

LOAN AGREEMENT

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 Bonds are to be issued pursuant to an indenture, dated as of _____, ____ (the "Indenture"), between the Authority and _____, as trustee (the "Trustee");

[WHEREAS, describe credit and/or liquidity enhancement, if applicable;]

WHEREAS, the Authority and the Borrower each have duly authorized the execution and delivery of this Loan Agreement, to specify the terms and conditions of the loan from the Authority to the Borrower of the proceeds of the Bonds and to require and confirm the obligation of the Borrower to make payments at such times and in such manner as may be necessary to provide for full payment of the principal [and purchase price] of and interest and premium on the Bonds and certain related costs and expenses, as such become due, and for certain other purposes specified herein;

Definitions:

The definition of “Borrower” must include successors and assigns.

Borrower Representations:

The Borrower makes the following representations and warranties to the Authority that, as of the date of the execution of this Loan Agreement:

The Borrower is a nonprofit [public benefit/religious corporation duly incorporated and in good standing under the laws of the State, has the requisite corporate [organizational] right, power and authority to enter into this Loan Agreement, [list of other Borrower agreements – must include Tax Agreement and Continuing Disclosure Agreement] and to carry out and consummate all transactions contemplated with respect to the Borrower hereby and thereby, and by proper corporate [organizational] action has duly authorized the execution and delivery of this Loan Agreement, [list of other Borrower agreements – must include Tax Agreement and Continuing Disclosure Agreement].

The officer[s] of the Borrower executing this Loan Agreement, [list of other Borrower documents] are duly and properly in office and fully authorized to execute the same.

The Borrower has duly executed and delivered each of this Loan Agreement, [list of other Borrower documents – must include Tax Agreement and Continuing Disclosure Agreement].

Each of this Loan Agreement, [list of other Borrower agreements – must include Tax Agreement and Continuing Disclosure Agreement] constitutes the legal, valid and binding agreement of the Borrower, enforceable against the Borrower in accordance with its terms, except, in each case, as enforcement may be limited by bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors’ rights, by the application of equitable principles, regardless of whether such enforceability is considered in a proceeding in equity or at law, and by the exercise of judicial discretion in appropriate cases.

The execution and delivery of this Loan Agreement, [list of other Borrower agreements – must include Tax Agreement and Continuing Disclosure Agreement] and the consummation of the transactions herein and therein contemplated [and the fulfillment of or compliance with the terms and conditions thereof] will not (1) conflict with or constitute a breach or violation of or default (with due notice or passage of time or both) under the articles of incorporation or the bylaws of the Borrower, any applicable law or administrative rule or regulation or any applicable

court or administrative decree or order, or any indenture, mortgage, deed of trust, loan agreement, bond, debenture, note or other evidence of indebtedness or any contract, agreement, lease or other instrument to which the Borrower is a party or to which or by which the Borrower or any of the Borrower's property is bound, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower, which conflict, breach, violation, default, lien, charge or encumbrance might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Loan Agreement, [list of other Borrower agreements], or the financial condition, assets, properties or operations of the Borrower.

No consent or approval of any trustee or holder of any indebtedness of the Borrower or any guarantor of indebtedness of or other provider of credit or liquidity of the 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 this Loan Agreement, [list of other Borrower agreements – must include Tax Agreement and Continuing Disclosure Agreement] 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 and except as may be required to acquire, construct and/or complete the Project, all of which are expected to be obtained in the ordinary course.

There is no action, suit, proceeding, inquiry or investigation, before or by any court or federal, state, municipal or other governmental authority, pending or, to the knowledge of the Borrower, after reasonable investigation, threatened against or affecting the Borrower or the assets, properties or operations of the Borrower:

seeking to restrain or enjoin the issuance and delivery of any Bonds or the collection of Revenues pledged under the Indenture;

in any way contesting or affecting the validity of the Bonds, the Indenture, this Loan Agreement, or [list of other Borrower agreements];

in any way contesting the corporate existence or powers of the Borrower necessary to consummate the transactions contemplated by this Loan Agreement, [list of other Borrower agreements];

contesting or affecting the Borrower's status as an organization described in Section 501(c)(3) of the Code or which would subject any income of the 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 any of the Bonds under Section 103 of the Code;

which (except as disclosed in the Official Statement), if determined adversely to the Borrower, would materially adversely affect the ability of the Borrower to perform its obligations under this Loan Agreement, or [list of other Borrower agreements].

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 any unrelated business taxable income of the Borrower under Section 511 of the Code, which income is not expected to result from the consummation of any transaction contemplated by this Loan Agreement. The Borrower is not a private foundation within the meaning of Section 509(a) of the Code. The facts and circumstances which formed the basis of the Borrower's status as an organization described in Section 501(c)(3) of the Code as represented to the Internal Revenue Service continue substantially to exist.

No facility financed or refinanced by any portion of the proceeds of the Bonds is or currently is expected to be used by any Person which is not an "exempt person" within the meaning of the Code and the regulations proposed and promulgated thereunder, or by a governmental unit or a 501(c)(3) organization (including the Borrower) in an "unrelated trade or business" within the meaning of Section 513(a) of the Code and the regulations proposed and promulgated thereunder, in such manner or to such extent as would result in loss of exclusion from gross income for federal tax purposes of interest on any of the Bonds under Section 103 of the Code.

The audited [consolidated] balance sheet of the Borrower, as of _____, _____, and the [consolidated] statements of activities and cash flows for the year then ended (copies of which have been furnished to the Authority) present fairly, in all material respects, the financial position of the Borrower as of _____, _____ and the changes in such activities and financial position for the year then ended in accordance with generally accepted accounting principles; and since _____, _____, there has been no material adverse change in the assets, operations or financial condition of the Borrower, except as disclosed in the Official Statement.

All tax returns (federal, state and local) required to be filed by or on behalf of the Borrower have been filed, and all taxes shown thereon to be due, including interest and penalties, except such, if any, as are being actively contested by the Borrower in good faith, have been paid or adequate reserves have been made for the payment thereof, which reserves, if any, are reflected in the financial statements described herein.

[The Borrower does not maintain a defined benefit plan that is subject to ERISA funding requirements.] / Each ERISA Plan of the Borrower is in compliance in all material respects with the applicable provisions of ERISA and the Code. To the best knowledge of the Borrower, no ERISA Plan has engaged in, and compliance by the Borrower with the provisions of this Loan Agreement will not involve, any non-exempt prohibited transaction that would subject the Borrower to a material tax or penalty on prohibited transactions. No ERISA Plan that is subject to Part 3 of Subtitle B of Title I of ERISA or Section 412 of the Code has had an accumulated funding deficiency, whether or not waived as of the last day of the most recent plan year of such ERISA Plan ended prior to the date hereof. No liability to the Pension Benefit Guaranty Corporation has been, or is expected by the Borrower to be, incurred by the Borrower with respect to any ERISA Plan subject to Title IV of ERISA, other than for premium payments. There has been no material Reportable Event with respect to any ERISA Plan subject to Section 4043 of ERISA since the effective date of said Section 4043 for which the Borrower could have any liability, and since such date no event or condition has occurred that presents a material risk

of termination of any such ERISA Plan by the Pension Benefit Guaranty Corporation. As of the most recent valuation date, the present value of all vested accrued benefits under each ERISA Plan subject to Title IV of ERISA as determined by each ERISA Plan's enrolled actuary within the meaning of Section 103 of ERISA under actuarial assumptions used in connection with the actuarial valuation of each such ERISA Plan, except as disclosed in the Official Statement, did not exceed the value of such ERISA Plan's assets (less all liabilities other than those attributable to accrued benefits), as determined by each such enrolled actuary, allocable to such vested accrued benefits. Neither the Borrower nor any Common Control Entity has incurred any withdrawal liability in connection with a Multiemployer Plan. As used in this paragraph (l), the terms "ERISA Plan," "Reportable Event," "Common Control Entity" and "Multiemployer Plan" shall have the respective meanings ascribed thereto in Section ____ of this Loan Agreement [x-reference to appropriate section in "Covenants"]].

No representation made, nor any information, exhibit or report furnished to the Authority by the Borrower in connection with the negotiation of this Loan Agreement, the Indenture, [list other Borrower agreements – must include Tax Agreement] contains any untrue statement of a material fact or omits to state a material fact required to be stated therein or 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 properties, business, assets or operations (financial or otherwise) of the Borrower or the ability of the Borrower to perform its obligations under this Loan Agreement or any documents or transactions contemplated hereby.

The Borrower has good and marketable title to its Facilities/to its ownership in the leasehold of the Facilities, free and clear from all encumbrances [other than Permitted Encumbrances].

The Borrower is in compliance in all material respects with all applicable Environmental Laws.

Neither the Borrower nor its facilities are 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.

The Borrower does not have any material contingent liability in connection with any release of any Hazardous Materials into the environment.

Except for such Hazardous Materials, toxic substances or wastes as occur, are handled and are disposed of in the ordinary course of business of the Borrower, no Hazardous Materials, toxic substances or wastes are located at, or have been removed from, the Borrower's properties.

The Borrower is a "participating private college"/"participating nonprofit entity" as defined in the Act. The Borrower does not restrict the admission of a student based on his or her race or ethnicity, and the financing of the Project/Prior Project from Bond proceeds does not violate Section 5 of Article XVI of the California Constitution or the establishment clause of the

First Amendment to the United States Constitution. The Borrower offers a broad curriculum in secular subjects. The information and coursework used to teach secular subjects is neutral with respect to religion and neither promotes nor opposes any particular religion or religion in general. The academic content of courses in secular subjects is typical of that provided in comparable courses in non-religious institutions for higher education. The Borrower is an institution for higher education other than a public college, situated within the state and that, by virtue of law or charter, is a nonprofit private or independent degree-granting educational institution that is regionally accredited and empowered to provide a program of education beyond the high school level. Except as has been disclosed by the Borrower to the Authority in writing, that accrediting body has not issued a warning, imposed a sanction, a show cause order or placed the Borrower on probation in the past ten years.

The Project constitutes a “project” as that term is defined in the Act. No portion of the Project/Prior 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.

The Borrower is and shall be responsible for the direct operation and maintenance costs of the Project and, in addition, is and shall be responsible for the overall supervision of the Project, for the overhead and general administrative costs of the Borrower which are incurred because of the Project and for the integration of the Project operation into the Borrower's educational program.

The Borrower represents that the portion of the proceeds of the Bonds allocable to the cost of financing of the Project does not exceed the total cost allocable to the cost of financing thereof.

Additional Payments:

In addition to Loan Repayments, the Borrower shall also pay to the Authority or the Trustee [other parties if applicable for variable rate bonds], as the case may be, “Additional Payments,” as provided in this Section. Such Additional Payments may be discharged in whole or in part by payment actually received from amounts in the [Costs of Issuance Fund] or may be billed to the Borrower by the Authority or the Trustee from time to time, together with a statement certifying the amount billed has been incurred or paid for one or more of the below items. After such a demand, amounts so billed shall be paid by the Borrower within (thirty) 30 days after receipt of the bill by the Borrower. The obligations of the Borrower under this Section shall survive the resignation and removal of the Trustee, payment of the Bonds and discharge of the Indenture.

The Additional Payments to the Authority include:

All taxes and assessments of any type or character charged to the Authority affecting the amount available to the Authority from payments to be received hereunder or in any way arising

due to the transactions contemplated hereby (including taxes and assessments assessed or levied by any public agency or governmental authority of whatsoever character having power to levy taxes or assessments); provided, however, that the Borrower shall have the right to protest any such taxes or assessments and to require the Authority, at the Borrower's expense, to protest and contest any such taxes or assessments levied upon them and that the Borrower shall have the right to withhold payment of any such taxes or assessments pending disposition of any such protest or contest unless such withholding, protest or contest would adversely affect the rights or interests of the Authority and the Borrower has provided the Authority with security and indemnification reasonably deemed adequate by the Authority in respect of such affected rights or interests;

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

The annual fee of the Authority, any and all fees and expenses incurred primarily in connection with the authorization, issuance, sale and delivery of any Bonds and the reasonable fees and expenses of the Authority or any agency of the State selected by the Authority to act on its behalf in connection with this Loan Agreement, the Bonds or the Indenture, including, without limitation, in connection with any litigation, investigation, inquiry or other proceeding which may at any time be instituted involving this Loan Agreement, the Bonds or the Indenture or any of the other documents contemplated thereby, or by the Attorney General of the State or such other counsel as the Authority may select in connection with the reasonable supervision or inspection of the Borrower, its properties, assets or operations or otherwise in connection with the administration (both before and after the execution of this Loan Agreement) of this Loan Agreement or the Indenture;

All amounts payable to the Authority under Section [Indemnity Section]; and

All other reasonable and necessary fees and expenses attributable to the Bonds, this Loan Agreement, or related documents, including without limitation all payments required pursuant to the Tax Agreement.

The Additional Payments to the Trustee include:

All taxes and assessments of any type or character charged to the Trustee affecting the amount available to the Trustee from payments to be received hereunder or in any way arising due to the transactions contemplated hereby (including taxes and assessments assessed or levied by any public agency or governmental authority of whatsoever character having power to levy taxes or assessments); provided, however, that the Borrower shall have the right to protest any such taxes or assessments and to require the Trustee, at the Borrower's expense, to protest and contest any such taxes or assessments levied upon them and that the Borrower shall have the right to withhold payment of any such taxes or assessments pending disposition of any such protest or contest unless such withholding, protest or contest would adversely affect the rights or interests of the Trustee and the Borrower has provided the Trustee with security and indemnification reasonably deemed adequate by the Trustee in respect of such affected rights or interests;

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

All amounts payable to the Trustee under Section [Indemnity Section]; and

All other reasonable and necessary fees and expenses attributable to the Bonds, this Loan Agreement, or related documents, including without limitation all payments required pursuant to the Tax Agreement.

Covenants and Agreements:

Admissions and Facility Restrictions

The Borrower covenants and agrees that it will not restrict the admission of a student based on his or her race or ethnicity and that it will not include in any portion of the Project/Prior Project 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. The Authority and its designees shall have the right, but shall not be obligated, to inspect the Borrower's educational facilities at all reasonable times for the purpose of verifying the foregoing and due compliance by the Borrower with its annual certificate of compliance delivered as required by this Loan Agreement and with the Constitutions of the United States and of the State. This covenant shall survive the payment in full or defeasance of the Bonds.

Prohibited Uses

No portion of the Project/Prior Project will be used (i) by any person that is not an organization described in Section 501(c)(3) of the Code or by a 501(c)(3) organization, including the Borrower, in an "unrelated trade or business" (as such term is defined in Section 513 of the Code), in such manner or to such extent as would result in any of the Bonds being treated as an obligation not described in Section 103(a) of the Code.

Indenture

The Borrower hereby agrees to all of the terms and provisions of the Indenture and accepts each of its obligations thereunder. Without limiting the foregoing, the Authority may assign its rights under this Loan Agreement as set forth in the Indenture. The Borrower hereby approves the initial appointment under the Indenture of the Trustee[and agrees to appoint and maintain at all times while the Bonds bear interest at a variable rate, a Remarketing Agent and a Tender Agent for the Bonds].

Continuing Disclosure

Bond Counsel must confirm that Authority has no obligations with respect to continuing disclosure.

Nonliability of Authority

The Authority shall not be obligated to pay the principal [or purchase price] of, and premium, if any, and interest on the Bonds, except from Revenues and other assets pledged under the Bond Indenture. Neither the faith and credit nor the taxing power of the State of California or any political subdivision thereof is pledged to the payment of the principal [or purchase price] of, premium, if any, or interest on the Bonds. The Authority shall not be liable for any costs, expenses, losses, damages, claims or actions, of any conceivable kind or any conceivable theory, under or by reason of or in connection with this Loan Agreement, the Bonds or the Indenture, except only to the extent amounts are received for payment thereof from the Borrower under this Loan Agreement.

The Borrower hereby acknowledges that the Authority's sole source of moneys to repay the Bonds will be provided by the payments made by the Borrower hereunder and other Revenues, together with investment income on certain funds and accounts held by the Trustee under the Indenture, and hereby agrees that if the payments to be made hereunder shall ever prove insufficient to pay all principal [or purchase price] of, and premium, if any, and interest on the Bonds as the same shall become due (whether by maturity, redemption, acceleration or otherwise), then upon notice from the Trustee, the Borrower shall pay such amounts as are required from time to time to prevent any deficiency or default in the payment of such principal [or purchase price], premium or interest including, but not limited to, any deficiency caused by acts, omissions, nonfeasance or malfeasance on the part of the Trustee, the Borrower, the Authority or any third party.

Indemnification

(a) The Borrower, to the fullest extent permitted by law, shall indemnify, hold harmless the Authority, the State Treasurer and their members, officers, employees and agents (each an "Authority Indemnified Party") [and the Trustee and its officers, directors, employees and agents (each, a "Trustee Indemnified Party" and, together with each Authority Indemnified Party, an "Indemnified Party")] from and against any and all Indemnifiable Losses arising out of, resulting from or in any way connected with:

the [*Facilities, including the Project/facilities comprising any part of the Project*] to be financed [or refinanced], or 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 [*Facilities/Project*] or any part thereof, including, without limitation, Indemnifiable Losses resulting from or in any way relating to any generation, processing, handling, transportation, storage, treatment or disposal of solid wastes, Hazardous Materials or any other Hazardous Material Activity relating to the [*Facilities/Project*] including, but not limited to, any of those activities occurring, to occur or having previously occurred on the [*Facilities/Project*] and any Releases on,

under or from the Facilities to the extent occurring or existing prior to the execution and delivery of this Loan Agreement;

the issuance, sale or remarketing of the Bonds or the carrying out of any of the transactions or undertakings contemplated by the Indenture, the Bonds, this Loan Agreement, [list of other Borrower agreements – must include Tax Agreement and Continuing Disclosure Agreement] or any document delivered by the Borrower pursuant to, or in connection with, any of the foregoing;

any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of any material fact in any official statement, offering statement, offering circular or continuing disclosure document for the Bonds or any statement made in connection with the purchase or sale of the Bonds (other than any such statement in the Official Statement under the caption “THE AUTHORITY” or “ABSENCE OF MATERIAL LITIGATION – The Authority” or any similar statement provided by the Authority expressly for use in any other official statement, offering statement, offering circular or continuing disclosure document for the Bonds), or any omission or alleged omission to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading;

any declaration of taxability of interest paid or payable on the Bonds, or allegations (or regulatory inquiry) that interest paid or payable on the Bonds is taxable, for federal or State income tax purposes;

the Trustee’s acceptance or administration of the trust of the Indenture or the exercise or performance of any of its powers or duties thereunder or under any of the documents relating to the Bonds to which it is a party;

the refunding, retirement, tender for purchase and/or redemption, in whole or in part, of the Bonds;

any misrepresentation or breach of warranty by the Borrower of any representation or warranty in this Loan Agreement, [list of other Borrower agreements – must include Tax Agreement and Continuing Disclosure Agreement] or any document delivered by the Borrower pursuant to, or in connection with, any of the foregoing or the Bonds; or

any breach by the Borrower of any covenant or undertaking set forth in this Loan Agreement, [list of other Borrower agreements – must include Tax Agreement and Continuing Disclosure Agreement] or any document delivered by the Borrower pursuant to, or in connection with, any of the foregoing or the Bonds;

provided that such indemnification pursuant to this Section shall not apply to Indemnifiable Losses resulting because of the negligence or willful misconduct of any Trustee Indemnified Party or the gross negligence or willful misconduct of any Authority Indemnified Party.

The Authority agrees to notify the Borrower promptly, but in no event later than (twenty) 20 business days, after written notice to the Authority that any third party has brought any action, suit or proceeding against an Indemnified Party that may result in an Indemnifiable Loss (a “Third Party Action”). Upon such notice or other notice from an Indemnified Party of a Third Party Action, the Borrower shall assume the investigation and defense thereof, including the employment of counsel selected by the Indemnified Party and reasonably acceptable to the Borrower (which may be the Attorney General of the State of California), and shall assume the payment of all Litigation Expenses related thereto, with full power to litigate, compromise or settle the same in its discretion; provided that the Indemnified Party shall have the right to review and approve or disapprove (in its sole and absolute discretion) any such compromise or settlement and the Indemnified Party has no liability with respect to any compromise or settlement of any Third Party Claim effected without its written approval. Each Indemnified Party shall have the right to employ separate counsel in any Third Party Claim and participate in the investigation and defense thereof, and the Borrower shall pay the reasonable fees and disbursements of such separate counsel; provided, however, that a Trustee Indemnified Party may only employ separate counsel at the expense of the Borrower if in the reasonable judgment of such Trustee Indemnified Party a conflict of interest exists by reason of common representation or if all parties commonly represented do not agree as to the action (or inaction) of counsel. If the Indemnified Party fails to provide such notice to the Borrower, the Borrower is still obligated to indemnify the Indemnified Party for Indemnifiable Losses[, except that the Borrower is not liable for any Litigation Expense the Indemnified Party incurs during the period in which the Indemnified Party failed to give such notice.].

The rights and undertakings set forth in this Section do not terminate and survive the final payment or defeasance of the Bonds and the termination or defeasance of this Loan Agreement.

For purposes of this Section “Indemnifiable Losses” means the aggregate of Losses and Litigation Expenses.

For purposes of this Section “Losses” 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. For purposes of this Section “Litigation Expenses” means any court filing fee, court cost, witness fee, and each other fee and cost of investigating and defending or asserting a claim, including, without limitation, in each case, attorneys’ fees, other professionals’ fees and disbursements.

ERISA [include only if Borrower maintains a defined benefit plan that is subject to ERISA funding requirements. See Borrower representation (l).]

The Borrower shall not, with respect to any ERISA Plan:

incur any “accumulated funding deficiency,” as such term is defined in Section 412 of the Code, whether or not waived, if the amount of such accumulated funding deficiency, plus any accumulated funding deficiencies previously incurred with respect to such ERISA Plan and not eliminated, would aggregate more than \$100,000;

provided that the incurring of such an accumulated funding deficiency will not be an “event of default” under Section 17 hereof if it is reduced below \$100,000 or eliminated within 90 days after the date upon which the Borrower becomes aware of such accumulated funding deficiency; or

terminate any such ERISA Plan in a manner which could result in the imposition of a material lien on the property of the Borrower pursuant to Section 4068 of ERISA and which could materially adversely affect the business, earnings, properties or financial condition of the Borrower; or

withdraw from a Multiemployer Plan in a “complete withdrawal” or a “partial withdrawal” as defined in Sections 4203(a) and 4205(a), respectively, of ERISA, if such withdrawal could materially adversely affect the Borrower’s ability to comply at any time with any of the provisions of this Loan Agreement.

The Borrower shall:

fund all current and past service pension liabilities under the provisions of all ERISA Plans such that if all such ERISA Plans were terminated at the same time by the Borrower any liens imposed on the Borrower under Section 4068 of ERISA would not be in an amount in the aggregate which would materially affect the Borrower’s ability to comply at any time with any of the provisions of this Loan Agreement; and

otherwise comply in all material respects with the provisions applicable to its ERISA Plans contained in ERISA, the Code and the regulations published thereunder; and

notify the Trustee, the Liquidity Provider and the Authority promptly after the Borrower knows (i) of the happening of any material Reportable Event with respect to any ERISA Plan and, in any event, at least five days prior to any notification of such material Reportable Event given to the Pension Benefit Guaranty Corporation pursuant to the terms of Section 4043 of ERISA or (ii) of an assessment against the Borrower or any Common Control Entity of any withdrawal liability to a Multiemployer Plan. Notwithstanding anything herein to the contrary, the Borrower need not notify the Trustee, the Liquidity Provider or the Authority of such material Reportable Event or withdrawal liability unless it might materially adversely affect the business, prospects, earnings, properties or condition (financial or otherwise) of the Borrower.

For purposes of this paragraph (iv) and the representations and warranties of the Borrower contained in subsection (v) of Section 2, the following terms shall have the following meanings. The term “ERISA Plan” means any “employee benefit plan” (as such term is defined in Section 3(3) of ERISA) established by the Borrower or, with respect to any such plan that is subject to Section 412 of the Code or Title IV of ERISA, any Common Control Entity. The term “Common Control Entity” means any entity which is a member of a “controlled group of corporations” with, or is under “common control” with, the Borrower as defined in Section 414(b) or (c) of the Code. “Multiemployer Plan” has the meaning set forth in Section 4001(a)(3) of ERISA and all

rules and regulations promulgated from time to time thereunder. The term “Reportable Event” means any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30-day notice period has been waived.

Reporting Requirements:

The Borrower will furnish the following to the Authority so long as any Bonds remain Outstanding:

its audited financial statements certified by an independent public accountant selected by the Borrower as of the end of each of its fiscal years, as soon as accepted by its Board of Trustees [or the _____ Committee thereof] but in any event within 150 days after the end thereof;

promptly upon the request of the Authority or the Trustee, such other information regarding the financial position, results of operations, business or prospects of the Borrower as such party may reasonably request from time to time;

In addition to the foregoing, the Borrower shall, at any reasonable time and from time to time, upon prior written notice, permit the Authority and the Trustee, and their respective representatives and agents, to (i) inspect the premises and the accounting records and the books of the Borrower for the purpose of verifying compliance by the Borrower with the covenants contained herein and all of the terms of the Act, (ii) examine and make copies of and abstracts from the accounting records and books of account of the Borrower, (iii) discuss the affairs, finances and accounts of the Borrower with any of its officers or directors and (iv) upon notice to the Borrower, communicate with the Borrower’s independent certified public accountants.

Post-Issuance Compliance:

Post-Issuance Compliance Undertaking. The Borrower acknowledges that the Internal Revenue Service mandates certain filing requirements with respect to post-issuance tax compliance, private use and/or unrelated trade or business use, including the proper method for computing whether any such use has occurred under Section 145 of the Code. The Borrower covenants that it will undertake to determine (or have determined on its behalf) the information required to be reported on the IRS Form 990 (Schedule K) Supplemental Information on Tax-Exempt Bonds on an annual basis and will undertake to comply with the aforementioned filing requirements and any related requirements that may be applicable to the Bonds (collectively, the “Post-Issuance Requirements”). Further, the Borrower covenants that it has adopted, or, if not, will promptly adopt, management practices and procedures to ensure the Borrower complies with the Post-Issuance Requirements with respect to the Bonds.

Retention of Post-Issuance Compliance Expert. 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] certain post-issuance tax compliance services that may be required from time to time with respect to the Bonds.

No Prevailing Party:

Nothing in this Loan Agreement shall be construed to provide for award of attorneys' fees and costs to the Authority or the Borrower for the enforcement of the Agreement as described in Section 1717 of the Civil Code. Nothing in this Section affects the rights of the Trustee provided herein.

Waiver of Personal Liability:

No member, officer, official, agent or employee of the Authority or any director, officer, agent or employee of the Borrower shall be individually or personally liable for the payment of any principal [or purchase price] of or premium, if any, or interest on the Bonds or any other sum hereunder or be subject to any personal liability or accountability by reason of the execution and delivery of this Loan Agreement; but nothing herein contained shall relieve any such member, director, officer, agent or employee from the performance of any official duty provided by law or by this Loan Agreement.

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; Venue:

The laws of the State of California govern all matters arising out of or relating to this Loan Agreement, including, without limitation, its 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 Loan Agreement shall bring the legal action or proceeding in the 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 Loan Agreement 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.

Rules of Construction:

The parties hereto acknowledge that each such party and its respective counsel have participated in the drafting and revision of this Loan Agreement and the Indenture. Accordingly, the parties agree that the Authority shall not be deemed to be the drafting party of this Loan

Agreement or the Indenture for purposes of any rule of construction which disfavors the drafting party.

Benefits of Agreement:

The Indemnified Parties (other than the Authority) are third party beneficiaries of Section [Indemnity Section] in accordance with its terms. Any amendment or modification of this Loan Agreement executed by the parties is binding upon such Indemnified Parties, and any action or consent taken by the Authority on its own behalf is binding on such Indemnified Parties for the purposes of this Loan Agreement; provided no Indemnified Party other than the Authority shall be bound without its consent to any amendment or modification of the provisions of Section [Indemnity Section] providing (i) rights and performance of Indemnified Parties other than the Authority or (ii) performance by the Borrower for the benefit of Indemnified Parties other than the Authority.

The Trustee is a third party beneficiary of Section [Additional Payments Section] in accordance with its terms. Subject to the Indenture, any amendment or modification of this Loan Agreement executed by the parties is binding upon the Trustee, and any action or consent taken by the Authority on its own behalf is binding on the Trustee for the purposes of this Loan Agreement; provided the Trustee shall not be bound without its consent to any amendment or modification of the provisions of Section [Additional Payments Section] providing (i) rights and performance of the Trustee or (ii) performance by the Borrower for the benefit of the Trustee.

This Loan Agreement is not intended to, nor may it be deemed to, create any rights of enforcement in any Person who is not a party to this Loan Agreement, an Indemnified Party or the Trustee.

Successors and Assigns:

This 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 Loan Agreement. Section[s] ___ address[es] these matters.]¹

Complete Agreement:

This Loan Agreement constitutes the entire agreement between the Borrower and the Authority with respect to the subject matter of this Loan Agreement and supersedes all prior agreements and understandings, both written and oral, with respect to the subject matter of this Loan Agreement.

¹ Use if Loan Agreement includes restrictions on assignment or succession (including by merger, consolidation or other legal succession) by any party

Signature Block:

IN WITNESS WHEREOF, the Authority and the Borrower have caused this Loan Agreement to be executed in their respective corporate names as of the date first above written.

CALIFORNIA EDUCATIONAL FACILITIES
AUTHORITY

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

By: _____
Executive Director

EXHIBIT A

Prior Project:

[Such description should match the description set forth in the CEFA resolution.]

New Project:

[Such description should match the description set forth in the CEFA resolution.]