

INDENTURE

Recitals:

WHEREAS, the Authority is a public instrumentality of the State of California, created by the California Educational Facilities Authority Act (constituting Chapter 2 (commencing with Section 94100) of Part 59 of Division 10 of Title 3 of the Education Code of the State of California) (the “Act”), authorized to issue revenue bonds and to loan the proceeds thereof to a participating private college or a participating nonprofit entity (both as defined in the Act) for the acquisition or construction of projects (as defined in the Act), to refund existing bonds, mortgages, or advances or other obligations incurred, given, or made by a participating private college for the acquisition or construction of any projects, to loan the proceeds thereof to a participating private college for the purpose of refinancing projects not originally funded pursuant to the Act (including repayment of costs, as defined in the Act), and to refund existing bonds or notes of the Authority;

WHEREAS, _____ (the “Borrower”) is a nonprofit [public benefit/religious] corporation duly organized and existing under the laws of the State of California;

[WHEREAS, the Authority/[name of issuer] has previously issued its Revenue Bonds (_____), Series ____ (the “Prior Bonds”), in the aggregate principal amount of \$_____, of which \$_____ currently is outstanding, and made a loan (the “Prior Loan”) of the proceeds thereof to the Borrower to finance or refinance the acquisition or construction of projects, as more particularly described under the caption “Prior Project” in EXHIBIT A hereto (the “Prior Project”)/[and made a loan (“the Prior Loan”) of the proceeds thereof to the Borrower for the purposes of financing or refinancing certain projects, as more particularly described under the caption “Prior Project” in Exhibit A hereto (the “Prior Project”), not originally funded pursuant to the Act];]

WHEREAS, the Borrower has requested that the Authority issue its revenue bonds in an aggregate principal amount of \$_____ [(i) to refund all or a portion of the outstanding Prior Bonds, (ii) to make a loan of the proceeds of the Bonds (as defined below) to the Borrower (a) to refinance the Prior Loan and (b) to acquire and construct projects (as defined in the Act), as more particularly described under the caption “New Project” in Exhibit A hereto (the [“New Project” and, together with the Prior Project, the] “Project”), (iii) to pay costs of issuance of the Bonds, and (iv) to provide a bond reserve fund for the Bonds];

WHEREAS, the Authority has authorized the issuance of the Authority’s Revenue Bonds (_____), Series ____ (the “Bonds”), in an aggregate principal amount of \$_____ and the loan of the proceeds thereof to the Borrower for the purposes set forth in the above recital;

WHEREAS, the Authority has entered into a loan agreement, dated as of _____, ____ (the “Loan Agreement”), with the Borrower, specifying the terms and conditions of a loan by the Authority to the Borrower of the proceeds of the Bonds;

[WHEREAS, describe liquidity/credit facility, reimbursement agreement, bond insurance, etc.;

WHEREAS, in order to provide for the authentication and delivery of the Bonds, to establish and declare the terms and conditions upon which the Bonds are to be issued and secured and to secure the payment of the principal [and purchase price]thereof, premium, if any, and interest thereon, the Authority has authorized the execution and delivery of this Indenture;

WHEREAS, the Bonds and the Bond Trustee's certificate of authentication and assignment to appear thereon shall be in substantially the form set forth in Exhibit A hereto and incorporated into this Indenture by this reference, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Indenture; and

WHEREAS, all acts and proceedings required by law necessary to make the Bonds, when executed by the Authority, authenticated and delivered by the Bond Trustee and duly issued, the valid, binding and legal limited obligations of the Authority, and to constitute this Indenture a valid and binding agreement for the uses and purposes herein set forth in accordance with its terms, have been done and taken, and the execution and delivery of this Indenture have been in all respects duly authorized;

Definitions:

Administrative Fees and Expenses

“Administrative Fees and Expenses” means the reasonable and necessary expenses incurred by the Authority pursuant to the Loan Agreement or this Indenture, or incurred by its officers, directors, members, attorneys, agents or employees in the administration and execution of the Loan Agreement and this Indenture, including Additional Payments.

Authorized Representative

“Authorized Representative” means, with respect to the Authority, its Chairman (or any Deputy), Executive Director, or any other Person or Persons designated as an Authorized Representative of the Authority by a Certificate of the Authority signed by its Chairman (or any Deputy), or Executive Director. Such authorization shall remain in effect until the Bond Trustee has received written notice to the contrary accompanied by a new designation.

Environmental Laws

“Environmental Laws” means any federal, state or local law, statute, code, ordinance, regulation, requirement or rule relating to dangerous, toxic or hazardous pollutants, Hazardous Materials, chemical waste, materials or substances to which Borrower or its properties are subject.

ERISA

“ERISA” means the Employee Retirement Income Security Act of 1974.

Hazardous Materials

“Hazardous Materials” 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 Project [or the Prior Project] or to persons on or about the Project [or the Prior Project] or (ii) cause the Project [or the Prior Project] 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, the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 USC §§ 9601 et seq.; the Resource Conservation and Recovery Act (“RCRA”), 42 USC §§ 6901 et seq.; the Hazardous Materials Transportation Act, 49 USC §§ 1801 et seq.; the Federal Water Pollution Control Act, 33 USC §§ 1251 et seq.; the California Hazardous Waste Control Law (“HWCL”), Cal. Health & Safety Code §§ 25100 et seq.; the Hazardous Substance Account Act (“HSAA”), Cal. Health & Safety Code §§ 25300 et seq.; the Underground Storage of Hazardous Substances Act, Cal. Health & Safety Code §§ 25280 et seq.; the Porter-Cologne Water Quality Control Act (the “Porter-Cologne Act”), Cal. Water Code §§ 13000 et seq., the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65); and Title 22 of the California Code of Regulations, Division 4, Chapter 30; (d) 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 Project [or the Prior Project] or the owners and/or occupants of property adjacent to or surrounding the Project [or the Prior Project], or any other person coming upon the Project [or the Prior Project] or adjacent property; or (e) any other chemical, materials or substance which may or could pose a hazard to the environment.

Hazardous Material Activity

“Hazardous Material Activity” means any actual, proposed or threatened storage, holding, existence, release, emission, discharge, generation, processing, abatement, removal, disposition, handling or transportation or any Hazardous Materials from, under into or on the Project or surrounding property.

Release

“Release” means any release, spill, emission, leaking, pumping, pouring, injection, escaping, deposit, disposal, discharge, dispersal, leaching, or migration into the indoor or outdoor environment (including, without limitation, the abandonment or disposal of any barrels, containers or other closed receptacles containing any Hazardous Materials), or into or out of the Project, including the movement of any Hazardous Materials through the air, soil, surface water, groundwater or property.

Revenues

*The definition of “Revenues” must exclude all categories of payments to the Authority for its own benefit, such as “Additional Payments.”

Exception from Pledge and Assignment by Authority to Trustee of its rights in the Loan Agreement:

(except for (i) the right to receive any Administrative Fees and Expenses to the extent payable to the Authority, (ii) any rights of the Authority to be indemnified, held harmless and defended and rights to inspection and to receive notices, certificates and opinions, (iii) express rights to give approvals, consents or waivers, and (iv) the obligation of the Borrower to make deposits pursuant to the Tax Certificate)

Notice of Redemption:

*Confirm that Bond Trustee is required to give copy of notice of redemption (other than scheduled sinking fund redemption) to the Authority.

Authority’s Non-Obligation To Enforce Rights under Indenture and Loan Agreement:

*Add to remedies section:

Notwithstanding anything to the contrary in this Indenture, the Authority shall have no obligation to and instead the Bond Trustee may, without further direction from the Authority, take any and all steps, actions and proceedings, to enforce any or all rights of the Authority (other than those specifically retained by the Authority pursuant to this Indenture) under this Bond Indenture, the Loan Agreement [any applicable security documents], including, without limitation, the rights to enforce the remedies upon the occurrence and continuation of an Event of Default and the obligations of the Borrower under the Loan Agreement.

Defeasance:

*Add to defeasance section:

, provided that, prior to the Bond Trustee paying over, transferring, assigning or delivering to the Borrower such moneys, securities or other property, all Administrative Fees and Expenses and any indemnification owed the Authority shall have been paid.

Liability of Authority Limited to Revenues:

The Bonds shall not be deemed to constitute a debt or liability of the State of California or of any political subdivision thereof other than the Authority or a pledge of the faith and credit of the State of California or of any political subdivision thereof, but shall be payable solely from the funds herein provided. Neither the State of California nor the Authority shall be obligated to pay the principal [or the purchase price] of the Bonds or the premium, if any, or the interest thereon except from Revenues and the other assets pledged hereunder and neither the faith and credit nor the taxing power of the State of California or of any political subdivision thereof is pledged to the payment of the principal [or the purchase price] of or the premium, if any, or the interest on the Bonds. The issuance of the Bonds shall not directly or indirectly or contingently

obligate the State of California or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. The Authority has no taxing power. Notwithstanding anything in this Indenture or in the Bonds contained, the Authority shall have no pecuniary liability under this Indenture except that which can be satisfied from Revenues and the other assets pledged hereunder, and the Authority shall not be required to advance any moneys derived from any source other than Revenues and the other assets pledged hereunder for any of the purposes in this Indenture mentioned, whether for the payment of the principal [or purchase price] of or the premium, if any, or the interest on the Bonds or for any other purpose of this Indenture. Nevertheless, the Authority may, but shall not be required to, advance for any of the purposes hereof any funds of the Authority which may be made available to it for such purposes.

Waiver of Personal Liability:

No member, officer, official, agent or employee of the Authority shall be individually or personally liable for the payment of the principal [or purchase price] of the Bonds or the premium, if any, or interest on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof; but nothing herein contained shall relieve any such member, officer, official, agent or employee of the Authority from the performance of any official duty provided by law or by this Indenture.

Notices:

To the Authority at: California Educational Facilities Authority
915 Capitol Mall, Suite 590
Sacramento, California 95814
Attention: Executive Director
Telephone: (916) 653-2872
Facsimile: (916) 653-2179

Governing Law:

The laws of the State of California govern all matters arising out of or relating to this Indenture and the Bonds, including, without limitation, their validity, interpretation, construction, performance, and enforcement.

Any party bringing a legal action or proceeding against any other party arising out of or relating to this Indenture shall bring the legal action or proceeding in Sacramento County Superior Court, Sacramento, California, unless the Authority waives this requirement in writing. Each party agrees that the exclusive (subject to waiver as set forth herein)_choice of forum set forth in this section does not prohibit the enforcement of any judgment obtained in that forum or any other appropriate forum. Each party waives, to the fullest extent permitted by law, (a) any objection which may now or later have to the laying of venue of any legal action or proceeding arising out of or relating to this Indenture brought in the Sacramento County Superior Court, Sacramento, California, and (b) any claim that any such action or proceeding brought in such court has been brought in an inconvenient forum.

Signature Block:

CALIFORNIA EDUCATIONAL FACILITIES
AUTHORITY

By: _____
Deputy Treasurer
For Chairman, State Treasurer [Treasurer's Name]

By: _____
Executive Director

Bond Form:

Bond Face

The following must appear on the face of each bond:

This Bond shall not be deemed to constitute a debt or liability of the State of California or of any political subdivision thereof other than the California Educational Facilities Authority (the "Authority") or a pledge of the faith and credit of the State of California or of any political subdivision thereof, but shall be payable solely from the funds therefor provided. Neither the State of California nor the Authority shall be obligated to pay the principal [or the purchase price] of this Bond or the premium, if any, or the interest hereon except from Revenues and the other assets pledged under the Indenture and neither the faith and credit nor the taxing power of the State of California or of any political subdivision thereof is pledged to the payment of the principal [or the purchase price] of or the premium, if any, or the interest on this Bond. The issuance of the Bonds shall not directly or indirectly or contingently obligate the State of California or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. The Authority has no taxing power.

Signature Block

IN WITNESS WHEREOF, the California Educational Facilities Authority has caused this Bond to be executed in its name and on its behalf by the manual or facsimile signature of its Chairman and its seal to be reproduced hereon, all as of the date set forth above.

CALIFORNIA EDUCATIONAL FACILITIES
AUTHORITY

By: _____
Chairman

(SEAL)