

LOAN AGREEMENT

Dated as of April 1, 2022

Among

Zions Bancorporation, N.A. dba Zions First National Bank  
as Lender

and

Sandy City, Utah,  
as Issuer

and

Waterford School, LLC, a Utah limited liability company, the sole member of which is  
Waterford School Holding Corporation, a Utah nonprofit corporation, as Borrower

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THIS INSTRUMENT CONSTITUTES A SECURITY AGREEMENT  
UNDER THE UTAH UNIFORM COMMERCIAL CODE.

**\*\*NOTE.** The parties shall not modify the terms of this Loan Agreement, the Notes or  
the Bonds without consulting bond counsel. See Section 12.9 herein\*\*

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## LOAN AGREEMENT

Lender: Zions Bancorporation, N.A. dba Zions First National Bank  
One South Main Street, Suite 300  
Salt Lake City, Utah 84133  
Attention: Jim Vosburgh  
Telephone: (801) 844-7154

With a copy to: Zions Bancorporation, National Association  
Corporate Legal Services  
One South Main Street, Suite 1100  
Salt Lake City, Utah 84133

Issuer: Sandy City, Utah  
10000 S. Centennial Pkwy  
Sandy, Utah 84070  
Attention: Wendy Downs, City Recorder  
Telephone: (801) 568-7136

Borrower: Waterford School, LLC  
Waterford School Holding Corporation  
1590 East 9400 South  
Sandy, Utah 84093  
Attention: Greg Miles  
Chief Financial Officer  
Telephone: (801) 816-2289

With a copy to: Gilmore & Bell, P.C.  
15 West South Temple, Suite 1450  
Salt Lake City, Utah 84101  
Attention: Randy Larsen  
Telephone: (801) 364-5080

THIS AGREEMENT dated as of April 1, 2022 (this “Agreement”), among Zions Bancorporation, N.A. dba Zions First National Bank, as lender (with its successors and assigns, “Lender”), Sandy City, Utah, a body politic and corporate duly organized and validly existing under the laws of the State of Utah (the “State”), as issuer (“Issuer”), Waterford School, LLC, a Utah limited liability company, the sole member of which is Waterford School Holding Corporation, a Utah nonprofit corporation, as borrower (“Borrower”), witnesseth,

WHEREAS, Issuer is authorized and empowered under the laws of the State, including the Utah Industrial Facilities and Development Act, Title 11, Chapter 17, Utah Code Annotated 1953, as amended (the “Act”), to issue industrial development revenue bonds and to enter into loan agreements, contracts, and other instruments and documents necessary or convenient to obtain loans for the purpose of facilitating the financing and refinancing of certain projects as described in the Act; and

WHEREAS, in furtherance of the purposes of the Act and at the request of the Borrower, Issuer proposes to refinance a portion of the Project (as defined herein) and finance the acquisition, construction and equipping of the Improvements (as defined herein), which constitute a portion of the Project, by Borrower pursuant to this Agreement by issuing industrial development revenue bonds and lending the proceeds thereof to Borrower and such Loan (as hereinafter defined) will be evidenced by a Series 2022A Promissory Note dated April 21, 2022 (the "Series 2022A Note"), executed by the Borrower in the principal amount of \$[2,917,308] and a Series 2022B Promissory Note dated April 21, 2022 (the "Series 2022B Note" and together with the Series 2022A Note, the "Notes"), executed by the Borrower in the principal amount of \$[22,082,692]; and

WHEREAS, Borrower proposes to borrow the proceeds of the Loan upon the terms and conditions set forth herein to (i) refinance a portion of the Project through the refunding of the Refunded Bonds (defined herein), (ii) finance a portion of the Project through the payment of the costs of the Improvements and (iii) pay costs of issuance of the Bonds; and

WHEREAS, the Issuer shall direct the Borrower (solely by the approval of this Agreement) and the Borrower shall make all payments on the Bonds (as hereinafter defined), which payments correspond with the payments on the Loan (as hereinafter defined) directly to Lender pursuant to the terms set forth in this Agreement; and

WHEREAS, this Agreement and the Bonds shall not be deemed to constitute or give rise to a general obligation or liability of Issuer or the State or any political subdivision thereof, or a pledge of or charge against the general credit or taxing power of Issuer or the State or any political subdivision thereof, but shall be a special limited obligation of Issuer payable solely from the Bond Payments payable hereunder by Borrower to Lender as assignee of Issuer and holder of the Bonds. Lender agrees that it will look solely to Borrower for the repayment of the Loan, and that under no circumstances shall Issuer have any liability to Lender or Borrower for any such repayment;

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and in consideration of the premises contained in this Agreement, Lender, Issuer, and Borrower agree as follows:

## ARTICLE I

### DEFINITIONS AND EXHIBITS

Section 1.1 Definitions. The following terms used herein will have the meanings indicated below unless the context clearly requires otherwise:

“Act” has the meaning set forth in the recitals hereto.

“Affiliate” means, with respect to any Person, any Person that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such first Person. A Person shall be deemed to control another Person for the purposes of this definition if such first Person possesses, directly or indirectly, the power to direct, or cause the direction of, the management and policies of the second Person, whether through the ownership of voting securities, common directors, trustees or officers, by contract or otherwise

“Agreement” means this Agreement, including all exhibits hereto, as any of the same may be supplemented or amended from time to time in accordance with the terms hereof.

“Anti-Terrorism Laws” has the meaning assigned to that term in Article V hereof.

“Annual Debt Service” means the total scheduled principal payments actually made by the Borrower plus interest expense paid in cash on any of the Bonds, Capital Leases and any other interest or non-interest-bearing debt of the Borrower during the measurement period.

“Annual Fixed Charge Coverage Ratio” means for the indicated period, the ratio of (i) Cash Flow minus Unfinanced Capital Expenditures to (ii) Annual Debt Service.

“Applicable Law” means (i) all applicable common law and principles of equity and (ii) all applicable provisions of all (A) constitutions, statutes, rules, regulations and orders of all governmental and non-governmental bodies, (B) Governmental Approvals and (C) orders, decisions, judgments and decrees of all courts (whether at law or in equity) and arbitrators.

“Assignment of Construction Documents” means, that certain Assignment of Construction Documents dated as of \_\_\_\_\_, 2022, entered into between Borrower and Lender with respect to the property located at approximately 1590 East 9400 South, Sandy, Utah.

“Bond Payments” means the payments payable by Borrower pursuant to the provisions of this Agreement and the Notes. As provided in Article II hereof, Bond Payments shall be payable by Borrower directly to Lender, as assignee of Issuer and holder of the Bonds, in the amounts and at the times as set forth in Exhibit A hereto.

“Bond Proceeds” means, collectively, the Series 2022A Bond Proceeds and the Series 2022B Bond Proceeds.

“Bonds” means, collectively, the Series 2022A Bonds and the Series 2022B Bonds.

“Borrower” means Waterford School, LLC, a Utah limited liability company, the sole member of which is Waterford School Holding Corporation, a Utah nonprofit corporation.

“Budget” means the budget for construction of the Improvements.

“Business Day” means a day other than a Saturday or Sunday on which banks are generally open for business in Salt Lake City, Utah.

“Cash Flow” means the sum of change in unrestricted net assets of the Borrower, plus interest expense, plus income tax expense, plus depreciation and amortization expense, plus non-cash charges/expenses, plus extraordinary losses, and minus non-cash income and extraordinary gains, all as shown in the Covenant Compliance Certificate.

“Certificate of Completion” means a certificate delivered by Borrower to Lender, in substantially the form attached hereto as Exhibit H.

“Change in Law” means the occurrence, after the Closing Date, of any of the following: (a) the adoption or taking effect of any Applicable Law, including, without limitation Risk Based Capital Guidelines, (b) any change in any Applicable Law or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, ruling, guideline, regulation or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (i) the Dodd Frank Wall Street Reform and Consumer Protection Act and all requests, rules, ruling, guidelines, regulations or directives thereunder or issued in connection therewith and (ii) all requests, rules, rulings, guidelines, regulations or directives promulgated by the Lender for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, shall in each case be deemed to be a “Change in Law,” regardless of the date enacted, adopted or issued.

“Capital Leases” means leases required to be capitalized in accordance with GAAP.

“Closing Date” means April 21, 2022.

“Code” means the Internal Revenue Code of 1986, as amended, and United States Treasury regulations promulgated thereunder.

“Collateral” means the Property and moneys held in the Project Fund pursuant to the terms hereunder, together with (a) all general intangibles, software intangibles, and other property relating thereto, (b) all accessories, attachments, parts, equipment, and repairs now or hereafter attached or affixed or used in connection with any of the foregoing property, (c) all warehouse receipts, bills of lading, and other documents of title now or hereafter covering any of the foregoing property, (d) all accessions thereto, (e) all substitutions for any of the foregoing property, and (f) products and proceeds of any of the foregoing property (including, without limitation, any property acquired with such proceeds).

“Completion Date” means the date of completion of the Improvements evidenced by a Certificate of Completion.



“Contracts and Permits Assignment Agreement” means, that certain Contracts and Permits Assignment Agreement dated as of \_\_\_\_\_, 2022, entered into between Borrower and with respect to the property located at approximately 1590 East 9400 South, in Sandy City, Utah.

“Contractor” means, collectively or severally, as the context thereof shall suggest or require the General Contractor and any other person or entity with whom Borrower or General Contractor contracts either directly or indirectly for the construction of the Improvements or any portion thereof.

“Controlled Group” means all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control which, together with the Borrower, are treated as a single employer under Section 414 of the Code.

“Construction Disbursement Agreement” means that agreement between Borrower and Lender dated as of the date hereof governing the terms and conditions for the Disbursement of funds from the Project Fund.

“Costs of Issuance” means any costs, to the extent incurred in connection with, and allocable to, the issuance of an issue, including, without limitation, lender’s fees; counsel fees; financial advisory fees; rating agency fees; trustee fees; paying agent fees; bond registrar, certification and authentication fees; accounting fees; printing costs for bonds and offering documents; public approval and feasibility study costs; and other similar costs.

“Covenant Compliance Certificate” means a certificate demonstrating compliance with the covenants herein prepared by the Borrower in substantially the form attached hereto as Exhibit G.

“Current Rate” means the United States Treasury Rate on the date that prepayment is made.

“Deed of Trust” means the Deed of Trust with Assignment of Leases and Rents, Security Agreement and Financing Statement, dated as of April 1, 2022, by the Borrower for the benefit of the Issuer.

“Default” means an event that, with giving of notice or passage of time or both, would constitute an Event of Default as provided in Article XI hereof.

“Default Rate” means either (i) the interest rate on the Bonds, plus 3.0% per annum, or (ii) upon the occurrence of an Event of Taxability, the Gross Up-Rate, but not to exceed the highest rate permitted by applicable law.

“Designated Representative” means the person at the time designated to act on behalf of the Borrower by written certificate furnished to the Issuer and the Lender containing the specimen signature of that person and signed on behalf of the Borrower by a duly authorized officer. That certificate may designate an alternate or alternates.

“Determination of Taxability” means any final, non-appealable determination, decision, or decree by the Commissioner of Internal Revenue, or any District Director of Internal Revenue or any court of competent jurisdiction, that an Event of Taxability shall have occurred. A Determination of Taxability also shall be deemed to have occurred on the first to occur of the following:

(a) the date when Borrower files any statement, supplemental statement, or other tax schedule, return, or document, which discloses that an Event of Taxability shall have occurred; or

(b) if upon sale, lease, or other deliberate action taken with respect to the Project within the meaning of Treas. Reg. § 1.141-2(d), the failure to receive an opinion of bond counsel to the effect that such deliberate action will not cause Interest payable by Borrower hereunder to become includable in the gross income of the recipient; or

(c) on the date when Borrower shall receive notice from Lender (and any other Person who was a Lender hereunder) that the Internal Revenue Service (or any other government official or agency exercising the same or a substantially similar function from time to time) has assessed as includable in the gross income of such Lender or such other Person who was a Lender hereunder the interest on the Bonds due to the occurrence of an Event of Taxability.

“Disbursements” means all disbursements of the proceeds of the Series 2022B Bonds made by Lender to Borrower pursuant to written requests of Borrower in the form attached to the Construction Disbursement Agreement.

“Environmental Indemnification Agreement” means, that certain Environmental Indemnity Agreement dated as of \_\_\_\_\_, 2022, entered into between Borrower and Lender.

“Environmental Laws” shall mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. (“CERCLA”), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 (“SARA”), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

“Environmental Report” means a current environmental report prepared by a firm acceptable to the Lender.

“ERISA” has the meaning set forth in Section 7.01(j) hereof.

“ERISA Event” means (a) a reportable event (as defined in ERISA) with respect to a Plan; (b) a withdrawal by the Borrower or any member of the Controlled Group from a Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal

under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by the Borrower or any member of the Controlled Group or notification that a Plan is in reorganization; (d) the filing of a notice of intent to terminate a Plan, the treatment of a Plan amendment as a termination under Section 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Plan; (e) an event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan; or (f) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon the Borrower or any member of the Controlled Group.

“Event of Default” has the meaning assigned to such term in Section 11.1 hereof.

“Event of Taxability” means if as the result of any act, failure to act, or use of the proceeds of the Loan, a change in use of the Project or any misrepresentation or inaccuracy in any of the representations, warranties, or covenants contained in this Agreement or the Tax Compliance Agreement by Issuer or Borrower, the Interest is or becomes includable in Lender’s gross income.

“Fiscal Year” means the Borrower’s Fiscal Year which begins on September 1 and ends on August 31 of each calendar year.

“GAAP” means accounting principles generally accepted in the United States of America.

“General Contractor” means the general contractor responsible for the construction of the Improvements.

“Governmental Approval” means an authorization, consent, approval, license, or exemption of, registration or filing with, or report to any Governmental Authority.

“Governmental Authority” means any federal, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, bureau or entity (including any zoning authority, the Federal Deposit Insurance Corporation or the Federal Reserve Board, any central bank or any comparable authority), or any arbitrator with authority to bind a Party at law.

“Gross Revenues” means all legally available revenues of Borrower including all revenues, rentals, fees, third-party payments, receipts, donations, contributions or other income of Borrower, but such definition shall not include fund balances or the investment fund of the Borrower.

“Gross-Up Rate” means, with respect to any Interest payment (including payments made prior to the Event of Taxability), the rate necessary to calculate a total payment in an amount sufficient such that the sum of the Interest payment plus an additional payment would, after being reduced by the federal tax (including interest and penalties) actually payable thereon, equal the amount of the Interest payment, such that Lender would be made whole as if all Interest payments from the commencement of this Agreement until it matures or is prepaid in full had been made at the rates as originally provided in Exhibit A, as adjusted.

“Guarantor” means, collectively and individually, Waterford School Holding Corporation, a Utah nonprofit corporation, and Waterford Impatience Fund LLC, a Utah limited liability company.

“Guaranty” means the Guaranty of even date herewith executed by Guarantor for the benefit of Lender.

“Hazardous Substances” means:

(a) any oil, flammable substance, explosives, radioactive materials, hazardous wastes or substances, toxic wastes or substances or any other wastes, materials or pollutants which (i) pose a hazard to the Property or to Persons on or about the Property, or (ii) cause the Property to be in violation of any Environmental Laws;

(b) asbestos in any form which is or could become friable, urea formaldehyde foam insulation, transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls, or radon gas;

(c) any chemical, material or substance defined as or included in the definition of “waste,” “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous waste,” “restricted hazardous waste,” or “toxic substances” or words of similar import under any Environmental Laws including, but not limited to:

(i) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Sections 9601, et seq. (“CERCLA”);

(ii) the Hazardous Materials Transportation Act, 49 U.S.C. Sections 1801, et seq.;

(iii) the Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901, et seq. (“RCRA”);

(iv) the Toxic Substances Control Act, 15 U.S.C. Sections 2601, et seq.;

(v) the Clean Water Act, 33 U.S.C. Sections 1251, et seq.;

(vi) the Utah Environmental Quality Control Act, Title 19, Utah Revised Statues, including:

(A) the Utah Air Conservation Act, Utah Code Ann. §§ 19-2-101 et seq.;

(B) the Utah Radiation Control Act, Utah Code Ann. §§ 19-3-101 et seq.;

(C) the Utah Safe Drinking Water Act, Utah Code Ann. §§ 19-4-101 et seq.;

(D) the Utah Water Quality Act, Utah Code Ann. §§ 19-5-101 et seq.;

(E) the Utah Solid and Hazardous Waste Act, Utah Code Ann. §§ 19-6-101 et seq.;

(F) the Utah Hazardous Substances Mitigation Act, Utah Code Ann. §§ 19-6-301 et seq.;

(G) the Utah Underground Storage Tank Act, Utah Code Ann. §§ 19-6-401 et seq.;

(H) the Utah Solid Waste Management Act, Utah Code Ann. §§ 19-6-501 et seq.;

(I) the Utah Lead Acid Battery Disposal Act, Utah Code Ann. §§ 19-6-601 et seq.; and

(J) the Utah Used Oil Management Act, Utah Code Ann. §§ 19-6-701 et seq.;

(vii) all other existing and future federal, state and local laws, ordinances, rules, regulations, orders, requirements, and decrees regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material;

(d) any substance, product, waste or other material of any nature whatsoever which may give rise to liability (i) under any of the statutes or regulations described in clauses (c)(i) through (vi) above; (ii) under any statutory or common law theory, including negligence, trespass, intentional tort, nuisance or strict liability; or (iii) under any reported decisions of any state or federal court;

(e) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any governmental authority or agency or may or could pose a hazard to the health and safety of the occupants of the Property or the owners and/or occupants of property adjacent to or surrounding the Property, or any other Person coming upon the Property or adjacent property;

(f) any other chemical, materials or substance which may or could pose a hazard to the environment; and

(g) petroleum, petroleum products and by-products, gasoline or crude oil, other than petroleum and petroleum products contained within regularly operated motor vehicles (including without limitation golf carts and lawn maintenance vehicles).

“Improvements” means an approximately 38,000 square foot science building and improvements to the Borrower’s main educational campus.

“Interest” means the portion of any Bond Payment designated as and comprising interest as shown in Exhibit A hereto, as adjusted.

“Issuer” means Sandy City, Utah, acting as issuer of the Bonds under this Agreement.

“Lender” means (i) Zions Bancorporation, N.A. dba Zions First National Bank, acting as lender under this Agreement, (ii) any surviving, resulting, or transferee corporation of Zions Bancorporation, N.A. dba Zions First National Bank and (iii) except where the context requires otherwise, any assignee(s) of Lender.

[“Line of Credit” means line of credit provided by the Lender to Borrower in the original principal amount of \$1,000,000 pursuant to the Line of Credit Loan Agreement.]

[“Line of Credit Lender” means (a) Zions Bancorporation, N.A., d/b/a Zions First National Bank, a national banking association and (b) any surviving, resulting or transferee corporation of Zions Bancorporation, N.A., d/b/a Zions First National Bank.]

[“Line of Credit Loan Agreement” means the Loan Agreement (Line of Credit), dated as of April 21, 2022, between the Line of Credit Lender and Borrower.]

“Liquidation Costs” means the reasonable costs and out of pocket expenses incurred by Lender in obtaining possession of any Collateral, in storage and preparation for sale, lease or other disposition of any Collateral, in the sale, lease, or other disposition of any or all of the Collateral, and/or otherwise incurred in foreclosing on any of the Collateral, including, without limitation, (a) reasonable attorneys’ fees and legal expenses, (b) transportation and storage costs, (c) advertising costs, (d) sale commissions, (e) sales tax and license fees, (f) costs for improving or repairing any of the Collateral, and (g) costs for preservation and protection of any of the Collateral.

“Loan” means the loan of Bond proceeds from Issuer to Borrower pursuant to this Agreement as evidenced by the Notes.

“Loan Documents” means collectively, this Agreement, the Tax Compliance Agreement, Contacts and Permits Assignment Agreement (including all consents to such assignment), the Assignment of Construction Documents, the Deed of Trust, the Guaranty, the Environmental Indemnification Agreement, the Construction Disbursement Agreement, the Bonds and the Notes.

“Loan Proceeds” means the total amount of money disbursed by the Lender to the Borrower on behalf of the Issuer.

“Material Adverse Effect” means any change of circumstances or any event which in the reasonable business judgment of Lender results in a material adverse effect upon (a) the properties, business, assets, liabilities, financial condition, results of operations or assets of Borrower or Guarantor taken as a whole, or (b) the binding nature, validity, or enforceability of this Agreement, or any other Loan Document to which Borrower or Guarantor is a party, or (c) the ability of Borrower or Guarantor to perform the payment obligations or other material obligations under this Agreement or any other Loan Document to which Borrower or Guarantor is a party, or (d) the value of any collateral or upon the rights, benefits or interests of Lender in

and to the Loan or the rights of Lender in any collateral; in each case, whether resulting from any single act, omission, situation, status, event or undertaking, or taken together with other such acts, omissions, situations, statuses, events or undertakings.

“Notes” means, collectively, the Series 2022A Promissory Note dated April 21, 2022, executed by the Borrower in the principal amount of \$[2,917,308] and the Series 2022B Promissory Note dated April 21, 2022 executed by the Borrower in the principal amount of \$[22,082,692].

“Original Rate” means the United States Treasury Rate in effect on the date of this Loan Agreement.

“Other Taxes” means all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or under any other Loan Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Loan Document.

“Party” shall mean to each signatory to this Loan Agreement, and “Parties” shall refer to more than one (1) such Party.

“PBGC” means the Pension Benefit Guaranty Corporation or any successor thereto.

“Permitted Encumbrances” means liens for taxes and assessments not yet due and payable or, if due and payable, those being contested in good faith by appropriate proceedings and for which appropriate reserves are maintained, security interests and liens created by this Agreement or the Deed of Trust and related documents and security interests and liens authorized in writing by Lender.

“Person” means any individual, corporation, nonprofit corporation, partnership, limited liability company, joint venture, association, professional association, joint stock company, trust, unincorporated organization, government, or any agency or political subdivision thereof or any other form of entity.

“Plan” means, with respect to Borrower at any time, an employee pension benefit plan which is covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code and either (a) is maintained, or has within the preceding five plan years been maintained, by a member of the Controlled Group for employees of a member of the Controlled Group of which the Borrower is a part; or (b) is maintained pursuant to a collective bargaining agreement or any other arrangement under which more than one employer makes contributions and to which a member of the Controlled Group of which Borrower is a part is then making or accruing an obligation to make contributions or has within the preceding five plan years made contributions.

“Plans and Specifications” means Borrower’s plans and specifications for the Improvements, as amended from time to time, which include the Budget for the Improvements and an allocation of the sources and uses of funds for the Improvements.

“Prepayment Amount” means the amount which Borrower may or must from time to time pay or cause to be paid to Lender as assignee of Issuer and holder of the Bonds in order to prepay the Loan and the Bonds, as provided in Section 2.8 hereof, which except as otherwise provided in Section 2.8 hereof, equals the principal amount to be prepaid together with accrued Interest and the Prepayment Penalty, and all other amounts due hereunder.

“Prepayment Penalty” means the amount equal to (a) the prepaid amount multiplied by (b) any positive remainder after subtracting the Current Rate from the Original Rate, multiplied by (c) the number of years and/or fractional portion of a year remaining until the Maturity Date.

“Principal” means the total principal amount of the Bonds outstanding, less any prepayments and with respect to each payment the portion of any Bond Payment designated as principal in Exhibit A hereto, as adjusted.

“Prior Interest Payment” means a payment of interest on the Bonds made on or prior to the date of any Determination of Taxability that becomes includable in Lender’s gross income (as defined in Code Section 61).

“Project” means the Project described in Exhibit A, which has been constructed or will be constructed on the Property.

“Project Fund” means the fund established pursuant to Section 2.5 of this Agreement.

“Project Purposes” means the construction, equipping and furnishing of a science building in Sandy City, Utah and improvements to the Borrower’s main campus for use by Borrower for any use which may be permitted by the Act, the Code and this Agreement.

“Property” means the real property and improvements currently located at or to be constructed at approximately 1590 East 9400 South in Sandy City, Utah.

“Risk Based Capital Guidelines” means (i) the risk-based capital guidelines in effect in the United States on the Closing Date, including transition rules, and (ii) the corresponding capital regulations promulgated by regulatory authorities outside the United States including transition rules, and any amendments to such regulations adopted prior to the Closing Date.

[“Refunded Bonds” means, collectively, (i) all of the outstanding Salt Lake County, Utah School Facility Revenue Bonds, Series 2010B (Waterford School, LLC), (ii) the Promissory Note (Term Loan) dated March 16, 2018 and currently outstanding in a principal amount of \$255,000 and (ii) the Business Loan dated July 9, 2019 and currently outstanding in a principal amount of \$315,091.]

“Series 2022A Bond Proceeds” means the amount of \$[2,917,308] advanced by Lender to Borrower on behalf of Issuer.

“Series 2022B Bond Proceeds” means the amount of \$[22,082,692] advanced by Lender to Borrower on behalf of Issuer.



“Series 2022A Bonds” means the Issuer’s \$[2,917,308] School Facility Refunding Bonds, Series 2022A (Waterford School, LLC), in the form attached hereto as Exhibit E-1.

“Series 2022B Bonds” means the Issuer’s \$[22,082,692] School Facility Revenue Bonds, Series 2022B (Waterford School, LLC), in the form attached hereto as Exhibit E-2.

“Sole Member” means Waterford School Holding Corporation, a Utah nonprofit corporation.

“State” means the State of Utah.

“Subsidiary” means, of a Person, (a) any corporation more than 50% of the outstanding securities having ordinary voting power of which shall at the time be owned or controlled, directly or indirectly, by such Person or by one or more of its Subsidiaries or by such Person and one or more of its Subsidiaries; or (b) any partnership, limited liability company, association, joint venture or similar business organization more than 50% of the ownership interests having ordinary voting power of which shall at the time be so owned or controlled.

“Tax Compliance Agreement” means the Tax Compliance Agreement of Borrower and Issuer dated the Closing Date.

“Terrorism Laws” means Executive Order 13224 issued by the President of the United States of America, the Terrorism Sanctions Regulations (Title 31 Part 595 of the U.S. Code of Federal Regulations), the Terrorism List Governments Sanctions Regulations (Title 31 Part 596 of the U.S. Code of Federal Regulations) and the Foreign Terrorist Organizations Sanctions Regulations (Title 31 Part 597 of the U.S. Code of Federal Regulations), and all other present and future federal, state, and local laws, ordinances, regulations, policies, and any other requirements of any governmental authority (including, without limitation, the United States Department of the Treasury Office of Foreign Assets Control) addressing, relating to, or attempting to eliminate, terrorist acts and acts of war, each as hereafter supplemented, amended, or modified from time to time, and the present and future rules, regulations and guidance documents promulgated under any of the foregoing, or under similar laws, ordinances, regulations, policies, or requirements of other states or localities.

“Title Company” means Cottonwood Title Insurance Agency Inc.

“Title Insurance Policy” means a title insurance policy in the form of an ALTA Loan Policy with extended coverage (without revision, modification or amendment) issued by the Title Company, in form and substance satisfactory to Lender and containing such endorsements as Lender may require (in form and substance satisfactory to Lender in its sole and absolute discretion).

“UCC” means the Uniform Commercial Code as adopted and in effect in the State.

“Unfinanced Capital Expenditures” means all purchases of land, building, and equipment as described in Borrower’s Consolidated Statement of Cash Flows in its annual audited financial statements, but excludes such purchases in which Borrower incurs an obligation to which its credit is pledged in order to make such purchase.

“Unfunded Vested Liabilities” means, with respect to any Plan at any time, the amount, if any, by which (a) the present value of all vested nonforfeitable accrued benefits under such Plan exceeds (b) the fair market value of all Plan assets allocable to such benefits, all determined as of the then most recent valuation date for such Plan, but only to the extent that such excess represents a potential liability of a member of the Controlled Group to the PBGC or such Plan under Title IV of ERISA.

“United States Treasury Rate” means the rate per annum which is the daily yield on United States Treasury Securities, adjusted to a constant maturity of 15 years as published in the Federal Reserve Statistical Release H.15 (519).

“Unencumbered Liquid Assets” means cash, cash equivalents and money market securities and does not include contributions, donations, and cash subject to restrictions imposed by the contributor/donor, as well as any proceeds drawn on the Line of Credit.

“Welfare Plan” means a “welfare plan,” as such term is defined in Section 3(1) of ERISA

Section 1.2 Exhibits. The following exhibits are attached hereto and made a part hereof:

Exhibit A: Project Description and Bond Payments.

Exhibit B: Form of opinion of counsel to Borrower and Guarantor.

Exhibit C: Form of opinion of counsel to Issuer.

Exhibit D: Form of opinion of bond counsel.

Exhibit E-1: Form of Series 2022A Bonds.

Exhibit E-2: Form of Series 2022B Bonds.

Exhibit F: Construction Disbursement Agreement.

Exhibit G: Covenant Compliance Certificate.

Exhibit H: Form of Certificate of Completion.

Exhibit I: Form of Certification of Disbursements.

Section 1.3 Rules of Construction. The singular form of any word used herein, including the terms defined in Section 1.1 hereof, shall include the plural, and vice versa. The use herein of a word of any gender shall include correlative words of all genders.

(a) Unless otherwise specified, references to Articles, Sections, and other subdivisions of this Agreement are to the designated Articles, Sections, and other subdivisions of this Agreement as originally executed. The words “hereof,” “herein,” “hereunder,” and words of similar import refer to this Agreement as a whole.

(b) The headings or titles of the several articles and sections shall be solely for convenience of reference and shall not affect the meaning, construction or effect of the provisions hereof.

## ARTICLE II

### COMPLETION OF PROJECT AND TERMS OF BONDS

Section 2.1 Refunding of Refunded Bonds; Acquisition of Project. Borrower will refund the Refunded Bonds and acquire, improve, construct, install, equip or order the Improvements, which constitute a portion of the Project, pursuant to one or more purchase agreements, ground leases or construction contracts from one or more vendors and contractors. Borrower shall remain liable to the vendors or contractors in respect of its duties and obligations in accordance with each purchase agreement and construction contract and shall bear the risk of loss with respect to any loss or claim relating to any of the Improvements covered by any purchase agreement or construction contracts, and neither Lender nor Issuer shall assume any such liability or risk of loss. Borrower covenants and agrees to pay or cause to be paid (at no additional cost to Issuer) such amounts as may be necessary to complete the improvement, construction, acquisition, equipping and installation of the Improvements and to ensure that the Improvements are operational to the extent that the Series 2022B Bond Proceeds are insufficient to cause such improvement, construction, acquisition, equipping and installation.

Section 2.2 Bonds and Loan. Lender hereby agrees, subject to the terms and conditions of this Agreement, to purchase the Series 2022A Bonds in the amount of \$[2,917,308], and the Series 2022B Bonds in the amount of \$[22,082,692]. Issuer hereby agrees, subject to the terms and conditions of this Agreement, to issue the Bonds and to lend the proceeds to Borrower. Borrower hereby agrees to borrow such proceeds from Issuer.

(a) Upon fulfillment of the conditions set forth in Article III hereof, Lender shall disburse the Series 2022A Bond Proceeds directly to refund the Refunded Bonds. Borrower's obligation to repay the Loan shall commence, and Interest on the Loan shall begin to accrue, on the Closing Date (and corresponding payments on the Series 2022A Bonds by the Issuer shall also commence solely from any such payments on the Loan by the Borrower). The Series 2022A Bonds will be fully registered and will be in the form of Exhibit E-1 attached hereto.

(b) Upon fulfillment of the conditions set forth in Article III hereof, Lender shall disburse [a portion of the Series 2022B Bond Proceeds (\$\_\_\_\_\_) to pay Costs of Issuance as described in the closing memo for the Series 2022 Bonds], and the remainder of the Series 2022B Bond Proceeds (\$\_\_\_\_\_) shall be deposited to the Project Fund. If Borrower directs Lender to disburse the Loan Proceeds directly to Borrower, such direction by Borrower shall be deemed a representation and warranty by Borrower that that portion of the Improvements have been completed free of any liens or encumbrances except for Permitted Encumbrances. Borrower's obligation to repay the Loan shall commence, and Interest on the Loan shall begin to accrue, on the Closing Date (and corresponding payments on the Series 2022B Bonds by the Issuer shall also commence solely from any such payments on the Loan by the Borrower). The Series 2022B Bonds will be fully registered and will be in the form of Exhibit E-2 attached hereto.

Section 2.3 Principal and Interest. (a) Principal on the Series 2022A Bonds shall be amortized over a 30-year period. The Principal amount of the Series 2022A Bonds outstanding

from time to time shall bear interest at the rate of 2.75% per annum. Interest shall accrue from the Closing Date and will be computed on the basis of a 30/360 day year. Principal and interest payments shall be paid semi-annually on each April 21 and October 21 (each, an “Interest Payment Date”), commencing October 21, 2022. Principal of and interest on the Series 2022A Bonds shall be paid in accordance with the repayment schedule attached hereto as Exhibit A.

(b) Principal on the Series 2022B Bonds shall be amortized over a 30-year period. The Principal amount of the Series 2022B Bonds outstanding from time to time shall bear interest at a rate of 2.75% per annum. Interest shall accrue from the Closing Date and will be computed on the basis of a 30/360 day year. Interest payments shall be paid monthly beginning May 21, 2022 through April 21, 2024 and then semi-annually thereafter on each Interest Payment Date. Principal payments shall be paid semi-annually on each Interest Payment Date, commencing October 21, 2024. Principal of and interest on the Series 2022B Bonds shall be paid in accordance with the repayment schedule attached hereto as Exhibit A.

(c) Upon the occurrence of a Determination of Taxability, Borrower shall, with respect to future interest payments on the Loan and the Bonds, begin making Bond Payments calculated at the Gross-Up Rate. In addition, the Borrower shall make immediately, upon demand of the Lender, a payment to the Lender sufficient to reimburse the Lender and to supplement Prior Interest Payments to equal the Gross-Up Rate applicable to such Prior Interest Payments, and such obligation shall survive the termination of this Agreement. Lender acknowledges that payments at the Gross-Up Rate may be amounts that are not excluded from gross income for federal income tax purposes pursuant to Section 103 of the Code. Lender also acknowledges that upon the occurrence of a Determination of Taxability, pursuant to subsection (b) of the definition herein of “Determination of Taxability,” any Prepayment Penalty will be waived.

Section 2.4 Payments. (a) Issuer shall pay the principal of, premium, if any in accordance with Section 2.8 hereof, and Interest on the Bonds, but only and solely out of the amounts paid by Borrower, if any, pursuant to this Agreement. Borrower shall pay to Lender, as assignee of Issuer, Bond Payments, in the amounts and on the dates set forth in Exhibit A hereto, as adjusted. Until Borrower receives written notification to the contrary, all Bond Payments are to be paid in accordance with Borrower’s authorization agreement for pre-arranged payments (debits) in form and substance acceptable to Lender. All other payments due under this Agreement are to be paid to Lender at the address specified by Lender in writing. As security for its obligation to pay the Principal of, premium, if any, in accordance with Section 2.8 hereof, and Interest on the Bonds, Issuer assigns to Lender all of Issuer’s right to receive Bond Payments from Borrower hereunder, all of Issuer’s rights hereunder (except its rights to indemnification and to notices) and all of Issuer’s right, title, and interest in and to the Collateral, and Issuer irrevocably constitutes and appoints Lender and any present or future officer or agent of Lender as its lawful attorney, with full power of substitution and resubstitution, and in the name of Issuer or otherwise, to collect the Bond Payments and any other payments due hereunder and under the Bonds and to sue in any court for such Bond Payments or other payments, to exercise all rights hereunder with respect to the Collateral, and to withdraw or settle any claims, suits, or proceedings pertaining to or arising out of this Agreement upon any terms. Such Bond Payments and other payments shall be made by Borrower directly to Lender, as Issuer’s assignee and holder of the

Bonds, and shall be credited against Issuer's payment obligations hereunder and under the Bonds. No provision, covenant, or agreement contained in this Agreement or any obligation imposed on Issuer herein or under the Bonds, or the breach thereof, shall constitute or give rise to or impose upon Issuer a pecuniary liability, a charge upon its general credit or taxing powers or a pledge of its general revenues. In making the agreements, provisions, and covenants set forth in this Agreement, Issuer has not obligated itself except with respect to the Collateral and the application of the Bond Payments to be paid by Borrower hereunder. All amounts required to be paid by Borrower hereunder shall be paid in lawful money of the United States of America in immediately available funds. No recourse shall be had by Lender or Borrower for any claim based on this Agreement, the Bonds, or the Tax Compliance Agreement against any director, officer, employee, or agent of Issuer alleging personal liability on the part of such person.

(b) This Agreement and the Bonds shall not be deemed to constitute or give rise to a general obligation or liability of Issuer or the State or any political subdivision thereof, or a pledge of or charge against the general credit or taxing power of Issuer or the State or any political subdivision thereof, but shall be a special limited obligation of Issuer payable solely from the Bond Payments payable hereunder by Borrower to Lender as assignee of Issuer and holder of the Bonds. Lender agrees that it shall look solely to Borrower for repayment of the Loan, and that under no circumstances shall Issuer have any liability to Lender or Borrower for Bond Payments.

(c) Borrower shall pay Lender a nonrefundable loan origination fee of \$62,500, due and payable upon the Closing Date. No portion of such fee shall be refunded in the event of failure of Borrower to satisfy all of the requirements for Lender to release all of the Bond Proceeds, early termination of this Agreement or any Event of Default. Such fee shall be a cost of issuance and shall be paid from the Bond Proceeds as provided in Section 2.2 hereof.

Section 2.5 Project Fund; Disbursements. There is hereby established the Project Fund to be held by Lender and used to pay costs of the Improvements. The Lender shall establish and maintain the Project Fund. The Project Fund shall be a separate bank account segregated from other funds of the Lender held in the name of the Borrower. Amounts in the Project Fund may be invested in investments available with or through Lender as directed by Borrower. Each Disbursement from the Project Fund for a cost of the Improvements shall be made only upon the receipt by the Lender of a requisition and certificate signed by an authorized representative of the Borrower and approved by the Lender and otherwise meeting the requirements and conditions of the Construction Disbursement Agreement attached hereto as Exhibit F. Borrower shall reimburse Lender for any costs incurred by Lender in connection with such requisitions and reviews. The Issuer and the Borrower acknowledge and agree that the Lender shall not be obligated to make Disbursements except in accordance with the terms of this Agreement and the Construction Disbursement Agreement attached hereto as Exhibit F.

The Borrower further agrees that it will not request any Disbursement which, if paid, would result in (i) less than substantially all (at least ninety-five percent (95%)) of the Loan Proceeds being used to provide land or property subject to the allowance for depreciation under Section 167 of the Code, (ii) less than all of the Loan Proceeds being used to provide the Improvements under the Act, or (iii) the inclusion of the interest on any of the Bonds in the gross

income of any owner of the Bonds for purposes of federal income taxation. Notwithstanding the foregoing, the Borrower may request a Disbursement to pay costs of issuance with respect to the Bonds not to exceed in total 2% of the Loan Proceeds expected to be available to pay costs of the Project.

Section 2.6 Payment on Non-Business Days. Whenever any payment to be made hereunder or under the Bonds shall be stated to be due on a day which is not a Business Day, such payment may be made on the next succeeding Business Day, and such extension of time shall in such case be included in the computation of Interest and interest on the Bonds hereunder.

Section 2.7 Bond Payments to Be Unconditional. The obligations of Borrower to make the Bond Payments required under this Article II and to make other payments hereunder and to perform and observe the covenants and agreements contained herein shall be absolute and unconditional in all events, without abatement, diminution, deduction, setoff, or defense for any reason, including (without limitation) any failure of the Project to be delivered or installed, any defects, malfunctions, breakdowns, or infirmities in the Project or any accident, condemnation, destruction, or unforeseen circumstances. Notwithstanding any dispute between Borrower and any of Issuer, Lender, any contractor or any other person, Borrower shall make all Bond Payments when due and shall not withhold any Bond Payments pending final resolution of such dispute, nor shall Borrower assert any right of set-off or counterclaim against its obligation to make such payments required under this Agreement.

Section 2.8 Prepayments.

(a) Borrower shall prepay the Loan and the Bonds in whole or in part at any time prepayment is required pursuant to Article IX hereof by paying the applicable Prepayment Amount.

(b) Borrower shall prepay the Loan and the Bonds in full immediately upon demand of Lender after the occurrence of an Event of Default by paying the applicable Prepayment Amount.

Any prepayment shall excuse or reduce the last scheduled Bond Payments owing. All others scheduled Bond Payments shall remain due and owing in full as scheduled until the Loan, the Bonds, and all outstanding interest have been paid in full.

## ARTICLE III

### CONDITIONS PRECEDENT

Section 3.1 Required Documents. Lender's agreement to purchase the Bonds and to disburse the Bond Proceeds shall be subject to the condition precedent that Lender shall have received all of the following, each in form and substance satisfactory to Lender:

- (a) This Agreement, properly executed on behalf of Issuer and Borrower, and each of the Exhibits hereto properly completed.
- (b) The Bonds, properly executed on behalf of Issuer.
- (c) The Notes, properly executed on behalf of the Borrower.
- (d) The Guaranty properly executed by Guarantor.
- (e) The Tax Compliance Agreement, properly executed on behalf of Issuer and Borrower.
- (f) The Deed of Trust properly executed on behalf of and acknowledged by Borrower.
- (g) The Contracts and Permits Assignment Agreement with respect to the Property.
- (h) A certificate of an authorized signatory of Borrower, certifying as to (i) the consents of the [Sole Member of the Borrower], authorizing the execution, delivery, and performance of this Agreement, the other Loan Documents and any related documents, (ii) the Articles and Bylaws of Borrower, and (iii) the signatures of the officers or agents of Borrower authorized to execute and deliver this Agreement, the other Loan Documents and other instruments, agreements, and certificates on behalf of Borrower.
- (i) Currently certified copies of the Certificate of Organization, as amended, Articles of Organization or Articles of Incorporation, as applicable, of Borrower and the Guarantor.
- (j) A Certificate of Existence issued as to Borrower by the Utah Department of Commerce, Division of Corporations and Commercial Code not more than 10 days prior to the Closing Date hereof.
- (k) Certificates of the insurance required under this Agreement.
- (l) A completed and executed Form 8038 or evidence of filing thereof with the Secretary of Treasury.
- (m) A resolution or evidence of other official action taken by or on behalf of Issuer to authorize the transactions contemplated hereby.



(n) Evidence that the issuance of the Series 2022A Bonds for the purpose of refinancing a portion of the Project through the refunding of the Refunded Bonds and the issuance of the Series 2022B Bonds for the purpose of financing the Improvements, which constitute a portion of the Project, has been approved by the “applicable elected representative” of Issuer after a public hearing held upon reasonable notice.

(o) The Title Company’s unconditional commitment to issue the Title Insurance Policy, insuring that the Deed of Trust with respect to the Property is a first lien on the Property, subject only to Permitted Encumbrances.

(p) Financing statements authorized by Borrower, as debtor, and naming Lender, as secured party.

(q) Current searches of appropriate filing offices showing that (i) no state or federal tax liens have been filed and remain in effect against Borrower and (ii) no financing statements have been filed and remain in effect against Borrower relating to the Collateral except those financing statements filed by Lender.

(r) An opinion or opinions of counsel to Borrower and Guarantor, addressed to Lender and Issuer, in the general form attached hereto as Exhibit B, subject to customary assumptions, qualifications, and exceptions.

(s) An opinion of counsel to Issuer, addressed to Lender and Borrower, in the general form attached hereto as Exhibit C, subject to customary assumptions, qualifications, and exceptions.

(t) An opinion of bond counsel, addressed to Issuer and Lender, in the form attached hereto as Exhibit D.

(u) Payment of Lender’s fees, and expenses required by Section 2.4 and Section 12.1 hereof.

(v) Payment of Issuer’s fees, commissions, and expenses incurred in connection with this Agreement and the transactions contemplated hereby.

(w) Any other documents or items reasonably required by Lender.

Section 3.2 Further Conditions. Lender’s agreement to purchase the Bonds, to disburse the Bond Proceeds shall be subject to the further conditions precedent that on the date thereof:

(a) The representations and warranties contained in the Construction Disbursement Agreement and Articles IV, V, VI, VII and VIII hereof are correct on and as of the date of such disbursement as though made on and as of such date, except to the extent that such representations and warranties relate solely to an earlier date;

(b) No event has occurred and is continuing, or would result from the Bonds or the Loan which constitutes a Default, an Event of Default, or a Determination of Taxability;

(c) No material adverse change has occurred in the financial condition or general affairs of Borrower or any Guarantor;

(d) No event has occurred, no court decision has been rendered, and no law or rule has been passed or proposed which may have the effect of changing the federal income tax incidents of Issuer or of ownership of the Bonds or the interest thereon or the transactions contemplated herein; and

(e) No international or national crisis, suspension of stock exchange trading or banking moratorium has occurred which may, in the opinion of Lender, materially affect the market value of the Bonds.

## ARTICLE IV

### REPRESENTATIONS, WARRANTIES AND COVENANTS OF ISSUER

Issuer represents, warrants, and covenants for the benefit of Lender and Borrower, as follows:

(a) Issuer is a political subdivision and body politic of the State, duly created and validly existing under the Constitution and laws of the State.

(b) Issuer will exercise its best efforts to preserve and keep in full force and effect its existence.

(c) Issuer is authorized under the Constitution and laws of the State to issue the Bonds and to enter into this Agreement, the Tax Compliance Agreement, and the transactions contemplated hereby and to perform all of its obligations hereunder.

(d) Issuer has duly authorized the issuance of the Bonds and the execution and delivery of this Agreement and the Tax Compliance Agreement under the terms and provisions of the resolution of its governing body or by other appropriate official approval, and further represents, covenants, and warrants that all requirements have been met and procedures have occurred in order to ensure the enforceability of the Bonds, this Agreement, and the Tax Compliance Agreement against Issuer. Issuer has taken all necessary action and has complied with all provisions of the Act, including but not limited to the making of the findings required by the Act, required to make the Bonds, this Agreement, and the Tax Compliance Agreement the valid and binding obligation of the Issuer.

(e) The officers of the Issuer executing the Bonds, this Agreement, the Tax Compliance Agreement, and any related documents have been duly authorized to issue the Bonds and to execute and deliver this Agreement, and the Tax Compliance Agreement, and such related documents under the terms and provisions of a resolution of Issuer's governing body, or by other appropriate official action.

(f) The Bonds, this Agreement, and the Tax Compliance Agreement are legal, valid, and binding special limited obligations of Issuer, enforceable in accordance with their respective terms, except to the extent limited by bankruptcy, reorganization, or other laws of general application relating to or affecting the enforcement of creditors' rights.

(g) Issuer has assigned to Lender all of Issuer's rights in the Collateral and this Agreement (except any indemnification payable to Issuer, any notice to Issuer pursuant hereto, any fees due to Issuer and any consents required of Issuer under this Agreement) including the assignment of all rights in the security interest granted to Issuer by Borrower.

(h) Issuer will not pledge, mortgage, or assign this Agreement or its duties and obligations hereunder to any person, firm, or corporation, except as provided under the terms hereof.

(i) The issuance of the Bonds, the execution and delivery of this Agreement, or the Tax Compliance Agreement, the consummation of the transactions contemplated hereby or the fulfillment of and compliance with the terms and conditions of the Bonds, this Agreement, or the Tax Compliance Agreement do not violate any law, rule, regulation, or order, conflicts with or results in a breach of any of the terms, conditions, or provisions of any restriction or any agreement or instrument to which Issuer is now a party or by which it is bound or do not constitute a default under any of the foregoing or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Issuer under the terms of any instrument or agreement.

(j) There is no action, suit, proceeding, claim, inquiry, or investigation, at law or in equity, before or by any court, regulatory agency, public board, or body pending or, to the best of Issuer's knowledge, threatened against or affecting Issuer, challenging Issuer's authority to issue the Bonds or to enter into this Agreement, or the Tax Compliance Agreement or any other action wherein an unfavorable ruling or finding would adversely affect the enforceability of the Bonds, this Agreement, or the Tax Compliance Agreement or any other transaction of Issuer which is similar hereto, or the exclusion of the Interest from gross income for federal tax purposes under the Code, or would materially and adversely affect any of the transactions contemplated by this Agreement.

(k) Issuer will submit or cause to be submitted to the Secretary of the Treasury a Form 8038 (or other information reporting statement) at the time and in the form required by the Code.

(l) Issuer will comply fully at all times with the Tax Compliance Agreement, and Issuer will not take any action, or omit to take any action, which, if taken or omitted, respectively, would violate the Tax Compliance Agreement.

(m) Issuer will take no action that would cause the Interest to become includable in gross income for federal income tax purposes under the Code.

(n) Based on representations and information furnished to Issuer by or on behalf of Borrower, Issuer has found that (i) the Bonds will promote the health, safety, and general welfare of the people of the State and in particular those within the boundaries of Issuer and the public purposes of the Act, (ii) the Project is located within the boundaries of the State and a portion of the Project is located within the boundaries of Issuer, and (iii) the Project will constitute a project within the meaning of the Act.

(o) The Bonds have been approved by the City Council of the Issuer (i) as the "applicable elected representative," as that term is defined under the Code, after a public hearing held upon reasonable notice, as required by the Code, and (ii) as required by the Act.

(p) Issuer has not and will not pledge the income and revenues derived from this Agreement other than pursuant to and as set forth herein.

(q) Within the meaning of the Utah Public Officers' and Employees' Ethics Act (Title 67, Chapter 16, Utah Code Annotated 1953, as amended), to the best knowledge

of Issuer after due inquiry, no “public officer” or “public employee” as defined in the Act, has a “substantial interest” in or is an officer, director, agent, employee, or owner of, or investor in, Borrower.

## ARTICLE V

### REPRESENTATIONS, WARRANTIES AND COVENANTS OF BORROWER

Borrower represents, warrants, and covenants for the benefit of Lender and Issuer, as follows:

(a) Borrower (whose Sole Member is a nonprofit corporation) is validly existing and in good standing under the laws of the State, has power to enter into this Agreement and by proper corporate action has duly authorized the execution and delivery of this Agreement and each of the other Loan Documents to which it is a party. Borrower is duly licensed or qualified to transact business in the State and in all jurisdictions where the character of the property owned or leased or the nature of the business transacted by it makes such licensing or qualification necessary. Borrower's exact legal name is as set forth on the execution page hereof.

(b) Borrower represents that (a) it is a single member limited liability company, (b) its sole member is the Sole Member, (c) it has not filed Form 8832 to be treated as a corporation and has not otherwise made an election to be treated as a corporation for federal income tax purposes, (d) the Sole Member has not filed Form 8832 to treat the Borrower as a corporation and has not otherwise made an election to treat the Borrower as a corporation for federal income tax purposes, and (e) the Borrower continues to be treated, or has made an election to be treated, as a single member "disregarded entity" for federal income tax purposes.

(c) Borrower is fully authorized to execute and deliver this Agreement and each of the other Loan Documents to which it is a party by all necessary actions of its Sole Member, or by other appropriate official approval, and further represents, covenants, and warrants that with respect to Borrower, all requirements have been met, and procedures have occurred in order to ensure the enforceability of this Agreement and, each of the other Loan Documents to which it is a party, and each of the other Loan Documents to which it is a party have been duly authorized, executed, and delivered.

(d) The authorized representatives of Borrower executing this Agreement and, each of the other Loan Documents to which it is a party and any related documents have been duly authorized to execute and deliver this Agreement and each of the other Loan Documents to which it is a party and such related documents by all necessary actions of its Sole Member.

(e) This Agreement and each of the other Loan Documents to which it is a party constitute valid and legally binding obligations of Borrower, enforceable against Borrower in accordance with their respective terms, except to the extent limited by bankruptcy, reorganization, general principles of equity, or other laws of general application relating to or affecting the enforcement of creditors' rights.

(f) The execution and delivery of this Agreement and each of the other Loan Documents, the consummation of the transactions contemplated hereby and the fulfillment

of the terms and conditions hereof do not and will not violate any law, rule, regulation, or order, conflict with or result in a breach of any of the terms or conditions of the Articles and Bylaws of Borrower or of any corporate restriction or of any agreement or instrument to which Borrower is now a party or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which Borrower is a party or by which it or its properties are otherwise subject or bound and do not and will not constitute a default under any of the foregoing or result in the creation or imposition of any liens, charges or encumbrances of any nature upon any of the property or assets of Borrower contrary to the terms of any instrument or agreement which would result in a material adverse effect on the Project or the Borrower's ability to perform its obligations hereunder.

(g) The authorization, execution, delivery, and performance of this Agreement and each of the other Loan Documents by Borrower do not require submission to, approval of, or other action by any governmental authority or agency, except (i) such action with respect to this Agreement and the other Loan Documents that has been taken and is final and nonappealable, and (ii) with respect to Borrower's performance, such licenses and permits as are ordinarily required in Borrower's business or as shall be required to construct the Improvements.

(h) No consent or approval of any trustee or holder of any indebtedness of Borrower or any guarantor of indebtedness of or other provider of credit or liquidity to Borrower, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority (except with respect to any state securities or "Blue Sky" laws) is necessary in connection with the execution and delivery of the Borrower Documents by Borrower, or the consummation of any transaction herein or therein contemplated, or the fulfillment of or compliance with the terms and conditions hereof or thereof, except as have been obtained or made and as are in full force and effect.

(i) There is no action, suit, proceeding, claim, inquiry, or investigation, at law or in equity, before or by any court, regulatory agency, public board, or body pending or, to the best of Borrower's knowledge, threatened against or affecting Borrower, challenging Borrower's authority to enter into this Agreement and any other Loan Document to which it is a party or any other action wherein an unfavorable ruling or finding would adversely affect the enforceability of this Agreement or any other Loan Document to which it is a party or any other transaction of Borrower which is similar hereto, or the exclusion of the Interest from gross income for federal tax purposes under the Code, would materially and adversely affect the financial conditions, business or properties of Borrower, which would reasonably be expected to have a Material Adverse Effect, or contesting Borrower's corporate existence or powers, or its status as an organization described in Section 501(c)(3) of the Code or which would subject any income of Borrower to federal income taxation to such extent as would result in loss of the exclusion from gross income for federal income tax purposes of interest on the Bonds under Section 103 of the Code. The execution and delivery of the Loan Documents and compliance with the provisions of each of said documents under the circumstances contemplated thereby and approval of the Loan Documents and the terms thereof, will not in any respect conflict with, or constitute on the part of the Borrower a breach of or default under, any agreement or other instrument to

which the Borrower is a party, or any existing law, administrative regulation, court order or consent decree to which the Borrower is subject.

(j) To the Borrower's best knowledge after due inquiry, (i) during the period of Borrower's ownership of the Collateral, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from any of the Collateral. (ii) Borrower has no knowledge of, or reason to believe that there has been (1) any breach or violation of any Environmental Laws; (2) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Collateral by any prior owners or occupants of any of the Collateral; or (3) any actual or threatened litigation or claims of any kind by any person relating to such matters. Neither Borrower nor any tenant, contractor, agent or other authorized user of any of the Collateral shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from any of the Collateral; and any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations, and ordinances, including without limitation all Environmental Laws. Borrower authorizes Lender and its agents to enter upon the Collateral to make such inspections and tests as Lender may deem appropriate to determine compliance of the Collateral with this section of the Agreement. Any inspections or tests made by Lender shall be at Borrower's expense and for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Borrower or to any other person. The representations and warranties contained herein are based on Borrower's due diligence in investigating the Collateral for hazardous waste and Hazardous Substances. Borrower hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Borrower becomes liable for cleanup or other costs under any such laws, and (2) agrees to indemnify, defend and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Agreement or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release of a Hazardous Substance on the Collateral or a violation or alleged violation of any Environmental Law. The provisions of this section of the Agreement, including the obligation to indemnify and defend, shall survive the payment of the indebtedness and the termination, expiration or satisfaction of this Agreement and shall not be affected by Lender's acquisition of any interest in any of the Collateral, whether by foreclosure or otherwise.

(k) The Project is of the type authorized and permitted to be refinanced/financed with the proceeds of the Bonds pursuant to the Act.

(l) Borrower owns or will own the Project and intends to operate the Project, or cause the Project to be operated, as a "project," within the meaning of the Act, until the date on which all of the Bond Payments have been fully paid or the applicable Prepayment Amount has been fully paid.

(m) Borrower will not take any action that would cause the Interest to become includable in gross income of the recipient for federal income tax purposes under the Code



(including, without limitation, intentional acts under Treas. Reg. § 1.148-2(c) or deliberate action within the meaning of Treas. Reg. § 1.141-2(d)), and Borrower will take and will cause its officers, employees, and agents to take all affirmative actions legally within its power necessary to ensure that the Interest does not become includable in gross income of the recipient for federal income tax purposes under the Code (including, without limitation, the calculation and payment of any rebate required to preserve such exclusion).

(n) Borrower has paid or caused to be paid to the proper authorities when due all federal, state, and local taxes required to be withheld by it. Borrower has filed all federal, state, and local tax returns which are required to be filed, and Borrower has paid or caused to be paid to the respective taxing authorities all taxes as shown on said returns or on any assessment received by it to the extent such taxes have become due.

(o) All financial and other information provided to Lender by or on behalf of Borrower in connection with Borrower's request for the Loan contemplated hereby is true and correct in all material respects and Borrower has not omitted to provide Lender with any information which would be material to Lender's decision to enter into this Agreement and, as to projections, valuations, or pro forma financial statements, present a good faith opinion as to such projections, valuations, and pro forma condition and results.

(p) None of the Collateral constitutes a replacement of, substitution for or accessory to any property of Borrower subject to a lien of any kind.

(q) Borrower will aid and assist Issuer in connection with preparing and submitting to the Secretary of the Treasury a Form 8038 (or other applicable information reporting statement) at the time and in the form required by the Code.

(r) Borrower will comply fully at all times with the Tax Compliance Agreement, and Borrower will not take any action, or omit to take any action, which, if taken or omitted, respectively, would violate the Tax Compliance Agreement, and the representations and warranties in the Tax Compliance Agreement are true and correct.

(s) neither Borrower nor any of its Affiliates is any of the following:

(i) a Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;

(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;

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

(iv) a Person that commits, threatens or conspires to commit or supports "terrorism" as defined in the Executive Order; or

(v) a Person that is named as a “specially designated national and blocked person” on the most current list published by the Office of Foreign Asset Control (“OFAC”) or any list of Persons issued by OFAC pursuant to the Executive Order at its official website or any replacement website or other replacement official publication of such list;

(t) each Plan of the Borrower and each member of the Controlled Group is in compliance in all material respects with ERISA and other laws to the extent applicable thereto, and neither the Borrower nor a member of the Controlled Group has received notice to the contrary from the PBGC or any other governmental authority. Neither the Borrower nor a member of the Controlled Group has any Unfunded Vested Liabilities. No condition exists or event or transaction has occurred with respect to any Plan which could reasonably be expected to result in the incurrence by the Borrower or a member of the Controlled Group of any material liability, fine or penalty. No ERISA Event has occurred which could reasonably be expected to result in a Material Adverse Effect. Neither the Borrower nor its Subsidiaries has any contingent liability with respect to any post-retirement benefits under a Welfare Plan, other than liability for continuation of coverage described in Part 6 of Title I of ERISA;

(u) each Plan of the Borrower and each member of the Controlled Group is in compliance in all material respects with ERISA and other laws to the extent applicable thereto, and neither the Borrower nor a member of the Controlled Group has received notice to the contrary from the PBGC or any other governmental authority. Neither the Borrower nor a member of the Controlled Group has any Unfunded Vested Liabilities. No condition exists or event or transaction has occurred with respect to any Plan which could reasonably be expected to result in the incurrence by the Borrower or a member of the Controlled Group of any material liability, fine or penalty. No ERISA Event has occurred which could reasonably be expected to result in a Material Adverse Effect. Neither the Borrower nor its Subsidiaries has any contingent liability with respect to any post-retirement benefits under a Welfare Plan, other than liability for continuation of coverage described in Part 6 of Title I of ERISA;

(v) Any costs incurred with respect to that part of the Project paid from the Bond Proceeds shall be treated or capable of being treated on the books of Borrower as capital expenditures in conformity with GAAP applied on a consistent basis.

(w) The Borrower, its affiliates and subsidiaries, and any individual or entity owning directly or indirectly any interest in Borrower, are not individuals or entities whose property or interests are subject to being “blocked” under any of the Terrorism Laws or otherwise in violation of any of the Terrorism Laws.

(x) The Project will promote the stimulation of economic growth and the health, safety, and general welfare of the residents of the State and will otherwise further the purposes of the Act.

(y) The use of Bond Proceeds and the Project will be used in furtherance of the Borrower’s charitable, educational or other purpose or function constituting the basis

for its exemption under Section 501 of the Code and will not be used for activities that constitute an unrelated trade or business activity of the Borrower (determined by applying Section 513(a) of the Code).

(z) The Borrower is a limited liability company organized and existing under the laws of the State and disregarded entity for federal income purposes whose Sole Member is a Utah nonprofit corporation which has been determined to be a 501(c)(3) organization and the Borrower and the Sole Member will maintain the status of the Sole Member as a 501(c)(3) organization and will take no action or permit any action to be taken that could result in the alteration or loss of the status of its Sole Member as a 501(c)(3) organization.

(aa) The proceeds of the Bonds will not exceed the Project costs.

(bb) During construction of the Improvements the Borrower will maintain complete and accurate accounting records reflecting the total costs of the Improvements (including but not limited to, the date, payee, amount, invoice number, and backup invoice for each Improvement cost paid), and records reflecting the sources of funds used to pay such costs including Bond Proceeds received by the Borrower pursuant to this Agreement, monthly bank statements showing the deposit of, investment earnings received, and disbursement of Bond Proceeds from the account held by the Lender in accordance with Section 2.5 above, and other funds of the Borrower.

(cc) The Borrower will engage Gilmore & Bell, P.C. (“Compliance Counsel”) or other independent certified public accounting firm or firm of nationally recognized bond counsel reasonably acceptable to the Issuer and the Borrower to provide certain post-issuance tax compliance services, including assistance in the preparation of a final written allocation of Bond proceeds and arbitrage computations. To assist Compliance Counsel with providing post-issuance tax compliance services, the Borrower agrees to provide the information and documentation required by the Tax Compliance Agreement and as requested by Compliance Counsel, including but not limited to (1) simultaneously with each disbursement of Bond proceeds from the Project Fund, completing a certificate in substantially the form attached as Exhibit I hereto (the “Disbursement Certificate”), and (2) providing monthly bank account statements (together with corresponding Disbursement Requests) for the Project Fund to Compliance Counsel.

(dd) Borrower agrees to (i) engage an independent certified public accounting firm or firm of attorneys of nationally recognized standing in order to calculate and (ii) make such payments to the Internal Revenue Service of, any arbitrage rebate that may be owing with respect to the Bonds under Section 148 of the Code and to pay the costs and expenses of said independent certified public accounting firm or firm of attorneys so engaged. The obligation of Borrower to make such payments shall remain in effect and be binding upon Borrower notwithstanding the release and discharge of this Agreement.

(ee) Borrower covenants and represents that it will at all times do and perform all acts and things necessary or desirable and within its reasonable control in order to assure that Interest paid on the Bonds shall not be includable in the gross income of Lender for

federal income tax purposes. Borrower also covenants and represents that it shall not take or omit to take, or permit to be taken on its behalf, any actions which, if taken or omitted, would adversely affect the excludability from the gross income of Lender of Interest paid on the Bonds for federal income tax purposes. Borrower covenants for the benefit of Lender that it will not use the proceeds of the Bonds, any moneys derived, directly or indirectly, from the use or investment thereof or any other moneys on deposit in any fund or account maintained in respect of the Bonds (whether such moneys were derived from the proceeds of the sale of the Bonds or from other sources) in a manner which would cause the Bonds to be treated as “arbitrage bonds” within the meaning of Section 148 of the Code.

(ff) Borrower will take such actions as shall be necessary or desirable, from time to time and within its reasonable control, to cause all of the representations and warranties in this Article to remain true and correct during such periods as shall be necessary to maintain the exclusion of Interest paid on the Bonds from the gross income of Lender for federal income tax purposes, pursuant to the requirements of the Code.

(gg) Borrower will pay to or for the account of Issuer all amounts needed to comply with the requirements of Section 148 of the Code, concerning arbitrage bonds, including Section 148(f), which requires generally a rebate payment to the United States of arbitrage profit from investment of the proceeds of the Bonds in obligations other than tax-exempt obligations. The obligation of Borrower to make such payments is unconditional and is not limited to funds representing the proceeds of the Bonds or income from the investment thereof or any other particular source.

(hh) In no event will Borrower provide collateral to Lender which bears a yield higher than the yield on the Bonds within the meaning of Section 148 of the Code and any lawful regulations promulgated thereunder, except upon receipt by Borrower and Lender of an opinion of bond counsel to the effect that the pledge of such collateral shall not cause the Interest on the Bonds to be included in the gross income of Lender for federal income tax purposes; provided that no such yield restriction or opinion is required with respect to the pledge of any collateral that consists of obligations, the Interest on which is excluded from the gross income of the holder thereof for federal income tax purposes.

(ii) Upon reasonable request and notice, Borrower will obtain all licenses and permits to construct the Improvements and upon request will provide Lender with copies of the same.

(jj) The Borrower shall at all times protect, indemnify and hold the Issuer, and its members, directors, officers, employees, attorneys and agents, harmless against any and all liability, losses, damages, costs, expenses, taxes, causes of action, suits, claims, demands and judgments of any nature arising from or in connection with the acquisition and construction of the Project or the use or occupancy of the Project, including, without limitation, all claims or liability resulting from, arising out of or in connection with the acceptance or administration of the Loan, Bonds or the trusts thereunder or the performance of duties under the Loan Documents or any loss or damage to property or any injury to or death of any person that may be occasioned by any cause whatsoever pertaining to the Project or the use thereof, including without limitation any lease thereof or assignment of

any interest in this Agreement, such indemnification to include the reasonable costs and expenses of defending itself or investigating any claim of liability and other reasonable expenses and attorneys' fees incurred by the Issuer and its members, directors, officers, employees, attorneys and agents, in connection therewith, provided that the benefits of this Section shall not inure to any person other than the Issuer, and its members, directors, officers, employees, attorneys and agents, and provided further that such loss, damage, death, injury, claims, demands or causes shall not have resulted from the gross negligence or willful misconduct of, the Issuer, or its members, directors, officers, employees, attorneys and agents. The obligations of the Borrower under this paragraph shall survive the termination of this Agreement.

## ARTICLE VI

### CONSTRUCTION OF PROJECT AND RELATED COVENANTS

Section 6.1 Beneficial Ownership. Borrower agrees to promptly notify Lender (A) of any change in direct or indirect ownership interests in the Borrower as reported in any beneficial ownership certification provided to Lender in connection with the execution of this Loan Agreement, the Bonds, or the Loan (the “Certification”), or (B) if the individual with significant managerial responsibility identified in the Certification ceases to have that responsibility or if the information reported about that individual changes. Borrower hereby agrees to provide such information and documentation as Lender may request during the term of the Loan to confirm or update the continued accuracy of any information provided in connection with the foregoing.

Section 6.2 Reserved.

Section 6.3 Assignment, Due on Sale or Change of Control. Borrower shall not, without the prior written consent of Lender, mortgage, assign, convey, transfer, sell or otherwise dispose of or encumber (collectively a “conveyance”) the Property, Borrower’s interest in the Project, or any part of the Property, or the income to be derived from the Property. Moreover, Lender has approved the Loan in material reliance upon the ownership and control of Borrower and the Property. It is acknowledged that any change in such ownership or control of (a) Borrower and/or (b) the Project (whether direct or indirect and regardless of the percentage of interest conveyed) materially affects the financial risks anticipated by Lender in extending the Loan. Accordingly, other than as set forth herein or with the prior written consent of Lender, it is and shall be a default under this Agreement, the Deed of Trust, and all of the other Loan Documents for there to be any conveyance of any ownership interest or beneficial interest (regardless of the percentage interest conveyed or whether such interest is held as a partner, member, shareholder, beneficiary or otherwise) in: (i) Borrower or in the Property, or (ii) the operation, management, income, or profits of or fee title to the Property (whether held directly or indirectly), or (iii) any entity holding an ownership or beneficial or controlling interest in Borrower or in the Property or (iv) any entity which through one or more intermediaries holds any ownership interest or beneficial interest, or controlling interest (direct or indirect) in Borrower or the Property. “Control” hereunder means the ability of any person or entity to (1) direct the business operations or voting procedures for any entity, (2) cause the election, selection or the appointment of entity officers or managers, (3) cause the appointment of the management managing any entity or (4) cast a majority of the votes in any election or decision making process for any entity or (5) do any of the foregoing for any intermediary entity holding any ownership or beneficial or majority interest (whether direct or indirect) in Borrower or in the Property.

If this Section 6.3 is breached, at the option of Lender and without demand or notice, the full Principal Amount and other obligations under this Agreement, the Deed of Trust and the other Loan Documents shall immediately become due and payable to Lender. If Lender elects to accelerate payment of the Principal Amount because of a default under this Section 6.3, and if this Agreement or any other Loan Document contains a yield maintenance provision or a prepayment fee or prepayment premium, such acceleration shall be deemed to be a “prepayment” of the Principal Amount under the Bonds, whether or not the accelerated Loan balance is actually paid at the time of the subject conveyance. At the time the Principal Amount is accelerated by

Lender, any prepayment fee or prepayment premium or yield maintenance fee set forth in this Agreement or other Loan Document shall be immediately due and payable to Lender together with the balance of the unpaid Principal Amount and all unpaid accrued interest on the Loan and the Bonds.

The foregoing limitations in this Section 6.3 regarding conveyance and control (collectively a “transfer”) shall not apply to the following situations: (a) a transfer to which Lender has given its prior written consent, (b) a transfer of personal property or equipment due to obsolescence or ordinary wear and tear or fire or casualty and which is promptly replaced by Borrower with personal property or equipment of equal or greater value, or (c) any transfer by Borrower leasing any portion of the Property to a tenant which is expressly permitted pursuant to this Agreement, provided, however, Lender holds a security interest in the lease and a subordination and non-disturbance agreement is granted in favor of Lender on a Lender approved form (unless the same is waived or not required pursuant to this Agreement), or (d) where the transfer under applicable state or federal law governing Lender and the Loan (pursuant to either statutory authority or judicial opinion) expressly prohibits the use, exercise or enforcement of said due on sale or change of control clause in the form set forth in this Section 6.3.

Section 6.4 Unlawful Use, Medical Marijuana, Controlled Substances and Prohibited Activities. Borrower shall not use or occupy or permit the use or occupancy of the Property in any manner that would be a violation of federal, state or local law or regulation, regardless of whether such use or occupancy is lawful under any conflicting law, including without limitation any law relating to the use, sale, possession, cultivation manufacture, distribution or marketing of any controlled substances or other contraband or any law relating to the medicinal use or distribution of marijuana.

Section 6.5 Right of Inspection. Lender or Lender’s agents shall at reasonable times and reasonable notice during the term of the Loan have the right to inspect all work done, labor performed and materials furnished in connection with the Improvements.

Section 6.6 Maintenance of Property. The Borrower will defend the Property against all claims or demands of all Persons (other than the Lender hereunder and other than Permitted Encumbrances) claiming the Property or any interest therein.

Section 6.7 Payment of Interest. Borrower, notwithstanding any other provision in this Agreement or in the Loan Documents, shall pay to Lender the Interest on the Loan and the Bonds and the real estate taxes, if any, and any and all assessments on the Property and the Project as and when the same are due and payable.

Section 6.8 No Encroachments. The Project has been or shall be constructed entirely on the Property and will not encroach upon or overhang any easement or right of way, nor upon the land of others, and when erected shall be wholly within any building restriction lines.

Section 6.9 Insurance. Borrower shall provide and maintain, or cause to be provided and maintained, at all times, the following insurance policies:

(i) Liability Insurance. Bodily injury and general liability insurance with a single limit per accident or occurrence of not less than \$1,000,000.00, and an aggregate of not less than \$2,000,000.00, acceptable to Lender insuring against any and all liability of the insured with respect to the Project or arising out of the maintenance, use or occupancy thereof.

(ii) Property Hazard Insurance. Multi-peril property damage insurance, including, without limitation, fixtures and personal property to the extent they are maintained on the Property, and providing, at a minimum, fire and extended coverage (including all perils normally covered by the standard “all risk” endorsement, if such is available) on a full replacement cost basis in an amount not less than 100% of the insurable value of the Project, exclusive of the Property, foundations and other items normally excluded from coverage (based upon current replacement cost).

(iii) Builder’s Risk Insurance. Builder’s risk extended coverage insurance against loss or damage by fire, lightning, windstorm, hail, explosion, raid, civil calamity, motor vehicles, aircraft, smoke, theft, malicious mischief, and other risks from time to time covered under extended coverage policies in an amount not less than one hundred percent (100%) of the full replacement cost of the Improvements;

(iv) Worker’s Compensation Insurance. Worker’s compensation insurance against liability from claims of workers with respect to and during the period of any work on or about the Property. Borrower shall require the Contractor and each of Contractor’s subcontractors employed to perform work on the Property to carry worker’s compensation insurance prior to the commencement of any work on the Property.

(v) Flood Insurance. Flood insurance in an amount satisfactory to Lender in the event that any material part of the Property is, or will be, within an area designated as a flood hazard area by the Federal Insurance Administration, Department of Housing and Urban Development; and

(vi) Policies and Premiums. All policies of insurance required pursuant to this Section 6.9 shall be in form and substance acceptable to Lender and issued by insurance companies acceptable to Lender. No insurance company shall be acceptable to Lender unless it has a company rating of not less than “A” and a financial rating of not less than Class VIII in the most recent edition of “Best’s Insurance Reports.” All policies of insurance required pursuant to the provisions of this Section 6.9 shall contain a standard “mortgagee protection clause”, shall have attached a “lender’s loss payable endorsement”, and shall name Lender as an additional insured or loss payee, as appropriate. All such policies shall contain a provision that such policies will not be cancelled or materially amended or altered without at least thirty (30) days prior written notice to Lender.



If Lender consents to Borrower providing any of the required insurance through blanket policies carried by Borrower and covering more than one location, then Borrower shall cause the insurance company to deliver to Lender a certificate of insurance, in a form satisfactory to Lender, of such policy which sets forth the coverage, the limits of liability, the name of the carrier, the policy number, expiration date and a statement that the insurance company will not cancel or materially modify or alter the coverage evidenced by the endorsement without first affording Lender at least thirty (30) days prior written notice. In the event Borrower fails to provide, maintain, keep in force or deliver to Lender the policies of insurance required by this Section 6.9 Lender may, but without any obligation to do so, procure such insurance for such risks covering Lender's interest and Borrower shall pay all premiums thereon promptly upon demand by Lender. If Borrower fails to pay any premiums after demand by Lender, Lender, at Lender's option, may advance any sums necessary to maintain and to keep in force such insurance. Any sums so advanced, together with interest on such sums at the Default Rate, shall be secured by the Deed of Trust.

Upon reasonable request and notice, Borrower shall deliver to Lender a copy of the original of each of the policies of insurance that Borrower is required to obtain and maintain, or cause to be provided and maintained, under this Agreement.

As among Lender, Borrower, and Issuer, Borrower assumes all risks and liabilities from any cause whatsoever, whether or not covered by insurance, for loss or damage to the Project and for injury to or death of any person or damage to any property, whether such injury or death be with respect to agents or employees of Borrower or of third parties, and whether such property damage be to Borrower's property or the property of others. Whether or not covered by insurance, Borrower hereby assumes responsibility for and agrees to reimburse Lender and Issuer for and will indemnify, defend, and hold Lender and Issuer harmless from and against all liabilities, obligations, losses, damages, penalties, claims, actions, costs, and expenses (including reasonable attorneys' fees) of whatsoever kind and nature, imposed on, incurred by, or asserted against Lender or Issuer that in any way relate to or arise out of this Agreement, the transactions contemplated hereby and the Project, including but not limited to, (i) the selection, manufacture, purchase, acceptance or rejection of the Project or the ownership of the Project, (ii) the delivery, lease, possession, maintenance, use, condition, return, or operation of the Project, (iii) the condition of the Project sold or otherwise disposed of after possession by Borrower, (iv) any patent or copyright infringement, (v) the conduct of Borrower, its officers, employees, and agents, (vi) a breach of Borrower of any of its covenants or obligations hereunder, and (vii) any claim, loss, cost, or expense involving alleged damage to the environment relating to the Project, including, but not limited to investigation, removal, cleanup, and remedial costs, but excluding any claims based upon breach or default by Lender or gross negligence or willful misconduct of Lender. Lender shall have the sole and complete control of the defense of any such claims as Lender is hereby authorized to settle or otherwise compromise any such claims as

Lender in good faith determines shall be in its best interests. All amounts payable by Borrower pursuant to the immediately preceding sentence shall be paid immediately upon demand of Issuer or Lender, as the case may be. This provision shall survive the termination of this Agreement.

(vii) Hazardous Materials. Borrower shall not cause or permit any Hazardous Materials to be placed, held, located or disposed of on, under or at the Property or any part thereof which are in violation of any Environmental Laws. Borrower further agrees to give notice to Lender immediately upon Borrower's learning of the presence of any Hazardous Materials on the Property which are in violation of any Environmental Laws, to promptly comply with any governmental requirements requiring the removal, treatment or disposal of such Hazardous Materials.

(viii) No Disposition or Merger. Borrower shall not enter into any merger or joint venture with any third party related to the Project, or otherwise dispose of its assets other than in the ordinary course of Borrower's business.

Section 6.10 Lien Free Property. Borrower shall deliver or cause to be delivered a Title Insurance Policy, which is in form and substance reasonably acceptable to Lender, subject only to Permitted Encumbrances and containing such additional endorsements to the Title Policy as the Lender may reasonably request on or prior to [October 21], 2022 with respect to the Property.

Section 6.11 Liens. Borrower shall not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Property, or any portion thereof, or any other real or personal property of Borrower, whether now owned or hereafter acquired (each, a "Lien" and together, "Liens") other than the rights of Lender or the Issuer as herein provided and the Permitted Encumbrances. Borrower shall promptly, at its own expense, take such action as may be necessary duly to discharge or remove any such unpermitted Lien. Borrower shall reimburse Lender for any expenses incurred by Lender to discharge or remove any unpermitted Lien. For the avoidance of doubt, a lease is not considered a "Lien" hereunder.

"Lien Claims" means all claims (including mechanics liens and claims for labor, services, materials and supplies) that by law have or may become a lien upon any of the Collateral or Borrower's interest in the Property or any other property or assets of Borrower. "Impositions" means all rents, taxes, assessments and premiums attributable to the Property. "Lien Claims" do not, however, include any claims or liens which are Permitted Encumbrances.

Notwithstanding anything herein or in any of the other Loan Documents to the contrary, Borrower shall not be required to pay, discharge or remove any Imposition or Lien Claim so long as the following criteria (the "Lien Contest Criteria") shall be satisfied as to the same: (a) Borrower shall contest in good faith the validity, applicability or amount of the Imposition or the Lien Claim by an appropriate legal proceeding which operates to prevent the collection of the secured amounts and the sale of the Property or any portion thereof; (b) prior to the date on which such Imposition or Lien Claim would otherwise have become delinquent, Borrower shall have given Lender and the Issuer written notice of its intent to contest said Imposition or Lien Claim;

(c) Borrower either shall have complied with the Statutory Bond Criteria set forth below or shall have deposited with Lender (or with a court of competent jurisdiction or other appropriate body approved by Lender and the Issuer) such additional amounts as are necessary to keep on deposit at all times, an amount equal to at least 125% (or such higher amount as may be required by applicable law) of the total of the balance of such Imposition or Lien Claim then remaining unpaid, plus all interest, penalties, costs and charges having accrued or accumulated thereon; (d) in the reasonable judgment of Lender, no risk of sale, forfeiture or loss of Borrower's or Lender's interest in the Property or any part thereof within 30 days arises at any time; (e) such contest does not, in Lender's reasonable discretion, have a Material Adverse Effect; (f) such contest is based on bona fide claims or defenses; (g) Borrower shall prosecute any such contest with due diligence; and (h) Borrower shall promptly pay the amount of such Imposition or Lien Claim as finally determined, together with all interest and penalties payable in connection therewith. Anything to the contrary notwithstanding, Lender shall have full power and authority, but no obligation, to advance funds or to apply any amount deposited with Lender under this Section to the payment of any unpaid Imposition or Lien Claim at any time if an Event of Default shall occur, or if Lender reasonably determines that a risk of sale, forfeiture or loss of any interest in the Property or any part thereof within 30 days has arisen. Borrower shall reimburse Lender on demand for all such advances, together with interest thereon at the Default Rate. Any surplus retained by Lender after payment of the Imposition or the Lien Claim for which a deposit was made shall be promptly repaid to Borrower unless an Event of Default shall have occurred, in which case said surplus may be retained by Lender and applied by Lender to any of the Obligation, as Lender may determine in its sole discretion. The "Statutory Bond Criteria" will be deemed satisfied if (i) by statute in the jurisdiction where the Property is located, a bond may be given as security for the particular form of Imposition or Lien Claim in question, with the effect that the Property shall be forever released from any Lien securing such Imposition or Lien Claim; and (ii) Borrower shall cause such a bond to be issued, and Borrower shall comply with all other requirements of law such that the Property shall be forever released from such Lien; and (iii) Borrower shall provide to the Issuer and Lender such evidence of the foregoing as the Issuer and/or Lender may reasonably request.

Section 6.12 Insufficient Funds. Borrower will ensure that there are sufficient funds available to complete the Project.

Section 6.13 Americans with Disabilities Act. The Project, when completed, will be accessible to and usable by persons with disabilities pursuant to the accessibility requirements of the Americans with Disabilities Act, ADA Amendments Act (collectively, the "ADA"), and all applicable implementing regulations promulgated by the U.S. Architectural and Transportation Barriers Compliance Board, U.S. Department of Justice, and by all other applicable agencies, as in effect during construction of the Improvements. The Project, when completed, will comply with all accessibility requirements of the ADA and regulations, together with the requirements of the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities, as in effect during construction of the Improvements.

Section 6.14 Document Imaging. Lender shall be entitled, in its sole discretion, to image or make copies of all or any selection of the agreements, instruments, documents, and items and records governing, arising from or relating to any Bonds, the Loan, this Agreement and the other Loan Documents, and Lender may destroy or archive the paper originals. The parties

hereto (i) waive any right to insist or require that Lender produce paper originals, (ii) agree that such images shall be accorded the same force and effect as the paper originals, (iii) agree that Lender is entitled to use such images in lieu of destroyed or archived originals for any purpose, including as admissible evidence in any demand, presentment or other proceedings, and (iv) further agree that any executed facsimile (faxed), scanned, or other imaged copy of this document or any Loan Document shall be deemed to be of the same force and effect as the original manually executed document.

Section 6.15 Compliance Certificates. At such intervals and in such format as Lender may designate from time to time, upon reasonable notice and request, Borrower shall provide Lender with written certification by Borrower and its attesting principal financial or accounting officer: that all of Borrower's representations and warranties under this Agreement continue to be true, accurate and complete in all material respects; that Borrower is in compliance with all of its affirmative covenants, negative covenants, financial covenants, reporting covenants, and other covenants in this Agreement; that the information in all financial statements Borrower has submitted to Lender, and the computations provided with Borrower's current and prior certificates accurately represent Borrower's financial position as of the dates thereof; that Borrower's submitted financial statements were prepared in accordance with GAAP (except as otherwise disclosed therein); that no event has occurred and no condition exists that constitutes (or with the passage of time and giving of any necessary notice would constitute) an Event of Default under this Agreement.

Section 6.16 Electronic Signatures. The parties to this Agreement expressly agree that they may, but are not obligated to, conduct this transaction electronically, including by scan, email, fax, or other electronic means, under the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq. and the applicable Uniform Electronic Transactions Act, as amended or substituted. The person signing this Agreement by electronic means represents and warrants that he or she is the person represented through the electronic medium, and that he or she has full power and authority to electronically sign this Agreement.

## ARTICLE VII

### AFFIRMATIVE COVENANTS OF BORROWER

So long as the Bond and Loan shall remain unpaid, Borrower will comply with the following requirements:

Section 7.1 Reporting Requirements. Borrower will deliver, or cause to be delivered, to Lender each of the following, which shall be in form and detail acceptable to Lender:

(a) not later than 150 days after and as of the end of each Fiscal Year, commencing with the fiscal year ending 2022, audited financial statements of Borrower in substantially the same form as provided to Lender in the loan application, which financial statements shall include a statement of financial position, statement of activities and changes in net assets and statement of cash flows. The audited financial statements shall be audited by independent certified public accountants reasonably acceptable to Lender and certified, without any qualifications, by such accountants to have been prepared in accordance with GAAP consistently applied, together with a certificate of such accountants addressed to Lender stating that such accountants do not have knowledge of the existence of any event or condition constituting a Default or an Event of Default. Concurrently with the annual delivery of such financial statements, the Borrower shall also deliver the Covenant Compliance Certificate;

(b) not later than 60 days after February 28 of each year, commencing with February 28, 2023, interim financial statements of the Borrower including balance sheet, income statement, or profit and loss statement, to be prepared in accordance with GAAP consistently applied. Concurrently with the annual delivery of interim financial statements, the Borrower shall also deliver the Covenant Compliance Certificate;

(c) not later than September 30 of each year, a copy of the Borrower's approved budget and official enrollment count;

(d) immediately after the commencement thereof, notice in writing of all litigation and of all proceedings before any governmental or regulatory agency affecting Borrower or Guarantor of the type described in Paragraph (i) of Article V hereof or which seek a monetary recovery against Borrower or Guarantor in excess of \$100,000 and not covered by insurance.

(e) as promptly as practicable (but in any event not later than five Business Days) after an Authorized Officer of Borrower obtains knowledge of the occurrence of any event that constitutes a Default or an Event of Default hereunder, notice of such occurrence, together with a detailed statement by an Authorized Officer of Borrower of the steps being taken by Borrower to cure the effect of such Default or Event of Default;

(f) promptly upon knowledge thereof, notice of any loss or destruction of or damage to any Collateral or of any material adverse change in any Collateral;

(g) promptly after the amending thereof, copies of any and all amendments to its certificate of organization, or operating agreement;

(h) promptly upon knowledge thereof, notice of the violation by Borrower or Guarantor of any law, rule, or regulation, including, without limitation, Environmental Laws and laws, rules, and regulations involving Hazardous Substances, which has a material adverse effect on the Collateral or Borrower's or Guarantor's ability to perform its obligations hereunder;

(i) promptly upon knowledge thereof, notice of any event which is likely a Material Adverse Effect; and

(j) promptly upon the occurrence and nature of any Reportable Event or Prohibited Transaction, each as defined in the Employee Retirement Income Security Act of 1974, as amended or recodified from time to time ("ERISA"), or any funding deficiency with respect to any defined employee pension benefit plan (as defined in ERISA) maintained or contributed to by the Borrower;

(k) promptly upon knowledge that any portion of the Property is located in a flood zone designated by the Federal Emergency Management Agency;

(l) from time to time such other information as Lender or Issuer may reasonably request, and with reasonable notice, including, without limitation, other information with respect to any Collateral.

Section 7.2 Books and Records; Inspection and Examination. Borrower will keep accurate books of record and account for itself pertaining to the Collateral and pertaining to Borrower's business and financial condition and such other matters as Lender may from time to time request in which true and complete entries will be made in accordance with GAAP consistently applied and, upon request of Lender, will permit any officer, employee, attorney, or accountant for Lender to audit, review, make extracts from, or copy any and all corporate and financial books, records and properties of Borrower at all times during ordinary business hours, and to discuss the affairs of Borrower with any of its directors, officers, employees, or agents. Borrower will permit Lender, or its employees, accountants, attorneys, or agents, to examine and copy any or all of its records and to examine and inspect the Collateral at any time following prior notice of at least two (2) Business Days during Borrower's business hours.

Section 7.3 Compliance with Laws; Environmental Indemnity. Borrower will (a) comply with the requirements of applicable laws and regulations, the noncompliance with which would materially and adversely affect its business or its financial condition, (b) comply with all applicable Environmental Laws and regulations and obtain any permits, licenses, or similar approvals required by any such laws or regulations, and (c) use and keep the Collateral, and will require that others use and keep the Collateral, only for lawful purposes, without violation of any federal, state, or local law, statute or ordinance. Borrower shall secure all permits and licenses, if any, necessary for the installation and operation of the Collateral. Borrower shall comply in all respects (including, without limitation, with respect to the use, maintenance, and operation of each item of the Collateral) with all laws of the jurisdictions in which its operations involving any

component of Collateral may extend and of any legislative, executive, administrative, or judicial body exercising any power or jurisdiction over the items of the Collateral or its interest or rights under this Agreement. Borrower will indemnify, defend, and hold Lender and Issuer harmless from and against any claims, loss, or damage to which Lender may be subjected as a result of any past, present, or future existence, use, handling, storage, transportation, or disposal of any hazardous waste or substance or toxic substance by Borrower or on property owned, leased or controlled by Borrower. This indemnification shall survive the termination of this Agreement and payment of the indebtedness hereunder and under the Bonds.

Section 7.4 Payment of Taxes and Other Claims. Borrower will pay or discharge, when due, (a) all taxes, assessments, and governmental charges levied or imposed upon it or upon its income or profits, upon any properties belonging to it (including, without limitation, the Collateral) or upon or against the creation, perfection or continuance of the security interest created pursuant to this agreement, prior to the date on which penalties attach thereto, (b) all federal, state and local taxes required to be withheld by it, and (c) all lawful claims for labor, materials, and supplies which, if unpaid, might by law become a lien or charge upon any properties of Borrower; provided, that Borrower shall not be required to pay any such tax, assessment, charge, or claim whose amount, applicability, or validity is being contested in good faith by appropriate proceedings. Borrower will pay, as the same respectively come due, all taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed, or levied against or with respect to the Collateral, as well as all gas, water, steam, electricity, heat, power, telephone, utility, and other charges incurred in the operation, maintenance, use, occupancy, and upkeep of the Collateral.

Section 7.5 Preservation of Company Existence. Borrower will preserve and maintain its nonprofit corporation or corporate existence, as applicable, and all of its rights, privileges, and franchises necessary or desirable in the normal conduct of its business; and shall conduct its business in an orderly, efficient, and regular manner.

Section 7.6 Performance by Lender. If Borrower at any time fails to perform or observe any of the covenants or agreements contained in this Agreement (and in the case of the reports required under Section 7.1(a)-(c) hereof, if such failure shall continue for a period of 10 calendar days after Lender gives Borrower written notice thereof, provided, however, that, if the failure stated in such notice cannot be corrected within such 10-day period, Lender will not unreasonably withhold its consent to an extension of such time for an additional 20-day period if corrective action is instituted by Borrower within the applicable period and diligently pursued until the default is corrected), Lender may, but need not, (upon written notice to the Borrower) perform or observe such covenant on behalf and in the name, place, and stead of Borrower (or, at Lender's option, in Lender's name) and may, but need not, (upon written notice to the Borrower) take any and all other actions which Lender may reasonably deem necessary to cure or correct such failure (including, without limitation, the payment of taxes, the satisfaction of security interests, liens, or encumbrances, the performance of obligations owed to account debtors, or other obligors, the procurement and maintenance of insurance, the execution of assignments, security agreements, and financing statements, and the endorsement of instruments); and Borrower shall thereupon pay to Lender on demand the amount of all moneys expended and all costs and expenses (including reasonable attorneys' fees and legal expenses) incurred by Lender in connection with or as a result of the performance or observance of such agreements or the

taking of such action by Lender, together with interest thereon from the date expended or incurred at the Default Rate. To facilitate the performance or observance by Lender of such covenants of Borrower, Borrower hereby irrevocably appoints Lender, or the delegate of Lender, acting alone, as the attorney in fact of Borrower with the right (but not the duty) from time to time to create, prepare, complete, execute, deliver, endorse, or file in the name and on behalf of Borrower any and all instruments, documents, assignments, security agreements, financing statements, applications for insurance, and other agreements and writings required to be obtained, executed, delivered, or endorsed by Borrower under this Agreement. In no event shall the 10-day period described above extend the 10-day period described in Section 11.1(c) hereof.

Section 7.7 No Pledge of Gross Revenues. Borrower shall not grant to any Person a pledge of or security interest in Gross Revenues without granting Lender with the same pledge of or security interest in such Gross Revenues.

Section 7.8 Denial Clause. If the incurring of any debt by Borrower or the payment of any money or transfer of property to Lender by or on behalf of Borrower or Guarantor should for any reason subsequently be determined to be “voidable” or “avoidable” in whole or in part within the meaning of any state or federal law (collectively “voidable transfers”), including, without limitation, fraudulent conveyances or preferential transfers under the United States Bankruptcy Code or any other federal or State law, and Lender is required to repay or restore any voidable transfers or the amount or any portion thereof, or upon the advice of Lender’s counsel is advised to do so, then, as to any such amount or property repaid or restored, including all reasonable costs, expenses, and attorneys’ fees of Lender related thereto, the liability of Borrower shall automatically be revived, reinstated and restored and shall exist as though the voidable transfers had never been made.

Section 7.9 Coverage Requirement. Borrower shall maintain (using GAAP consistently applied and used consistently with prior practices except to the extent modified by the definitions herein) an Annual Fixed Charge Coverage Ratio of not less than 1.10:1.00, in each case measured annually, commencing with the fiscal year ending 2022.

Section 7.10 Liquidity Requirement. Borrower shall maintain (using GAAP consistently applied and used consistently with prior practices except to the extent modified by the definitions herein) a minimum of \$3,500,000 in Unencumbered Liquid Assets, as of each August 31 and February 28/29, commencing August 31, 2022, and reported pursuant to Section 7.1(c) hereof.

Section 7.11 Compliance with ERISA. Except as would not reasonably be expected to result in a Material Adverse Effect, the Borrower and each member of the Controlled Group shall (a) remain at all times in compliance with all applicable laws (including any legally available grace periods) with respect to any Plan, (b) at no time maintain any Plan that has Unfunded Vested Liabilities, and (c) maintain each Plan as to which it may have any liability in compliance in all material respects with the applicable provisions of ERISA, the failure to comply with which could subject the Borrower or a member of its Controlled Group to any tax or penalty.



## ARTICLE VIII

### NEGATIVE COVENANTS OF BORROWER

So long as the Loan and the Bonds shall remain unpaid, Borrower agrees that:

Section 8.1 Consolidation and Merger. Borrower shall not wind up, liquidate, or dissolve itself, reorganize, merge, or consolidate with or into, or convey, sell, assign, transfer, or otherwise dispose of (whether in one transaction or a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) related to the Project to any person or entity. Borrower will also not engage in any business activities substantially different than those in which Borrower is presently engaged.

Section 8.2 Sale or Release of Assets. Neither Borrower nor Guarantor shall not sell, lease, assign, transfer, or otherwise dispose of all or a substantial part of its or their assets, any of the Collateral, or the Project or any interest therein (whether in one transaction or in a series of transactions), except as otherwise permitted herein.

Section 8.3 Accounting. Borrower will not adopt, permit, or consent to any material change in accounting principles other than as required by GAAP. Borrower will not adopt, permit, or consent to any change in its Fiscal Year without consent of the Lender.

Section 8.4 Modifications and Substitutions. Borrower shall not make any material alterations, modifications, or additions to, or substitutions of, the Collateral without the prior written consent of Lender; provided, however, that any substitutions made pursuant to Borrower's obligations to make repairs referenced under any provision of this Agreement shall not require such prior written consent. Borrower shall provide such documents or assurances as Lender may reasonably request to maintain or confirm the lien in favor of Lender on the Collateral as so altered, modified, or substituted.

Section 8.5 Transfers. Borrower will not in any manner transfer any property related to the Collateral without prior or present receipt of full and adequate consideration.

Section 8.6 Amendment to Organizational Documents. Borrower shall not materially amend its Articles and Bylaws without Lender's prior written consent, which consent shall not be unreasonably withheld.

Section 8.7 Other Defaults. The Borrower will not permit any breach, default or event of default to occur beyond any applicable cure period under any note, loan agreement, indenture, lease, mortgage, contract for deed, security agreement or other contractual obligation binding upon the Borrower or any judgment, decree, order or determination applicable to the Borrower. Notwithstanding the previous sentence, the Borrower shall have the right to contest in good faith by appropriate proceedings any breach, default or event of default, so long as such contest shall not, and shall not have the potential to, adversely affect the Lender's or the Authority's interests hereunder or under any of the other Loan Documents.

Section 8.8 Prohibited Activities. The Borrower shall not use any portion of the proceeds of the Loan to finance or refinance any facility, place or building used or to be used (a) for sectarian instruction or study or as a place for devotional activities or religious worship, or (b) by a Person that is not a 501(c)(3) organization or a governmental entity or by an organization (including Borrower) described in Section 501(c)(3) of the Code (including Borrower) in an unrelated trade or business, in such manner or to such extent as would result in any portion of the Authority Loan being treated as an obligation not described in Section 103(a) of the Code.

Section 8.9 Other Indebtedness. So long as the Borrower is in compliance with the terms and provisions of the Loan Documents and no Default or Event of Default has occurred and is continuing, the Borrower may, in the normal course of business, incur additional indebtedness, secured or unsecured, direct or contingent in an amount up to \$1,750,000 in the aggregate, or in an amount greater than \$1,750,000 in the aggregate only with the prior written consent of the Lender.

## ARTICLE IX

### DAMAGE AND DESTRUCTION; USE OF NET PROCEEDS

Section 9.1 Damage to or Destruction of Property. If the Property is partially or wholly damaged or destroyed by fire or any other cause, and (a) all insurance proceeds received by Lender together with any cash funds delivered by Borrower to Lender are sufficient to fully restore and repair the Property as determined by Lender, in Lender's sole discretion, and (b) Borrower is not in default under any of the Loan Documents, Lender shall disburse such proceeds in the manner provided herein for the disbursement of the proceeds of the Loan toward the cost of such restoration and repair. If Lender determines that such proceeds together with any cash funds provided by Borrower are insufficient to fully restore the Property, Lender will apply any sums received by Lender under this Section first to the payment of all of Lender's costs and expenses (including but not limited to legal fees and costs) incurred in obtaining those sums, and then, in Lender's sole discretion and without regard to the adequacy of its security, to the payment of the Loan. If the amount of such proceeds exceeds the cost of restoration of the Property, Lender shall apply the excess proceeds to the payment of the Loan. If the proceeds of insurance are used to restore the Property and if the total estimated cost to restore the Property exceeds the amount of the proceeds of insurance, Borrower shall deliver to Lender prior to any disbursement of the proceeds of insurance, an amount equal to such difference in cash or cash equivalents satisfactory to Lender. After all obligations of Borrower under the Loan Documents have been paid in full, then all proceeds in excess of such obligations will be paid to Borrower.

Section 9.2 Condemnation. If the Collateral, or any part thereof, shall be condemned for any reason, including without limitation fire or earthquake damage, or otherwise taken for public or quasi-public use under the power of eminent domain, or be transferred in lieu thereof, all damages or other amounts awarded for the taking of, or injury to, the Collateral shall be paid to Lender who shall have the right, in its sole and absolute discretion, to apply the amounts so received against (a) the costs and expenses of Lender, including attorneys' fees incurred in connection with collection of such amounts, and (b) the balance against the amounts due hereunder; provided, however, that if (i) no Event of Default shall have occurred and be continuing hereunder, (ii) Borrower provides evidence satisfactory to Lender of its ability to pay all amounts becoming due hereunder during the pendency of any restoration or repairs to or replacement of the Collateral, (iii) Lender determines, in its sole discretion, that the proceeds of such award are sufficient to restore, repair, replace and rebuild the Collateral as nearly as possible to its value, condition and character immediately prior to such taking (or, if the proceeds of such award are insufficient for such purpose, if Borrower provides additional sums to Lender's satisfaction so that the aggregate of such sums and the proceeds of such award will be sufficient for such purpose), and (iv) Borrower provides evidence satisfactory to Lender that none of the tenants of the Property, if applicable, will terminate their lease agreements as a result of either the condemnation or taking or the repairs to or replacement of the Collateral, the proceeds of such award, together with additional sums provided by Borrower, shall be placed in a separate account for the benefit of Lender and Borrower to be used to restore, repair, replace and rebuild the Collateral as nearly as possible to its value, condition and character immediately prior to such taking. All work to be performed in connection therewith shall be pursuant to a written contract therefor, which contract shall be subject to the prior approval of Lender. To the extent that any funds remain after the Collateral has been so restored and repaired, the same shall be applied

against the amounts due hereunder in such order as Lender may elect. To enforce its rights hereunder, Lender shall be entitled to participate in and control any condemnation proceedings and to be represented therein by counsel of their own choice, and Borrower will deliver, or cause to be delivered to Lender such instruments as may be requested by them from time to time to permit such participation. In the event Lender, as a result of any such judgment, decree, or award, believes that the payment or performance of the Loan or the Bonds is impaired, Lender may declare all of the amounts due hereunder immediately due and payable.

## ARTICLE X

### ASSIGNMENT, SUBLEASING AND SELLING

Section 10.1 Assignment by Lender. This Agreement, and the obligations of Borrower to make payments hereunder, may be assigned and reassigned in whole or in part to one or more assignees or subassignees (who shall be purchaser of the Bonds or an interest therein) by Lender at any time subsequent to its execution, without the necessity of obtaining the consent of Issuer or Borrower; provided, however, that no such assignment or reassignment shall be effective unless and until (a) Issuer and Borrower shall have received notice of the assignment or reassignment disclosing the name and address of the assignee or subassignee, which notice Issuer shall maintain as evidence of the ownership and registration of the Bonds, and (b) in the event that such assignment or reassignment is made to a bank or trust company as trustee for holders of certificates representing interests in this Agreement and the Bonds, such bank or trust company agrees to maintain, or cause to be maintained, a book-entry system by which a record of the names and addresses of such holders as of any particular time is kept and agrees, upon request of Issuer or Borrower, to furnish such information to Issuer or Borrower. Upon receipt of written notice of assignment, Borrower will reflect in a book-entry the assignee designated in such notice of assignment, and shall agree to make all payments to the assignee designated in the notice of assignment, notwithstanding any claim, defense, setoff, or counterclaim whatsoever (whether arising from a breach of this Agreement or otherwise) that Issuer and Borrower may from time to time have against Lender or the assignee. Issuer and Borrower agree to execute all documents, including notices of assignment and chattel mortgages, or financing statements, which may be reasonably requested by Lender or its assignee to protect their interest in the Collateral and in this Agreement. Lender (and any successor or assignee) (not the Issuer or the Borrower) shall be responsible for compliance with law in any transfer or sale of the Bonds and assignment of this Agreement.

Section 10.2 No Sale or Assignment by Borrower. This Agreement and the interest of Borrower in the Collateral may not be sold, assumed, assigned, or further encumbered by Borrower.

## ARTICLE XI

### EVENTS OF DEFAULT AND REMEDIES

Section 11.1 Events of Default. Time is of the essence in this Agreement. The following constitute “Events of Default” under this Agreement:

(a) failure by Borrower to pay to Lender, as assignee of Issuer, when due any Bond Payment or to pay any other payment required to be paid hereunder and the continuation of such failure for a period of 10 days;

(b) failure by Borrower to maintain insurance on the Collateral in accordance with Section 6.9 hereof;

(c) failure by Borrower to observe and perform any other covenant, condition, or agreement contained herein, in any Loan Document to which it is a party, in the Tax Compliance Agreement, or in any other document or agreement executed in connection herewith on its part to be observed or performed for a period of 10 days after written notice is given to Borrower specifying such failure and directing that it be remedied; provided, however, that, if the failure stated in such notice cannot be corrected within such 10-day period, Lender will not unreasonably withhold its consent to an extension of such time for an additional 20-day period if corrective action is instituted by Borrower within the applicable period and diligently pursued until the default is corrected;

(d) initiation by Borrower of a proceeding under any federal or state bankruptcy or insolvency law seeking relief under such laws concerning the indebtedness of Borrower;

(e) Borrower or the Guarantor shall be or become insolvent, or admit in writing its or their inability to pay its or their debts as they mature, or make an assignment for the benefit of creditors; or Borrower or Guarantor shall apply for or consent to the appointment of any receiver, trustee, or similar officer for it or them or for all or any substantial part of its or their property; or such receiver, trustee, or similar officer shall be appointed without the application or consent of Borrower or Guarantor, as the case may be; or Borrower or Guarantor shall institute (by petition, application, answer, consent, or otherwise) any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, liquidation, or similar proceeding relating to it under the laws of any jurisdiction; or any such proceeding shall be instituted (by petition, application, or otherwise) against Borrower or Guarantor; or any judgment, regulatory fine, writ, warrant of attachment, or execution or similar process shall be issued or levied against Borrower or either of the Guarantor which may have a material adverse effect on the ability of Borrower or any of the Guarantors to perform hereunder or under the Guaranty;

(f) determination by Lender that any representation or warranty made by Borrower, Guarantor or Issuer herein, in the Tax Compliance Agreement, or in the Guaranty, or in any other document executed in connection herewith was untrue in any material respect when made;

(g) determination by Lender that any financial statement or report provided by or on behalf of Borrower or any Guarantor was untrue or misleading in any material respect when made;

(h) the making of any order or the entry of any decree by a court of competent jurisdiction enjoining or prohibiting Borrower from performing or satisfying its material covenants, obligations or conditions contained herein and such proceedings are not discontinued or such order or decree is not vacated within 30 days after the making or granting thereof;

(i) if at any time the Deed of Trust or any other applicable Loan Document creating a lien on any of the Collateral may be impaired by any lien, encumbrance or other defect other than the Permitted Encumbrances or an amendment or termination relating to a filed financing statement describing any of the Collateral is improperly filed;

(j) the occurrence of a default or an event of default under any instrument, agreement, or other document evidencing, relating to or securing any indebtedness or other monetary obligation of Borrower or Guarantor;

(k) any litigation or proceeding is commenced before any Governmental Authority against or affecting Borrower or the property of Borrower or any part thereof and such litigation or proceeding is not defended diligently and in good faith by Borrower, and such litigation or proceeding would reasonably be expected to have a Material Adverse Effect on Borrower's ability to perform their respective obligations under the Loan Documents to which it is a party;

(l) the sale of the Borrower to, or merger of the Borrower into, any Person, or the merger of any other Person into the Borrower, or acquisition (in a transaction analogous in the purpose or effect to a consolidation or merger) of all or substantially all of the assets of any other Person by the Borrower or another similar material event, without the prior written consent of the Lender and such consent not to be withheld so long as such sale, merger, or acquisition has no material adverse effect on the general financial condition of the new entity as compared to the prior entity;

(m) Borrower conceals, removes, or permits to be concealed or removed, any part of its property, with intent to hinder, delay or defraud its creditors, or makes or suffers a transfer of any of its property which may be fraudulent under any bankruptcy, fraudulent conveyance or similar law; or makes any transfer of its property to or for the benefit of a creditor at a time when other creditors similarly situated have not been paid; or suffers or permits while insolvent, any creditor to obtain a lien upon any of its property through legal proceedings which is not vacated within sixty (60) days from the date thereof;

(n) Borrower terminates or suspends its business or ceases to exist;

(o) the lien or security interest of the Deed of Trust shall lose validity or first priority, or any liens which are not Permitted Encumbrances are imposed upon the Property (subject to Borrower's rights hereunder to contest such lien) or foreclosure is instituted on any liens against the Property;

(p) any judgment, writ, warrant of attachment or execution or similar process shall be issued or levied against the Borrower or its assets in excess of \$100,000 which is not covered by insurance or which exceeds any applicable insurance policy by more than \$100,000; provided, however, nothing herein shall preclude the Borrower's right to contest in good faith by appropriate proceedings any such judgment, writ, warrant of attachment or execution or similar process;

(q) Guarantor shall repudiate, purport to revoke, or fail to perform such Guarantor's obligations under the Guaranty; or

(r) the occurrence of a default or an event of default under the Line of Credit or any other agreement between Lender or any of its or their affiliates and Borrower.

Section 11.2 Remedies on Default. Whenever an Event of Default described in Section 11.1(e) hereof shall have occurred until such Event of Default has been cured, the Prepayment Amount automatically shall be due and payable, whereupon the Prepayment Amount automatically shall become and be forthwith due and payable without presentment, notice of dishonor, protest, or further notice of any kind, all of which are hereby expressly waived by Borrower. Whenever any other Event of Default shall have occurred, Lender, as assignee of Issuer, shall, as permitted by law, have the right, at its sole option without any further demand or notice, to take any one or any combination of the following remedial steps insofar as the same are available to secured parties under Article 9 of the UCC in effect in the State from time to time and which are otherwise accorded to Lender, as assignee of Issuer, by applicable law, the Guaranty, or under the Deed of Trust:

(a) by notice to Issuer and Borrower, declare the Prepayment Amount to be forthwith due and payable, whereupon the Prepayment Amount, together with additional interest on the principal component at the Default Rate, from date of demand until paid, both before and after judgment, shall become and be forthwith due and payable, without presentment, notice of dishonor, protest, or further notice of any kind, all of which are hereby expressly waived by Borrower;

(b) take possession of the Collateral wherever situated, without any court order or other process of law and without liability for entering the premises, and lease, sublease, or make other disposition of the Collateral for use over a term in a commercially reasonable manner, all for the account of Lender, provided that Borrower shall remain directly liable for the deficiency, if any, between the rent or other amounts paid by a lessee or sublessee of the Collateral pursuant to such lease or sublease during the same period of time, after deducting all costs and expenses, including reasonable attorneys' fees and expenses, incurred with respect to the recovery, repair and storage of the Collateral during such period of time;

(c) take possession of the Collateral wherever situated, without any court order or other process of law and without liability for entering the Property, and sell the Collateral in a commercially reasonable manner. All proceeds from such sale shall be applied in the following manner:



FIRST, to pay all proper and reasonable costs and expenses associated with the recovery, repair, storage, and sale of the Collateral, including reasonable attorneys' fees and expenses;

SECOND, to pay (i) Lender the amount of all unpaid Bond Payments or other obligations (whether direct or indirect owed by Borrower to Lender), if any, which are then due and owing, together with interest and late charges thereon, (ii) Lender the then applicable Prepayment Amount (taking into account the payment of past-due Bond Payments as aforesaid), plus a pro rata allocation of interest, at the rate utilized to calculate the Bond Payments, from the next preceding due date of a Bond Payment until the date of payment by the buyer, and (iii) any other amounts due hereunder, including indemnity payments, taxes, charges, reimbursement of any advances and other amounts payable to Lender or Issuer hereunder; and

THIRD, to pay the remainder of the sale proceeds, purchase moneys or other amounts paid by a buyer of the Collateral to Borrower;

(d) proceed by appropriate court action to enforce specific performance by Borrower of the applicable covenants of this Agreement or to recover for the breach thereof, including the payment of all amounts due from Borrower. Borrower shall pay or repay to Lender or Issuer all costs of such action or court action, including, without limitation, reasonable attorneys' fees;

(e) exercise all rights and remedies under any Loan Document;

(f) take whatever action at law or in equity that may appear necessary or desirable to enforce its rights with respect to the Collateral. Borrower shall pay or repay to Lender or Issuer all costs of such action or court action, including, without limitation, reasonable attorneys' fees;

(g) enter upon any premises where the Collateral or records relating thereto may be and take possession of the Collateral and such records;

(h) exercise all rights and remedies under the UCC, the Guaranty, or the Deed of Trust, existing at law, in equity, or by statute or provided in the Agreement or the Deed of Trust;

(i) upon request of Lender, Borrower shall, at the expense of Borrower, assemble the Collateral and records relating thereto at a place designated by Lender and tender the Collateral and such records to Lender;

(j) without notice to Borrower, Lender may obtain the appointment of a receiver of the business, property and assets of Borrower and Borrower hereby consents to the appointment of Lender or such person as Lender may designate as such receiver;

(k) sell, lease or otherwise dispose of any or all of the Collateral and, after deducting the Liquidation Costs, apply the remainder to pay the obligations secured by the Collateral; and

(l) Lender may, but without obligation and in addition to any other remedies which Lender may have under this Agreement or the other Loan Documents or, by statute or rule of law, enter upon the Property and construct, equip, and complete the construction of the Project in accordance with the Plans and Specifications or such changes in the Plans and Specifications as Lender may from time to time and in Lender's sole discretion deem appropriate, all at the risk, cost and expense of Borrower. Lender shall have the right at any and all times to discontinue any work commenced by Lender in respect to the Project or to change any course of action undertaken by Lender and shall not be bound by any limitations or requirements of time whether set forth in this Agreement or otherwise; Lender shall have the right and power at Lender's option to assume any construction contract made by or on behalf of Borrower in any way relating to the Project and take over and use all or any part or parts of the labor, materials, supplies and equipment contracted for by or on behalf of Borrower, including such equipment and supplies that have theretofore been delivered to the Property or stored in any facility for incorporation into the Property, all in the sole and absolute discretion of Lender. In connection with the completion of the construction of the Project undertaken by Lender pursuant to the provisions of this Agreement, Lender may (a) engage builders, contractors, architects, engineers and others for the purpose of furnishing labor, materials and equipment in connection with the construction of the Project; (b) pay, settle, or compromise all bills or claims which may become liens against the Property or the Project or both, or which have been or may be incurred in any manner in connection with the construction, completion and equipping of the Project or for the discharge of liens, encumbrances, or defects in the title of the Property or the Project; (c) use all or any portion of the undisbursed Bond Proceeds; (d) take such action as Lender may determine to protect the Project or the supplies delivered for incorporation into the Project; and/or (e) charge a fee for services rendered in connection with any of the foregoing. Borrower shall be liable to Lender for all sums paid or incurred by Lender for the completion of construction and equipping the Project, whether the same shall be paid or incurred pursuant to provisions of this Section or otherwise and all payments made or liabilities incurred by Lender under this Agreement of any kind whatsoever, including reasonable attorneys' fees shall be paid by Borrower to Lender upon demand with interest at the Default Rate to the date of payment to Lender. Upon the occurrence of an Event of Default, Borrower hereby irrevocably constitutes and appoints Lender Borrower's true and lawful attorney in fact to execute, acknowledge and deliver any instruments and to do and perform any act such as referred to in this Section in the name and on behalf of Borrower. This power of attorney is irrevocable and is coupled with an interest.

Notwithstanding any other remedy exercised hereunder, Borrower shall remain obligated to pay to Lender any unpaid portion of the Prepayment Amount. Lender shall not have any obligation to clean-up or otherwise prepare any Collateral for sale, lease or other disposition.

Section 11.3 No Remedy Exclusive. No remedy herein conferred upon or reserved to Lender or Issuer is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or the Deed of Trust or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as

may be deemed expedient. In order to entitle Lender or Issuer to exercise any remedy reserved to it in this Article XI, it shall not be necessary to give any notice other than such notice as may be required by this Article XI. All remedies herein conferred upon or reserved to Lender or Issuer shall survive the termination of this Agreement.

Section 11.4 General. In recognition of Lender's right to have all its attorneys fees and expenses incurred in connection with this Agreement secured by the Collateral, notwithstanding payment in full of the obligations secured by the Collateral, Lender shall not be required to release, reconvey, or terminate any security interest in the Collateral unless and until Borrower and the Guarantor have executed and delivered to Lender general releases in form and substance satisfactory to Lender.

Section 11.5 Late Charge. Any Bond Payment or other payment due hereunder not paid by Borrower on the due date thereof shall bear a later charge equal to 5% of the past due amount at that time.

Section 11.6 Default in Payment. If default occurs in the payment of any principal or interest on the loan when due, or if any Event of Default occurs under the Loan Documents, time being the essence hereof, then, notwithstanding anything to the contrary in this Agreement or the Bonds, or any of the other Loan Documents, (a) the entire unpaid balance, shall, at Lender's election and without notice of such election, become immediately due and payable in full, and (b) without notice and whether or not the principal balance has been accelerated, all outstanding principal shall bear interest at such Default Rate from the date when due until paid, both before and after judgment. All outstanding principal shall bear interest at such Default Rate upon the occurrence of any default under the Loan Documents until such default is cured. If the Bonds become in default or payment is accelerated, Borrower agrees to pay to the holder of the Bonds all collection costs, including reasonable attorneys' fees and legal expenses, in addition to all other sums due under this Agreement.

## ARTICLE XII

### MISCELLANEOUS

Section 12.1 Payment of Expenses and Attorney's Fees of Lender and Issuer; Indemnification. Borrower shall pay all reasonable expenses of Lender and Issuer relating to the negotiation, drafting of documents, documentation of the Loan, and administration and supervision of the Loan, including, without limitation, appraisal fees, environmental inspection fees, field examination expenses, title insurance, recording fees, filing fees, and reasonable attorneys fees and legal expenses, whether incurred in making the Loan, in future amendments or modifications to the Loan Documents, or in ongoing administration and supervision of the Loan.

Upon occurrence of an Event of Default, Borrower agrees to pay all costs and expenses, including reasonable attorney fees and legal expenses, incurred by Lender and Issuer in enforcing, or exercising any remedies under, the Loan Documents, and any other rights and remedies. Additionally, Borrower shall pay all Liquidation Costs.

Borrower agrees to pay all expenses, including reasonable attorney fees and legal expenses, incurred by Lender and Issuer in any bankruptcy proceedings of any type involving Borrower, any Guarantor, this Agreement, the Bonds, or the Collateral, including, without limitation, expenses incurred in modifying or lifting the automatic stay, determining adequate protection, use of cash collateral or relating to any plan of reorganization.

TO THE FULLEST EXTENT PERMITTED BY LAW, BORROWER AGREES TO PROTECT, INDEMNIFY, DEFEND AND SAVE HARMLESS ISSUER AND LENDER, THEIR DIRECTORS, OFFICERS, AGENTS, ATTORNEYS, AND EMPLOYEES (EACH AN "INDEMNIFIED PARTY") FOR, FROM, AND AGAINST ANY AND ALL LIABILITY, EXPENSE, OR DAMAGE OF ANY KIND OR NATURE AND FOR, FROM, AND AGAINST ANY SUITS, CLAIMS, OR DEMANDS, INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES ON ACCOUNT OF ANY MATTER OR THING OR ACTION, WHETHER IN SUIT OR NOT, ARISING OUT OF THIS AGREEMENT OR THE LOAN DOCUMENTS, OR IN CONNECTION HERewith, EXCLUDING HOWEVER, ANY MATTERS ARISING OUT OF AN INDEMNIFIED PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OR ANY MATTERS ARISING AFTER LENDER HAS TAKEN TITLE TO OR POSSESSION OF THE PROJECT. Upon receiving knowledge of any suit, claim, or demand asserted by a third party that Issuer or Lender believes is covered by this indemnity, Issuer or Lender, as applicable, shall give Borrower notice of the matter and an opportunity to defend it, at Borrower's sole cost and expense, with legal counsel satisfactory to the Indemnified Party. The Indemnified Party may also require Borrower to so defend the matter. The obligations on the part of Borrower under this Section 12.1 shall survive the closing of the Loan and the repayment thereof.

Section 12.2 Issuer Not Liable. Notwithstanding any other provision of this Agreement, neither Issuer nor any official, officer, agent, servant, or employee of Issuer shall be liable to Borrower, Lender, or any other person for any action taken by Issuer or by any official, officer,

agent, servant, or employee of Issuer under this Agreement or any failure of Issuer or any official, officer, agent, servant, or employee of Issuer to take action under this Agreement.

Section 12.3 Pledge of State. Pursuant to Section 11-17-13, Utah Code Annotated 1953, as amended, Issuer hereby notes the pledge and undertaking of the State that the State will not alter, impair, or limit the rights vested hereunder or in the Bonds, this Agreement, or any of the documents contemplated hereby until the Bonds, together with all Interest thereon, have been fully paid and discharged and all obligations of Issuer thereunder and under this Agreement are fully performed.

Section 12.4 Disclaimer of Warranties. LENDER AND ISSUER MAKE NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR FITNESS FOR USE OF THE PROJECT, OR ANY OTHER WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, WITH RESPECT THERETO. In no event shall Lender or Issuer be liable for any loss or damage in connection with or arising out of this Agreement, the Collateral or the existence, furnishing, functioning, or Borrower's use of any item or products or services provided for in this Agreement.

Section 12.5 Notices. All notices, certificates, requests, demands, and other communications provided for hereunder or under the Tax Compliance Agreement shall be in writing and shall be (a) personally delivered, (b) sent by first class United States mail, (c) sent by overnight courier of national reputation, or (d) transmitted by telecopy, in each case addressed to the party to whom notice is being given at its address as set forth above and, if telecopied, transmitted to that party at its telecopier number set forth above or, as to each party, at such other address or telecopier number as may hereafter be designated by such party in a written notice to the other party complying as to delivery with the terms of this Section 12.5. All such notices, requests, demands, and other communications shall be deemed to have been given on (i) the date received if personally delivered, (ii) when deposited in the mail if delivered by mail, (iii) the date sent if sent by overnight courier, or (iv) the date of transmission if delivered by telecopy. If notice to Borrower of any intended disposition of the Collateral or any other intended action is required by law in a particular instance, such notice shall be deemed commercially reasonable if given (in the manner specified in this Section 12.5) at least 10 calendar days prior to the date of intended disposition or other action.

Section 12.6 Further Assurance and Corrective Instruments. Issuer and 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 Lender reasonably deems necessary or advisable for the implementation, correction, confirmation, or perfection of this Agreement, the Escrow Agreement, each other Loan Document, or the Tax Compliance Agreement and any rights of Lender hereunder or thereunder.

Section 12.7 Binding Effect; Time of the Essence. This Agreement shall inure to the benefit of and shall be binding upon Lender, Issuer, Borrower, and their respective successors and assigns. Time is of the essence.

Section 12.8 Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 12.9 Amendments. To the extent permitted by law, the terms of this Agreement shall not be waived, altered, modified, supplemented, or amended in any manner whatsoever except by written instrument signed by all parties hereto and the parties have obtained an opinion of bond counsel that such amendment or modification will not adversely affect the exclusion of the interest on the Bonds from gross income for federal income tax purposes, and then such waiver, consent, modification, or change shall be effective only in the specific instance and for the specific purpose given.

Section 12.10 Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument, and any of the parties hereto may execute this Agreement by signing any such counterpart.

Section 12.11 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State.

Section 12.12 Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any provisions or sections of this Agreement.

Section 12.13 Entire Agreement. This Agreement, the Tax Compliance Agreement, the other Loan Documents and the exhibits hereto and thereto constitute the entire agreement among Lender, Issuer, and Borrower. There are no understandings, agreements, representations, or warranties, express or implied, not specified herein or in such documents regarding this Agreement or the Project refinanced or financed hereby. PURSUANT TO UTAH CODE SECTION 25-5-4, BORROWER IS NOTIFIED THAT THESE AGREEMENTS ARE A FINAL EXPRESSION OF THE AGREEMENT BETWEEN LENDER AND BORROWER AND THESE AGREEMENTS MAY NOT BE CONTRADICTED BY EVIDENCE OF ANY ALLEGED ORAL AGREEMENT.

All prior and contemporaneous agreements, arrangements and understandings between the parties hereto as to the subject matter hereof are, except as otherwise expressly provided herein, rescinded.

Section 12.14 Limitations of Liability. In no event, whether as a result of breach of contract, warranty, tort (including negligence or strict liability), indemnity or otherwise, shall Lender, its assignees, if any, or Issuer be liable for any special, consequential, incidental, punitive or penal damages, including, but not limited to, loss of profit or revenue, loss of use of the Collateral, service materials or software, damage to associated equipment, service materials or software, cost of capital, cost of substitute property, service materials or software, facilities, services, or replacement power or downtime costs.

Borrower hereby (i) represents that it does not have any defenses to or setoffs against any indebtedness or other obligations owing by Borrower, or by Borrower's affiliates or

principals, to Lender or Lender's affiliates (the "Obligations"), nor any claims against Lender or Lender's affiliates for any matter whatsoever, related or unrelated to the Obligations, and (ii) releases Lender and Lender's affiliates, officers, directors, employees and agents from all claims, causes of action, and costs, in law or equity, known or unknown, whether or not matured or contingent, existing as of the date hereof that Borrower has or may have by reason of any matter of any conceivable kind or character whatsoever, related or unrelated to the Obligations, including the subject matter of this Agreement. The foregoing release does not apply, however, to claims for future performance of express contractual obligations that accrue or mature after the date hereof that are owing to Borrower by Lender or Lender's affiliates. Borrower acknowledges that Lender has been induced to enter into or continue the Obligations by, among other things, the waivers and releases in this Section.

Section 12.15 Waiver of Defenses and Release of Claims. Borrower hereby (i) represents that it does not have any defenses to or setoffs against any indebtedness or other obligations owing by Borrower, or by Borrower's affiliates or principals, to Lender or Lender's affiliates (the "Obligations"), nor any claims against Lender or Lender's affiliates for any matter whatsoever, related or unrelated to the Obligations, and (ii) releases Lender and Lender's affiliates, officers, directors, employees and agents from all claims, causes of action, and costs, in law or equity, known or unknown, whether or not matured or contingent, existing as of the date hereof that Borrower has or may have by reason of any matter of any conceivable kind or character whatsoever, related or unrelated to the Obligations, including the subject matter of this Agreement. The foregoing release does not apply, however, to claims for future performance of express contractual obligations that accrue or mature after the date hereof that are owing to Borrower by Lender or Lender's affiliates. Borrower acknowledges that Lender has been induced to enter into or continue the Obligations by, among other things, the waivers and releases in this Section 12.15.

Section 12.16 Money Laundering Activities. Borrower nor any Guarantor is not (and will not be) a person with whom Lender is restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury of the United States of America (including, those Persons named on OFAC's Specially Designated and Blocked Persons list) or under any statute, executive order (including, the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action and is not and shall not engage in any dealings or transactions or otherwise be associated with such persons. In addition, Borrower hereby agrees to provide to Lender any additional information that Lender deems necessary from time to time in order to ensure compliance with all applicable laws concerning money laundering and similar activities.

Section 12.17 Usury. It is the intention of the parties hereto to comply with any applicable usury laws; accordingly, it is agreed that, notwithstanding any provisions to the contrary in this Agreement, in no event shall this Agreement require the payment or permit the collection of interest or any amount in the nature of interest or fees in excess of the maximum permitted by applicable law.

Section 12.18 Reserved.

Section 12.19 Consent to Utah Jurisdiction and Exclusive Jurisdiction of Utah Courts. Borrower acknowledges that by execution and delivery of this Agreement, Borrower has transacted business in the State and Borrower voluntarily submits to, consents to, and waives any defense to the jurisdiction of courts located in the State as to all matters relating to or arising from this Agreement and/or the transactions contemplated thereby. EXCEPT AS EXPRESSLY AGREED IN WRITING BY LENDER AND EXCEPT AS PROVIDED IN THE ARBITRATION PROVISIONS ABOVE, THE STATE AND FEDERAL COURTS LOCATED IN THE STATE SHALL HAVE SOLE AND EXCLUSIVE JURISDICTION OF ANY AND ALL CLAIMS, DISPUTES, AND CONTROVERSIES, ARISING UNDER OR RELATING TO THIS AGREEMENT AND/OR THE TRANSACTIONS CONTEMPLATED THEREBY. NO LAWSUIT, PROCEEDING, OR ANY OTHER ACTION RELATING TO OR ARISING UNDER THIS AGREEMENT AND/OR THE TRANSACTIONS CONTEMPLATED THEREBY MAY BE COMMENCED OR PROSECUTED IN ANY OTHER FORUM EXCEPT AS EXPRESSLY AGREED IN WRITING BY LENDER.

Section 12.20 Disclosure of Financial and Other Information. Borrower hereby consents to Lender disclosing to any other lender who may participate in this Agreement any and all information, knowledge, reports, and records, including, without limitation, financial statements, relating in any manner whatsoever to the Loan and the Borrower.

Section 12.21 Jury Trial Waiver; Class Action Waiver. As permitted by applicable law, the parties each waive their respective rights to a trial before a jury in connection with any Dispute (as "Dispute" is defined in Section 12.24 hereof), and Disputes shall be resolved by a judge sitting without a jury. If a court determines that this provision is not enforceable for any reason and at any time prior to trial of the Dispute, but not later than thirty (30) days after entry of the order determining this provision is unenforceable, any party shall be entitled to move the court for an order compelling arbitration and staying or dismissing such litigation pending arbitration ("Arbitration Order"). If permitted by applicable law, each party also waives the right to litigate in court or an arbitration proceeding any Dispute as a class action, either as a member of a class or as a representative, or to act as a private attorney general.

Section 12.22 Reliance. Each party (i) certifies that no one has represented to such party that the other party would not seek to enforce jury and class action waivers in the event of suit, and (ii) acknowledges that it and the other party have been induced to enter into this Agreement by, among other things, the mutual waivers, agreements, and certifications in this section.

Section 12.23 Setoff. In addition to any rights and remedies of Lender provided by law, if any Event of Default exists, Lender is authorized at any time and from time to time, without prior notice to Borrower, any such notice being waived by Borrower to the fullest extent permitted by law, to setoff and apply any and all deposits (general or special, time or demand, provisional or final) at any time held by Lender to or for the credit or the account of Borrower against any and all obligations of Borrower under the Loan or any of the Loan Documents, now or hereafter existing, irrespective of whether Lender shall have made demand under the Loan, or otherwise, or under any Loan Document and although such amounts owed may be contingent or unmatured. Lender agrees promptly to notify Borrower after any such setoff and application made by Lender; provided, however, that the failure to give such notice shall not affect the validity



of such setoff and application. The rights of Lender under this Section 12.23 are in addition to the other rights and remedies (including other rights of setoff) which Lender may have.

Section 12.24 Arbitration. If a claim, dispute, or controversy arises between the parties with respect to this Agreement, related agreements, or any other agreement or business relationship between any of the parties whether or not related to the subject matter of this Agreement (all of the foregoing, a “Dispute”), and only if a jury trial waiver is not permitted by applicable law or ruling by a court, any of the parties may require that the Dispute be resolved by binding arbitration before a single arbitrator at the request of any party. By agreeing to arbitrate a Dispute, the parties are giving up any right they may have to a jury trial, as well as other rights the parties would have in court that are not available or are more limited in arbitration, such as the rights to discovery and to appeal.

(a) Arbitration shall be commenced by filing a petition with, and in accordance with the applicable arbitration rules of, JAMS or National Arbitration Forum (“Administrator”) as selected by the initiating party. If the parties agree, arbitration may be commenced by appointment of a licensed attorney who is selected by the parties and who agrees to conduct the arbitration without an Administrator. Disputes include matters (i) relating to a deposit account, application for or denial of credit, enforcement of any of the obligations the parties have to each other, compliance with applicable laws and/or regulations, performance or services provided under any agreement by any party, (ii) based on or arising from an alleged tort, or (iii) involving employees, agents, affiliates, or assigns of a party. However, Disputes do not include the validity, enforceability, meaning, or scope of this arbitration provision and such matters may be determined only by a court. If a third party is a party to a Dispute, the parties each will consent to including the third party in the arbitration proceeding for resolving the Dispute with the third party. Venue for the arbitration proceeding shall be at a location determined by mutual agreement of the parties or, if no agreement, in the city and state where Lender is headquartered.

(b) After entry of an Arbitration Order, the non-moving party shall commence arbitration. The moving party shall, at its discretion, also be entitled to commence arbitration but is under no obligation to do so, and the moving party shall not in any way be adversely prejudiced by electing not to commence arbitration. The arbitrator (i) will hear and rule on appropriate dispositive motions for judgment on the pleadings, for failure to state a claim, or for full or partial summary judgment, (ii) will render a decision and any award applying applicable law, (iii) will give effect to any limitations period in determining any Dispute or defense, (iv) shall enforce the doctrines of compulsory counterclaim, res judicata, and collateral estoppel, if applicable, (v) with regard to motions and the arbitration hearing, shall apply rules of evidence governing civil cases, and (vi) will apply the law of the state specified in the agreement giving rise to the Dispute. Filing of a petition for arbitration shall not prevent any party from (i) seeking and obtaining from a court of competent jurisdiction (notwithstanding ongoing arbitration) provisional or ancillary remedies including but not limited to injunctive relief, property preservation orders, foreclosure, eviction, attachment, replevin, garnishment, and/or the appointment of a receiver, (ii) pursuing non judicial foreclosure, or (iii) availing itself of any self-help remedies such as setoff and repossession. The exercise of such rights shall not constitute a waiver of the right to submit any Dispute to arbitration.

(c) Judgment upon an arbitration award may be entered in any court having jurisdiction except that, if the arbitration award exceeds \$4,000,000.00, any party shall be entitled to a de novo appeal of the award before a panel of three arbitrators. To allow for such appeal, if the award (including Administrator, arbitrator, and attorney's fees and costs) exceeds \$4,000,000.00, the arbitrator will issue a written, reasoned decision supporting the award, including a statement of authority and its application to the Dispute. A request for de novo appeal must be filed with the arbitrator within thirty (30) days following the date of the arbitration award; if such a request is not made within that time period, the arbitration decision shall become final and binding. On appeal, the arbitrators shall review the award de novo, meaning that the parties shall reach their own findings of fact and conclusions of law rather than deferring in any manner to the original arbitrator. Appeal of an arbitration award shall be pursuant to the rules of the Administrator or, if the Administrator has no such rules, then the JAMS arbitration appellate rules shall apply.

(d) Arbitration under this provision concerns a transaction involving interstate commerce and shall be governed by the Federal Arbitration Act, 9 U.S.C. § 1 et seq. This arbitration provision shall survive any termination, amendment, or expiration of this Agreement. If the terms of this provision vary from the Administrator's rules, this arbitration provision shall control.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in their respective names by their duly authorized officers, all as of the date first written above.

Lender:

ZIONS BANCORPORATION, N.A. DBA  
ZIONS FIRST NATIONAL BANK

By: \_\_\_\_\_  
Vice President

Issuer:

SANDY CITY, UTAH

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

Title: Mayor

COUNTERSIGN:

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

Title: City Recorder

Borrower:

WATERFORD SCHOOL, LLC, a Utah limited liability company

BY: Waterford School Holding Corporation, a Utah nonprofit corporation, Its sole member

By: \_\_\_\_\_  
Name:  
Title:

The undersigned Guarantor hereby acknowledges and consents to the foregoing Loan Agreement and makes the affirmative covenants set forth in Section 7.1(d) and (h).

Guarantor:

WATERFORD SCHOOL HOLDING CORPORATION, a Utah nonprofit corporation

By: \_\_\_\_\_  
Name:  
Title:

WATERFORD IMPATIENCE FUND LLC, a Utah limited liability company

By: \_\_\_\_\_  
Name:  
Title:

## EXHIBIT A

### PROJECT DESCRIPTION AND SCHEDULE OF BOND PAYMENTS

The following Project is the subject of the Loan Agreement dated as of April 1, 2022, among Zions Bancorporation, N.A. dba Zions First National Bank (“Lender”), Sandy City, Utah (“Issuer”), and Waterford School, LLC, a Utah limited liability company, the sole member of which is Waterford School Holding Corporation, a Utah nonprofit corporation (“Borrower”):

#### **Description of Project**

The Project refinanced with the Series 2022A Bond proceeds consists of (i) land purchased in 2018, (ii) a residence purchased in 2019 and (iii) a 66,000 square foot fine arts facility (including humanities and math buildings, library, gymnasium, land and general improvements), a 40,000 square foot educational facility (including classrooms, nursery, library and office space) and replacement of carpets, roofs, door entrances, commercial lawn mower and HVAC and acquisition of water rights.

The Project financed with Series 2022B Bonds proceeds consists of the acquisition, construction, furnishing, equipping and improvement of an approximately 38,000 square foot science building and other improvements to the Borrower’s main educational campus.

The Project is or will be located at the following addresses: approximately 1590 East 9400 South in the Issuer.

Schedule of Bond Payments for Series 2022A Bonds

Schedule of Bond Payments for Series 2022B Bonds



EXHIBIT B

FORMS OF OPINIONS OF COUNSEL TO BORROWER AND GUARANTOR

(See Transcript Document Nos. \_\_ and \_\_)

EXHIBIT C

FORM OF OPINION OF COUNSEL TO ISSUER

(See Transcript Document No. \_\_)

EXHIBIT D

FORM OF OPINION OF BOND COUNSEL

(See Transcript Document No. \_\_)

EXHIBIT E-1

SERIES 2022A BOND FORM

THIS BOND MAY NOT BE TRANSFERRED EXCEPT IN ACCORDANCE WITH SECTION 10.1 OF THE AGREEMENT AND AS PROVIDED HEREIN

UNITED STATES OF AMERICA  
STATE OF UTAH  
SANDY CITY, UTAH  
SCHOOL FACILITY REFUNDING BONDS, SERIES 2022A  
(WATERFORD SCHOOL, LLC)

No. R-\_\_ \$\_\_\_\_\_

Interest Rate

Maturity Date

Issue Date

AS STATED BELOW

\_\_\_\_\_, 2022

Registered Owner: ZIONS BANCORPORATION, N.A. DBA ZIONS FIRST NATIONAL BANK

FOR VALUE RECEIVED, Sandy City, Utah, a body politic and corporate duly organized and validly existing under the laws of the State of Utah (the "Issuer"), hereby promises to pay to the Registered Owner specified above, or its registered assigns (each, an "Owner"), on the Maturity Date specified above, unless redeemed prior thereto, an aggregate principal amount equal to \$\_\_\_\_\_ (the "Principal Amount") together with interest thereon at the rates determined as set forth in the Agreement (as hereinafter defined) from the Issue Date specified above, but only from the sources and in the manner provided in the Agreement, semi-annually on each \_\_\_\_\_ and \_\_\_\_\_, commencing \_\_\_\_\_ (each, an "Interest Payment Date") until the principal hereof is paid or duly provided for upon redemption or maturity. Payment of the principal, redemption premium, if any, and interest on this Bond shall be made in lawful money of the United States of America which on the respective dates of payment thereof shall be legal tender for the payment of public and private debts. The Issuer has agreed that all amounts payable to the Owner with respect to any Bond held by the Owner shall be made to the Owner (without any presentment thereof, except upon payment of the final installment of principal, and without any notation of such payment being made thereon) in such manner or at such address in the United States of America as may be designated by the Owner in writing to the Issuer and the Borrower (as hereinafter defined). Partial payments of the principal on this Bond may be noted on the Table of Partial Redemptions attached herein in lieu of surrendering this Bond in connection with such payment. In any case where the date of maturity of the principal, redemption premium, if any, or interest on this Bond or the date fixed for redemption of this Bond shall not be a Business Day, then payment of such principal, redemption premium or interest need not be made on such date but shall be made on the immediately succeeding Business Day, with the same force and

effect as if made on the date of maturity or the date fixed for redemption, and, in the case of such payment, no interest shall accrue for the period from and after such date.

This Bond shall be a limited obligation of the Issuer, the principal of, redemption premium, if any, and interest on which are payable solely from and secured as described in the Agreement, all as described in and subject to limitations set forth in the Agreement, for the equal and ratable benefit of the Owners, from time to time of this Bond.

THE PRINCIPAL OF, REDEMPTION PREMIUM, IF ANY, AND INTEREST ON THIS BOND SHALL NOT CONSTITUTE OR GIVE RISE TO A GENERAL OBLIGATION OR LIABILITY OR A DEBT OR A PLEDGE OF FAITH AND CREDIT OF THE ISSUER, THE STATE OF UTAH, OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE ISSUER. NEITHER THE ISSUER, THE STATE OF UTAH, NOR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE ISSUER SHALL BE OBLIGATED TO PAY PRINCIPAL OF, REDEMPTION PREMIUM, IF ANY, OR INTEREST ON THIS BOND OR OTHER COSTS INCIDENT THERETO EXCEPT FROM REVENUES. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE ISSUER, THE STATE OF UTAH, OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE ISSUER, IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, REDEMPTION PREMIUM, IF ANY, AND INTEREST ON THIS BOND OR OTHER COSTS INCIDENT THERETO.

This Bond is one of the Bonds of a duly authorized issue of bonds of the Issuer known as the Sandy City, Utah School Facility Refunding Bonds, Series 2022A (Waterford School, LLC) (the “Bonds”), dated as of the Issue Date referenced above. All of the Bonds are issued under and pursuant to the laws of the State of Utah, including the Utah Industrial Facilities and Development Act, Title 11, Chapter 17, Utah Code Annotated 1953, as amended (the “Act”), and a Loan Agreement (as amended, restated, supplemented or otherwise modified from time to time, the “Agreement”), dated as of \_\_\_\_\_, 2022, among the Issuer, Waterford School, LLC, a Utah limited liability company, the sole member of which is Waterford School Holding Corporation, a Utah nonprofit corporation (the “Borrower”) and Zions Bancorporation, N.A. dba Zions First National Bank, as Purchaser (the “Purchaser”). Reference is hereby made to the Agreement for the provisions, among others, with respect to the custody and application of the proceeds of the Bonds, the collection and disposition of revenues, a description of the funds charged with and pledged to the payment of the principal of, redemption premium, if any, and interest on the Bonds, the nature and extent of the security for the Bonds, the terms and conditions under which the Bonds are or may be issued, the rights, duties and obligations of the Issuer and the rights of the Owners of the Bonds. By the acceptance of this Bond, the Owner hereof assents to all of the provisions of the Agreement. Capitalized terms used herein and not defined shall have the meanings assigned to them in the Agreement.

The Bonds have been issued for the purpose of (a) refinancing a portion of the costs of the Project (as defined in the Agreement) through the refunding of the Refunded Bonds (as defined in the Agreement), and (b) paying certain costs incurred in connection with the issuance of the Bonds. The Issuer has agreed to lend the proceeds of the sale of the Bonds

to the Borrower, and the Borrower has agreed to make payments in an amount, corresponding to the Principal Amount of, interest rate on, and due dates of the Bonds.

The Bonds are issuable as fully registered Bonds in the principal amount of \$100,000 and multiples of \$0.01 in excess thereof (an "Authorized Denomination"). This Bond may, at the option of the Owner hereof, be exchanged for an equal aggregate principal amount of Bonds of the same aggregate principal amount and tenor as the Bond being exchanged and of any Authorized Denomination as provided in the Agreement. This Bond may be registered as transferred as provided in the Agreement, subject to certain limitations therein contained, accompanied by a written instrument of transfer (in substantially the form of the assignment attached hereto) duly executed by the Owner hereof or his/her duly authorized attorney. Thereupon, one or more new Bonds of any Authorized Denomination and in the same aggregate principal amount and tenor as the Bond surrendered (or for which registration of transfer has been effected) will be issued to the designated transferee or transferees.

The Bonds are subject to redemption as set forth in the Agreement.

Under certain circumstances as described in the Agreement, the principal of all the Bonds may be declared due and payable in the manner and with the effect provided in the Agreement.

Modifications or alterations to the Agreement may be made only to the extent and in the circumstances permitted by the Agreement.

It is hereby certified that all acts, conditions and things required to happen, exist and be performed under the laws of the State of Utah and under the Agreement precedent to and in the issuance of this Bond have happened, exist and have been performed as so required and that the issuance, authentication and delivery of this Bond have been duly authorized by the Issuer.

IN WITNESS WHEREOF, SANDY CITY, UTAH has caused this Bond to be executed in its name and on its behalf by the manual or facsimile signature of the Mayor of the Issuer and its official seal to be impressed or imprinted hereon and attested by manual signature of the City Recorder of the Issuer, all as of the Issue Date referenced above.

SANDY CITY, UTAH

(SEAL)

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

Title: Mayor

ATTEST:

\_\_\_\_\_  
City Recorder

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ (Please print or type the Name and Address, including the Zip Code of the Transferee, and the federal taxpayer identification or social security number) 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 and transfer thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

NOTICE: The signature on this Assignment must correspond with the name as it appears upon the face of the within-mentioned Bond in every particular, without alteration or enlargement or any change whatever.

Signature Guaranteed

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



### TABLE OF PARTIAL REDEMPTIONS

Upon all partial redemptions (whether optional, mandatory or otherwise) the Owner shall make the appropriate notation itself on the table below. The Owner's records relating to the outstanding principal amount of the Bond shall in all cases prevail:

<u>Date</u>	<u>Amount Redeemed</u>	<u>Remaining Unpaid Principal Amount</u>	<u>Signature of Owner</u>

EXHIBIT E-2

SERIES 2022B BOND FORM

THIS BOND MAY NOT BE TRANSFERRED EXCEPT IN ACCORDANCE WITH SECTION 10.1 OF THE AGREEMENT AND AS PROVIDED HEREIN

UNITED STATES OF AMERICA  
STATE OF UTAH  
SANDY CITY, UTAH  
SCHOOL FACILITY REVENUE BONDS, SERIES 2022B  
(WATERFORD SCHOOL, LLC)

No. R-\_\_ \$\_\_\_\_\_

Interest Rate

Maturity Date

Issue Date

AS STATED BELOW

\_\_\_\_\_, 2022

Registered Owner: ZIONS BANCORPORATION, N.A. DBA ZIONS FIRST NATIONAL BANK

FOR VALUE RECEIVED, Sandy City, Utah, a body politic and corporate duly organized and validly existing under the laws of the State of Utah (the "Issuer"), hereby promises to pay to the Registered Owner specified above, or its registered assigns (each, an "Owner"), on the Maturity Date specified above, unless redeemed prior thereto, an aggregate principal amount equal to \$\_\_\_\_\_ (the "Principal Amount"), together with interest thereon at the rates determined as set forth in the Agreement (as hereinafter defined) from the Issue Date specified above, but only from the sources and in the manner provided in the Agreement, semi-annually on each \_\_\_\_\_ and \_\_\_\_\_, with interest payments commencing \_\_\_\_\_ (each, an "Interest Payment Date"), and principal payments commencing \_\_\_\_\_, until the principal hereof is paid or duly provided for upon redemption or maturity. Payment of the principal, redemption premium, if any, and interest on this Bond shall be made in lawful money of the United States of America which on the respective dates of payment thereof shall be legal tender for the payment of public and private debts. The Issuer has agreed that all amounts payable to the Owner with respect to any Bond held by the Owner shall be made to the Owner (without any presentment thereof, except upon payment of the final installment of principal, and without any notation of such payment being made thereon) in such manner or at such address in the United States of America as may be designated by the Owner in writing to the Issuer and the Borrower (as hereinafter defined). Partial payments of the principal on this Bond may be noted on the Table of Partial Redemptions attached herein in lieu of surrendering this Bond in connection with such payment. In any case where the date of maturity of the principal, redemption premium, if any, or interest on this Bond or the date fixed for redemption of this Bond shall not be a Business Day, then payment of such principal, redemption premium or interest need not be made on such date but shall be made

on the immediately succeeding Business Day, with the same force and effect as if made on the date of maturity or the date fixed for redemption, and, in the case of such payment, no interest shall accrue for the period from and after such date.

This Bond shall be a limited obligation of the Issuer, the principal of, redemption premium, if any, and interest on which are payable solely from and secured as described in the Agreement, all as described in and subject to limitations set forth in the Agreement, for the equal and ratable benefit of the Owners, from time to time of this Bond.

THE PRINCIPAL OF, REDEMPTION PREMIUM, IF ANY, AND INTEREST ON THIS BOND SHALL NOT CONSTITUTE OR GIVE RISE TO A GENERAL OBLIGATION OR LIABILITY OR A DEBT OR A PLEDGE OF FAITH AND CREDIT OF THE ISSUER, THE STATE OF UTAH, OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE ISSUER. NEITHER THE ISSUER, THE STATE OF UTAH, NOR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE ISSUER SHALL BE OBLIGATED TO PAY PRINCIPAL OF, REDEMPTION PREMIUM, IF ANY, OR INTEREST ON THIS BOND OR OTHER COSTS INCIDENT THERETO EXCEPT FROM REVENUES. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE ISSUER, THE STATE OF UTAH, OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE ISSUER, IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, REDEMPTION PREMIUM, IF ANY, AND INTEREST ON THIS BOND OR OTHER COSTS INCIDENT THERETO.

This Bond is one of the Bonds of a duly authorized issue of bonds of the Issuer known as the Sandy City, Utah School Facility Revenue Bonds, Series 2022B (Waterford School, LLC) (the “Bonds”), dated as of the Issue Date referenced above. All of the Bonds are issued under and pursuant to the laws of the State of Utah, including the Utah Industrial Facilities and Development Act, Title 11, Chapter 17, Utah Code Annotated 1953, as amended (the “Act”), and a Loan Agreement (as amended, restated, supplemented or otherwise modified from time to time, the “Agreement”), dated as of \_\_\_\_\_, 2022, among the Issuer, Waterford School, LLC, a Utah limited liability company, the sole member of which is Waterford School Holding Corporation, a Utah nonprofit corporation (the “Borrower”) and Zions Bancorporation, N.A. dba Zions First National Bank, as Purchaser (the “Purchaser”). Reference is hereby made to the Agreement for the provisions, among others, with respect to the custody and application of the proceeds of the Bonds, the collection and disposition of revenues, a description of the funds charged with and pledged to the payment of the principal of, redemption premium, if any, and interest on the Bonds, the nature and extent of the security for the Bonds, the terms and conditions under which the Bonds are or may be issued, the rights, duties and obligations of the Issuer and the rights of the Owners of the Bonds. By the acceptance of this Bond, the Owner hereof assents to all of the provisions of the Agreement. Capitalized terms used herein and not defined shall have the meanings assigned to them in the Agreement.

The Bonds have been issued for the purpose of (a) financing a portion of the costs of the Project (as defined in the Agreement), and (b) paying certain costs incurred in connection with the issuance of the Bonds. The Issuer has agreed to lend the proceeds of the sale of the Bonds to the Borrower, and the Borrower has agreed to make payments in

an amount, corresponding to the Principal Amount of, interest rate on, and due dates of the Bonds.

The Bonds are issuable as fully registered Bonds in the principal amount of \$100,000 and multiples of \$0.01 in excess thereof (an "Authorized Denomination"). This Bond may, at the option of the Owner hereof, be exchanged for an equal aggregate principal amount of Bonds of the same aggregate principal amount and tenor as the Bond being exchanged and of any Authorized Denomination as provided in the Agreement. This Bond may be registered as transferred as provided in the Agreement, subject to certain limitations therein contained, accompanied by a written instrument of transfer (in substantially the form of the assignment attached hereto) duly executed by the Owner hereof or his/her duly authorized attorney. Thereupon, one or more new Bonds of any Authorized Denomination and in the same aggregate principal amount and tenor as the Bond surrendered (or for which registration of transfer has been effected) will be issued to the designated transferee or transferees.

The Bonds are subject to redemption as set forth in the Agreement.

Under certain circumstances as described in the Agreement, the principal of all the Bonds may be declared due and payable in the manner and with the effect provided in the Agreement.

Modifications or alterations to the Agreement may be made only to the extent and in the circumstances permitted by the Agreement.

It is hereby certified that all acts, conditions and things required to happen, exist and be performed under the laws of the State of Utah and under the Agreement precedent to and in the issuance of this Bond have happened, exist and have been performed as so required and that the issuance, authentication and delivery of this Bond have been duly authorized by the Issuer.

IN WITNESS WHEREOF, SANDY CITY, UTAH has caused this Bond to be executed in its name and on its behalf by the manual or facsimile signature of the Mayor of the Issuer and its official seal to be impressed or imprinted hereon and attested by manual signature of the City Recorder of the Issuer, all as of the Issue Date referenced above.

SANDY CITY, UTAH

(SEAL)

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

Title: Mayor

ATTEST:

\_\_\_\_\_  
City Recorder

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ (Please print or type the Name and Address, including the Zip Code of the Transferee, and the federal taxpayer identification or social security number) 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 and transfer thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

NOTICE: The signature on this Assignment must correspond with the name as it appears upon the face of the within-mentioned Bond in every particular, without alteration or enlargement or any change whatever.

Signature Guaranteed

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

TABLE OF PARTIAL REDEMPTIONS

Upon all partial redemptions (whether optional, mandatory or otherwise) the Owner shall make the appropriate notation itself on the table below. The Owner's records relating to the outstanding principal amount of the Bond shall in all cases prevail:

<u>Date</u>	<u>Amount Redeemed</u>	<u>Remaining Unpaid Principal Amount</u>	<u>Signature of Owner</u>

[End of Form of Bond]

EXHIBIT F

CONSTRUCTION DISBURSEMENT AGREEMENT



EXHIBIT G

COVENANT COMPLIANCE CERTIFICATE

Zions First National Bank  
Corporate Banking Group  
One South Main Street, 3<sup>rd</sup> Floor  
Salt Lake City, UT 84133

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

RE: Covenant Compliance Certificate for Sandy City, Utah School Facility Refunding Bonds, Series 2022A (Waterford School, LLC) in the sum of \$\_\_\_\_\_ and Sandy City, Utah School Facility Revenue Bonds, Series 2022B (Waterford School, LLC) in the sum of \$\_\_\_\_\_.

In reference and pursuant to the Loan Agreement (the “Loan Agreement”) dated as of \_\_\_\_\_, 2022, among Zions Bancorporation, N.A. dba Zions First National Bank (“Lender”), Sandy City, Utah, and Waterford School, LLC, a Utah limited liability company, the sole member of which is Waterford School Holding Corporation, a Utah nonprofit corporation (“Borrower”), the below authorized officers of the Borrower hereby certify the following:

(1) The representations and warranties made in the Loan Agreement are true and correct.

(2) The Borrower is in full compliance with the Loan Agreement; there is currently no Default, to Borrower’s knowledge, or Event of Default under the terms of the Loan Agreement.

(3) The enclosed financial statements (balance sheets and statements of income and cash flow) for the period ending \_\_\_\_\_ are:

(i) Prepared in accordance with GAAP and applied on a consistent basis.

(ii) True and correct in all material respects.

(iii) Fairly present the financial condition and performance of the Borrower.

(4) The attached computations of financial covenants are prepared in compliance with the terms of the Loan Agreement and are accurate in all material respects.

(5) The Annual Fixed Charge Coverage Ratio is \_\_\_\_\_, which meets the requirement of the Loan Agreement of not less than 1.10:1:00.

(6) The Unencumbered Liquid Assets as of \_\_\_\_\_ is \$\_\_\_\_\_, which meets the requirement of the Loan Agreement of a minimum of \$3,500,000.

DATED \_\_\_\_\_

WATERFORD SCHOOL HOLDING  
CORPORATION

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

Its: \_\_\_\_\_

WATERFORD SCHOOL, LLC

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

Its: \_\_\_\_\_

[COMPUTATIONS ATTACHED IN FORM PROVIDED BY LENDER]

EXHIBIT H

FORM OF CERTIFICATE OF COMPLETION

EXHIBIT I

FORM OF CERTIFICATION OF DISBURSEMENTS

Application No. \_\_\_\_\_

Date: \_\_\_\_\_

CERTIFICATION REGARDING DISBURSEMENTS FROM PROJECT FUND

The undersigned intends to disburse the following amounts to the listed payees for the following costs of the Improvements as defined in the Loan Agreement dated as of April 1, 2022, among Zions Bancorporation, N.A. dba Zions First National Bank, Sandy City, Utah and Waterford School, LLC:

<u>Amount</u>	<u>Payee</u>	<u>Description of Project Cost</u>	<u>Date of Payment</u>	<u>Invoice No. or other Reference Information</u>
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I hereby state and certify that:

(i) each item for which payment is requested is a Project Purpose (as defined in the Loan Agreement) and was necessary and appropriate in connection with the Improvements (as defined in said Loan Agreement);

(ii) the amount requested for Project Purposes either has been paid by the Borrower or is currently due and payable;

(iii) the fair value of each item of costs for Project Purposes is not exceeded by the amount requested to be withdrawn;

(iv) the amount requested for each item of cost for Project Purposes does not exceed the costs to the Borrower of said item; and

(v) none of the items of costs for Project Purposes for which payment is being requested has been or is being made the basis for the withdrawal of any moneys in previous or pending applications for loan advancements or has been included in any other Certification Regarding Disbursements.

WATERFORD SCHOOL, LLC

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

Title: \_\_\_\_\_