall be held uninvested and without any liability for interest.

**ARTICLE XII  
MISCELLANEOUS PROVISIONS**

**Section 12.01 Consents and Other Instruments by Bondowners.** Any consent, request, direction, approval, objection or other instrument required by this Indenture (other than the assignment of any Bond) to be signed and executed by the Bondowners may be in any number of concurrent writings of similar tenor and may be signed or executed by such Bondowners in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee with regard to any action taken, suffered or omitted under any such instrument, namely:

(a) The fact and date of the execution by any Person of any such instrument may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the Person signing such instrument acknowledged before him the execution thereof, or by affidavit of any witness to such execution.

(b) The fact of ownership of Bonds and the amount or amounts, numbers and other identification of such Bonds, and the date of holding the same shall be proved by the Bond Register.

In determining whether the Owners of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under this Indenture, Bonds owned by the Public University shall be disregarded and deemed not to be Outstanding under this Indenture, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds with respect to which the Trustee has received written notice of such ownership shall be so disregarded. Notwithstanding the foregoing, Bonds so owned which have been pledged in good faith shall not be disregarded as aforesaid if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Bonds and that the pledgee is not the Public University.

**Section 12.02 Limitation of Rights Under this Indenture.** With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied by this Indenture or the Bonds is intended or shall be construed to give any Person other than the parties hereto, the Paying Agent, the Bond Registrar, the Swap Provider, the Bond Insurer and the Owners of the Bonds, any right, remedy or claim under or in respect to this Indenture, this Indenture and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto, the Paying Agent, the Bond Registrar, the Swap Provider, the Bond Insurer and the Owners of the Bonds as herein provided. To the extent that this Indenture confers upon or gives or grants to the Swap Provider any right, remedy or claim under or by reason of this Indenture, the Swap Provider is hereby explicitly recognized as being a third-party beneficiary hereunder and may give notice to the Trustee or the Authority or any applicable receiver of the occurrence of an Event of Default hereunder, request the Trustee or receiver to intervene in judicial proceedings that affect the Bonds or any Swap Agreement or the security therefor, or enforce any such right, remedy or claim conferred, given or granted

hereunder or thereunder, and the Trustee or receiver shall accept notice of default from the Swap Provider.

**Section 12.03 Notices.** Except as otherwise provided herein, it shall be sufficient service of any notice, request, complaint, demand or other paper required by this Indenture to be given to or filed with the Authority, the Trustee, the Swap Provider or the Public University if the same shall be duly mailed by certified or registered mail addressed (provided that notice to the Trustee shall be effective only upon receipt):

(a) To the Authority at:

New Jersey Educational Facilities Authority  
103 College Road East  
Princeton, New Jersey 08540-6612  
Attention: Executive Director

(b) To the Trustee at:

U.S. Bank National Association  
333 Thornall Street  
Edison, New Jersey 08837  
Attention: Global Corporate Trust

(c) To the Public University at:

The William Paterson University of New Jersey  
300 Pompton Road  
Wayne, New Jersey 07470  
Attention: Senior Vice President for Administration and Finance

All notices, demands, directions and requests to the Trustee shall be in writing unless expressly stated herein.

It shall be sufficient service of any notice, request, complaint, demand or other paper permitted or required by this Indenture to be given or filed with the Bondowners if the same is duly mailed by first-class mail, postage prepaid, addressed to each of the Bondowners at the time Outstanding at the addresses shown by the Bond Register. Neither the failure to receive such notice, nor any defect in any notice so mailed, to any particular Bondowner shall affect the sufficiency of such notice with respect to other Bondowners. Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Bondowners shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

The Trustee is hereby instructed to give notice to any Rating Agency then maintaining a rating on the Bonds if (i) the Trustee resigns or is removed, or a new Trustee is appointed, (ii) there is a call for the redemption of all Bonds, (iii) all of the Bonds are defeased in

accordance with Article XI, or (iv) any amendment is made to this Indenture or the Lease Agreement.

**Section 12.04 Suspension of Mail Service.** If, because of the temporary or permanent suspension of mail service or for any other reason, it is impossible or impractical to mail any notice in the manner herein provided, then such delivery of notice in lieu thereof as shall be made with the approval of the Authority shall constitute a sufficient notice.

**Section 12.05 Immunity of Officers, Employees and Members of Authority.** No recourse shall be had for the payment of the principal of or redemption premium, if any, or interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement in this Indenture contained against any past, present or future officer, director, member, employee or agent of the Authority, or of any successor public corporation, as such, either directly or through the Authority or any successor public corporation, under any rule of law or equity, statute or constitution, or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officers, directors, members, employees or agents as such is hereby expressly waived and released as a condition of and consideration for the execution of this Indenture and the issuance of such Bonds.

**Section 12.06 Limitation on Authority Obligations.** Any other term or provision in this Indenture, the Lease Agreement, the Tax Certificate or any other Bond Document to the contrary notwithstanding:

(a) Any and all obligations (including fees, claims, demands, payments, damages, liabilities, penalties, assessments and the like) of or imposed upon the Authority or its members, officers, agents, employees, representatives, advisors or assigns, whether under this Indenture or any of the Bond Documents or elsewhere and whether arising out of or based upon a claim or claims of tort, contract, misrepresentation, or any other or additional legal theory or theories whatsoever (collectively the “Obligations”), shall in all events be absolutely limited obligations and liabilities, payable solely out of the following, if any, available at the time the Obligation in question is asserted:

(i) Bond proceeds and investments therefrom; and

(ii) Payments derived from the Bonds, the Indenture (including the Trust Estate to the extent provided in this Indenture) and the Lease Agreement (except for the fees and expenses of the Authority and the Authority’s right to indemnification under the Lease Agreement under certain circumstances),

The above provisions (i) and (ii) being collectively referred to as the “exclusive sources of the Obligations”.

(b) The Obligations shall not be deemed to constitute a debt or liability of the State or of any political subdivision thereof other than the Authority (to the limited extent as set forth herein) within the meaning of any State constitutional provision or statutory limitation and shall not constitute a pledge of the faith and credit or taxing power of the State or of any political subdivision thereof other than the Authority (to the limited extent as set forth herein), but shall be payable solely from and out of the exclusive sources of the Obligations and shall otherwise

impose no liability whatsoever, primary or otherwise, upon or any charge upon the general credit or taxing power of the State or of any political subdivision thereof other than the Authority (to the limited extent as set forth herein). The Authority has no taxing power.

(c) In no event shall any member, officer, agent, employee, representative or advisor of the Authority, or any successor or assign of any such Person or entity, be liable, personally or otherwise, for any Obligation.

(d) In no event shall this Indenture be construed as:

(i) depriving the Authority of any right or privilege; or

(ii) requiring the Authority or any member, officer, agent, employee, representative or advisor of the Authority to take or omit to take, or to permit or suffer the taking of any action by itself or by anyone else,

which deprivation or requirement would violate or result in the Authority's being in violation of the Act or any other applicable State or federal law.

(e) At no time and in no event will the Public University permit, suffer or allow any of the proceeds of the Bonds to be transferred to any Person in violation of, or to be used in any manner which is prohibited by, the Act or any other State or federal law.

**Section 12.07 Severability.** If any provision of this Indenture shall be held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstances, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or Sections in this Indenture contained shall not affect the remaining portions of this Indenture, or any part thereof.

**Section 12.08 Execution in Counterparts.** This Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 12.09 The Swap Provider as Third Party Beneficiary.** In furtherance of the rights granted under Section 12.02 hereof, to the extent that this Indenture confers upon or gives or grants to the Swap Provider any right, remedy or claim under or by reason of this Indenture, the Swap Provider is hereby explicitly recognized as being a third-party beneficiary hereunder and may enforce any such right, remedy, or claim conferred, given or granted hereunder. In the event that there is no Swap Provider, such terms shall be disregarded in this Indenture.

**Section 12.10 Governing Law.** This Indenture shall be governed exclusively by and construed in accordance with the laws of the State without regard to conflict of laws principles.

## **Section 12.11 Provisions Relating to the Bond Insurance Policy.**

(a) Application of this Section. This Section 12.11 shall apply so long as the Bond Insurance Policy shall be in effect and the Bond Insurer is not in default of its obligations under the Bond Insurance Policy and notwithstanding any provisions to the contrary in this Indenture; and provided, the Bond Insurer shall always retain any rights to the extent it has become subrogated to Holders of any Insured Bonds.

(b) Amendments and Supplements. The Bond Insurer shall be given prior written notice of any amendment or supplement to this Indenture or the Lease Agreement which does not require the consent of the Holders of the Insured Bonds. Any amendment or supplement to this Indenture which requires the consent of the Holders of the Insured Bonds, shall be subject to the prior written consent of the Bond Insurer. Any rating agency then rating the Insured Bonds shall receive notice of any amendment and a copy thereof. Notwithstanding any other provision of this Indenture or the Lease Agreement, in determining whether the rights of Holders of the Insured Bonds will be adversely affected by any action taken pursuant to the terms and provisions thereof, the Trustee shall consider the effect on the Holders of the Insured Bonds as if there were no Bond Insurance Policy. Any provision of this Indenture expressly recognizing or granting rights in or to the Bond Insurer may not be amended in any manner that affects the rights of the Bond Insurer under this Indenture without the prior written consent of the Bond Insurer.

(c) Holder Consents. For purposes of any action under this Indenture with respect to the Insured Bonds requiring the approval or consent of Holders of a percentage of the principal amount of Outstanding Bonds or exercising any voting right or privilege or giving any consent or direction or taking any other action that such Holders are entitled to take pertaining to (i) defaults and remedies and (ii) the duties and obligations of the Trustee, the Bond Insurer, shall be deemed the Holder of 100% of the principal amount of Outstanding Insured Bonds; provided, that, the Bond Insurer shall be deemed a Holder, together with the actual Holders of the Insured Bonds, with respect to amendments or modifications set forth in Section 9.02 of this Indenture requiring the consent of the Holders of all Bonds Outstanding.

(d) Trustees. The Bond Insurer shall be furnished with written notice of any name change of the Trustee or of the resignation, removal or termination of the Trustee, Bond Registrar or Paying Agent.

(e) Defeasance Provisions.

(i) In the event that the principal and/or interest due on the Insured Bonds shall be paid by the Bond Insurer pursuant to the Bond Insurance Policy, the Insured Bonds shall remain Outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the Authority, and the assignment and pledge of the Trust Estate under this Indenture and all covenants, agreements and other obligations of the Authority to the registered owners shall continue to exist and shall run to the benefit of the Bond Insurer, and the Bond Insurer shall be subrogated to the rights of such registered owners including, without limitation, any rights that such owners may have in respect of securities law violations arising from the offer and sale of the Insured Bonds.

(ii) In addition to the requirements of Section 11.01 hereof, the following conditions shall be required in connection with the defeasance of the Insured Bonds:

(A) An escrow agreement and an opinion of counsel regarding the validity and enforceability of the escrow agreement. Such escrow agreement shall provide that:

(1) Any substitution of securities shall require verification by an independent certified public accountant and the prior written consent of the Bond Insurer;

(2) The Public University will not exercise any optional redemption of Insured Bonds secured by the escrow agreement or any other redemption other than mandatory sinking fund redemptions unless (i) the right to make any such redemption has been expressly reserved in the escrow agreement and such reservation has been disclosed in detail in the official statement for the refunding bonds, and (ii) as a condition of any such redemption there shall be provided to the Bond Insurer a verification of an independent certified public accountant as to the sufficiency of escrow receipts without reinvestment to meet the escrow requirements remaining following such redemption; and

(3) The Public University shall not amend the escrow agreement or enter into a forward purchase agreement or other agreement with respect to rights in the escrow without the prior written consent of the Bond Insurer.

(f) Reporting Requirements. The Bond Insurer shall be provided with the following:

(i) Notice of any material event pursuant to Rule 15c2-12 under the Securities Exchange Act of 1934, as amended.

(ii) All information furnished pursuant to the Continuing Disclosure Agreement dated as of March \_\_, 2021, by and between the Public University and the Trustee, shall be simultaneously delivered to the Bond Insurer.

(iii) Such additional information as the Bond Insurer may reasonably request from time to time.

(g) Default Related Provisions.

(i) For all purposes of this Indenture governing events of default and remedies, except the giving of notice of default to Bondholders, the Bond Insurer shall be deemed to be the sole Holder of the Insured Bonds.

(ii) In furtherance thereof and as a term of this Indenture and the Insured Bonds, the Trustee and each Holder of the Insured Bonds appoint the Bond Insurer as their agent and attorney-in-fact with respect to the Insured Bonds and agree that the Bond Insurer may at any time during the continuation of any proceeding by or against the Public College

under the United States Bankruptcy Code or any other applicable bankruptcy, insolvency, receivership, rehabilitation or similar law (an “Insolvency Proceeding”) direct all matters relating to such Insolvency Proceeding, including without limitation, (A) all matters relating to any claim or enforcement proceeding in connection with an Insolvency Proceeding (a “Claim”), (B) the direction of any appeal of any order relating to any Claim, (C) the posting of any surety, supersedeas or performance bond pending any such appeal, and (D) the right to vote to accept or reject any plan of adjustment. In addition, the Trustee and each Holder of the Insured Bonds delegate and assign to the Bond Insurer, to the fullest extent permitted by law, the rights of the Trustee and each Holder of the Insured Bonds with respect to the Insured Bonds in the conduct of any Insolvency Proceeding, including, without limitation, all rights of any party to an adversary proceeding or action with respect to any court order issued in connection with any such Insolvency Proceeding.

(h) Payments Pursuant to the Bond Insurance Policy. So long as the Bond Insurance Policy shall be in effect, the Trustee, the Bond Registrar and the Paying Agent shall observe the following provisions respecting the Bond Insurance Policy and the Insured Bonds:

(i) If, on the third Business Day prior to the related scheduled interest payment date or principal payment date (“Payment Date”) there is not on deposit with the Trustee, after making all transfers and deposits required under this Indenture, moneys sufficient to pay the principal of and interest on the Insured Bonds due on such Payment Date, the Trustee shall give notice to the Bond Insurer and to its designated agent (if any) (the “Insurer’s Fiscal Agent”) by telephone or teletype of the amount of such deficiency by 12:00 noon, New York City time, on such Business Day. If, on the second Business Day prior to the related Payment Date, there continues to be a deficiency in the amount available to pay the principal of and interest on the Insured Bonds due on such Payment Date, the Trustee shall make a claim under the Bond Insurance Policy and give notice to the Bond Insurer and the Bond Insurer’s Fiscal Agent (if any) by telephone of the amount of such deficiency, and the allocation of such deficiency between the amount required to pay interest on the Insured Bonds and the amount required to pay principal of the Bonds, confirmed in writing to the Bond Insurer and the Bond Insurer’s Fiscal Agent by 12:00 noon, New York City time, on such second Business Day by filing in the form of Notice of Claim and Certificate delivered with the Bond Insurance Policy.

(ii) The Trustee shall designate any portion of payment of principal on Insured Bonds paid by the Bond Insurer, whether by virtue of mandatory sinking fund redemption, maturity or other advancement of maturity, on its books as a reduction in the principal amount of Insured Bonds registered to the then current Holder of the Insured Bonds, whether DTC or its nominee or otherwise, and shall issue a replacement Bond to the Bond Insurer, registered in the name of Assured Guaranty Municipal Corp., in a principal amount equal to the amount of principal so paid (without regard to authorized denominations): provided that the Trustee’s failure to so designate any payment or issue any replacement Bond shall have no effect on the amount of principal or interest payable by the Authority on any Insured Bond or the subrogation rights of the Bond Insurer.

(iii) The Trustee shall keep a complete and accurate record of all funds deposited by the Bond Insurer into the Policy Payments Account (defined below) and the allocation of such funds to payment of interest on and principal of any Insured Bond. The Bond

Insurer shall have the right to inspect such records at reasonable times upon reasonable notice to the Trustee.

(iv) Upon payment of a claim under the Bond Insurance Policy, the Trustee shall establish a separate special purpose trust account for the benefit of the Holders of the Insured Bonds referred to herein as the “Policy Payments Account” and over which the Trustee shall have exclusive control and sole right of withdrawal. The Trustee shall receive any amount paid under the Bond Insurance Policy in trust on behalf of the Holders of the Insured Bonds and shall deposit any such amount in the Policy Payments Account and distribute such amount only for purposes of making the payments for which a claim was made. Such amounts shall be disbursed by the Trustee to Holders of the Insured Bonds in the same manner as principal and interest payments are to be made with respect to the Insured Bonds under the sections hereof regarding payment of Bonds. It shall not be necessary for such payments to be made by checks or wire transfers separate from the check or wire transfer used to pay debt service with other funds available to make such payments. Notwithstanding anything herein to the contrary, the Authority agrees to pay to the Bond Insurer (A) a sum equal to the total of all amounts paid by the Bond Insurer under the Bond Insurance Policy (the “Insurer Advances”) and (B) interest on such Insurer Advances from the date paid by the Insurer until payment thereof in full, payable to the Insurer at the Late Payment Rate per annum (collectively, the “Insurer Reimbursement Amounts”). “Late Payment Rate” means the lesser of (X) the greater of (i) the per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank at its principal office in The City of New York, as its prime or base lending rate (any change in such rate of interest to be effective on the date such change is announced by JPMorgan Chase Bank) plus 3% and (ii) the then applicable highest rate of interest on the Insured Bonds, and (Y) the maximum rate permissible under applicable usury or similar laws limiting interest rates. The Late Payment Rate shall be computed on the basis of the actual number of days elapsed over a year of 360 days. The Authority hereby covenants and agrees that the Insurer Reimbursement Amounts are secured by a lien on and pledge of the Trust Estate and payable from such Trust Estate on a parity with debt service due on the Bonds.

(v) Funds held in the Policy Payments Account shall not be invested by the Trustee and may not be applied to satisfy any costs, expenses or liabilities of the Trustee. Any funds remaining in the Policy Payments Account following an Insured Bond payment date shall promptly be remitted to the Bond Insurer.

(vi) The Bond Insurer shall, to the extent it makes any payment of principal of or interest on the Insured Bonds, become subrogated to the rights of the recipients of such payments in accordance with the terms of the Bond Insurance Policy. Each obligation of the Authority to the Bond Insurer under this Indenture and the Lease Agreement shall survive discharge or termination of this Indenture and the Lease Agreement.

(vii) The Bond Insurer shall be entitled to pay principal or interest on the Insured Bonds that shall become Due for Payment but shall be unpaid by reason of Nonpayment by the Authority (as such terms are defined in the Bond Insurance Policy) and any amounts due on the Insured Bonds as a result of acceleration of the maturity thereof in accordance with this Indenture, whether or not the Bond Insurer has received a Notice of

Nonpayment (as such terms are defined in the Bond Insurance Policy) or a claim upon the Bond Insurance Policy.

(i) The Authority hereby agrees to pay or reimburse the Bond Insurer, to the extent permitted by law and solely from funds available under this Indenture and the Lease Agreement, any and all charges, fees, costs and expenses which the Bond Insurer may reasonably pay or incur, including, but not limited to, fees and expenses of attorneys, accountants, consultants and auditors and reasonable costs of investigations, in connection with (i) any accounts established to facilitate payments under the Bond Insurance Policy, (ii) the administration, enforcement, defense or preservation of any rights in respect of this Indenture or the Lease Agreement including defending, monitoring or participating in any litigation or proceeding (including any bankruptcy proceeding in respect of the Public University or any affiliate thereof) relating to this Indenture or any other Financing Document, any party to this Indenture or any other Financing Document or the transaction contemplated by the Financing Documents, (iii) the foreclosure against, sale or other disposition of any collateral securing any Bonds under this Indenture or any other Financing Document, or the pursuit of any remedies under this Indenture or any other Financing Document, to the extent such costs and expenses are not recovered from such foreclosure, sale or other disposition, or (iv) any amendment, waiver or other action with respect to, or related to, this Indenture or any other Financing Document whether or not executed or completed; costs and expenses shall include a reasonable allocation of compensation and overhead attributable to time of employees of the Bond Insurer spent in connection with the actions described in clauses (ii) - (iv) above. In addition, the Bond Insurer reserves the right to charge a reasonable fee as a condition to executing any amendment, waiver or consent proposed in respect of this Indenture or any other Financing Document. The Public University will pay interest on the amounts owed in this paragraph from the date of any payment due or paid, at the per annum rate of interest publicly announced from time to time by JP Morgan Chase Bank, National Association at its principal office in New York, New York as its prime lending rate (any change in such prime rate of interest to be effective on the date such change is announced by JPMorgan Chase Bank, National Association) plus three percent (3%) per annum (the "Reimbursement Rate"). The Reimbursement Rate shall be calculated on the basis of the actual number of days elapsed over a 360-day year. In the event JPMorgan Chase Bank ceases to announce its prime rate publicly, the prime rate shall be the publicly announced prime rate or base lending rate of such national bank, as the Bond Insurer shall specify. The provisions of this paragraph shall survive the redemption, defeasance or termination of the Insured Bonds or the terminations of any Financing Document.

(j) In addition to any and all rights of reimbursement, subrogation and any other rights pursuant hereto or under law or in equity, the Public University agrees to pay or reimburse the Bond Insurer, to the extent permitted by law and solely from funds available under the Financing Documents, any and all charges, fees, costs, claims, losses, liabilities (including penalties), judgments, demands, damages, and expenses which the Bond Insurer or its officers, directors, shareholders, employees, agents and each Person, if any, who controls the Bond Insurer within the meaning of either Section 15 of the Securities Act of 1933, as amended, or Section 20 of the Securities Exchange Act of 1934, as amended, may reasonably pay or incur, including, but not limited to, fees and expenses of attorneys, accountants, consultants and auditors and reasonable costs of investigations, of any nature in connection with, in respect of or

relating to the transactions contemplated by this Indenture or any other Financing Document by reason of:

(i) any omission or action (other than of or by the Bond Insurer) in connection with the offering, issuance, sale, remarketing or delivery of the Insured Bonds;

(ii) the negligence, bad faith, willful misconduct, misfeasance, malfeasance or theft committed by any director, officer, employee or agent of the Authority or Public University in connection with any transaction arising from or relating to this Indenture or any other Financing Document;

(iii) the violation by the Public University of any law, rule or regulation, or any judgment, order or decree applicable to it;

(iv) the breach by the Public University of any representation, warranty or covenant under this Indenture or any other Financing Document or the occurrence, in respect of the Public University, under this Indenture or any other Financing Document of any “event of default” or any event which, with the giving of notice or lapse of time or both, would constitute any “event of default”; or

(v) any untrue statement or alleged untrue statement of a material fact contained in any official statement relating to the Insured Bonds, if any, or any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, except insofar as such claims arise out of or are based upon any untrue statement or omission in information included in an official statement, if any, and furnished by the Bond Insurer in writing expressly for use therein.

(k) Swap Agreements. Any Swap Agreement entered into in connection with the Insured Bonds shall meet the following conditions: (i) the Swap Agreement must be entered into to manage interest costs related to, or a hedge against (a) assets then held, (b) debt then outstanding, or (c) debt reasonably expected to be issued or incurred within thirty-six months of the proposed interest rate swap, and (ii) the Swap Agreement shall not contain any leverage element or multiplier component greater than 1.0x unless there is a matching hedge arrangement which effectively off-sets the exposure from any such element or component. Unless otherwise consented to in writing by the Bond Insurer, the net settlement, breakage or other termination amount then in effect shall be subordinate to debt service on the Insured Bonds and on any debt on parity with the Insured Bonds. The Authority, on behalf of the Public University, shall not terminate any Swap Agreement relating to the Insured Bonds unless it demonstrates to the satisfaction of Bond Insurer prior to the payment of any such termination amount that (a) the Authority, on behalf of the Public University, has sufficient amounts on hand to make pay the termination amount, and (b) such payment will not cause the Authority or the Public University to be in default under any Financing Documents, as such agreement may be amended or supplemented, including but not limited to, any monetary obligations thereunder. All counterparties or guarantors to the Swap Agreement must have a rating of at least “AA” and “Aa” by S&P and Moody’s, unless otherwise agreed to by the Bond Insurer. If the counterparty or guarantor’s rating falls below “A-” or “A3” by either S&P or Moody’s, the counterparty or guarantor shall execute a credit support annex to the Swap Agreement, which credit support

annex shall be acceptable to Bond Insurer. If the counterparty or the guarantor's long term unsecured rating falls below "Baa3" or "BBB-" by either Moody's or S&P, a replacement counterparty or guarantor, acceptable to the Bond Insurer, shall be required.

(l) The Bond Insurer as Third Party Beneficiary. To the extent that the Financing Documents confer upon or give or grant to the Bond Insurer any right, remedy or claim under or by reason of the Financing Documents, the Bond Insurer is explicitly recognized as being a third party beneficiary thereunder and may enforce any such right, remedy or claim conferred, given or granted thereunder.

(m) No Purchase by Authority or Public University. Without the prior written consent of the Bond Insurer, no Insured Bonds shall be purchased by the Authority or the Public University, or any of their respective affiliates, unless such Bonds are redeemed, defeased or terminated.

**IN WITNESS WHEREOF**, the Authority has caused these presents to be signed in its name and behalf by its duly Authorized Officer, and to evidence its acceptance of the trusts hereby created, the Trustee has caused these presents to be signed in its name and behalf by its duly Authorized Officer, all as of the day and year first above written.

**NEW JERSEY EDUCATIONAL FACILITIES  
AUTHORITY**

By: \_\_\_\_\_  
Eric D. Brophy, Esq., Executive Director

**U.S. BANK NATIONAL ASSOCIATION,  
as Trustee**

By: \_\_\_\_\_  
Paul D. O'Brien, Vice President

Acknowledged and Accepted:

**THE WILLIAM PATERSON UNIVERSITY OF NEW JERSEY**

By: \_\_\_\_\_  
Stephen O. Bolyai  
Senior Vice President for Administration and Finance

**EXHIBIT A  
TO TRUST INDENTURE**

**(FORM OF BOND)**

Unless this bond is presented by an authorized representative of The Depository Trust Company to the Authority or its agent for registration of transfer, exchange or payment, and any bond issued is registered in the name of Cede & Co., or such other name as requested by an authorized representative of The Depository Trust Company and any payment is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the Registered Owner hereof, Cede & Co., has an interest herein.

Registered  
No. R-

Registered  
\$ \_\_\_\_\_

**UNITED STATES OF AMERICA  
STATE OF NEW JERSEY**

**NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY**

**REVENUE BONDS,  
THE WILLIAM PATERSON UNIVERSITY OF NEW JERSEY ISSUE, SERIES 2021 C**

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Dated Date</u>	<u>CUSIP</u>
	July 1, 20__	March __, 2021	

**REGISTERED OWNER: CEDE & CO.**

**PRINCIPAL AMOUNT: \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_)**

**NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY**, a public body corporate and politic of the State of New Jersey (herein called the "Authority"), for value received, promises to pay, but solely from the sources hereinafter referred to, to the Registered Owner specified above, or registered assigns, the Principal Amount specified above on the Maturity Date specified above, except as the provisions hereinafter set forth with respect to redemption prior to maturity may become applicable hereto, and in like manner to pay interest on the portion of said Principal Amount from time to time Outstanding at the interest rate per annum determined as described herein and in the Indenture hereinafter referred to from the Dated Date specified above or from the most recent Interest Payment Date to which interest has been paid or duly provided for, payable on each Interest Payment Date as described in the Trust Indenture dated as of March 1, 2021 (said Trust Indenture, as may be amended and supplemented from time to time in accordance with the provisions thereof, being herein called the "Indenture"),

between the Authority and U.S. Bank National Association, Edison, New Jersey, as Trustee (the “Trustee”), until said Principal Amount is paid.

**Method of Payment.** The principal of and interest on this Bond shall be payable in any coin or currency of the United States of America which on the respective dates of payment thereof is legal tender for the payment of public and private debts. The principal of and redemption premium, if any, on this Bond shall be payable by check or draft to the Registered Owner at the maturity or redemption date hereof upon presentation and surrender of this Bond at the Principal Office of the Trustee. The interest payable on this Bond on any Interest Payment Date shall be paid by the Trustee to the Registered Owner appearing on the registration books of the Authority (the “Bond Register”) maintained by the Trustee, as Bond Registrar, at the close of business on the Record Date next preceding such Interest Payment Date and shall be paid (i) by check or draft of the Trustee mailed on the applicable Interest Payment Date to such Registered Owner at his address as it appears on such Bond Register or at such other address furnished in writing by such Registered Owner to the Trustee or (ii) by electronic transfer in immediately available funds, if the Bonds are held by The Depository Trust Company or another securities depository, or at the written request addressed to the Trustee by any Owner of Bonds in the aggregate principal amount of at least \$1,000,000 such request to be signed by such Owner, containing the name of the bank (which shall be in the continental United States), its address, its ABA routing number, the name and account number to which credit shall be made and an acknowledgment that an electronic transfer fee is payable, and to be filed with the Trustee no later than ten Business Days before the applicable Record Date preceding such Interest Payment Date.

**Authorization.** This Bond is one of a duly authorized series of bonds of the Authority designated “New Jersey Educational Facilities Authority Revenue Bonds, The William Paterson University of New Jersey Issue, Series 2021 C” in the aggregate principal amount of \$\_\_\_\_\_ (the “Bonds”). The Bonds are issued for the purpose of providing funds to The William Paterson University of New Jersey (herein called the “Public University”) to finance a project (collectively, the “Project”) consisting of: (i) payment of the cost of a capital project consisting of the renovation and equipping of the building located at 1800 Valley Road, for use by the School of Continuing Education and also to house a Child Development Center, the renovation and equipping of the Speert Hall dining room and other food service venues on the campus of the Public University, the renovation and equipping of the Carriage House to house a catering kitchen on the first floor and administrative offices on the second floor, the renovation and equipping of the University Commons, including replacement of granite walls and elevator lobby surrounds, the renovation and equipping of various residence halls, including installation of kitchen counters, windows and screens at Pioneer and Heritage Halls, installation of a compressor and heat exchanger at High Mountain West Hall, renovation of bathrooms at White and Matelson Halls, façade restoration at White Hall, renovations to the cooling tower at Overlook South Hall, and interior renovations at the various residence halls, the demolition of Overlook North Residence Hall, and the replacement of the roof of the Power Arts Building; and (ii) payment of certain costs incidental to the issuance, sale and delivery of the Bonds, all as presented, submitted and approved by the Public University’s Board of Trustees, all by the authority of and in full compliance with the provisions, restrictions and limitations of the Constitution and statutes of the State of New Jersey, including particularly the New Jersey Educational Facilities Authority Law constituting Chapter 72A of Title 18A of the New Jersey

Statutes, as amended and supplemented, *N.J.S.A. 18A:72A-1 et seq.*, as amended (the “Act”), and pursuant to a resolution adopted by the Authority on January 26, 2021. The funding will be made pursuant to the Lease and Agreement, dated as of March 1, 2021 (said Lease and Agreement, as may be amended and supplemented from time to time in accordance with the provisions thereof, being herein called the “Lease Agreement”), by and between the Authority and the Public University.

**Security.** The Bonds are issued under and are equally and ratably secured and entitled to the protection given by the Indenture pursuant to which the rights of the Authority under the Lease Agreement (other than its rights to payment of fees and expenses and indemnification) are pledged and assigned by the Authority to the Trustee as security for the Bonds. Reference is hereby made to the Indenture for a description of the property pledged and assigned thereunder, and the provisions, among others, with respect to the nature and extent of the security for the Bonds, and the rights, duties and obligations of the Authority, the Trustee and the Owners of the Bonds, and a description of the terms upon which the Bonds are issued and secured, upon which provision for payment of the Bonds or portions thereof and defeasance of the lien of the Indenture with respect thereto may be made and upon which the Indenture may be deemed satisfied and discharged prior to payment of the Bonds. Capitalized terms not defined herein are used with the meanings given to them in the Indenture.

Pursuant to the Lease Agreement, Lease Payments sufficient for the prompt payment when due of the principal of, redemption premium, if any, and interest on the Bonds are to be paid by the Public University directly to the Trustee for the account of the Authority and deposited in a special account created by the Indenture and designated the “New Jersey Educational Facilities Authority Debt Service Fund, The William Paterson University of New Jersey Series 2021 C” and all Lease Payments under the Lease Agreement have been duly pledged and assigned to the Trustee for that purpose.

**Interest Rates.** The Bonds shall bear interest from the most recent Interest Payment Date next preceding the date of such Bonds to which interest has been paid, unless the date of such Bond is an Interest Payment Date, in which case interest shall be payable from such date, or unless the date of such Bond is prior to the first Interest Payment Date of the Bonds, in which case interest shall be payable from the Dated Date of the Bonds, or unless the date of such Bond is between a Record Date, and the next succeeding Interest Payment Date, in which case from such Interest Payment Date. The amount of interest payable with respect to any Bonds on any Interest Payment Date shall be computed on the basis of a 360-day year of twelve 30-day months.

**Redemption.** The Bonds are subject to optional, extraordinary optional and mandatory sinking fund redemption prior to their stated maturity as provided in the Indenture.

**Limitation on Rights; Acceleration; Modifications.** The Owner of this Bond shall have no right to enforce the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any Event of Default under the Indenture, or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Indenture. In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of all the Bonds issued under the Indenture and then Outstanding may become or

may be declared due and payable before the stated maturity thereof, together with interest accrued thereon. Modifications or alterations of the Bonds or the Indenture may be made only to the extent and in the circumstances permitted by the Indenture.

**Special and Limited Obligations.** The Bonds and the interest thereon are special and limited obligations of the Authority payable solely out of Basic Lease Payments derived by the Authority under the Lease Agreement and the Trust Estate and are secured by a pledge and assignment of the Basic Lease Payments and the Trust Estate. The Bonds shall never constitute a debt or liability of the State of New Jersey or of any political subdivision thereof other than the Authority (to the limited extent as set forth in the Indenture) within the meaning of any State constitutional provision or statutory limitation and shall not constitute a pledge of the faith and credit or the taxing power of the State or any political subdivision thereof other than the Authority (to the limited extent as set forth in the Indenture) but shall be payable solely from the funds provided for in the Lease Agreement and in the Indenture. The issuance of the Bonds shall not, directly, indirectly or contingently, obligate the State or any political subdivision thereof to make any appropriation for their payment. The State or any political subdivision thereof other than Authority (to the limited extent as set forth in the Indenture) shall not in any event be liable for the payment of the principal of, redemption premium, if any, or interest on the Bonds or for the performance of any pledge, mortgage, obligation or agreement of any kind whatsoever which may be undertaken by the Authority. No breach by the Authority of any such pledge, mortgage, obligation or agreement may impose any liability, pecuniary or otherwise, upon or any charge upon the general credit or taxing power of the State or of any political subdivision thereof other than the Authority (to the limited extent as set forth in the Indenture). The Authority has no taxing power.

**No Recourse.** No recourse shall be had for the payment of the principal of or redemption premium, if any, or interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement in the Indenture contained, against any past, present or future officer, director, member, employee or agent of the Authority, or any incorporator, officer, director, member, trustee, employee or agent of any successor corporation or body politic, as such, either directly or through the Authority or any successor corporation or body politic, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such incorporators, officers, directors, trustees, members, employees or agents, as such, is hereby expressly waived and released as a condition of and consideration for the execution of the Indenture and the issuance of any of the Bonds.

**Authentication.** This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon shall have been executed by the Trustee.

**IT IS HEREBY CERTIFIED AND DECLARED** that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Indenture and the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by law.

**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, Executive Director or Deputy Executive Director and attested by the manual or facsimile signature of its Executive Director (provided that this Bond is not executed by the Executive Director), Secretary, an Assistant Secretary or Assistant Treasurer, including those serving in an interim or acting capacity, and its official common seal or a facsimile thereof to be affixed or imprinted hereon, all as of the Dated Date specified above.

(SEAL)

**NEW JERSEY EDUCATIONAL  
FACILITIES AUTHORITY**

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

ATTEST:

\_\_\_\_\_

**CERTIFICATE OF AUTHENTICATION**

This Bond is one of the Bonds described in the within mentioned Indenture.

**U.S. BANK NATIONAL ASSOCIATION,  
as Trustee**

By: \_\_\_\_\_  
Authorized Signatory

Date of Authentication:

\_\_\_\_\_

**(FORM OF ASSIGNMENT)**

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

---

(Please Print or Typewrite Name, Address and Social Security  
Number or Taxpayer Identification Number of Transferee)

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints

---

Attorney

to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

Signature Guaranteed By:

---

(Name of Eligible Guarantor Institution as defined by SEC Rule 17Ad-15 (12 CFR 240.17Ad-15) or any similar rule which the Trustee deems applicable)

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

## **STATEMENT OF INSURANCE**

Assured Guaranty Municipal Corp. (“AGM”), New York, New York, has delivered its municipal bond insurance policy (the “Policy”) with respect to the scheduled payments due of principal of and interest on the Bonds [maturing on July 1 in the years 20\_\_ through 20\_\_, inclusive] (the “Insured Bonds”), to U.S. Bank National Association, Edison, New Jersey, or its successor, as paying agent for the Insured Bonds (the “Paying Agent”). Said Policy is on file and available for inspection at the principal office of the Paying Agent and a copy thereof may be obtained from AGM or the Paying Agent. All payments required to be made under the Policy shall be made in accordance with the provisions thereof. The owner of this Insured Bond acknowledges and consents to the subrogation rights of AGM as more fully set forth in the Policy.

**EXHIBIT B  
TO TRUST INDENTURE**

**LIST OF INVESTMENT OBLIGATIONS**

*Investment Types*

- A. U.S. Treasury and other government obligations that carry the full faith and credit guarantee of the United States for the payment of principal and interest.
- B. Federal Agency or U.S. government sponsored enterprises (GSE) obligations, participations or other instruments.
- C. Bonds or notes issued by any state or municipality.
- D. Negotiable bank certificates of deposit, deposit notes or other deposit obligations issued by a nationally or state chartered bank, credit union or savings association, or by a federally or state-licensed branch of a foreign bank or financial institution.
- E. Commercial paper.
- F. Corporate bonds and medium term notes.
- G. Asset-backed securities.
- H. Investment agreements or guaranteed investment contracts (GICs).
- I. Certificates of deposit of any bank, savings and loan or trust company organized under the laws of the United States or any state thereof, including the trustee or any Holder of the Bonds, provided that such certificates of deposit shall be fully collateralized (with a prior perfected security interest), to the extent they are not insured by the Federal Deposit Insurance Corporation (FDIC), by Investment Obligations described in (A) and (B) above having a market value at all times equal to the uninsured amount of such deposit.
- J. Repurchase agreements that meet the following requirements:
  - a. Must be governed by a written SIFMA Master Repurchase Agreement which specifies securities eligible for purchase and resale, and which provides the unconditional right to liquidate the underlying securities should the counterparty default or fail to provide full timely repayment.
  - b. Counterparty must be a Federal Reserve Bank, a Primary Dealer as designated by the Federal Reserve Bank of New York, or a nationally chartered commercial bank.
  - c. Securities underlying repurchase agreements must be delivered to a third party custodian under a written custodial agreement that may be of deliverable or tri-

party form. Securities must be held in the Authority’s custodial account or in a separate account in the name of the Authority.

- d. Acceptable underlying securities include only securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States, including U.S. Agency-issued mortgage-backed securities.
- e. Underlying securities must have an aggregate current market value, including accrued interest, of at least 102% (or 100% if the counterparty is a Federal Reserve Bank) of the purchase price plus current accrued price differential at the close of each business day.

K. Shares in open-end and no-load money market mutual funds that are backed by U.S. government securities, provided such funds are registered under the Investment Company Act of 1940 and operate in accordance with Rule 2a-7.

L. New Jersey Cash Management Fund.

*Collateralization*

All demand deposits, time deposits, and certificates of deposit shall be collateralized for amounts over and above Federal Deposit Insurance Corporation coverage. All collateral shall be permitted investments as set out in the below chart. There shall be a written custodial agreement that, among other things, specifies the circumstances under which collateral may be substituted. The Authority should not accept a pledge of a proportionate interest in a pool of collateral. The market value and accrued interest of collateral should, at least, equal the value of the investment and any accrued interest at all times. The recorded value of collateral backing any investment should be compared with current market values (mark- to-market) at the time of the initial investment and monthly thereafter to be certain that it continues to be at least equal to the value of the investment plus accrued interest. The mark-to-market reviews should use “bid” prices from a constant source.

*Investment Parameters*

Sector Type	Sector Max (%)	Issuer Max (%)	Minimum Ratings Requirement <sup>1</sup>	Max Maturity
US Treasury	100%	N/A	N/A	10 Years
Federal Agency	25%	5%	N/A	10 Years
Municipals	25%	5%	Two Highest LT Rating Categories (AA-/Aa3/AA-)	10 Years
Negotiable CDs	50% in aggregate <sup>2</sup>	5%	Highest ST or Three Highest LT Rating Categories (A-1/P-1/F-1; A-/A3/A-)	10 Years
Commercial Paper		5%	Highest ST Rating Category (A-1/P-1/F-1)	270 Days
Corporate Bonds & Medium Term Notes		5%	Highest ST or Three Highest LT Rating Categories (A-1/P-1/F-1; A-/A3/A-)	10 Years

Asset Backed Securities	20%	5%	Highest LT Rating (AAA/Aaa/AAA)	10 Year Avg. Life
Certificates of Deposit	25%	5%	Highest ST or Three Highest LT Rating Categories (A-1/P-1/F-1; A-/A3/A-)	10 Years
Repurchase Agreements	20%	5%	Counterparty (or if the counterparty is not rated by an NRSRO, then the counterparty's parent) must be rated in the highest ST Rating category (A-1/P-1/F-1). If the counterparty is a Federal Reserve Bank, no rating is required.	90 Days
Government Money Market Funds	100%	25%	Highest rating by all NRSROs who rated the fund (AAAm or equivalent)	N/A
New Jersey Cash Management Fund	100%	N/A	N/A	N/A
<sup>1</sup> Rating by at least one SEC-registered Nationally Recognized Statistical Rating Organization ("NRSRO"), unless otherwise noted. In the case of split-rated issuers, the lowest rating shall prevail. ST= Short-term; LT=Long-term. <sup>2</sup> Funds invested in the credit sector may exceed the 50% target only with the written permission of NJEFA and the borrowing institution.				

In addition, the diversification parameters for investment agreements or guaranteed investment contracts ("GICs") are as follows:

- Investment agreements or GICs with any financial institution whose senior long term debt obligations, or whose obligations under such an investment agreement or GIC are guaranteed by a financial institution whose senior long term debt obligations, have a rating (at the time the agreement or contract is entered into) of "Aa3" or higher by Moody's and "AA-" or higher by S&P.

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

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

**NAY:** None

**ABSTAIN:** None

**ABSENT:** None

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

**RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF A NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY REVENUE AND REFUNDING BOND, FAIRLEIGH DICKINSON UNIVERSITY ISSUE, 2021 SERIES A AND A NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY REVENUE BOND, FAIRLEIGH DICKINSON UNIVERSITY ISSUE 2021 SERIES B, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$75,000,000 AND AUTHORIZING AND APPROVING THE EXECUTION AND DELIVERY OF A BOND AGREEMENT AND RELATED INSTRUMENTS AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH.**

**ADOPTED: JANUARY 26, 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, Fairleigh Dickinson 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 (a) refund the Authority’s \$14,505,000 original principal amount Revenue Refunding Bond, Fairleigh Dickinson University Issue, 2006 Series G, the Authority’s \$2,147,544 original principal amount Revenue Refunding Bond, Fairleigh Dickinson University Issue, 2006 Series H, the Authority’s \$51,925,000 original principal amount Revenue Refunding Bond, Fairleigh Dickinson University Issue, 2014 Series B, the Authority’s \$19,675,000 principal amount Revenue Refunding Bond, Fairleigh Dickinson University Issue, 2015 Series B (the “Refunding Project”), (b) finance, and reimburse the University for, certain capital improvements to its campus facilities, including, but not limited to, improvements to the athletic fields facilities at the University’s Florham campus, maintenance of and improvements to Hennessy Hall at the Florham campus, improvements to the Metropolitan Pedestrian Bridge at the University’s Metropolitan campus, and maintenance and improvements regarding the Perimeter Projects at the Metropolitan campus (the “New Money Project”; together with the Refunding Project, the “Project”), and (c) finance the payment of certain costs of issuance incurred in connection with the issuance of the Bonds described below (the “Costs of Issuance”), the Authority proposes to issue its Revenue Refunding Bonds, Fairleigh Dickinson University Issue, 2021 Series A and 2021 Series B in an aggregate principal amount not to exceed \$75,000,000 (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 with respect to the Project, 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 certain loans to the University for the finance of the Project and financing the Costs of Issuance in accordance with the Bond Agreement by and among the Authority, TD Bank, 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, 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 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 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 Project and the Costs of Issuance, Bonds of the Authority are hereby authorized to be issued in a principal amount not to exceed \$75,000,000, designated as “New Jersey Educational Facilities Authority Revenue and Refunding Bond, Fairleigh Dickinson University Issue, 2021 Series A and New Jersey Educational Facilities Authority Revenue Bond, Fairleigh Dickinson University Issue, 2021 Series B” or such other designation as an Authorized Officer (as hereinafter defined) may determine, with an initial interest rate not to exceed 4% and a term not to exceed thirty-one (31) years. The Bonds may be issued on a tax-exempt or taxable basis, 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. The Bank is hereby appointed Escrow Agent under the terms of the Bond Agreement.

Section 5. The Bonds are hereby authorized to be sold in accordance with the Bond Agreement and Executive Order No. 26.

Section 6. 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 7. 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 8. All prior resolutions of the Authority or portions thereof that are inconsistent herewith are hereby repealed.

Section 9. This resolution shall take effect in accordance with the Act.

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BOND AGREEMENT

By and Among

NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY,

TD BANK, N.A.

and

FAIRLEIGH DICKINSON 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”), TD BANK, N.A., a national banking association (the “Escrow Agent” and “Purchaser”) and FAIRLEIGH DICKINSON 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 \$14,505,000 original principal amount Revenue Refunding Bond, Fairleigh Dickinson University Issue, 2006 Series G (the “2006 G Bond”); and

WHEREAS, the Authority has heretofore issued its \$2,147,544 original principal amount Revenue Refunding Bond, Fairleigh Dickinson University Issue, 2006 Series H (the “2006 H Bond”); and

WHEREAS, the Authority has heretofore issued its \$51,925,000 original principal amount Revenue Refunding Bond, Fairleigh Dickinson University Issue, 2014 Series B (the “2014 B Bond”); and

WHEREAS, the Authority has heretofore issued its \$19,675,000 principal amount Revenue Refunding Bond, Fairleigh Dickinson University Issue, 2015 Series B (the “2015 B Bond”); together with the 2006 G Bonds, the 2006 H Bonds, and 2014 B Bonds, the “Bonds to be Refunded”); and

WHEREAS, the Borrower has requested a loan from the Authority to (a) refund the Bonds to be Refunded (the “Refunding Project”), (b) finance, and reimburse the Borrower for, certain capital improvements to its campus facilities, including, but not limited to, improvements to the athletic fields facilities at the Borrower’s Florham campus, maintenance of and improvements to Hennessy Hall at the Florham campus, improvements to the Metropolitan Pedestrian Bridge at the Borrower’s Metropolitan campus, and maintenance and improvements regarding the Perimeter Projects at the Metropolitan campus (the “New Money Project”), and (c)

pay certain costs incidental to the issuance and sale of the Bonds, as hereinafter defined (collectively, the “Project”); and

WHEREAS, the property financed and refinanced with proceeds of the Bonds to be Refunded, and to be further financed with the proceeds of the Bonds will be referred to as the “Projects”; and

WHEREAS, the Authority has by resolution, duly adopted in accordance with the Act on January 26, 2021, authorized the issuance of its \$[BOND AMOUNT] aggregate principal amount New Jersey Educational Facilities Authority Revenue and Refunding Bond, Fairleigh Dickinson University Issue, 2021 Series A (the “Series A Bond”) and Revenue Bond, Fairleigh Dickinson University Issue, 2021 Series B (Federally Taxable) (the “Series B Bond,” collectively with the Series A Bond, 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:

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

“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 aggregate principal amount of each series of 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;

“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 Series A Bond;

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

“Assignment of Leases” shall mean the Assignment of Leases and Rents dated the date hereof executed by the Borrower in favor of the Authority with respect to the Premises, as amended, restated and/or extended from time to time;

“Authority’s Assignment” shall mean the Authority’s Assignment dated the date hereof executed by the Authority and the Borrower in connection with the sale of the Bonds to the Purchaser;

“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 Series A Bond, 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;

“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 Notes, the Mortgage, the Assignment of Leases, the Financing Statements 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 Series A Bond, 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 Series A Bond, furnished by the Borrower;

“Business Day” shall mean 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;

“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, but excluding any operating lease obligations that become liabilities under any future accounting standard, including but not limited to, Accounting Standards Update No. 2016-02;

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

“Collateral” shall mean all the real and personal property subject to the lien of this Bond Agreement, the Mortgage, the Assignment of Leases or any other Bond Document;

“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” and “Counsel for the Escrow Agent” shall mean the law firm of Windels Marx Lane & Mittendorf, LLP, New Brunswick, New Jersey;

“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 Notes plus 3.00% per annum, not to exceed the maximum amount permitted by law;

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

(a) Cancellation of the Series A Bond pursuant to Section 6.8 of this Bond Agreement;

(b) The delivery to the Authority of a “Proposed Adverse Determination” (the “Adverse Determination”) in connection with an examination of the Series A Bond by the Internal Revenue Service asserting that the interest on the Series A Bond 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 Series A Bond 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 Series A Bond 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 Series A Bond (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 Series A Bond 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 Series A Bond pursuant to Treasury Regulation §1.142-2 to preserve the exclusion from gross income of interest on the Series A Bond; 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 Series A Bond 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 Series A Bond. 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 Series A Bond, 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;

"Escrow Fund" shall mean the fund so designated which is established pursuant to Section 3.5 hereof;

"Event of Cancellation" shall have the meaning assigned to such term in Section 6.8 hereof;

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

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

"Financing Statements" shall mean the Uniform Commercial Code financing statements that are made part of the Record of Proceedings, naming the Borrower, as debtor;

"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;

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

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 and the Line of Credit) 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, the Escrow Agent, any Person who “controls” the State, the Authority, the Escrow Agent 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, the Escrow Agent 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 aggregate principal amount of each series of Bonds with a maximum initial fee of \$125,000 payable by the Borrower on the closing date for the Bonds;

“Line of Credit” shall mean the revolving line of credit in an amount not to exceed \$20,000,000 extended by the Purchaser, as lender, to the Borrower on the date hereof;

“Line of Credit Documents” shall mean the Promissory Note dated [Closing Date] from the Borrower in favor of the Purchaser evidencing the Line of Credit, the Loan Agreement dated [Closing Date] by and between the Borrower and the Purchaser, and all documents and instruments executed in connection with the Line of Credit and all amendments and modifications thereto;

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

“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]%;

“Mortgage” shall mean the Mortgage and Security Agreement made by the Borrower in favor of the Authority securing the Notes and constituting a lien on the Premises and the other property described therein, as amended, restated or otherwise modified;

“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;

“Notes” shall mean the notes 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;

“Permitted Encumbrances” shall mean, as of any particular time: (i) liens for taxes and assessments not then delinquent, or provided there is no risk of forfeiture or sale of any of the Collateral, which are being contested in good faith and for which reserves have been established by the Borrower which are satisfactory to the Purchaser; (ii) the liens provided for in this Bond Agreement or in the other Bond Documents; (iii) utility access and other easements and rights of way, restrictions and exceptions that the Title Insurance Policy insures will not interfere with the use of or impair the Premises; (iv) purchase money security interests encumbering property other than the Collateral; (v) those exceptions shown on Schedule B of the Title Insurance Policy acceptable to the Purchaser; and (vi) such other encumbrances as are consented to in writing by the Purchaser;

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

“Premises” shall mean, collectively, the premises and all improvements thereon described in Schedule A of the Mortgage;

“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 Series A Bond; 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;

“Property” shall have the meaning set forth in the Mortgage;

“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);

“Rebate Fund” shall mean the fund so designated that is established pursuant to Section 3.6 hereto;

“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 moneys from the Escrow Fund, in the form made part of the Record of Proceedings;

“Resolution” shall mean the resolution of the Authority dated January 26, 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, 3.8, 4.6, 5.1, 5.2, 5.4, 5.5, 5.9, 5.10, 5.12, 5.14, 5.16, 6.3, 6.5 and 7.17 hereof. These Reserved Rights have been assigned to the Purchaser herewith but are also held and retained by the Authority concurrently with the Purchaser;

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

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

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

“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”;

“Test Date” shall mean the date on which financial covenants herein are tested;

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

“Title Insurance Binder” shall mean the commitment for title insurance with respect to the Mortgage issued by [\_\_\_\_\_] dated [\_\_\_\_\_] (Commitment Number: [\_\_\_\_\_] in favor of the Purchaser;

“Title Insurance Policy” shall mean the title insurance policy issued pursuant to the Title Insurance Binder;

“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;

“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 Series A Bond as of the issue date.

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 result in the creation or imposition of any lien, charge or encumbrance on the Collateral of any nature, other than the liens created by the Bond Documents;

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

(vi) 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) Title to Collateral. The Borrower has good and marketable title to the Collateral free and clear of any lien or encumbrance except as set forth in Section 5.1(e). Upon recording in the appropriate office, the Mortgage and the Assignment of Leases will constitute valid and

enforceable perfected liens on the Premises and, upon proper filing in the appropriate office, the Financing Statements will perfect valid liens on the Collateral owned by the Borrower other than the Premises, as of the date hereof. The representations set forth in this Section 1.3(c) are based solely on Title Insurance Binder.

(d) 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), (v) impair the value of any of the Collateral securing the Notes or (vi) have a Material Adverse Effect on the Borrower's financial condition.

(e) 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.

(f) 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.

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

(h) 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.

(i) 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.

(j) Operation of the Projects and Borrower's Facilities and Business. The operation of the Projects 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 Projects pursuant to this Bond Agreement.

(k) Proper Charges. The Borrower has not paid any expense prior to sixty (60) days prior to September 10, 2020 for which it shall seek reimbursement from the Bond Proceeds.

(l) Placement in Service. The New Money Project to be financed with the Bond Proceeds was not acquired or placed in service by the Borrower (determined in accordance with the provisions of Section 103 of the Code and applicable regulations thereunder) more than one (1) year prior to the date of issuance of the Series A Bond.

(m) 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.

(n) Economic Life. The remaining average economic life of the assets to be refinanced with proceeds of the Series A Bond as described in the Tax Representation Letter, 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.

(o) 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 Exhibit B hereto, the Borrower represents and warrants that neither the Borrower nor the Premises 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 Premises to be in violation of, or do anything which would subject the Premises 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 Premises. The Borrower covenants that it will not install in the Premises 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 Premises, 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 Premises. The use which the Borrower makes and intends to make of the Premises will not result in the release or discharge of any Hazardous Substance or Hazardous Waste on or to the Premises. During the term of this Bond Agreement, the Borrower shall ensure that any Hazardous Substances or Hazardous Wastes present on the Premises 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 Premises, 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 Premises, 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 Premises 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 Premises 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 Premises, 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 Premises sold), either: (1) pay the claim and remove the lien from the Premises; 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.

Should there be any conflict between the provisions in this subsection and those of the Mortgage, the stricter provisions shall control.

(p) 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 Series A Bond to be includable in the gross income of the recipients thereof under Section 103 of the Code.

(q) No Federal Guaranty. The Series A Bond will not be federally guaranteed within the meaning of Section 149(b) of the Code.

(r) Issuance Costs. No more than two percent (2%) of the proceeds of the Series A Bond will be used to pay the issuance costs of the Series A Bond (as such terms are used in Section 147(g) of the Code).

(s) 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 in directly, 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.

(t) 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.

(u) 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.

(v) 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 Bank 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(v) are collectively referred to as the “OFAC Lists”.

(w) 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.

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 Projects, 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).

(j) Pursuant to Section 5.5 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 Series A Bond 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 Series A Bond to be an "arbitrage bond" 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 Series A Bond 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 Series A Bond to be an "arbitrage bond" 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.

(k) The Authority covenants to create and retain records with respect to: (i) all investments made with Gross Proceeds of the Series A Bond (including without limitation, records required under Treasury Regulations §1.148-5(d)(6)); (ii) all information necessary to compute the yield on the Series A Bond, 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 Series A Bond, the amount and date of payments for a qualified guarantee or qualified hedge with respect to the Series A Bond, and the issue price of the Series A Bond; (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 Series A Bond, and such records are further described in the Authority's Tax Certificate with respect to the Series A Bond. The Authority covenants to retain all such records until three years after the last scheduled maturity date of the Series A Bond, or in the event the Series A Bond is retired early, three years after the final retirement of the Series A Bond.

(l) Subject to the exception provided in Section 5.5 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 Series A Bond, 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. Upon the receipt of funds from the Borrower, the Authority shall deposit in the Rebate Fund the amount, if any, needed to increase the amount in such Fund to an amount equal to one hundred percent (100%) of the Rebatable Arbitrage for the period from the date of issuance of the Series A Bond to the Rebate Computation Date at issue, or shall transfer to the Borrower the amount, if any, needed to reduce the amount in the Rebate Fund to one hundred percent (100%) of the amount of the Rebatable Arbitrage for such period.

(m) In the event Arbitrage Rebate Amount is due, the Borrower will direct the Escrow Agent to withdraw from the Rebate Fund and pay over to the United States the Arbitrage Rebate Amount with respect to the Series A Bond 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 Series A Bond, as of the then current Rebate Computation Date, will have been paid to the United States.

(n) 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.

(o) 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 Escrow Agent and the Borrower, shall be empowered to amend this Section, and the Authority may require, by written notice to the Borrower and the Escrow Agent, 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 Escrow Agent 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 Series A Bond 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 Series A Bond.

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 Premises, or has caused such investigation and evaluation of the Borrower and the Premises 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 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**

### **Project.**

Section 2.1 Description of Projects. The Borrower will provide such supplemental information to reflect material additions to, deletions from and changes in the Projects 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 Projects 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 deliver the proceeds from the sale of the Bonds to the Escrow Agent, or as otherwise instructed in Section 3.4 hereof, in accordance with instructions from the Authority to the Purchaser to such effect.
- (c) The Borrower will execute and deliver to the Authority the Notes and the other Bond Documents.
- (d) The Authority will assign the Bond Documents to the Purchaser in accordance with the Authority's Assignment, subject to Section 4.6 hereof.

Section 3.2 Effectiveness of Bonds and Notes. 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 monthly 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 Notes 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 aggregate purchase price of \$[BOND AMOUNT].

(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.

(d) The Escrow Agent shall maintain at its principal office registry systems for the registration and transfer of the Bonds and the Escrow Agent 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 Escrow Agent 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 Escrow Agent 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 Escrow Agent 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 Escrow Agent on such Bonds, or unless, at the expense of the registered owner, the Authority shall execute, and the Escrow Agent shall deliver new Bonds registered in the name of the transferee.

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. The Purchaser will pay the full purchase price of the Series A Bond and the Series B Bond upon the issuance and sale of the Bonds. The Authority hereby authorizes and directs TD Bank, N.A., in its capacity as Purchaser and Escrow Agent, to (a) transfer proceeds of the Series A Bond in the amount set forth in the Requisition Form directly to TD Bank, N.A., the holder of the Bonds to be Refunded, to be applied to the redemption of the Bonds to be Refunded on the date hereof; and (b) deposit the balance of the proceeds of the Series A Bond and the proceeds of the Series B Bond, as and when received, into the Escrow Fund established in Section 3.5 hereof for payment of Costs of the Project. The Borrower agrees that the sums so requisitioned from the Escrow Fund will be used for the Costs of the Project.

Section 3.5 Escrow Fund. The Escrow Agent hereby establishes and designates a fund hereunder to operate as the Escrow Fund. Within the Escrow Fund, the Escrow Agent shall establish a Series A Bond Account and a Series B Bond Account. Proceeds of the Series A Bond will be deposited into the Series A Bond Account, and proceeds of the Series B Bond will be deposited into the Series B Account, in accordance with the written direction of the Authority. 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 Borrower for any Cost of the Project paid by it. Pursuant to this Bond Agreement, the Escrow Agent shall make such payments directly to or at the direction of the Borrower without any act by the Authority, upon compliance by the Borrower with the requirements of this Bond Agreement.

(a) The Borrower 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 furnish the Escrow Agent with a Requisition Form signed by an Authorized Borrower Representative at least five (5) Business Days prior to the date of the requested disbursement, stating with respect to each payment made: (i) the account from which the funds are to be drawn, (ii) the requisition number; (iii) the name and address of the Person to whom payment is to be made by the Escrow Agent (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; (iv) the amount to be paid; (v) that each obligation for which payment is sought is a Proper Charge against the Escrow Fund, is unpaid or unreimbursed, and has not been the basis of any previously paid requisition; (vi) 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; (vii) that no uncured Event of Default or Default has occurred under this Bond Agreement and the other Bond Documents; and (viii) 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 from the Escrow Fund, the Borrower shall furnish the Authority, Purchaser and the Escrow Agent with such documents as the Authority, Purchaser or the Escrow Agent may reasonably require, including, but not limited to, paid or unpaid invoices, bills, receipts, affidavits, certificates and opinions, as well as the following:

(i) With respect to any requisition for monies from the Escrow Fund to be applied towards any portion of the New Money Project, a detailed description of such portion of the New Money Project; and

(ii) evidence of insurance relating to the Premises and Collateral as required by Section 5.2 of this Bond Agreement.

(c) Upon 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 3.6 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 Borrower of the Arbitrage Rebate Amount and shall notify the Borrower 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 Arbitrage Rebate Amount. 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 Arbitrage Rebate Amount, the amount of the deficiency shall be immediately paid by the Borrower to the Escrow Agent for deposit in the Rebate Fund. Notwithstanding anything contained in this Bond Agreement to the contrary, neither the Authority nor the Escrow Agent shall be responsible or liable for any loss, liability, or expense incurred to the extent incurred as a result of the failure of the Borrower to fulfill its obligations with respect to the calculation and payment of the Arbitrage Rebate Amount. The Escrow Agent shall be entitled to rely conclusively upon the calculations provided by the Authority.

The Escrow Agent, at the direction of the Authority given in accordance herewith, shall apply or cause to be applied the amounts in the Rebate Fund at the times and in the amounts required by Section 148 of the Code solely for the purpose of paying the United States of America in accordance with Section 148 of the Code.

Moneys held in the Rebate Fund shall be invested and reinvested upon the written direction of the Borrower by the Escrow Agent in Permitted Investments 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 such Fund.

Moneys held in the Rebate Fund shall be held by the Escrow Agent until the earlier of the final Arbitrage Rebate Amount is paid with respect to the Series A Bond, or seventy-five (75) days following the redemption or final maturity of the Series A Bond.

Section 3.7 Intentionally Omitted.

Section 3.8 Series A Bond Not to Become an Arbitrage Bond. The Escrow Agent will invest moneys held by the Escrow Agent as directed in writing by the Borrower. 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 Escrow Agent to make any investment or other use of the Escrow Fund or other proceeds of the Series A Bond that would cause the Series A Bond to be an arbitrage bond 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 Series A Bond. 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 3.9 Restriction on Use of Escrow Fund. The Borrower shall apply the proceeds of the Series A Bond as set forth in the Borrower's Tax Certificate and (a) shall not use or direct the use of moneys from the Escrow Fund in any manner, or take or omit to take any other action, so as to cause the interest on the Series A Bond to be included in the gross income of the Purchaser for federal income tax, (b) shall not use more than 2% of the proceeds of the Series A Bond for costs of issuance thereof, and (c) shall not use the proceeds of the Series A Bond to acquire, construct or install facilities, the nature of which would cause the interest on the

Series A Bond to become subject to federal income tax, including, without limitation, the requirement that 95% of the proceeds of the Series A Bond 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 3.10 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 Series A Bond, the Borrower shall have completed the Project and caused all of the proceeds of the Series A Bond to be expended for Costs of the Project.

Section 3.11 Excess Proceeds of the Bonds. When the Borrower 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 Borrower will pay the remainder of such Costs.

Section 3.12 Escrow Agent Not Responsible for Use of Proceeds. The Borrower acknowledges that the Escrow Agent 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 3.13 Investment of Escrow Fund. (a) So long as no Event of Default has occurred and is continuing, the Escrow Agent may invest or reinvest, in accordance with written directions, or oral directions confirmed in writing, of the Authorized Borrower 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 that 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 any common trust fund for short-term government obligations 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.

(c) If any Event of Default has occurred and is continuing hereunder, the Escrow Agent may make such investments in Permitted Investments as permitted under applicable laws as it deems advisable and as directed by the Purchaser; provided that in no event shall it invest in securities issued by or obligations of, or guaranteed by, the Authority, the Borrower or any affiliate or agent of either of the foregoing.

Section 3.14 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 Borrower shall direct the Escrow Agent to invest the proceeds of the Series A Bond or payments due under this Bond Agreement, or any other funds which may be deemed to be proceeds of the Series A Bond 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 Series A Bond to be treated as an "arbitrage bond" within the meaning of Section 103 or 148 of the Code and such regulations issued thereunder, as applicable to the Series A Bond. 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 Tax Certificate.

(c) The Escrow Agent shall not be held liable for any breach by the Borrower of provisions of the foregoing subparagraph as long as the Escrow Agent invests or reinvests, pursuant to written directions of either the Authority or the Authorized Borrower Representative

moneys in Permitted Investments pursuant hereto. The Escrow Agent shall refuse to invest in obligations directed by the Authorized Borrower Representative which violate the provisions hereof.

Section 3.15 Appointment of Escrow Agent; Acceptance of the Escrow. (a) TD Bank, N.A. 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 Borrower 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 Borrower) 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 Projects, 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 Projects or otherwise as to the maintenance of the security hereof, or, except as provided in Article VI 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 or the Borrower, as the case may be. The Escrow Agent may become the Purchaser of the Bonds secured hereby with the same rights which it would have if not Escrow Agent. The Escrow Agent may engage in banking or other financial transactions with the Borrower with the same rights which it would have if not 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 Bonds, shall be

conclusive and binding upon all future Purchasers of the same Bonds 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 signed by (a) the Chair, Vice Chair, Executive Director or Director of Project Management of the Authority, or (b) any other duly authorized Person (such authority to be conclusively evidenced by an appropriate resolution of the Authority), or any certificate signed by an Authorized Borrower Representative, as sufficient evidence of the facts therein contained, and prior to the occurrence of an Event of Default of which the Escrow Agent has been notified or deemed notified as provided in Section 6.1 hereof, 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 to the effect that a resolution in the form therein set forth has been adopted by the Authority 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. 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 Borrower as though it were not the Escrow Agent.

(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 Borrower 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 the premises.

(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) In the case of and during the continuance of an Event of Default or upon the occurrence of an Event of Default as to which the Escrow Agent has received a notice as

provided herein, 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.

Section 3.16 Fees, Charges and Expenses of Escrow Agent. The Escrow Agent shall be entitled to payment or reimbursement for reasonable fees for services rendered hereunder, and all reasonable expenses (including advances, counsel fees and other expenses reasonably and necessarily made or incurred by the Escrow Agent in connection with such services). The Borrower shall indemnify and hold the Escrow Agent harmless against any loss, liability or expense, incurred without negligence or intentional misconduct on the part of the Escrow Agent, arising out of or in connection with the acceptance or administration of the fiduciary obligations hereunder, including the costs and expenses of defending itself against any claim or liability in the premises. All fees, charges and other compensation to which the Escrow Agent may be entitled under the provisions of this Bond Agreement are required to be paid by the Borrower under the terms of this Bond Agreement and, accordingly, neither the Authority nor the Purchaser shall be liable to indemnify the Escrow Agent for fees, charges and other compensation to which the Escrow Agent may be entitled, and by acceptance of the fiduciary obligations hereunder the Escrow Agent shall be deemed to have agreed to the foregoing.

Section 3.17 Notice to the Authority, the Purchaser and the Borrower. If the Escrow Agent is notified in writing by the Internal Revenue Service or any Person of the occurrence, or possible occurrence of a Determination of Taxability, the Escrow Agent shall give prompt written notice thereof to the Authority, the Purchaser and the Borrower.

Section 3.18 Intervention by Escrow Agent. In any judicial proceeding to which the Authority is a party and that 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 3.19 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 3.20 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 Borrower. Such resignation shall take effect only upon the appointment of a successor Escrow Agent by the Authority, with the written consent of the Borrower. Such notice to the Authority, the Purchaser and the Borrower may be served personally or sent by registered mail or telegram. 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 Borrower for all costs of seeking and appointing a successor should the Borrower fail to so appoint a successor Escrow Agent within the thirty (30) day time period to do so.

Section 3.21 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 Borrower 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 Borrower.

Section 3.22 Appointment of Successor Escrow Agent by the Authority. (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 Borrower, 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 3.23 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 3.23 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 Borrower 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 3.24 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 3.25 Successor Escrow Agent as Escrow Agent of the Escrow Fund. 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 3.26 Escrow Agent and Authority Required to Accept Directions and Actions of Borrower. Whenever, after reasonable request by the Borrower, 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 Borrower, 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 Borrower stating that the Borrower 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 Borrower as sufficient for all purposes of this Bond Agreement. The Borrower 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 Borrower 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 3.27 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 Escrow Agent 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 Escrow Agent shall certify to the Authority that the registered owner has (a) filed with the Escrow Agent evidence satisfactory to the Escrow Agent that such Bond has been destroyed, stolen or lost and proof of ownership thereof, (b) furnished the Escrow Agent and the Authority with indemnity satisfactory to the Escrow Agent and the Authority, (c) complied with such other reasonable regulations as the Escrow Agent may prescribe and (d) agreed to pay such fees and expenses as the Authority and the Escrow Agent may require in connection therewith.

Section 3.28 Notice of Non-Compliance. Upon receipt of notice by or actual knowledge of any officer responsible for the administration of the Escrow Fund, the Escrow Agent shall report in writing to the Authority and Purchaser any breach of any covenant or any Event of Default by the Borrower under this Bond Agreement or any fact or circumstance which, except for any grace period permitted by this Bond Agreement, would result in any breach of a covenant or Event of Default by the Borrower hereunder. The Escrow Agent shall report in writing such breach, Event of Default or information to the Authority immediately after the Escrow Agent becomes aware of such breach or Event of Default.

Section 3.29 Paid Bonds; Loan Statements. The Purchaser 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 3.30 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, the investment of funds, the assignment or other disposition of the escrowed funds hereunder in the Event of Default by the Borrower, neither the Authority nor its members, officers, employees or agents shall be accountable to the Purchaser, the Escrow Agent 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 3.31 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 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, 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 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, 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 and the Escrow Agent hereunder shall extend to their respective directors, members, attorneys, officers, employees and agents.

Section 3.32 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

### 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 Notes. The Loan to be repaid by the Borrower and the face amount of the Notes 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 Notes 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 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 Notes:

- (a) Each monthly payment thereunder shall be applied first in payment of accrued and unpaid interest and the balance to reduce the principal installments 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 Notes are 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 Notes and during the continuation of any Event of Default, the Bonds and Notes 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.

The Borrower hereby authorizes the Purchaser (but the Purchaser is not obligated) to debit any Demand Deposit Account (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.

(a) The Notes shall be secured by this Bond Agreement, the Mortgage, the Financing Statements and all other Collateral provided by the Borrower to Purchaser for the Obligations from time to time, 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;

(b) The Borrower hereby pledges and grants to the Purchaser (i) a security interest in and second lien (subject only to the first lien in favor of the Line of Credit) on all non-tuition revenues received by the Borrower that have not been previously pledged by the University as of the date of this Agreement (which previously pledged revenues are described in **Schedule 4.3** attached hereto) and (ii) a security interest in and second lien (subject only to the first lien in favor of the Line of Credit) on all tuition revenues above \$30,000,000 received by the Borrower in each fiscal year; and

(c) The Borrower also hereby creates and grants in favor of the Purchaser a security interest in all funds deposited from time to time in the Escrow Fund.

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, the Escrow Agent or the Purchaser under this Bond Agreement or under any other agreement between the Borrower and the Authority, the Escrow Agent 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

Projects, 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 Escrow Agent 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 6.8 herein, 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 Premises or the Projects, 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 Escrow Agent 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) interest income on the Series A Bond 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 4.9 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 of the Loan, 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 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, the Purchaser and the Escrow Agent 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 Escrow Agent 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) all other documents reasonably required by the Authority, the Escrow Agent and the Purchaser.

Any certificate signed by an Authorized Borrower Representative and delivered to the Authority, the Purchaser or the Escrow Agent shall be deemed a representation or warranty by the Borrower to the Authority, the Purchaser or the Escrow Agent, 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 Notes. The Borrower may prepay the Notes to the same extent as the respective Bonds may be optionally redeemed.

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 Notes are 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 Notes 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 the Line of Credit Documents and 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 regulatory change (including, without limitation, in Regulation D promulgated by the Board of Governors of the Federal Reserve System) affecting lending institutions (a “Regulatory Change”) occurs that:

(i) subjects the Purchaser or any affiliate thereof to any tax or other charge not imposed on the date of this Agreement, with respect to any amount paid or to be paid by or to the Purchaser or such affiliate under this Agreement 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 Agreement; 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 Agreement 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 Agreement 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 Agreement 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 Regulatory Change, 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 Agreement or in connection with purchasing or holding the Bonds or any interest therein or making any other financial accommodation pursuant to this 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 shall be conclusive absent manifest error.

For purposes of this Agreement (a) all requests, rules, guidelines or directives in connection with the Dodd-Frank Act shall be deemed to be a Regulatory Change, regardless of the date enacted, adopted or issued, and (b) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Regulations and Supervisory Practices (or any successor or similar authority) or the United States financial regulatory authorities in connection with the implementation of the Basel Committee on Banking Regulations requests, rules, guidelines or directives, shall be deemed a Regulatory Change regardless of the date enacted, adopted or issued.

(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). 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 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

The provisions of this Section shall survive the termination of this 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 Projects 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 Users. The Borrower shall not permit any leasing, subleasing or assigning of leases (or any modifications or terminations of such leases) (i) without the prior written consent of the Purchaser and the Authority or (ii) that would impair the excludability of interest paid on the Series A Bond 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.

(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 Projects, the Collateral 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 Projects or this Bond Agreement may be transferred pursuant to such merger or consolidation without violating this section 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 Series A Bond 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 Notes; (v) after the merger, consolidation or transfer, the Projects shall be operated as an authorized project under the Act; and (vi) the Borrower has obtained the prior written consent of the Purchaser.

(e) Intentionally Omitted.

(f) Operate Project. 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.

(g) Annual Certification. The Borrower shall furnish to the Authority and the Purchaser with a certification indicating whether or not the Borrower is aware of any condition, event or act that constitutes an Event of Default, or which would constitute an Event of Default with the giving of notice or passage of time, or both, under any of the Bond Documents, together with a calculation evidencing compliance with the financial covenants set forth in Section 5.22(b) and (c), which certification shall be delivered at the time the Borrower's annual financial statements are required to be delivered pursuant to Section 5.8(a) hereof.

(h) Prevailing Wage Regulations. In connection with the New Money Project, 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 New Money Project and hereby covenants to comply with such provisions in connection with the New Money Project.

(i) Preservation of Projects. (i) The Borrower will at all times preserve and protect the Projects and the Premises 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 Projects and the Premises. The Authority shall have no obligation and makes no warranties respecting the condition or operation of the Projects or the Premises.

(ii) The Borrower will not use as a basis for contesting any assessment or levy of any tax the financing of the Projects 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 Projects 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 Projects and Inspection. The Authority and its 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 Projects and to examine and inspect the Projects.

(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 Projects 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 Projects 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 Projects, plus Boiler and Machinery coverage, and Flood Insurance if the Projects 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 Projects 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; provided, however, that the Authority shall hold and promptly remit to the Purchaser any insurance proceeds it receives for the benefit of the Purchaser relating to the Collateral.

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. The Purchaser shall be listed, where applicable, as mortgagee and lender loss payee.

All insurance prescribed by this Section 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 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, 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.

To the extent the provisions of the Mortgage and the other Bond Documents are more expansive than those set forth in this Section, the provisions of the Mortgage and such other Bond Documents shall control.

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 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 Series A Bond would cease to be a “qualified 501(c)(3) bond” (within the meaning of Section 145 of the Code).

Section 5.5 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 Series A Bond 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 Series A Bond to be an “arbitrage bond” 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 Series A Bond the Borrower will take the following actions:

(i) Unless the proceeds of the Series A Bond 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 to the Escrow Agent 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 Series A Bond with the requirements of Sections 141 of the Code, including but not limited to (i) the allocation and use of the proceeds of the Series A Bond, and any debt refinanced with proceeds of the Series A Bond and (ii) the ownership and use of all of the property financed with proceeds of the Series A Bond, and any debt refinanced with proceeds of the Series A Bond, as such records are further described in the Borrower's Tax Representation Letter with respect to the Series A Bond. The Borrower covenants to retain all such records until three years after the last scheduled maturity date of the Series A Bond, or in the event the Series A Bond is retired early, three years after the final retirement of the Series A Bond.

(d) All of the property refinanced with the Net Proceeds of the Series A Bond 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 Series A Bond, will not exceed five percent (5%) of the Net Proceeds of the Series A Bond. 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 Series A Bond, 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 Series A Bond).

(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 Series A Bond. The Borrower agrees to follow the Written Procedures and Post-Issuance Compliance Checklist and at least once a year review the Series A Bond and any other outstanding bonds of the Authority that have financed facilities for the Borrower (together with the Series A Bond, 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, 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 D, attached and made a part hereof (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.

Section 5.6 Compliance with Applicable Laws. (a) The Borrower agrees to install, operate and maintain the Projects 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, and the use, occupancy, transfer or encumbering of the Collateral, 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 and the Collateral, 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 Collateral 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 5.7 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, the Escrow Agent, 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 5.8 Financial Statements. (a) The Borrower shall furnish to the Purchaser and to the Authority or cause to be furnished to the Purchaser and to the Authority, in form and substance satisfactory to the Purchaser, within one hundred fifty (150) days of the end of each fiscal year end of the Borrower, a financial statement of the Borrower's profit and loss for such fiscal year and a balance sheet as of the end of such fiscal year with a cash flow statement, all in reasonable detail in accordance with generally accepted accounting principles, consistently applied, and audited by an independent certified public accountant acceptable to the Purchaser and the Authority;

(b) 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:

(i) within forty-five (45) days after each first, second and third calendar quarter end, internally-prepared, unaudited income statements, all in reasonable detail, which statements may not be in accordance with generally accepted accounting principles;

(ii) within fifteen (15) days of approval by the Borrower's Board of Trustees, the Borrower's annual initial budget; and

(iii) such other financial information as the Purchaser may reasonably require.

All such statements will be prepared on such forms deemed reasonably satisfactory to the Purchaser and, except as set forth in subsection (b) above, will be in accordance with GAAP, consistently applied.

Section 5.9 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, the Mortgage 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 5.10 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 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, the Escrow Agent 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 shall control the Borrower's obligations and shall survive repayment of the Bonds.

(b) 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 Series A Bond by the Internal Revenue Service or the loss of the Series A Bond's 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.

(c) 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 shall control the Borrower's obligations and shall survive repayment of the Bonds.

(d) 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 Escrow Agent, or willful misconduct of such Indemnified Party.

Section 5.11 Deposit Relationship. The Borrower shall continue to maintain its deposit relationship with the Purchaser throughout the term of the Loan.

Section 5.12 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 5.13 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 5.14 Costs and Expenses. All expenses in connection with the preparation, execution, delivery, recording and filing of this Bond Agreement, the Notes, the Mortgage 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 Escrow Agent, the fees and expenses of Counsel for the Escrow Agent, 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, and the Escrow Agent's annual and special fees and expenses, if any, under this Bond Agreement, the Notes, the Mortgage 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 Collateral therefor, and the amount of all such expenses shall, until paid, bear interest at the rate applicable to principal hereunder (including any Default Rate) and be an Obligation secured by the Collateral. 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 (other than the Rebate Fund), 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 5.15 Damage to Projects or Collateral. In the event of damage or destruction of part or all of the Projects or the Collateral, the Borrower shall notify the Authority, the Escrow Agent 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 Projects or the Collateral 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, except as set forth in this Bond Agreement. In the event of damage or destruction of the Projects or the Collateral or any part thereof, the net proceeds of any insurance policies required to be maintained under Section 5.2 shall be paid to the Escrow Agent and deposited into the Escrow Fund, and if no Event of Default hereunder has occurred and is continuing, subject to the provisions of Section 5.2 and the provisions of the Mortgage, at the election of the Purchaser, with respect to proceeds received from the destruction of Collateral or Projects or, if no Default or Event of Default is occurring, the Borrower, with respect to proceeds received from the destruction of the Projects: (i) be applied to the redemption of the Bonds or (ii) applied to restore or replace the Collateral or the Projects, as the case may be, to substantially its condition immediately prior to such event or to a condition of at least equivalent value; provided, however, that if the cost of restoration or replacement exceeds the amount of such proceeds, the Borrower shall deposit the excess in the Escrow Fund to be applied for such restoration or replacement. The Borrower or the Purchaser, as the case may be, shall notify the Escrow Agent and Purchaser or Borrower, as the case may be, of its election within ninety (90) days of its receipt of notice of such destruction. If the Borrower is the payee, or one of the payees, of any check or other instrument representing payment of any insurance proceeds referred to in this Section, the Borrower will endorse the same to the order of the Escrow Agent and deliver the same to the Escrow Agent; and if the Borrower fails to do so, the Borrower hereby irrevocably authorize any officer or employee of the Escrow Agent to endorse and deliver the same as the Borrower's attorney-in-fact.

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 Projects. 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 Collateral without the prior written consent of the Purchaser.

In the event the terms of this Section 5.15 conflict with the terms of the Mortgage or other Bond Document, the terms of the Mortgage or such Bond Document shall prevail.

Section 5.16 Notice and Certification with Respect to Bankruptcy Proceedings. The Borrower shall promptly notify the Purchaser, the Authority and the Escrow Agent in writing of the occurrence of any of the following events and shall keep the Purchaser, the Authority and the Escrow Agent 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 5.17 Eminent Domain. Immediately after the commencement of any condemnation or similar proceedings by a third party in the exercise of a power of eminent domain, or a power in the nature of eminent domain, the Borrower shall immediately notify the Escrow Agent, Purchaser and Authority in writing. The proceeds of any condemnation award or other compensation paid by reason of conveyance in lieu of the exercise of such power relating to the Premises shall be applied pursuant to Section 5.15. In the event the terms of this Section 5.17 conflict with the terms of the Mortgage or other Bond Document, the terms of the Mortgage or such Bond Document shall prevail.

Section 5.18 Inspection. The Borrower agrees that the Authority, the Escrow Agent 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 Projects and Premises. The Authority, Escrow Agent and Purchaser shall be permitted, at all reasonable times, to examine the books and records of the Borrower with respect to the Projects 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 Projects, the Premises and the Borrower as are reasonably requested by the Authority or the Purchaser from time to time.

Section 5.19 Notice of Default. The Borrower further agrees, in addition to and not in limitation of Section 5.1(g), to notify the Authority, the Purchaser and the Escrow Agent 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 impact upon the Borrower, the Projects or the Premises.

Section 5.20 Use of Proceeds. 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.

Section 5.21 Additional Representations, Warranties and Covenants of the Borrower. The Borrower shall satisfy all terms, conditions, and covenants applicable to it pursuant to the terms of this Bond Agreement and the other Bond Documents. In addition, the Borrower covenants and agrees that, from the date hereof until payment in full of the principal of, and accrued interest on, the Notes, it shall comply with the following requirements:

(a) The Borrower shall not, without the prior, written consent of the Purchaser, cause or permit any lien or encumbrance upon the Premises, whether inferior or superior in priority to the lien of the Mortgage, except for easements for utility purposes, including, but not limited to, alternative energy equipment, or as may be required by governmental entities, in which case the Borrower need only furnish the Purchaser with notice thereof.

(b) Upon the request of the Purchaser, the Borrower shall provide proof, in form and substance satisfactory to the Purchaser, of payment of any and all real estate taxes, assessments, sewer charges, water charges, insurance premiums, and other periodic charges relating to the Premises, if any. At the option of the Purchaser, the Borrower shall establish an escrow with the Purchaser for the payment of real estate taxes and assessments.

(c) The Borrower, in its operation of the Premises, 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 Premises.

Section 5.22 Financial Covenants.

(a) The Borrower covenants and agrees that it will not, during the term of this Bond Agreement, incur or assume any additional Indebtedness without the prior written consent of the Purchaser (including, but not limited to, guarantees or derivatives in the form of credit default swaps or total-rate-of-return swaps or similar instruments, and whether long-or short-term); provided, however:

(i) if no Event of Default shall have occurred and be continuing, the Borrower may incur or assume Long Term Debt that is unsecured, secured by property other than the Premises or the Collateral or secured on a parity with the Borrower's obligations under this Bond Agreement and the Mortgage, as applicable, for such lawful purposes as the Borrower shall specify in reasonable detail in a certificate of an Authorized Borrower Representative in form and substance acceptable to the Purchaser and delivered to the Purchaser seven (7) Business Days (or such shorter period of time acceptable to the Purchaser) before the date on which such Long-Term is to be incurred or assumed (the "Test Date"), which certificate shall state that after incurring or assuming the Long-Term Debt (1) the maximum annual Debt Service requirements on all Long-Term Debt (including the Long-Term Debt being assumed or incurred) does not exceed ten percent (10%) of Gross Revenues Without Donor Restrictions of the Borrower as shown on its audited financial statements for the prior fiscal year and (2) the Debt Service Coverage Ratio (regardless of any compliance start date that may be referenced in the definition thereof) as of the Test Date is at least 1.20:1, and provide the calculations supporting such statements; and

(ii) notwithstanding the forgoing restriction on additional Indebtedness, the Borrower may (A) incur operating leases (including those that become liabilities under any future accounting standard, including but not limited to, Accounting Standards Update No. 2016-02) and Capitalized Lease Obligations of up to an aggregate amount of \$7,000,000 in each fiscal year, (B) participate in state or federal unsecured collective or pooled bond and/or lease programs and (C) incur Short-Term Debt pursuant to (1) the Line of Credit and (2) that certain letter of credit facility for the benefit of the Borrower related to the Borrower's Vancouver campus and provided by The Toronto-Dominion Bank up to an aggregate principal amount of \$[\_\_\_\_\_].

(b) Debt Service Coverage Ratio. The Borrower shall maintain a minimum Debt Service Coverage Ratio of 1.20:1 tested annually beginning with fiscal year end June 30, 2023. For the fiscal years ending June 30, 2021 and June 30, 2022, there will be no Debt Service Coverage Ratio test. In lieu thereof, the Borrower will maintain a minimum Unrestricted Liquidity level tested annually of not less than \$100,000,000 for the fiscal year ending June 30, 2021 and \$90,000,000 for the fiscal years ending June 30, 2022 and June 30, 2023 (until

compliance with the Debt Service Coverage Ratio is confirmed as of June 30, 2023).

(c) Liquidity Ratio. The Borrower shall maintain a minimum Unrestricted Liquidity Ratio of 0.55:1 tested semi-annually on each June 30 and December 31 commencing December 31, 2022.

As used in this Section 5.22:

“Change in Net Assets From Operating Activities Without Donor Restrictions” shall mean the excess of any Gross Revenues Without Donor Restrictions of the Borrower (including transfers, at the Borrower’s discretion, of the operating fund(s) from investments and other legally available funds of the Borrower) over Expenses Without Donor Restrictions of the Borrower (excluding interest expense, amortization and depreciation), subject to adjustments to exclude non-operating activity such as unrealized gains and losses on investments, extraordinary items and any other non-cash items determined in accordance with generally accepted accounting principles applicable in the preparation of financial statements of institutions of the character of the Borrower, consistently applied.

“Debt Service” shall mean interest on Short-Term Debt, Long-Term Debt and current portion of Long-Term Debt paid in the applicable fiscal year for which the Debt Service is being calculated.

“Debt Service Coverage Ratio” shall mean the ratio of Change in Net Assets From Operating Activities Without Donor Restrictions as of the immediately preceding fiscal year of the Borrower divided by Debt Service.

“Long-Term Debt” shall mean all obligations for the payment of money incurred, assumed or guaranteed by the Borrower, 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 including those that become liabilities under any future accounting standard, including but not limited to, Accounting Standards Update No. 2016-02.

“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.

“Gross Revenues Without Donor Restriction” shall mean all of the Borrower’s gross revenues without donor restrictions including all operating revenues, gains and other support reported as without donor restrictions in the financial statements of the Borrower, prepared under generally accepted accounting principles applicable in the preparation of financial statements of institutions of the character of the Borrower consistently applied, without deducting scholarships, tuition grants and aid.

“Unrestricted Liquidity Level” shall mean the sum of cash and cash equivalents, restricted cash and cash equivalents, and investments, at fair value, less the donor restricted portion of the endowment as reported on the Borrower’s financial statements, prepared under generally accepted accounting principles applicable to the preparation of financial statements of institutions of the character of the Borrower consistently applied.

“Unrestricted Liquidity Ratio” means Unrestricted Liquidity Level divided by Long-Term Debt as defined above and reflected on financial statements of the Borrower, prepared under generally accepted accounting principles applicable to the preparation of financial statements of institutions of the character of the Borrower consistently applied.

Section 5.23 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 5.24 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.



## 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 Notes 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 Collateral 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) in the event that proceedings shall have been instituted for foreclosure or collection of any Collateral with a value of \$1,000,000 or more;

(g) the transfer of title to, sale, assignment, lease or mortgage of the Projects, the Collateral, or any part thereof (in one or more transactions) for any reason and to any party without prior express written consent of the Authority and the Purchaser, except as provided in the Bond Documents;

(h) the voluntary closing of business or cessation of operations of the Borrower at the Premises or an abandonment by the Borrower of same;

(i) 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;

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

(k) 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;

(l) any material adverse change in the business, assets, operations or financial condition or results of operation of the Borrower;

(m) the existence of any liens for taxes due with respect to the Premises 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;

(n) 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 Premises by reason of the occurrences of a hazardous discharge or environmental complaint or otherwise or asserts a claim against the Borrower, the Premises, the Authority or the Purchaser for damages or cleanup costs related to a hazardous discharge or environmental complaint;

(o) if any Bond Document granting Collateral shall not create or remain a first priority, perfect lien on the such Collateral, or a permitted second lien as to tuition revenue and non-tuition revenue subject only to Permitted Encumbrances;

(p) if the Financing Statements do not perfect a first lien on the property described therein or second lien as to tuition revenue and non-tuition revenue, as applicable;

(q) if the improvements existing or to be made or constructed on the Premises shall encroach upon the street or adjoining property or violate restrictive covenants of record or local zoning ordinances and such encroachment or violation is not cured within ninety (90) days of the Purchaser's or the Authority's notice to the Borrower; provided, such encroachment or violation shall not constitute an Event of Default if it is not curative within ninety (90) days, provided the Borrower is diligently pursuing remediation to such encroachment or violation;

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

(s) upon a Determination of Taxability; and

(t) 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, the Line of Credit or with respect to any swap contracts, corporate cards or cash management services, past any applicable grace and/or cure periods.

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 direct pledgee of the Collateral and 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 Notes 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 Notes, 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, neither the Escrow Agent nor the Purchaser shall have the 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 Notes, the Borrower agrees to pay to the holder of the Notes 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 Notes are secured or unsecured, and regardless of whether the holder exercises any available rights or remedies against any collateral pledged as security for the Notes.

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.

(b) 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.

Section 6.8 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 Series A Bond (but not the Series A Note, which shall continue in full force and effect). The Purchaser and any assignees and the Borrower hereby expressly agree that the Series A Bond 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 Series A Bond will be called and canceled, and the Purchaser may, at its option, declare the obligation evidenced by the Series A Note immediately due and payable. The Purchaser will deliver the Series A Bond to the Authority for cancellation upon the Cancellation Date, but even if such delivery does not occur, the Series A Bond will be considered canceled and of no further force or effect on the Cancellation Date (but with no effect on the Series A Note whatsoever).

(a) Upon cancellation of the Series A Bond, the Series A Note will solely evidence the Obligations relating thereto and, in the event the Series A Note is not accelerated by the Purchaser as hereinabove provided, all of the terms of Series A Note will control such obligations of the Borrower to the Purchaser, except that from and after cancellation of the Series A Bond the per annum interest rate will automatically increase and change to the interest rate on the Series A Note equal to the equivalent taxable rate thereon as determined by the Purchaser, and the Series A 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 Series A 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 Series A Bond 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 Series A Bond, continuation of the Series A Note (if applicable) and the withdrawal of the Authority from the transaction.

(b) Upon cancellation of the Series A Bond 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. Any amounts remaining in the Escrow Fund on the Cancellation Date after deduction of amounts which may be due the Authority pursuant to the terms of this Bond Agreement shall thereby be assigned to the Purchaser (if not already assigned) for application to the repayment of amounts due the Purchaser. The Authority hereby authorizes the holder of any such funds to pay to the Purchaser any such amounts remaining in the Escrow Fund on the Cancellation Date after payments which may be due the Authority.

(c) In the event that there is a dispute among any of the parties concerning the right of the Authority to cancel the Series A Bond pursuant to the provisions of this Section, the Borrower shall nevertheless comply with the terms of the Series A 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 Series A Bond violated the terms of this Bond Agreement, the Series A Bond 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 Series A 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 Series A Bond.

(d) The provisions of this Section 6.8 shall not be construed to limit the Purchaser's right to immediately pursue its rights and remedies set forth in this Article VI upon the occurrence of an Event of Default.

Section 6.9 Preservation of Collateral. At all times prior and subsequent to an Event of Default hereunder, without prior notice to the Borrower, subject to the Reserved Rights, the Purchaser may take any and all action which in its sole discretion is necessary and proper to preserve its interest in the Collateral, the payment of debts of the Borrower that might, in the Purchaser's sole discretion, impair the Collateral or the Purchaser's security interest therein, purchasing insurance on the Collateral, or paying taxes or assessments thereon, and the sums so expended by the Purchaser shall be secured by the Collateral, shall be added to the amount of the Obligations due the Purchaser and shall be payable on demand with interest at the Default Rate from the date expended by the Purchaser until repaid by the Borrower.

## **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 Projects 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. 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:

Fairleigh Dickinson University  
1000 River Road  
Teaneck, New Jersey 07666  
Attention: Chief Financial Officer

with a copy to :

Boyar & Suozzo, P.A.  
10 Park Place  
Morristown, New Jersey 07960  
Attention: Marie D. Suozzo, Esq.

The Purchaser/Escrow Agent:

TD Bank, N.A.  
Middle Market Lending  
1068 Stelton Road  
Piscataway, New Jersey 08854  
Attention: Cynthia Colucci  
Vice President

with a copy to:

Windels, Marx, Lane & Mittendorf, LLP  
120 Albany Street Plaza  
New Brunswick, New Jersey 08901  
Attention: John Bitar, 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", "Escrow Agent" and "Purchaser" shall, where the context requires, include the respective permitted successors and assigns of such persons.

Section 7.6 Intentionally Omitted.

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 Escrow Agent, 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, Escrow Agent and the Authority in accordance herewith. Notwithstanding the foregoing, the indemnification provisions of Section 5.10 and the rebate requirements of Section 5.5 hereof 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 Projects 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 Projects in any respect or in connection with or for the purposes and uses of the Borrower or its tenants.

Section 7.11 Intentionally Omitted.

Section 7.12 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 to the Borrower by the Purchaser as overpayment of the Loan.

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 NOTES AND FOR THE AUTHORITY TO MAKE THE LOAN.

Section 7.16 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 unmaturred 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 7.17 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 or any Collateral therefor, and the amount of all such expenses shall, until paid, bear interest at the rate applicable to principal hereunder (including any Default Rate) and be an obligation secured by any Collateral.

Section 7.18 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 Notes) 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 7.19 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 Notes 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 7.20 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 7.21 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 7.22 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 Notes 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 7.23. 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 7.24 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

FAIRLEIGH DICKINSON UNIVERSITY

By: \_\_\_\_\_  
Hania Ferrara  
Senior Vice President for Finance and  
Administration, Treasurer

TD BANK, N.A.,  
as Purchaser and Escrow Agent

By: \_\_\_\_\_  
Cynthia Colucci  
Senior Vice President

EXHIBIT A-1

FORM OF SERIES A BOND

**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  
REVENUE AND REFUNDING BOND  
FAIRLEIGH DICKINSON UNIVERSITY ISSUE, 2021 SERIES A**

**DATED DATE:**  
[Closing Date]

**MATURITY DATE:**  
February 1, 2051

**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 **TD BANK, N.A.** (the “Purchaser”) the principal sum of [ ] and 00/100 DOLLARS (\$[SERIES A BOND AMOUNT.00) as follows:

[Interest shall be payable in advance on the Dated Date for the period from and including the Dated Date to and including February 28, 2021, and then, on the first day of each consecutive month commencing on April 1, 2021] and on the first day of each month thereafter payments shall be made in monthly principal and interest installments 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 arrears and calculated on a 360-day year based on the actual number of days elapsed.

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 February 1, 2031 (the “Tender Date”) by Fairleigh Dickinson 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 and the Collateral, 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 shall be paid solely from the revenues or other moneys derived from the Loan (as defined in the hereinafter defined Bond Agreement) 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 TD Bank, N.A., 1068 Stelton Road, Piscataway, New Jersey 08854 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 Revenue and Refunding Bond, Fairleigh Dickinson University Issue, 2021 Series A issued in the principal amount of \$[SERIES A BOND AMOUNT] (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 January 26, 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 as defined in the Bond Agreement. 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 6.8 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.

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 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.

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

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**  
**AMORTIZATION SCHEDULE**

EXHIBIT A-2

FORM OF SERIES B BOND

**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  
REVENUE BOND  
FAIRLEIGH DICKINSON UNIVERSITY ISSUE, 2021 SERIES B  
(FEDERALLY TAXABLE)**

**DATED DATE:**  
[Closing Date]

**MATURITY DATE:**  
February 1, 2051

**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 **TD BANK, N.A.** (the "Purchaser") the principal sum of [ ] and 00/100 DOLLARS (\$[SERIES B BOND AMOUNT.00]) as follows:

[Interest shall be payable in advance on the Dated Date for the period from and including the Dated Date to and including February 28, 2021, and then, on the first day of each consecutive month commencing on April 1, 2021] and on the first day of each month thereafter payments shall be made in monthly principal and interest installments 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 arrears and calculated on a 360-day year based on the actual number of days elapsed.

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 February 1, 2031 (the “Tender Date”) by Fairleigh Dickinson 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 and the Collateral, 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 shall be paid solely from the revenues or other moneys derived from the Loan (as defined in the hereinafter defined Bond Agreement) 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 TD Bank, N.A., 1068 Stelton Road, Piscataway, New Jersey 08854 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 Revenue Bond, Fairleigh Dickinson University Issue, 2021 Series B (Federally Taxable) issued in the principal amount of \$[SERIES B BOND AMOUNT] (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 January 26, 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 as defined in the Bond Agreement. 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 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.

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 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.

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**  
**AMORTIZATION SCHEDULE**

**EXHIBIT B**

**Section 1.3(o)(ii) Disclosures**

None.

## EXHIBIT C

### Special Notice Events

**1. Change of ownership of the financed property** -- if the ownership of any portion of the financed and/or refinanced Projects 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 Projects 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 Projects 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 Series A Bond (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 Projects 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 Projects 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 Projects 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 Projects, 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 Projects 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 Series A Bond or secure the payment of debt service on the Series A Bond, other than those funds or accounts described in this Bond Agreement or the other Bond Documents.

**SCHEDULE 1.3(d)**

**Litigation**

None.

**SCHEDULE 4.3**  
**NON-TUITION REVENUES PREVIOUSLY PLEDGED**

1. Dormitory revenues from University Court and Linden Court on the Metropolitan Campus;
2. All student insurance fees attributable to the Metropolitan Campus and the Florham Campus; and
3. Payments to vendors for contractual obligations (e.g. food service and vending).

\_\_\_\_ Mr. Hutchinson \_\_\_\_ 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  
Ridgeley Hutchinson  
Louis Rodriguez  
Brian Bridges  
Elizabeth Maher Muoio (represented by Ryan Feeney)

**NAY:** None

**ABSTAIN:** None

**ABSENT:** None

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

**NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY  
2020 BUDGET VARIANCE ANALYSIS  
FOR THE TWELVE MONTHS ENDED DECEMBER 31, 2020**

**EXECUTIVE SUMMARY**

**Net Operating Income**

The NJEFA concluded the year with preliminary unaudited net income in the amount of \$1,210,771 based on year to date revenues of \$3,975,939 and expenses of \$2,765,168.

**Revenues**

Year-to-date revenues were \$926,601 more than projected due to higher investment income than was budgeted and an increased number of bond deals closed during the year.

**Expenses**

Operating expenditures for the year 2020 are currently under budget by \$549,337 primarily due to staff vacancies and lower expense for professional services and dues & subscriptions.

**Exhibits**

<b><u>Report</u></b>	<b><u>Page</u></b>
Actual vs. Budget Report	1
Operating Account – Vendor Payments	2
Summary of Construction Funds	3

**NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY**  
**PRELIMINARY ACTUAL vs. BUDGET REPORT**  
**DECEMBER 2020**

	Month Ended December 31, 2020			Year-to-Date December 31, 2020		
	<u>Actual</u>	<u>Budget</u>	<u>Variance</u>	<u>Actual</u>	<u>Budget</u>	<u>Variance</u>
<b><u>Operating Revenues</u></b>						
Annual Administrative Fees	\$ 196,177	\$ 200,581	\$ (4,404)	\$ 2,403,863	\$ 2,390,588	\$ 13,275
Initial Fees	250,000	127,187	122,813	814,790	508,750	306,040
Investment Income	228,319	12,500	215,819	757,286	150,000	607,286
	<u>\$ 674,496</u>	<u>\$ 340,268</u>	<u>\$ 334,228</u>	<u>\$ 3,975,939</u>	<u>\$ 3,049,338</u>	<u>\$ 926,601</u>
<b><u>Operating Expenses</u></b>						
Salaries	\$ 200,303	\$ 120,020	\$ (80,283)	\$ 1,523,905	\$ 1,560,270	\$ 36,365
Employee Benefits	42,769	65,011	22,242	492,149	780,135	287,986
Provision for Post Ret. Health Benefits	10,416	10,417	1	125,000	125,000	-
Office of The Governor	-	2,083	2,083	21,926	25,000	3,074
Office of The Attorney General	16,492	6,250	(10,242)	122,881	75,000	(47,881)
Sponsored Programs & Meetings	-	983	983	492	11,800	11,308
Telecom & Data	5,469	3,300	(2,169)	35,606	39,600	3,994
Rent	16,445	16,667	222	197,340	200,000	2,660
Utilities	2,132	2,333	201	25,580	28,000	2,420
Office Supplies & Postage Expense	661	2,250	1,589	11,286	27,000	15,714
Travel & Expense Reimbursement	-	1,167	1,167	215	14,000	13,785
Staff Training & Conferences	-	2,583	2,583	4,175	31,000	26,825
Insurance	4,622	5,500	878	52,190	66,000	13,810
Publications & Public Relations	-	1,750	1,750	14,588	21,000	6,412
Professional Services	4,211	9,335	5,124	75,425	159,000	83,575
Dues & Subscriptions	1,422	5,792	4,370	20,383	69,500	49,117
Maintenance Expense	1,694	1,433	(261)	16,877	17,200	323
Depreciation	1,947	2,917	970	25,150	35,000	9,850
Contingency	-	30,000	30,000	-	30,000	30,000
	<u>308,583</u>	<u>289,791</u>	<u>(18,792)</u>	<u>2,765,168</u>	<u>3,314,505</u>	<u>549,337</u>
<b>Net Operating Income</b>	<u>\$ 365,913</u>	<u>\$ 50,477</u>	<u>\$ 315,436</u>	<u>\$ 1,210,771</u>	<u>\$ (265,167)</u>	<u>\$ 1,475,938</u>

**NJEFA  
Vendor Payments  
December 2020**

10:34 AM

Type	Date	Num	Name	Memo	Account	Accrual Basis Amount
Check	12/02/2020	EFT	Quadient (Formerly Neopost)	Ann ACH Fee	Postage	50.00
Bill Pmt -Check	12/07/2020	EFT	NJSHBP	ID 150400 12/20	Accounts Payable	14,759.94
Bill Pmt -Check	12/07/2020	EFT	NJSHBP	ID 150400 12/20	Accounts Payable	6,142.38
Bill Pmt -Check	12/07/2020	EFT	NJSHBP	ID 150400 12/20	Accounts Payable	2,520.55
Bill Pmt -Check	12/07/2020	EFT	BMO Financial Group	CrashPlan	Accounts Payable	9.99
Bill Pmt -Check	12/22/2020	2142	100 & RW CRA, LLC	008249	Accounts Payable	22,371.67
Bill Pmt -Check	12/22/2020	2143	Comcast	120720	Accounts Payable	88.40
Bill Pmt -Check	12/22/2020	2144	Crown Trophy	22968	Accounts Payable	60.00
Bill Pmt -Check	12/22/2020	2145	DocuSafe	137214	Accounts Payable	181.98
Bill Pmt -Check	12/22/2020	2146	Government News Network	89378-G	Accounts Payable	350.00
Bill Pmt -Check	12/22/2020	2147	Government's Authorities Unit	FY2021 Annual Assessment	Accounts Payable	21,926.31
Bill Pmt -Check	12/22/2020	2148	NJ Economic Development Authority	2020November, 2020December	Accounts Payable	3,022.18
Bill Pmt -Check	12/22/2020	2149	PFM Asset Management LLC	MAC-M1020-14734 OPEB, SMA-M1020-20236D	Accounts Payable	1,392.89
Bill Pmt -Check	12/22/2020	2150	TGI Office Automation	INV2565681	Accounts Payable	642.60
Bill Pmt -Check	12/22/2020	2151	Treasurer, State of New Jersey - DAG	FY20211stQtr	Accounts Payable	36,492.00
Bill Pmt -Check	12/22/2020	2152	Treasurer, State of New Jersey - Pinnacle	113020	Accounts Payable	1,184.70
Bill Pmt -Check	12/22/2020	2153	UPS	2Y687X470, 2Y687X500	Accounts Payable	48.38
Bill Pmt -Check	12/22/2020	2154	Verizon Wireless	9868246890	Accounts Payable	506.82
						<b>111,750.79</b>

**New Jersey Educational Facilities Authority**  
**Summary of Construction Funds**  
**As of December 31, 2020**

<u>Institution</u>	<u>Description</u>	<u>Bond Proceeds</u>	<u>Net Disbursed</u>	<u>Balance</u>	<u>% Complete</u>
<b>Private</b>					
Seton Hall University	Construction new student housing and athletic facilities	\$70,000,000.00	(92,617.94)	\$69,907,382.06	0%
Seton Hall University	University Center & Boland Hall Renovations	30,000,000.00	(17,963.97)	29,982,036.03	0%
Stevens Institute of Technology	Student Housing and University Center	191,200,000.00	(135,875,993.75)	55,324,006.25	71%
Rider University	Academic & Residential Facilities, Science & Technology Bldg	44,228,160.45	(39,793,017.36)	4,435,143.09	90%
Georgian Court University	Various Capital Improvements & Renovations, Refund 07 D, H	7,874,383.15	(122,377.33)	7,752,005.83	2%
Sub Total		\$343,302,343.61	(\$175,901,970.35)	\$167,400,373.26	
<b>Public</b>					
Ramapo College of New Jersey	Refund 06 I, Renov Library, Learning Center	11,278,830.75	(6,385,150.15)	4,893,680.60	57%
Sub Total		\$ 11,278,830.75	(\$ 6,385,150.15)	\$ 4,893,680.60	
<b>Other Programs</b>					
Equipment Leasing Fund	Acquisition and Installation of Equipment	\$ 101,266,893.00	\$ (98,431,043.14)	\$ 2,835,849.86	97%
Technology Infrastructure Fund	Development of Technology Infrastructure	41,313,667.00	(39,246,402.49)	2,067,264.51	95%
Capital Improvement Fund	Capital Improvements	191,905,596.00	(187,110,668.79)	4,794,927.21	98%
Facilities Trust Fund	Construct, Reconstruct, Develop & Improve Facilities	219,977,164.00	(208,846,833.38)	11,130,330.62	95%
Capital Improvement Fund	Capital Improvements	146,700,261.19	(140,834,696.41)	5,865,564.78	96%
Sub Total		\$ 701,163,581.19	(\$ 674,469,644.21)	\$ 26,693,936.98	
<b>Grand Total</b>		<b>\$ 1,055,744,955.55</b>	<b>(\$ 856,756,764.71)</b>	<b>\$ 198,988,190.84</b>	

\* This issue has reached a completion rate of 95% or higher and will not appear on future reports.