
AUTHORITY LOAN AGREEMENT

dated _____, 20__

between

CALIFORNIA SCHOOL FINANCE AUTHORITY

and

[BORROWER]

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AUTHORITY LOAN AGREEMENT

This Authority Loan Agreement (this “Authority Loan Agreement”) is made on _____, 20___, between the California School Finance Authority, a California public instrumentality (the “Authority”), and [BORROWER], a California [nonprofit public benefit corporation/limited liability company] (the “Borrower”).

INTRODUCTORY STATEMENT

The California School Finance Authority Act (the “Act”) authorizes the Authority to receive and accept from any source loans for, or in aid of, the acquisition, construction, expansion, remodeling, renovation, improvement, furnishing and/or equipping of educational facilities (as defined in the Act), to be financed or refinanced under the Act (each, a “Project”), and, pursuant to an agreement between the Authority and a participating party (as defined in the Act), including a charter school established pursuant to the Charter Schools Act of 1992, as amended (constituting Part 26.8 of Division 4 of Title 2 of the Education Code) (the “Charter School Law”), and any person, company, association, state or municipal government entity, partnership, firm, or other entity or group of entities that undertakes the financing or refinancing of a Project pursuant to the Act in conjunction with a charter school, make loans to a participating party to finance or refinance a Project in an amount not to exceed the total cost (as defined in the Act) of the Project, as determined by the participating party and approved by the Authority.

The Borrower owns and operates educational facilities in California.

The Authority will borrow [\$_____] (the “Bank Loan”) from [BANK] (the “Bank”) under the Bank Loan Agreement, and loan the proceeds of the Bank Loan to the Borrower (the “Authority Loan”) under this Authority Loan Agreement to [finance/refinance] the acquisition, construction, expansion, remodeling, renovation, improvement, furnishing and/or equipping of the Borrower’s educational facilities located within the state of California.

Under the Depository Agreement, the Depository will hold proceeds of the Authority Loan in trust and facilitate repayment thereof.

Intending to be legally bound, the parties agree as follows.

ARTICLE 1

DEFINITIONS

Section 1.1. Definitions.

“501(c)(3) Organization” means “501(c)(3) organization,” as defined in the Code.

“Act” means the California School Finance Authority Act (constituting Chapter 18 (commencing with Section 17170) of Part 10 of Division 1 of Title 1 of the Education Code of the State of California) in effect at any given time.

“Authority” means the California School Finance Authority.

“Authority Documents” means this Authority Loan Agreement, the Bank Loan Agreement, the Tax Certificate, and the Depository Agreement.

“Authorized Borrower Representative” means the

- (1) Borrower’s [Chief Executive Officer or Chief Operating Officer], or
- (2) any person or persons designated an Authorized Borrower Representative in a Borrower certificate signed by its [Chief Executive Officer or Chief Operating Officer] and filed with the Depository.

“Authority Indemnified Party” means each of the Authority, the State Treasurer, and their members, officers, employees, and agents.

“Authority Loan” means the loan by the Authority to the Borrower under section 2.1.

“Authority Note” means the \$_____ California School Finance Authority ([BORROWER]) Series 20___ Promissory Note, issued by the Authority and dated the Issue Date.

[“Bank Borrower Agreement” means the [bank borrower agreement] dated the Issue Date, between the Bank and the Borrower, as in effect at any given time.]

“Bank Loan” means the loan by the Bank to the Authority under section 2.1 of the Bank Loan Agreement.

“Bank Loan Agreement” means the bank loan agreement, dated the Issue Date, between the Authority and Bank, as in effect at any given time.

“Bond Counsel” means an attorney or law firm practicing in the field of governmental securities and engaged or approved by the Authority at any given time.

“Borrower Documents” means this Authority Loan Agreement, the Tax Certificate, [the Bank Borrower Agreement, the Deeds of Trust,] [Add other documents required by the Bank such as any environmental indemnity].

“Borrower Note” means the Promissory Note, dated the Issue Date, issued by the Borrower and delivered to the Authority.

“Business Day” means any day other than

- (1) a Saturday
- (2) a Sunday, or
- (3) any day on which commercial banks by law may or must close in

- (a) the city in which the Depository's principal corporate trust office is located or
- (b) Sacramento, California.

"Code" means the Internal Revenue Code of 1986 and the regulations promulgated under it, each as in effect at any given time.

"Completion Date" means the date the Depository receives the Project completion certificate under section 4.7(d).

"Cost" shall have the meaning set forth in the Act.

["Deeds of Trust" means the deeds of trust, assignments of leases and rents, security agreements and fixture filings, delivered on the Issue Date by the Borrower to _____, as deed of trust trustee, for the Bank's benefit, as in effect at any given time.]

"Depository" means [DEPOSITORY], in its capacity as depository under the Depository Agreement, and any successor under the Depository Agreement.

"Depository Agreement" means the depository agreement, dated as of the date of this agreement, between the Authority and the Depository, as in effect at any given time.

"Depository Indemnified Party" means each of the Depository and its officers, directors, employees, and agents.

"Educational Facility" means "educational facility" as defined in the Act.

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

"Event of Default" means the events described in section 6.1.

"Gross Proceeds" means the Bank Loan proceeds and all amounts treated as "gross proceeds" of the Authority Note under section 148(f) of the Code.

"Hazardous Material Activity" means any actual, proposed, or threatened storage, holding, existence, release, emission, discharge, generation, processing, abatement, removal, disposition, disposal, handling, treatment, or transportation of any solid wastes or Hazardous Materials from, under, into, or on the Project Facilities or surrounding property.

"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 Facilities or to persons on or about the Project Facilities or (ii) cause the Project Facilities 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 Project Facilities’ occupants or the owners or occupants or both of property adjacent to or surrounding the Project Facilities, or any other person coming upon the Project Facilities or adjacent property; or (e) any other chemical, materials, or substance which may or could pose a hazard to the environment.

“Indemnifiable Losses” means the aggregate of Losses and Litigation Expenses.

“Indemnified Parties” means the Authority Indemnified Parties and the Depository Indemnified Parties.

“Intercept” means the apportionment from the Controller of the State of California, pursuant to Section 17199.4 of the California Education Code (or any successor provision) and the Intercept Notice, of amounts specified in the Intercept Notice and payable directly to the Owner, if applicable.

“Intercept Notice” means any notice from any school located in the State of California and operated by [BORROWER] to the Controller of the State of California, pursuant to Section 17199.4 of the California Education Code (or any successor provision), specifying a transfer schedule for the payment directly to the Owner of one or more of the following: (x) principal of the Authority Note, (y) interest on the Authority Note and (z) other costs necessary or incidental to financing pursuant to the Act relating to the Authority Note, in substantially the form set forth in the Authority Loan Agreement, as the same may be amended, supplemented or restated from time to time.

“Issue Date” means the date the Authority delivers the Authority Note to the Bank.

“Litigation Expense” means any court filing fee, court cost, witness fee, fee or disbursement of an attorney or other professional, and any other fee, disbursement, or cost of investigating, defending, or asserting a claim.

“Loss” means any liability, loss, claim, settlement payment, cost, and expense, interest, award, judgment, damages (other than punitive damages to the extent they may not, under law, be indemnified), diminution in value, fine, fee, and penalty, and other charge, of every conceivable kind, character, and nature whatsoever, contingent or otherwise, known or unknown, except Litigation Expenses.

“Opinion of Bond Counsel” means a written opinion of Bond Counsel.

“Owner” means the Authority Note’s registered owner on the Depository’s registration books.

“Owner Letter” means a letter in the form of exhibit A to the Bank Loan Agreement.

“Person” means any of

- (1) an individual, corporation, firm, association, partnership, trust, joint venture, joint stock company, unincorporated organization, governmental entity, governmental agency, political subdivision, any other legal entity or group of legal entities, or
- (2) an executor, administrator, trustee, receiver, or any other representative.

“Project” means [insert from exhibit A to the Resolution].

“Project Facilities” means those certain facilities financed, in whole or in part, with the proceeds of the Authority Loan.

“Project Fund” means the Project Fund under section 2.1 of the Depository Agreement.

“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, under, or out of the Project Facilities, including the movement of any Hazardous Materials through the air, soil, surface water, groundwater, or property.

“Resolution” means Resolution No. _____ of the Authority, adopted on _____, 20__.

“State” means the State of California.

“State Treasurer” means the Treasurer of the State.

“Tax Certificate” means the tax certificate and agreement, dated the Issue Date, between the Authority and the Borrower, as in effect at any given time.

ARTICLE 2

LOAN TO BORROWER

Section 2.1. Authority Loan.

If the conditions in section 2.4 are satisfied, the Authority shall loan \$_____ to the Borrower on the Issue Date. Making the Issue Date deposits to the Project Fund discharges the Authority's obligation to make the Authority Loan. The Authority is not required to make any other deposits to the Project Fund.

Section 2.2. Approval of Financing Arrangements.

The Borrower hereby approves (1) the terms and delivery of the Authority Note and each Authority Document and (2) each transaction any of them contemplates.

Section 2.3. Use of Authority Loan Proceeds.

[The Borrower shall expend Authority Loan proceeds only for acquisition and construction of the Project.][COORDINATE WITH 4TH RECITAL IN BANK LOAN AGREEMENT] The Borrower shall not seek disbursements from the Project Fund for costs other than Project Costs.

Section 2.4. Authority Loan Conditions.

The Authority's obligation to make the Authority Loan is subject to satisfaction of the following conditions:

- (a) that the Borrower has delivered the Borrower Note (including, among other things, the representation required under Section 17193(a) of the Act) to the Authority;
- (b) that, under the Bank Loan Agreement, the Bank has satisfied all of its Issue Date obligations and made the Bank Loan to the Authority;
- (c) that the Borrower's representations are accurate;
- (d) that the Borrower certifies the incumbency and signatures of the persons signing this agreement and the Borrower Note for the Borrower;
- (e) that the Authority and the Bank receive an opinion letter of the Borrower's attorney in substance acceptable to the Authority and the Bank;
- (f) that the Authority receives an opinion letter of its attorney in substance acceptable to the Authority;
- (g) that the Authority and the Bank receive an approving opinion letter of Bond Counsel, in substance acceptable to the Authority and the Bank;

- (h) that the Authority receives a supplemental opinion letter of Bond Counsel, in substance acceptable to the Authority, opining that
 - (1) the Borrower Note is not a security under the Securities Act of 1933 and is not a security under the Securities Exchange Act of 1934,
 - (2) the Authority Note is not subject to registration under the Securities Act of 1933, and
 - (3) the Depository Agreement is not subject to qualification under the Trust Indenture Act of 1939;
- (i) that the Authority and the Bank receive an opinion letter of the Depository's attorney in substance acceptable to the Authority and the Bank;
- (j) that the Authority and the Bank receive a good standing certificate for the Borrower issued by the Secretary of State of the State no earlier than 10 entire days before the Issue Date;
- (k) that the Authority and the Bank receive a good standing certificate for the Borrower issued by the Franchise Tax Board of the State no earlier than 10 entire days before the Issue Date;
- (l) that the Authority and the Bank receive a certified copy of the Borrower's resolution or resolutions authorizing the Borrower to enter into this Authority Loan Agreement;
- (m) that the Authority and the Bank receive evidence that the Borrower is an organization described in section 501(c)(3) of the Code or corresponding provisions of prior law and is exempt from taxation under State law;
- (n) that the Authority receives each item to be received by it on the Issue Date under the Bank Loan Agreement;
- (o) that the Owner's representations under the Owner Letter are accurate; and
- (p) that the Authority's closing fee and any other costs accrued under sections 4.1 and 4.2 have been paid by wire transfer or in other immediately available funds or arrangements reasonably satisfactory to the Authority have been made to pay the fees.

ARTICLE 3

FINDINGS; REPRESENTATIONS

Section 3.1. Authority Findings.

The Authority finds and determines:

- (a) that the Borrower is a "participating party" as defined in the Act; and

- (b) that the Authority Loan does not exceed the total Cost of the Project, as determined by the Borrower.

Section 3.2. Borrower Representations.

The Borrower represents:

- (a) The Borrower is a California [nonprofit public benefit corporation/limited liability company] duly [incorporated/formed] and in good standing under State laws.
- (b) The Borrower has the [corporate/organizational] power to execute and deliver the Borrower Note and to enter into each Borrower Document and to undertake all the Borrower transactions contemplated by them.
- (c) The Borrower has duly authorized the execution and delivery of the Borrower Note and each Borrower Document.
- (d) The Borrower officer executing the Borrower Note and each Borrower Document is authorized to execute it.
- (e) The Borrower has duly authorized, executed, and delivered the Borrower Note and each Borrower Document.
- (f) The Borrower Note and Borrower Documents are binding obligations of the Borrower, enforceable against the Borrower in accordance with their respective terms, except as the following limit enforcement: (1) any laws on bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, or moratorium; (2) laws related to enforcement of creditors' rights; (3) equitable principles; and (4) exercise of judicial discretion.
- (g) Except as would have no material adverse effect on the Borrower's ability to perform each of its obligations under the Borrower Note and the Borrower Documents:
 - (1) the Borrower's execution and delivery of the Borrower Note and the Borrower Documents is not a default under, and does not violate or breach, any binding law, regulation, court order, court judgment, contract, instrument, article of incorporation, or bylaw;
 - (2) the Borrower's performance of its obligations under the Borrower Note and the Borrower Documents is not a default under, and does not violate or breach, any binding law, regulation, court order, court judgment, contract, instrument, article of incorporation, or bylaw;
 - (3) the Borrower is not in violation of any binding law, regulation, court order, or court judgment;
 - (4) the Borrower is not in breach of any binding contract or instrument; and

- (5) no event has occurred and is continuing that, with time or notice or both, would result in a Borrower breach or a default under any binding contract or instrument.
- (h) Except as are currently in effect or as may be required to acquire, construct, or complete the Project, no third-party consent or approval is needed:
 - (1) in connection with the execution and delivery of the Borrower Note or any Borrower Document,
 - (2) for the consummation of any Borrower transaction contemplated by them, or
 - (3) to comply with or fulfill the terms and conditions in them.
- (i) The Borrower expects to obtain in the ordinary course all third-party consents and approvals required to acquire, construct, and complete the Project.
- (j) The Borrower is an organization described in section 501(c)(3) of the Code, and is exempt from federal income tax under section 501(a) of the Code, except for unrelated business taxable income under section 511 of the Code.
- (k) The Borrower does not expect unrelated business taxable income under section 511 of the Code to result from consummation of any transaction contemplated by this Authority Loan Agreement.
- (l) The Borrower is not a private foundation described in section 509(a) of the Code.
- (m) The facts and circumstances that the Borrower represented to the Internal Revenue Service as the basis of the Borrower's status as an organization described in section 501(c)(3) of the Code continue to exist without substantial exception.
- (n) No court proceeding or public body investigation is pending or threatened:
 - (1) seeking to restrain or enjoin the issuance, execution, or delivery of the Borrower Note or any Borrower Document;
 - (2) contesting or affecting any Borrower proceedings concerning the Borrower Note or any Borrower Document;
 - (3) contesting or affecting the pledge or application of any moneys or security for the payment of the Borrower Note;
 - (4) contesting the validity or enforceability of the Borrower Note or any Borrower Document;
 - (5) contesting the Borrower's existence or powers relating to the issuance of the Borrower Note or execution and delivery of any Borrower Document or performance of its obligations under them;

- (6) contesting or affecting the Borrower's status as an organization described in section 501(c)(3) of the Code;
 - (7) which would subject any Borrower income to federal income taxation resulting in loss of the exclusion from gross income for federal income tax purposes of interest on the Authority Note under section 103 of the Code; or
 - (8) which, if determined adversely to the Borrower, would materially adversely affect the Borrower's ability to perform any of its obligations under the Borrower Note or any Borrower Document.
- (o) The Borrower's representations to the Authority and the information, exhibits, and reports the Borrower furnished to the Authority in connection with the Borrower Note or any Borrower Document neither contain any untrue statement of a material fact nor omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. There is no fact that the Borrower has not disclosed to the Authority in writing that materially and adversely affects or in the future may (so far as the Borrower can now reasonably foresee) materially and adversely affect the Borrower's ability to perform any of its obligations under the Borrower Note or any Borrower Document.
 - (p) Except as would not result under section 103 of the Code in loss of exclusion of Authority Note interest from gross income, no facility financed by any portion of Authority Loan proceeds is being used (1) by a Person which is not an "exempt" person within the meaning of the Code, (2) by a governmental unit, or (3) by a 501(c)(3) Organization (including the Borrower) in an "unrelated trade or business" within the meaning of section 513(a) of the Code. The Borrower does not currently expect any facility financed by any portion of the Authority Loan proceeds to be used in the foregoing manner.
 - (q) All tax returns (federal, state, and local) required to be filed by or on Borrower's behalf have been filed. All taxes showing due on those returns and all interest and penalties (except any taxes, interest, and penalties the Borrower is actively contesting in good faith) have been paid or adequate reserves have been made for payment. The Borrower's audited financial statements reflect these reserves, if any.
 - (r) [The Borrower has legal title to all of the premises upon which it is undertaking the Project.][MODIFY AS NECESSARY FOR ACTUAL LEGAL STRUCTURE]
 - (s) The Borrower complies in all material respects with all applicable Environmental Laws.
 - (t) Neither the Borrower, nor its facilities is the subject of a federal, state, or local investigation evaluating whether any remedial action is needed to respond to any alleged violation or condition regulated by Environmental Laws or to respond to a Release of any Hazardous Materials into the environment.
 - (u) The Borrower does not have any material contingent liability in connection with any Release of any Hazardous Materials into the environment.

- (v) Except for such Hazardous Materials, toxic substances, or toxic wastes as occur, are handled and are disposed of in the ordinary course of Borrower business, no Hazardous Materials, toxic substances, or toxic wastes are located at, or have been removed from, the Borrower's properties.
- (w) The Borrower is a "participating party" as defined in the Act. The Project constitutes a "project" as that term is defined in the Act. No portion of the Project includes any facility, place or building used or to be used for sectarian instruction or as a place for religious worship or for any class that includes as part of the instruction information or coursework that promotes or opposes a particular religion or religious beliefs, or any facility, place or building used or to be used primarily in connection with any part of the programs of a school or department of theology or divinity, in each case through the useful life of the facility, place or building.
- (x) The Authority Loan does not exceed the total Cost of the Project and the equipment for the Project.
- (y) The Borrower initially [has retained the firm of _____ to provide] [has designated (insert name of the individual officer/employee of Borrower)] to be responsible for providing post-issuance tax compliance services related to the Authority Note.
- (z) The Borrower acknowledges, represents and warrants that it understands the nature and structure of the transactions relating to the financing of the Project; that it is familiar with the provisions of all of the documents and instruments relating to such financing to which it is a party or of which it is a beneficiary; that it understands the risks inherent in such transactions; and that it has not relied on the Authority for any guidance or expertise in analyzing the financial or other consequences of the transactions contemplated by the Authority Loan Agreement or the Bank Loan Agreement or otherwise relied on the Authority for any advice.

ARTICLE 4

BORROWER COVENANTS

Section 4.1. Authority Fees and Costs.

The Borrower shall pay to the Authority or any payee the Authority designates all of the following:

- (a) all taxes and assessments (1) affecting the amounts available to the Authority from payments under this Authority Loan Agreement or (2) on any transaction this Authority Loan Agreement contemplates, except the Borrower may suspend payment of a tax or assessment while the Authority is obligated to contest the tax or assessment under section 5.1, but not if the Authority notifies the Borrower that suspension would adversely affect Authority rights or interests;

- (b) the reasonable fees and expenses incurred by the Authority for accountants, consultants, attorneys, and other service providers the Authority engages to prepare audits, financial statements, reports, opinions or to provide other services related to the Authority Note or any Authority Document;
- (c) the Authority annual fee;
- (d) any and all fees and expenses incurred primarily in connection with the authorization, issuance, execution, or delivery of the Authority Note or any Authority Document;
- (e) the reasonable fees and expenses incurred by the Authority in connection with any of the following:
 - (1) any litigation, investigation, inquiry or other proceeding involving the Authority Note or any Authority Document or any document they contemplate;
 - (2) the reasonable supervision or inspection of the Borrower, its properties, assets, or operations;
 - (3) the administration (both before and after the execution of this Authority Loan Agreement) of the Authority Note or any Authority Document; and
 - (4) any other matter related to the Authority Note or any Authority Document;
- (f) all Authority payments required under the Tax Certificate or the Code; and
- (g) all other reasonable and necessary fees and expenses incurred or payable by the Authority attributable to the Authority Note or any Authority Document.

The Borrower shall pay the amounts above no later than 30 entire days after receipt of a bill, invoice or statement from the Authority.

Section 4.2. Depository Fees and Costs.

The Borrower shall pay to the Depository or any payee the Depository designates all of the following:

- (a) all taxes and assessments charged to the Depository affecting the amount available to the Depository from payments under this Authority Loan Agreement or in any way connected with the transactions contemplated by this Authority Loan Agreement; [except the Borrower may withhold payment of any taxes or assessments while any protest under section ____ of the Depository Agreement is pending if (1) the Borrower has provided to the Depository security and indemnification acceptable to the Depository in respect of the Depository's rights or interests and (2) withholding would not adversely affect Depository rights or interests;]

- (b) the reasonable fees and expenses incurred by the Depository for accountants, consultants, attorneys, and other service providers the Depository engages to prepare audits, financial statements, reports, opinions or to provide other services related to the Authority Note or any Authority Document;
- (c) all costs the Depository incurs resulting from article 4 of the Depository Agreement; and
- (d) all other reasonable and necessary fees and expenses incurred or payable by the Depository attributable to the Authority Note or any Authority Document.

The Borrower shall pay the amounts above no later than 30 entire days after receipt of a bill, invoice, or statement from the Depository.

Section 4.3. Indemnification.

The Borrower shall indemnify the Indemnified Parties from and against all Indemnifiable Losses arising out of, resulting from, or in any way connected with, any of:

- (a) the Project Facilities;
- (b) the Project;
- (c) the conditions, occupancy, use, possession, conduct, or management of, work done in or about, or from the planning, design, acquisition, installation, or construction, of the Project Facilities or the Project;
- (d) any past, present, or future
 - (1) Hazardous Material Activity, and
 - (2) Release;
- (e) the issuance, sale, resale, assignment, or transfer of (1) the Authority Note or (2) any interest in any Authority Document, the Borrower Note or any Borrower Document;
- (f) the transactions or undertakings contemplated by the Authority Note, any Authority Document, or any document the Borrower delivers in connection with them;
- (g) any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of any material fact in any statement made in connection with the purchase, sale, resale, assignment, or transfer of the Authority Note or any interest in any Authority Document, the Borrower Note or any Borrower Document, or any omission or alleged omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading;

- (h) any declaration of taxability of interest paid or payable on the Authority Note, or allegations (or regulatory inquiry) that interest paid or payable on the Authority Note is taxable, for federal or State income tax purposes;
- (i) the Depository's acceptance or administration of the trust of the Depository Agreement or performance of any of its powers and duties under it or any of the documents relating to the Authority Note to which the Depository is a party;
- (j) any whole or partial Authority Note refunding, retirement, tender for purchase, or redemption;
- (k) any misrepresentation or breach of warranty by the Borrower under the Borrower Note, any Borrower Document, or any document the Borrower delivers in connection with any of them or the Authority Note; and
- (l) any Borrower breach of any covenant or undertaking in the Borrower Note, any Borrower Document, or any document the Borrower delivers in connection with any of them or the Authority Note;

except the Borrower is not required under this section to indemnify (1) a Depository Indemnified Party for Indemnifiable Losses caused by the Depository Indemnified Party's negligence or willful misconduct or (2) an Authority Indemnified Party for Indemnifiable Losses caused by the Authority Indemnified Party's gross negligence or willful misconduct.

Section 4.4. Defense.

- (a) The Authority shall notify the Borrower no later than 20 entire Business Days after written notice to the Authority that any third party has brought any proceeding against an Indemnified Party that may result in an Indemnifiable Loss (a "Third Party Proceeding").
- (b) When notice of a Third Party Proceeding is given to the Borrower at any time by an Indemnified Party, upon the Indemnified Party's request the Borrower shall assume the investigation and defense, including the employment of counsel selected by the Indemnified Party and reasonably acceptable to the Borrower, and shall pay all Litigation Expenses of the Indemnified Party related to the Third Party Proceeding. Upon assuming the defense of an Indemnified Party, the Borrower may litigate, compromise or settle the Third Party Proceeding for the Indemnified Party, except that the Borrower may not compromise or settle for an Indemnified Party without the Indemnified Party's written approval. An Indemnified Party has no liability for any compromise or settlement of a Third Party Proceeding made without its written approval.
- (c) Each Indemnified Party may employ separate counsel in any Third Party Proceeding and participate in the investigation and defense. The Borrower shall pay the reasonable fees and disbursements of separate counsel, except that a Depository Indemnified Party may employ separate counsel at the Borrower's expense only if in the Depository Indemnified Party's reasonable judgment common representation creates a conflict of interest or if all parties commonly represented do not agree as to the action (or inaction) of counsel.

- (d) Notwithstanding clause (b) and (c), alternatively, when notice of a Third Party Proceeding is given to the Borrower at any time by an Indemnified Party, the Indemnified Party may engage the Attorney General as counsel in connection with the investigation and defense. In that case, the Borrower shall pay all Litigation Expenses of the Indemnified Party related to the Third Party Proceeding. Upon engaging the Attorney General, the Indemnified Party may litigate, compromise or settle the Third Party Proceeding, except that the Borrower has no liability for any compromise or settlement of a Third Party Proceeding made without the Borrower's written approval.
- (e) If an Indemnified Party or the Authority fails to notify the Borrower of a Third-Party Proceeding no later than 20 entire business days after written notice to the Authority of the Third-Party Proceeding, the Borrower is not required to pay for any Litigation Expense the Indemnified Party incurs before the Indemnified Party gives notice to the Borrower.

Section 4.5. [Reserved].

Section 4.6. [Reserved].

Section 4.7. Reporting and Inspection.

- (a) The Borrower shall furnish the following to the Authority:
 - (1) as soon as accepted by its [board of directors] but not later than 150 entire days after each fiscal year end, the Borrower's audited financial statements as of the fiscal year end certified by an independent public accountant selected by the Borrower;
 - (2) promptly upon the Authority's reasonable request, any other information regarding the Borrower's financial position, results of operations, business, or prospects;
- (b) The Borrower shall, at any reasonable time and from time to time, upon prior notice, permit the Authority, and its representatives and agents, to
 - (1) inspect the Borrower's premises, accounting records, and books to verify Borrower compliance with this Authority Loan Agreement and the Act,
 - (2) examine and copy abstracts from the Borrower's records,
 - (3) discuss the Borrower's affairs, finances, and accounts with Borrower officers or directors or both, and
 - (4) communicate with the Borrower's independent certified public accountants.
- (c) The Borrower shall permit the Authority to inspect the Borrower's facilities at all reasonable times to verify (1) Borrower compliance with its obligations under this Authority Loan Agreement and (2) compliance by the Borrower and the Project Facilities with the Constitutions of the United States and of the State.

- (d) The Borrower shall deliver to the Depository a Project completion certificate in the form of exhibit B to the Depository Agreement on the earlier of Project completion and the date the Project Fund has a zero balance.

Section 4.8. [Reserved].

Section 4.9. Tax Covenants.

The Borrower shall take all actions permitted by law, this Authority Loan Agreement, the Tax Certificate, and the Depository Agreement that are necessary to exclude interest on the Authority Note from gross income for federal income tax purposes under sections 103 and 141 through 150 of the Code. The Borrower shall not take any action that would result in loss of that exclusion under those Code sections. The Borrower shall perform its obligations under the Tax Certificate.

Section 4.10. Nonprofit Corporation Status.

The Borrower shall maintain its existence as:

- (a) a nonprofit corporation qualified to do business in the State,
- (b) a 501(c)(3) Organization, and
- (c) an organization that is not a “private foundation” described in section 509(a) of the Code.

Section 4.11. Income Distribution.

The Borrower shall not:

- (a) distribute any of its net income or profits, whether realized or unrealized, to any of its members, nor
- (b) permit its net income or profits, whether realized or unrealized, to inure to the benefit of any private person, association, or corporation,

except, the Borrower may pay to any Person the value of any service performed or product supplied to the Borrower by the Person.

Section 4.12. Prohibited Uses.

The Borrower shall not permit use of or itself use any facility, place, or building financed with any portion of the Authority Loan (1) by any person that is not an organization described in section 501(c)(3) of the Code; (2) by a 501(c)(3) Organization, including the Borrower, in an “unrelated trade or business” (as defined in section 513 of the Code), in each case, if the use would result in the Authority Note being treated as an obligation not described in section 103(a) of the Code; or (3) in any manner inconsistent with their use as an educational facility under the

Act. Borrower covenants that [all funds subject to the Intercept shall only be transferred to the Owner.](#) .

Section 4.13. Tax Filing Compliance.

The Borrower acknowledges that the Internal Revenue Service requires filings regarding post-issuance tax compliance, private use and unrelated trade or business use. The Borrower shall annually file the IRS Form 990 (Schedule K) Supplemental Information on Tax-Exempt Bonds and comply with all those filing requirements and any related requirements applicable to the Authority Note. The Borrower shall adopt and implement management practices ensuring compliance with those requirements.

Section 4.14. Waiver of Brokerage Confirmations.

The Borrower acknowledges that regulations of the Comptroller of the Currency grant the right to receive, at no additional cost, brokerage confirmations of security transactions as they occur in funds under the Depository Agreement. To the extent permitted by law, the Borrower hereby waives compliance with 12 C.F.R. 12 and hereby notifies the Depository that it need not send to the Borrower brokerage confirmations relating to the security transactions as they occur.

Section 4.15. Project Management and Integration

The Borrower shall be responsible for (1) the direct operation and maintenance costs of the Project, (2) the overall supervision of the Project, (3) the overhead and general administrative costs of the Borrower that are incurred because of the Project, and (4) the integration of the Project operation into the Borrower's educational program.

ARTICLE 5

AUTHORITY COVENANT

Section 5.1. Contesting Taxes.

At the Borrower's request, the Authority shall contest any taxes and assessments described in section 4.1(a), except the Authority is not required to contest and may stop doing so (1) if the Borrower does not pay for contest expenses as they accrue, or (2) if the Borrower does not provide security acceptable to the Authority for payment of the tax or assessment, as well as any penalties, interest, and expenses that could accrue upon contest resolution.

ARTICLE 6

DEFAULTS AND REMEDIES

Section 6.1. Defaults.

Each of the following is a default under this Authority Loan Agreement:

- (a) The Borrower fails to satisfy any of its obligations under this Authority Loan Agreement for a period of 10 entire days after the Authority notifies the Borrower of the failure; except that, if the failure cannot be remedied before that period expires but can be remedied with more time and if the Borrower has taken all reasonable actions to remedy the failure before that period expires, the failure is not a default while the Borrower is diligently trying to remedy the failure in the manner directed by the Authority and remedies the failure by any deadline the Authority imposes;
- (b) The Borrower
 - (1) files, under any state or federal bankruptcy or insolvency law, a petition in voluntary bankruptcy, for the composition of its affairs, or for its corporate reorganization,
 - (2) makes an assignment for the benefit of creditors,
 - (3) admits in writing to its insolvency or inability to pay debts as they mature, or
 - (4) consents in writing to the appointment of a trustee or receiver for itself or for all or any substantial part of its facilities;
- (c) A court of competent jurisdiction enters, under any law of the United States of America or any of its states, an order, judgment, or decree (1) declaring the Borrower an insolvent, (2) adjudging it bankrupt, (3) appointing a trustee or receiver of the Borrower or of all or any substantial part of its facilities, or (4) approving a petition seeking reorganization of the Borrower and the order, judgment or decree is not vacated, set aside, or stayed by the 60th day following date it was entered;
- (d) Any court of competent jurisdiction, under any other law for the relief or aid of debtors, assumes custody or control of the Borrower or of all or any substantial part of its facilities, and does not terminate custody or control by the 60th day following the date it was assumed.

Section 6.2. Remedies.

If any default occurs, all Borrower payment obligations under this Authority Loan Agreement become immediately due and payable, without any notice to Borrower. The Authority also has all the rights and remedies provided in the Authority Documents or available at law, in equity, or otherwise. Except as may be prohibited by law, the Authority's rights and remedies are cumulative, and the Authority may exercise rights and remedies singly or concurrently. Pursuing a given remedy or remedies does not exclude pursuing any other remedy or remedies. Making expenditures or taking action to perform a Borrower obligation does not affect the Authority's right to declare a default and to exercise its rights and remedies.

ARTICLE 7

LIMITED AUTHORITY OBLIGATION

Section 7.1. Limited Authority Obligation.

- (a) The Authority is not required to pay the principal of, or premium or interest on, the Authority Note except from the assets pledged or assigned under the Bank Loan Agreement.
- (b) The Borrower acknowledges that neither the faith and credit nor the taxing power of the State or any of its political subdivisions is pledged to pay the principal of, or premium or interest on, the Authority Note.
- (c) The Authority is not required to pay for any costs, expenses, losses, damages, claims or actions, of any conceivable kind or any conceivable theory, connected to this Authority Loan Agreement, the Authority Note, or any other Authority Document, except from amounts the Borrower pays under the Borrower Note or this Authority Loan Agreement.
- (d) The Borrower acknowledges that the only sources of money to pay the Authority Note will be (1) the Borrower payments under the Borrower Note and (2) certain funds and accounts held by the Depository under the Depository Agreement. If the Borrower payments under the Borrower Note are insufficient for any reason to pay all principal of, and premium and interest on, the Authority Note as they come due (whether by maturity, redemption, acceleration, or otherwise), then upon notice from the Depository, the Borrower shall pay the amounts required to prevent any deficiency or default in the payment.

Section 7.2. No Personal Liability.

- (a) No Authority member, officer, official, agent, or employee or any Borrower director, officer, agent, or employee is
 - (1) liable personally to pay any principal of, premium, if any, or interest on the Authority Note or any sum under this Authority Loan Agreement
 - (2) liable or accountable for entering into this Authority Loan Agreement.
- (b) This section does not relieve any Authority member, officer, official, agent, or employee from performing any official act required by this Authority Loan Agreement or any legal duty.

ARTICLE 8

MISCELLANEOUS

Section 8.1. Term.

This Authority Loan Agreement (1) is effective beginning on the Issue Date and (2) terminates when the Authority Note is fully discharged. After termination, sections 4.1, 4.2, 4.3, 4.4, and 4.9 will continue and survive in full. Sections 4.2, 4.3 and 4.4 survive the removal or resignation of a Depository.

Section 8.2. Notices.

- (a) Notices and communications required or permitted to be given under this Authority Loan Agreement must be in writing and signed by the sending party. Notice is deemed given on the date of delivery if (1) delivered in person or sent by same day courier service, (2) sent by overnight courier service, (3) sent by first class, certified, or registered mail of the United States Postal Service, postage and charges prepaid, (4) by electronic mail or facsimile, in each case with a copy delivered in a manner described in clause (1) or (2). Notices to the parties must be sent to the applicable addresses below:

To the Authority at:

California	School	Finance	Authority
915	Capitol	Mall,	Suite 516
Sacramento,		California	95814
Attention:		Executive	Director
Electronic	mail	address:	_____
Facsimile:	_____		

To the Borrower at:

Electronic mail address: _____
Facsimile: _____

- (b) A notice delivered as described in subsection (a), clause (1) is deemed received on the same day. A notice delivered as described in subsection (a), clause (2) is deemed received on the day next following the delivery date. A notice delivered as described in subsection (a), clause (3) is deemed received on the sixth day after the delivery date. A notice delivered as described in subsection (a), clause (4) is deemed received on the same day.
- (c) The period in which a response to notice must be given or an action must be taken with respect to that notice will begin to run from the date it was deemed received by the

addressee. Physical address, electronic mail address and facsimile number changes will be disregarded if not noticed to the delivering party under subdivision (d).

- (d) Each party may change its physical address, electronic mail address and facsimile number for purposes of this section by notifying the other party of the revised physical address, electronic mail address or facsimile number, as the case may be, in the manner provided above for giving notice and referencing this Authority Loan Agreement in the notice.

Section 8.3. Business Days.

If any date specified in this Authority Loan Agreement as the only day, or the last day, for taking action falls on a day that is not a Business Day, then that action may be taken on the next Business Day.

Section 8.4. Governing Law; Forum and Venue.

- (a) The laws of the State govern validity, interpretation, construction, performance, enforcement, and all other matters arising out of or relating to this Authority Loan Agreement.
- (b) Legal proceeding arising out of or relating to this Authority Loan Agreement must be brought in the Sacramento County Superior Court, Sacramento, California, unless the Authority waives this requirement. Each party agrees that the exclusive (subject to waiver as stated in this section) choice of forum stated in this section does not prohibit enforcement of any judgment obtained in that forum or any other forum. Each party hereby waives, to the extent permitted by law, (1) all current and future objections to the laying of venue of any legal proceeding arising out of or relating to this Authority Loan Agreement brought in the Sacramento County Superior Court, Sacramento, California, and (2) all claims that the proceeding has been brought in an inconvenient forum.

Section 8.5. Rules of Construction.

Each party acknowledges that it and its counsel have participated in the drafting and revision of this Authority Loan Agreement. The Authority is not deemed the drafting party of this Authority Loan Agreement for purposes of any rule of construction which disfavors the drafting party.

Section 8.6. Amendments; Benefits of Agreement.

- (a) Any amendment of this Authority Loan Agreement must be made in writing and signed by the parties.
- (b) The Indemnified Parties (other than the Authority) are third party beneficiaries of sections 4.3 and 4.4 in accordance with their terms. Any amendment or modification of this Authority Loan Agreement signed by the parties binds those Indemnified Parties, and any action or consent taken by the Authority on its own behalf binds those Indemnified Parties for purposes of this Authority Loan Agreement, except no Indemnified Party other than the

Authority is bound without its consent to any amendment or modification of sections 4.3 and 4.4 providing (1) rights and performance of Indemnified Parties other than the Authority, or (2) performance by the Borrower for the benefit of Indemnified Parties other than the Authority.

- (c) The Depository is a third party beneficiary of sections 4.2 and 4.14 in accordance with their terms. Any amendment or modification of this Authority Loan Agreement signed by the parties binds the Depository, and any action or consent taken by the Authority on its own behalf on the Depository for the purposes of this Authority Loan Agreement, except the Depository may not be bound without its consent to any amendment or modification of sections 4.2 and 4.14 providing (1) rights and performance of the Depository or (2) performance by the Borrower for the benefit of the Depository.
- (d) This Authority Loan Agreement does not create any rights of enforcement in any Person who is not a party to this Authority Loan Agreement, an Indemnified Party, or the Depository.

Section 8.7. Successors and Assigns.

This Authority Loan Agreement binds and benefits the parties and their respective [permitted] successors and assigns. [This section does not address, directly or indirectly, whether a party may assign its rights or delegate its performance under this Authority Loan Agreement. section[s] ___ address [es] these matters.]

Section 8.8. Complete Agreement.

This Authority Loan Agreement is the entire agreement between the Borrower and the Authority and supersedes any prior understandings between them.

Section 8.9. No Prevailing Party Provision.

Nothing in this Authority Loan Agreement provides for award of attorneys' fees and costs to the Authority or the Borrower or both for the enforcement of this Authority Loan Agreement as described in section 1717 of the Civil Code. Nothing in this section affects Depository rights.

[Signature page follows.]

The parties are signing this agreement on the date stated in the introductory clause.

CALIFORNIA SCHOOL FINANCE AUTHORITY

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

By: _____
Executive Director

[BORROWER]

By: _____
[Title]

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