

Please attach this Addendum to the copies of the Preliminary Official Statement in your possession and forward copies to the parties to whom you have previously delivered copies of such Preliminary Official Statement.

## **ADDENDUM TO PRELIMINARY OFFICIAL STATEMENT DATED JANUARY 20, 2011**

**Relating to:**

**\$38,130,000\***

**LIFESCHOOL OF DALLAS**

**\$37,670,000\* Education Revenue Bonds, Series 2011A and**

**\$460,000\* Taxable Education Revenue Bonds, Series 2011B**

**(Issued by La Vernia Higher Education Finance Corporation)**

PLEASE BE ADVISED that the above-referenced Preliminary Official Statement has been supplemented as follows:

### **CONTINUING DISCLOSURE OF INFORMATION**

This section of the POS has been amended to include the following:

#### ***Quarterly Reports***

*The Borrower will provide the financial reports (income statement and balance sheet) customarily prepared for and provided to the Board of Directors of the Borrower to the MSRB within 45 days from the end of each quarter, beginning May 31, 2011.*

A complete copy of the Continuing Disclosure of Information section is attached to this Addendum.

### **APPENDIX G – SUBSTANTIALLY FINAL FORM OF LOAN AGREEMENT**

The following changes have been incorporated in the Loan Agreement.

*Section 5.9 Debt Service Coverage Ratio – the change to this Section is to state that if the Available Revenues for any Fiscal Year are less than 110% of the Annual Debt Service Requirement due for such Fiscal Year, then upon written direction of a majority of the bondholders the company will employ an Independent Management Consultant.*

The following requirement has not changed: Notwithstanding the preceding sentence, if the debt service coverage ratio falls below 1.0x of the Annual Debt Service Requirements of the Company, it shall constitute a default hereunder.

*Section 5.10 Working Capital Balance – this Section was added and the previous Section 5.10 will become Section 5.11. This Section states that the Company will maintain operating reserves in an amount equal to 15 days of Expenses and that within 150 days after the end of each Fiscal Year, the Company will deliver a certificate which states the working capital balance for such Fiscal Year. If the Company fails to maintain the required 15 days of Expenses, the majority of the bondholders can direct the Company to employ an Independent Management Consultant.*

A complete copy of the substantially final form of the Loan Agreement is attached to this Addendum.

The date of this Addendum is January 31, 2011.

## CONTINUING DISCLOSURE OF INFORMATION

The Borrower in the Loan Agreement has made the following agreement for the benefit of the holders and beneficial owners of the Bonds. The Borrower is required to observe the agreement for so long as it remains obligated to advance funds to pay the Bonds. Under the agreement, the Borrower will be obligated to provide certain updated financial information and operating data at least annually and timely notice of specified material events to the Municipal Securities Rulemaking Board (the "MSRB"). Information will be available free of charge via the Electronic Municipal Market Access system at [www.emma.msrb.org](http://www.emma.msrb.org).

### Quarterly Reports

The Borrower will provided the financial reports (income statement and balance sheet) customarily prepared for and provided to the Board of Directors of the Borrower to the MSRB within 45 days from the end of each quarter, beginning May 31, 2011.

### Annual Reports

The Borrower will provide certain updated financial information and operating data annually to the MSRB in an electronic format prescribed by the MSRB. The information to be updated includes all quantitative financial information and operating data of the general type included in Tables 1-9 in APPENDIX A to this Preliminary Official Statement. The Borrower will update and provide this information within six months after the end of each fiscal year.

Such updated financial information may either be set forth in full in one or more documents or included by specific reference to documents available to the public through the MSRB or the Securities Exchange Commission. The updated information will include audited financial statements if the Borrower commissions an audit and the audit is completed by the required time. If audited financial statements are not available by the required time, the Borrower will provide such financial statements on an unaudited basis within the required time and audited financial statements when they become available. Any such financial statements will be prepared in accordance with the accounting principles described in APPENDIX A or such other accounting principles as the Borrower may be required to employ from time to time pursuant to State law or regulation.

The Borrower's current fiscal year end is the last day of August. Accordingly, the Borrower must provide updated information by the last day of February in each year, unless the Borrower changes its fiscal year. If the Borrower changes its fiscal year, it will notify the MSRB of the change, prior to the next date by which the Borrower otherwise would be required to provide the foregoing information.

### Material Event Notices

The Borrower shall notify the MSRB, in a timely manner not in excess of ten business days after the occurrence of the event, of any of the following events with respect to the Bonds: (1) principal and interest payment delinquencies; (2) non-payment related defaults, if material; (3) unscheduled draws on debt service reserves reflecting financial difficulties; (4) unscheduled draws on credit enhancements reflecting financial difficulties; (5) substitution of credit or liquidity providers, or their failure to perform; (6) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds; (7) modifications to rights of holders of the Bonds, if material; (8) bond calls, if material, and tender offers; (9) defeasances; (10) release, substitution, or sale of property securing repayment of the Bonds, if material; (11) rating changes; (12) bankruptcy, insolvency, receivership or similar event of the Borrower; (13) the consummation of a merger, consolidation, or acquisition involving the Borrower or the sale of all or substantially all of the assets of the Borrower, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and (14) appointment of a successor or additional trustee or the change of name of trustee, if material.

### Availability of Information

The Borrower has agreed to provide the foregoing information to the MSRB. The MSRB expects to provide such information to the public free of charge.

### Limitations and Amendments

The Borrower has agreed to update information and to provide notices of material events only as described above. The Borrower has not agreed to provide other information that may be relevant or material to a complete presentation of its financial results of operations, condition, or prospects or agreed to update any information that has been provided except as described above. The Borrower makes no representation or warranty concerning such information or concerning its usefulness to a decision to invest in or sell Bonds at any future date. The Borrower disclaims any contractual or tort liability for damages resulting in whole or in part from any breach of its continuing disclosure agreement or from any statement made pursuant to its agreement, although holders of Bonds may seek a writ of mandamus to compel the Borrower to comply with its agreement. Nothing in this paragraph is intended or shall act to disclaim, waive, or limit the Borrower's duties under federal or state securities laws.

The continuing disclosure agreement may be amended by the Borrower from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the Borrower, but only if (1) the agreement, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with Rule 15c2-12, taking into account any amendments or interpretations of Rule 15c2-12 since such

offering as well as such changed circumstances and (2) either (a) the registered owners of a majority in aggregate principal amount (or any greater amount required by any other provision of the Bond Indenture) of the outstanding Bonds consent to such amendment or (b) a person that is unaffiliated with the Borrower (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the registered owners and beneficial owners of the Bonds. The Borrower may also amend or repeal the provisions of the continuing disclosure agreement if the Securities Exchange Commission amends or repeals the applicable provisions of Rule 15c2-12 or a court of final jurisdiction enters judgment that such provisions of Rule 15c2-12 are invalid, but only if and to the extent that the provisions of this sentence would not prevent an Underwriter from lawfully purchasing or selling Bonds in the primary offering of the Bonds. If the Borrower amends its agreements, it has agreed to include with the next financial information and operating data provided in accordance with its agreement described above under "Annual Reports" an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of information and data provided.

The Borrower is subject to periodic reporting and audit requirements under the statutes and rules governing charter schools, including participation in the Texas PEIMS system. See "THE SYSTEM OF CHARTER SCHOOLS IN TEXAS" herein. Such records are open records under the Texas Public Information Act, Chapter 552, Texas Government Code, as amended, and, subject to exemptions contained therein, would be available to any person from the Borrower or TEA upon payment of costs.

**APPENDIX G**

**SUBSTANTIALLY FINAL FORM OF LOAN AGREEMENT**

LOAN AGREEMENT

between

LA VERNIA HIGHER EDUCATION FINANCE CORPORATION

and

LIFESCHOOL OF DALLAS

Relating to

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

LIFESCHOOL OF DALLAS EDUCATION REVENUE BONDS  
SERIES 2011A  
(ISSUED BY LA VERNIA HIGHER EDUCATION FINANCE CORPORATION)

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

LIFESCHOOL OF DALLAS TAXABLE EDUCATION REVENUE BONDS  
SERIES 2011B  
(ISSUED BY LA VERNIA HIGHER EDUCATION FINANCE CORPORAT

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Dated as of

February 1, 2011

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## LOAN AGREEMENT

**THIS LOAN AGREEMENT** (this “Agreement”), dated as of \_\_\_\_\_, 2011, is between the **LA VERNIA HIGHER EDUCATION FINANCE CORPORATION**, a non-profit, corporation created and existing under the Act (the “Issuer”), and **LIFESCHOOL OF DALLAS**, a Texas non-profit corporation (the “Company”).

### WITNESSETH:

WHEREAS, the La Vernia Higher Education Finance Corporation (the “Corporation”), has, pursuant to Chapter 53 of the Texas Education Code, as amended (the “Act”), and specifically Section 53.351 thereof, approved and provided for the creation of the Issuer as a nonstock, non-profit corporation;

WHEREAS, the Issuer is a constituted authority and instrumentality (within the meaning of those terms in the Regulations of the Department of the Treasury and the rulings of the Internal Revenue Service (the “IRS”) prescribed and promulgated pursuant to Section 103 of the Internal Revenue Code of 1986, as amended);

WHEREAS, the Issuer, on behalf of the Corporation, is empowered to issue its revenue bonds in order to acquire by purchase, purchase contract, or lease, or to construct, enlarge, extend, repair, renovate, or otherwise improve, educational facilities, and to refinance any educational facility acquired, constructed, or improved, and for the purpose of aiding authorized charter schools in providing educational facilities and facilities incidental, subordinate, or related thereto or appropriate in connection therewith;

WHEREAS, in furtherance of the purposes of the Act, the Issuer proposes to issue its \$\_\_\_\_\_, LifeSchool of Dallas Education Revenue Bonds, Series 2011A (the “Series 2011A Bonds”) and its LifeSchool of Dallas Taxable Education Revenue Bonds, Series 2011B (the “Series 2011B Bonds,” together with the Series 2011A Bonds, the “Bonds”), the proceeds of which will be loaned to the Company pursuant to this Agreement to be used to finance the cost of a project consisting of the acquisition of certain land and the construction of and improvements to certain buildings, equipment, facilities and improvements on certain campuses of the Company; funding a debt service reserve fund or the purchase of a Reserve Fund Surety Policy and [capitalized interest]; and to pay certain of the costs of issuing such Bonds;

WHEREAS, contemporaneously with the execution and delivery of this Agreement, the Issuer has entered into the Trust Indenture and Security Agreement (the “Indenture”), dated as of February 1, 2011, between the Issuer and Regions Bank, as trustee (in such capacity, the “Trustee”) for the purposes of effecting the issuance of the Bonds, furthering the public purposes of the Act and securing to the Holders of the Bonds the payment of the Bonds;

WHEREAS, the Company is a party to that certain Master Trust Indenture and Security Agreement (the “Master Indenture”) dated as of February 1, 2011, between the Company, on behalf of itself, and Regions Bank, Dallas, Texas, as Master Trustee (the “Master Trustee”), as supplemented by the Supplemental Master Trust Indenture No. 1 dated as of February 1, 2011, between the Company and the Master Trustee, which secures payment of certain Debt (as

defined in the Master Indenture) of the Company including the Series 2011A Note and the Series 2011B Note (as hereinafter defined) which evidences the Loan made hereby (the “Loan”);

WHEREAS, the Issuer shall issue the Bonds in order to loan the proceeds thereof to the Company and the Company agrees to repay the Loan on the terms set forth herein;

WHEREAS, pursuant to the provisions of this Agreement, the Company is executing and delivering to the Issuer the Series 2011A Note and the Series 2011B Note to evidence the loan of the proceeds of the Series 2011A Bonds and the Series 2011B Bonds, respectively, to the Company and the obligation of the Company under this Agreement to repay the same, which each such note is a “Master Note” under the Master Indenture;

WHEREAS, pursuant to the provisions of this Agreement, the Issuer is collaterally assigning to the Trustee all of the Issuer’s right, title and interest in the Series 2011A Note and the Series 2011B Note and the Loan Payments (as hereinafter defined) to be made by the Company pursuant to this Agreement; and

NOW THEREFORE, in consideration of the premises and other good and valuable consideration and the mutual benefits, covenants and agreements set forth below, the parties agree as follows:

## **ARTICLE I**

### **DEFINITIONS AND INTERPRETATIONS**

#### Section 1.1 Construction of Terms; Definitions.

(a) For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(1) “Agreement” means this instrument as originally executed or as it may from time to time be supplemented or amended by one or more agreements supplemental hereto entered into pursuant to the applicable provisions hereof.

(2) All references in this instrument to designated “Articles”, “Sections” and other subdivisions are to the designated Articles, Sections and other subdivisions of this instrument as originally executed. The words “herein”, “hereof” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision.

(3) The terms defined in this Article have the meanings assigned to them in this Article, and include the plural as well as the singular. The terms used herein but defined in the Indenture and not defined herein have the meanings assigned to them in the Indenture and the Master Indenture. Reference to any Bond Document means that Bond Document as amended or supplemented from time to time. Reference to any party to a Bond Document means that party and its permitted successors and assigns.

(4) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles.

(b) The following terms have the meanings assigned to them below whenever they are used in this Agreement:

“Additions” means any and all real or personal property or any interest therein wherever located or used (i) which is desirable in the business of the Company; (ii) the cost of construction, acquisition or development of which is properly chargeable to the property accounts of the Company, in accordance with generally accepted accounting principles; and (iii) which is deemed for federal income tax purposes to be owned by the Company.

“Adjusted Revenues” shall have the meaning given to such term in the Master Indenture.

“Affiliate” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “control” when used with respect to any specified Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the power to appoint and remove its directors, the ownership of voting securities, by contract, or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“Bond Counsel” means an attorney or firm of attorneys nationally recognized as experienced in the field of bonds of governmental issuers appointed by the Issuer and satisfactory to the Trustee.

“Capital Expenditures” means, as of the date of determination thereof, the aggregate of the costs paid (otherwise than by incurring or acquiring Property subject to purchase money obligations) prior to such date by the Company in connection with the construction, acquisition or development of the Project or Additions, as the case may be, and properly chargeable to the property accounts of the owner thereof in accordance with generally accepted accounting principles and so charged, including, without limitation, payments made for labor, salaries, overhead, materials, interest, taxes, engineering, accounting, legal expenses, superintendence, insurance, casualty liabilities, rentals, start-up expenses, financing charges and expenses and all other items (other than operating or maintenance expenses) in connection with such construction, acquisition or development and so properly chargeable and, in the case of capital expenditures for Additions consisting of an acquired facility, including the cost of any franchises, rights or property, other than Additions, acquired as a part of such going business for which no separate or distinct consideration shall have been paid or apportioned.

“Claims” means all claims, investigations, lawsuits, causes of action and other legal actions and proceedings of whatever nature brought against (whether by way of direct action, counter claim, cross action or impleader) or otherwise involving any Indemnified Party, even if groundless, false, or fraudulent, so long as the claim, lawsuit, cause of action or other legal action or proceeding is alleged or determined, directly or indirectly, to arise out of, to result from, to relate to or to be based upon, in whole or in part: (a) the issuance of the Bonds, (b) the duties, activities, acts or omissions (even if negligent) of any Person in connection with the

issuance of the Bonds, the obligations of the various parties arising under the Bond Documents or the administration of any of the Bond Documents, or (c) the duties, activities, acts or omissions (even if negligent) of any Person in connection with the design, construction, installation, operation, use, occupancy, maintenance or ownership of the Project or any part thereof.

“Closing Date” means the date of closing of the issuance of the Bonds.

“Code” means the Internal Revenue Code of 1986, as amended from time to time and the corresponding provisions, if any, of any successor internal revenue laws of the United States.

“Construction Consultant” means the respective construction consultant for a Participating Campus.

“Debt” shall have the meaning assigned to such term in the Master Indenture.

“Favorable Opinion of Bond Counsel” means, with respect to any action the taking of which requires such an opinion, an unqualified opinion of counsel, which shall be from Bond Counsel, delivered to and in form and substance satisfactory to the Issuer to the effect that such action is permitted under the laws of the State (including the Act), the Code and the Indenture and will not adversely affect the exclusion of interest on the Series 2011A Bonds from gross income for purposes of federal income taxation.

“Fiscal Year” means any twelve-month period beginning on September 1 of any calendar year and ending on August 31 of the following year or such other twelve-month period selected by the Company as the fiscal year for the Company; provided that, the Company shall give written notice of any such change to the Issuer and the Trustee.

“Indenture” means the Trust Indenture and Security Agreement, dated as of the date of this Agreement, between the Issuer and Regions Bank, as trustee, securing the Bonds.

“Indemnified Party” shall mean one or more of the Issuer, the Governing Body of the Issuer, the Sponsoring Entity and any of their successors, officers, directors or commissioners.

“Independent” when used with respect to any specified Person means such a Person who (i) is in fact independent, (ii) does not have any direct financial interest or any material indirect financial interest in the Company, and (iii) is not connected with the Company as an officer, employee, promoter, trustee, partner, director or person performing similar functions. Whenever it is herein or in the Indenture provided that any Independent Person’s opinion or certificate shall be furnished to the Trustee, such Person shall be appointed by Order and such opinion or certificate shall state that the signer has read this definition and that the signer is Independent within the meaning hereof.

“Loan Payments” means the amounts described in Sections 4.1(a) and (b) of this Agreement.

“Losses” means losses, costs, damages, expenses, judgments, and liabilities of whatever nature (including, but not limited to, reasonable attorney’s, accountant’s and other professional’s

fees, litigation and court costs and expenses, amounts paid in settlement and amounts paid to discharge judgments and amounts payable by an Indemnified Party to any other Person under any arrangement providing for indemnification of that Person) directly or indirectly resulting from arising out of or relating to one or more Claims.

“MSRB” means the Municipal Securities Rulemaking Board.

“Opinion of Counsel” means a written opinion of counsel, who may (except as otherwise expressly provided) be counsel to any party to a Bond Document, and shall be satisfactory to the Trustee.

“Organizational Documents” of any corporation means the articles of incorporation, certificate of incorporation, corporate charter or other document pursuant to which such corporation was organized, and its bylaws, each as amended from time to time, and as to any other Person, means the instruments pursuant to which it was created and which govern its powers and the authority of its representatives to act on its behalf.

“Participating Campuses” means, collectively, the charter school campuses of the Company so designated under any Supplemental Master Indenture.

“Payment and Performance Bonds” means payment and performance bonds required by Section 3.3(a) hereof.

“Person” means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof.

“Plans and Specifications” means the plans and specifications for the Project, as the same may be prepared or amended from time to time as provided in Section 3.1 hereof, on file at the principal business office of the Company and available at all times for inspection by the Issuer.

“Project” means the Project described in Exhibit “A” hereto.

“Project Costs” means costs permitted to be paid out of proceeds of the Bonds by the Act and by the Code including costs related to the Project (excluding the Costs of Issuance).

“Regulated Chemical” means any substance, the presence of which requires investigation, permitting, control or remediation under any federal, state or local statute, regulation, ordinance or order, including without limitation:

a) any substance defined as “hazardous waste” under the Resource Conservation and Recovery Act, as amended (42 U.S.C. §6901 et seq.);

b) any substance defined as a “hazardous substance” under the Comprehensive Environmental Response, Compensation and Liability Act, as amended (42 U.S.C. §9601 et seq.);

- c) any substance defined as a “hazardous material” under the Hazardous Materials Transportation Act (49 U.S.C. §1800 et seq.);
- d) any substance defined under any Texas statute analogous to (a), (b) or (c), to the extent that said statute defines any term more expansively;
- e) asbestos;
- f) urea formaldehyde;
- g) polychlorinated biphenyls;
- h) petroleum, or any distillate or fraction thereof;
- i) any hazardous or toxic substance designated pursuant to the laws of the State; and
- j) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any governmental authority.

“Series 2011 Notes” means the Series 2011A Note and the Series 2011B Note together.

“Series 2011A Note” means the tax-exempt master indenture note in the form attached to the Supplemental Master Trust Indenture as Exhibit “A-1,” which is secured by the Master Indenture executed by the Company and dated the Closing Date in the principal amount of the Series 2011A Bonds.

“Series 2011B Note” means the taxable master indenture note in the form attached to the Supplemental Master Trust Indenture as Exhibit “A-2,” which is secured by the Master Indenture executed by the Company and dated the Closing Date in the principal amount of the Series 2011B Bonds.

(c) Certain terms, used primarily in Sections 4.5, 4.7 and 5.3, are defined in those Sections.

Section 1.2 Form of Documents Delivered to Trustee. Every certificate and every Opinion of Counsel with respect to compliance with a condition or covenant provided for in this Agreement shall include a statement that the person making such certification or opinion has read such covenant or condition and the definitions relating thereto, has made or caused to be made such examination or investigation as is necessary to enable them to express an informed opinion as to whether such covenant or condition has been complied with, and a statement whether such condition or covenant has been complied with. In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

Any certificate or opinion of an officer of the Company may be based, in so far as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters upon which his certificate or opinion is based are erroneous. Any such certificate or Opinion of Counsel may be based, in so far as it relates to factual matters, upon a certificate or opinion of, or representations by, an officer or officers of the Company stating that the information with respect to such factual matters is in the possession of the Company, unless such Counsel knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to such matters are erroneous.

Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments hereunder, they may, but need not, be consolidated and form one instrument.

Section 1.3 Communications. All notices, demands, certificates, requests, consents, submissions or other communications hereunder shall be given as provided in the Indenture.

Section 1.4 Term of Agreement. This Agreement shall remain in full force and effect from the date of execution and delivery hereof until the Indenture has been discharged in accordance with the provisions thereof; provided, however, that (a) the provisions of this Section and of Sections 4.7, 5.1, 5.6 and 5.8 of this Agreement shall survive any expiration or termination of this Agreement and (b) in addition, if the Indenture is discharged prior to the final Maturity of the Bonds, the provisions of Sections 3.5, 3.7, 4.1(b), 4.3 and 5.3 of this Agreement shall continue until the final Maturity of the Bonds.

Section 1.5 Company's Approval of Bond Documents. The Bond Documents have been submitted to the Company for examination, and the Company acknowledges that, by execution of this Agreement, it has approved the Bond Documents and will perform the obligations imposed upon it under the Bond Documents.

Section 1.6 Effect of Headings and Table of Contents. The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

Section 1.7 Successors and Assigns. All covenants and agreements in this Agreement by the Issuer and the Company shall bind their respective successors and assigns, whether so expressed or not. No assignment by the Issuer or the Company of this Agreement shall relieve them of their obligations hereunder.

Section 1.8 Separability Clause. In case any provision in this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 1.9 Benefits of Agreement. Subject to Section 7.9 hereof, nothing in this Agreement or in the Bonds, express or implied, shall give to any Person, other than the parties to the Bond Documents and their successors and assigns hereunder, the Indemnified Parties and the

Holders of Bonds, any benefit or any legal or equitable right, remedy or claim under this Agreement.

Section 1.10 Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State.

Section 1.11 Amendments. This Agreement may be amended only as provided in the Indenture.

## ARTICLE II

### REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 2.1 Representations, Warranties and Covenants of the Issuer. The Issuer represents, warrants and covenants that:

(a) Corporate Existence; Good Standing. The Issuer is a non-profit education finance corporation duly incorporated, organized, validly existing and in good standing under the Act and is empowered to act on behalf of the Sponsoring Entity.

(b) Power. The Issuer has full corporate power and authority under the Constitution and laws of the State and its Organizational Documents to adopt the resolution authorizing the issuance of the Bonds, to issue the Bonds, to execute and deliver the Bond Documents to be executed and delivered by it and to perform its obligations under such Bond Documents.

(c) Due Authorization. The Issuer has duly adopted the resolution authorizing the issuance of the Bonds and has duly authorized the execution and delivery of the Bond Documents to be executed and delivered by it.

(d) Enforceability. The Bond Documents to which the Issuer is a party and the Bonds constitute valid and binding obligations of the Issuer, enforceable against the Issuer in accordance with their terms (except that (i) the enforceability of such Bond Documents may be limited by bankruptcy, reorganization, insolvency, fraudulent transfer, moratorium or other similar laws of general application relating to the enforcement of creditors' rights, (ii) certain equitable remedies, including specific performance, may be unavailable and (iii) the indemnification provisions contained therein may be limited by applicable securities laws and public policy).

(e) No Litigation. There is no action, suit, proceeding or investigation at law or in equity before or by any court, either State or federal, or public board or body pending or, to the Issuer's knowledge, threatened calling into question the creation or existence of the Issuer, the validity of the Bond Documents to be executed and delivered by it, the authority of the Issuer to execute and deliver the Bond Documents to be executed and delivered by it and to perform its obligations under the Bond Documents or the title of any Person to the office held by that Person with the Issuer.

(f) Non Contravention. The execution and delivery by the Issuer of the Bond Documents to be executed and delivered by it, and the performance of its obligations under such

Bond Documents, will not violate in any respect any provision of law or regulation, or of any judgment, decree, writ, order or injunction, or of the Organizational Documents of the Issuer, and to the Issuer's knowledge, will not contravene the provisions of, or constitute a default under, or result in the creation of a lien, charge or encumbrance under, any agreement (other than the Indenture) to which the Issuer is a party or by which any of its properties constituting a part of the Trust Estate under the Indenture are bound.

(g) No Default. To the Issuer's knowledge, no event has occurred, and no condition currently exists, which constitutes or may, with the passage of time or the giving of notice, or both, constitute an Event of Default on the part of the Issuer.

(h) Amendments. The Issuer covenants that it will perform each of the covenants set forth in Article V of the Indenture for the benefit of the Company, and unless an Event of Default exists, will not join in any amendment of any Bond Document without the consent of the Company.

Each of the foregoing representations, warranties and covenants shall be deemed to have been made as of the date of this Agreement and again as of the Closing Date.

Section 2.2 Representations and Warranties of the Company. In addition to any other representation and warranty of the Company herein, the Company represents and warrants as follows:

(a) Corporate Existence; Good Standing; Power. The Company is a non-profit corporation duly organized, validly existing and in good standing under the Texas Nonprofit Corporation Act; is duly qualified, authorized and licensed to transact business in each jurisdiction wherein failure to qualify would have a material adverse effect on the conduct of its business or the ownership of its properties; and has full corporate power and authority to own its properties and to conduct its business as now being conducted.

(b) Accuracy of Information; No Misstatements. All of the documents, instruments and written information furnished by or on behalf of the Company to the Issuer or the Trustee in connection with the issuance of the Bonds are true and correct in all material respects and do not omit or fail to state any material facts necessary or required to be stated therein to make the information provided not misleading.

(c) No Defaults; Non Contravention. No event of default or event which, with notice or lapse of time or both, would constitute an event of default or a default under any agreement or instrument to which the Company is a party or by which the Company is or may be bound or to which any of the property or assets of the Company is or may be subject, and which would have a material adverse effect on the Company or which would impair its ability to carry out its obligations under the Bond Documents has occurred and is continuing; neither the execution nor the delivery by the Company of the Bond Documents to which it is party, nor the consummation of any of the transactions herein and therein contemplated nor the fulfillment of, or compliance with, the terms and provisions hereof or thereof, will contravene the Organizational Documents of the Company or will conflict with, in any way which is material to the Company, or result in a breach of, any of the terms, conditions or provisions of, or constitute a default under, any

corporate or limited partnership restriction or any bond, debenture, note, mortgage, indenture, agreement or other instrument to which the Company is a party or by which the Company is or may be bound or to which any of the property or assets of the Company is or may be subject, or any law or any order, rule or regulation (applicable as of the date hereof to the Company) of any court, or regulatory body, administrative agency or other governmental body having jurisdiction over the Company or its properties or operations, or will result in the creation or imposition of a prohibited lien, charge or other security interest or encumbrance of any nature upon any property or asset of the Company under the terms of any such restriction, bond, debenture, note, mortgage, indenture, agreement, instrument, law, order, rule or regulation.

(d) No Litigation. Except as disclosed in writing in connection with the offering of the Bonds, there is no action, suit, proceeding or investigation at law or in equity before or by any court or governmental agency or body pending or threatened, wherein an adverse decision, ruling or finding (i) would result in any material adverse change in the condition (financial or otherwise), results of operations, business or prospects of the Company or which would materially and adversely affect the properties of the Company, or (ii) would materially and adversely affect the transactions contemplated by, or the validity or enforceability of, the Bond Documents to which it is a party.

(e) Corporate Authority; Authorization and Enforceability of Transaction. The Company has full corporate power and authority to execute and deliver the Bond Documents to be executed by the Company and has full power and authority to perform its obligations hereunder and thereunder and engage in the transactions contemplated by the Bond Documents to be executed by it. The Bond Documents to be executed by the Company have been duly authorized, executed and delivered by the Company and each constitutes a legal, valid and binding obligation of the Company, enforceable in accordance with its terms (except that (i) the enforceability of such Bond Documents may be limited by bankruptcy, reorganization, insolvency, fraudulent transfer, moratorium or other similar laws of general application relating to the enforcement of creditors' rights, (ii) certain equitable remedies, including specific performance, may be unavailable and (iii) the indemnification provisions contained therein may be limited by applicable securities laws and public policy).

(f) All Approvals. Except as otherwise disclosed in writing in connection with the offering of the Bonds, no consents, approvals, authorizations or any other actions by any governmental or regulatory authority that have not been obtained or taken are or will be required for the issuance and sale of the Bonds, the execution and delivery of the Bond Documents by the Company, the construction, ownership and operation of the Project or the consummation of the other transactions contemplated by the Bond Documents (except for such licenses, certificates, approvals or permits necessary for the construction of the Project for which the Company either has applied or shall apply with due diligence and which the Company expects to receive).

(g) No Conflict of Interest. No elected or appointed public official, employee, agent or representative of the Sponsoring Entity or any of its official boards, commissions or committees or any member of the Governing Body of the Issuer has any direct or indirect interest of any kind, or any right, agreement or arrangement to acquire such an interest in the Project, as owner, contractor, subcontractor, shareholder, general or limited partner, tenant or otherwise that

would violate or require disclosure or other action under any law, regulation, charter or ordinance of the State or the Sponsoring Entity.

(h) Representations Regarding the Project. The Company intends to construct and operate the Project during the term of this Agreement and to expend the proceeds of the Bonds in the Construction Fund to pay Project Costs. In addition, the Project will be located in its entirety within the boundaries of the State. The principal of the Bonds is based upon the Company's most reasonable estimate of financing or refinancing the Project Costs as of the date hereof, which estimates are based upon sound engineering and accounting principles. The ownership of the Project will at all time be under the exclusive control and held for the exclusive benefit of the Company. The Company has obtained or will obtain all licenses and permits necessary with respect to any acquisition, construction, reconstruction, improvement, expansion or operation, as the case may be, of the Project and all necessary approvals from any governmental bodies or agencies having jurisdiction in connection therewith.

(i) Certain Federal Tax Matters. The Company makes the following representations:

(A) The Company is an organization exempt from federal income taxation as provided in Section 501(a) of the Code by virtue of being described in Section 501(c)(3) of the Code;

(B) The purposes, character, activities and methods of operation of the Company are not materially different from the purposes, character, activities and methods of operation at the time of its determination by the IRS as an organization described in Section 501(c)(3) of the Code (the "Determination") or otherwise at the time of its organization as an exempt organization within the meaning of Section 501(c)(3) of the Code, or have been disclosed to the IRS and the Company has received confirmation that such activities or methods of operation do not materially adversely affect the status of the Determination;

(C) The Company has not diverted a substantial part of its corpus or income for a purpose or purposes other than the purpose or purposes (a) for which it is organized or operated or (b) disclosed to the IRS in connection with the Determination;

(D) The Company has not operated during its five most recent fiscal years or the current fiscal year, as of the date hereof, in a manner that would result in it being classified as an "action" organization within the meaning of Section 1.501(c)(3)-(1)(c)(3) of the Regulations including, but not limited to, promoting or attempting to influence legislation by propaganda or otherwise as a substantial part of its activities;

(E) With the exception of the payment of compensation (and the payment or reimbursement of expenses) which is not excessive and is for personal services which are reasonable and necessary to carrying out the purposes of the Company, no individual who would be a "foundation manager" within the meaning of Section 4946(b) of the Code with respect to the Company, nor any Person controlled by any such individual or individuals or any of their Affiliates, nor any Person having a personal or private interest in the activities of the Company has acquired or received, directly or indirectly, any

income or assets, regardless of form, of the Company during the current fiscal year and the five fiscal years preceding the current fiscal year, other than as reported to the IRS by the Company;

(F) The Company is not a “private foundation” within the meaning of Section 509(a) of the Code;

(G) The Company has not received any indication or notice whatsoever to the effect that its exemption under Section 501(a) of the Code by virtue of being an organization described under Section 501(c)(3) of the Code has been revoked or modified, or that the IRS is considering revoking or modifying such exemption, and such exemption is still in full force and effect;

(H) The Company has timely filed with the IRS all requests for determination, reports and returns required to be filed by it and such requests for determination, reports and returns have not omitted or misstated any material fact, and the Company has timely notified the IRS of any changes in its organization and operation since the date of the application for the Determination;

(I) The Company has not devoted more than an insubstantial part of its activities in furtherance of a purpose other than an exempt purpose within the meaning of Section 501(c)(3) of the Code;

(J) The Company has not taken any action, nor does it know of any action that any other Person has taken, nor does it know of the existence of any condition that would cause the Company to lose its exemption from taxation under Section 501(a) of the Code or cause interest on the Series 2011A Bonds to be includable in the income of the recipients thereof for federal income tax purposes;

(K) Taking into account the Issue Price (as defined in Section 5.3(q) of this Agreement) of the Stated Maturity of the Series 2011A Bonds, the average term of the Series 2011A Bonds does not exceed 120 percent of the average reasonably expected economic life of the Project to be financed or refinanced by the Series 2011A Bonds, weighted in proportion to the respective cost of each item comprising the property the cost of which has been or will be financed, directly or indirectly, with the Net Proceeds (as defined in Section 5.3(q) of this Agreement) of the Series 2011A Bonds. For purposes of the preceding sentence, the reasonably expected economic life of property shall be determined as of the later of (A) the Closing Date for the Series 2011A Bonds or (B) the date on which such property is placed in service (or expected to be placed in service). In addition, land shall not be taken into account in determining the reasonably expected economic life of property, except that, in the event 25 percent or more of the collective Net Proceeds of the Series 2011A Bonds, directly or indirectly, have been expended for land, such land shall be treated as having an economic life of 30 years and shall be taken into account for purposes of determining the reasonably expected economic life of such property;

(L) All of the documents, instruments and written information supplied by or on behalf of the Company, which have been reasonably relied upon by Bond Counsel in rendering their opinion with respect to the exclusion from gross income of the interest on the Series 2011A Bonds for federal income tax purposes or Bond Counsel in rendering an opinion with respect to the status of the Company under Section 501(c)(3) of the Code, are true and correct in all material respects, do not contain any untrue statement of a material fact and do not omit to state any material fact necessary to be stated therein to make the information provided therein, in light of the circumstances under which such information was provided, not misleading.

(j) Indenture. The Indenture has been submitted to the Company for its examination, and the Company acknowledges, by execution of this Agreement, that it has reviewed the Indenture and that it accepts each of its obligations expressed or implied thereunder.

(k) Security Interests. The Company has not heretofore made a pledge of, granted a lien on or security interest in, or made an assignment or sale of the collateral granted hereunder and described in Section 4.3 that ranks on a parity with or prior to the lien granted hereunder that will remain outstanding on the Closing Date. The Company has not described the collateral in a UCC financing statement that will remain effective on the Closing Date. The Company will not hereafter make or suffer to exist any pledge or assignment of, lien on, or security interest in the collateral that ranks prior to or on a parity with the lien granted hereunder, or file any financing statement describing any such pledge assignment, lien or security interest, except as expressly permitted by the Bond Documents.

(l) Other Representations and Warranties. Any certificate with respect to factual or financial matters signed by an officer of the Company and delivered to the Issuer shall be deemed a representation and warranty by the Company as to the statements made therein.

Each of the foregoing representations and warranties shall be deemed to have been made as of the date of this Agreement.

### **ARTICLE III**

#### **THE PROJECT**

##### **Section 3.1 Acquisition and Construction of the Project.**

(a) The Company agrees to utilize the amounts in the Construction Fund to pay Project Costs and to complete the acquisition, construction, reconstruction, improvement, expansion or operation, as the case may be, of the Project and to place in service and operate the Project as an educational facility as defined in the Act in furtherance of the public purposes of the Act.

(b) The Plans and Specifications for the part of the Project on each campus shall be approved prior to the commencement of construction of that part of the Project, by a duly authorized officer of the Company. The Company may make insubstantial changes in, additions to, or deletions from the Plans and Specifications and may make substantial changes in, additions to, or deletions from the Plans and Specifications only if the Project shall continue to constitute

facilities of the type which may be financed by the Issuer under the Act and any required approvals of such changes, additions, or deletions have been obtained from any governmental bodies or agencies having jurisdiction.

Section 3.2 Reserved.

Section 3.3 Disbursements of Bond Proceeds.

(a) Disbursements from Project Account of the Construction Fund. Pursuant to the provisions of the Indenture, there shall be deposited into the Project Fund a portion of the proceeds received from the sale of the Bonds. Subject to Section 406 of the Indenture, the Trustee is authorized and directed to make payments to the Company from the Construction Fund, as requested by the Company and approved in writing by the respective Construction Consultant, for the Company to pay third parties for amounts due and owing to such third parties with respect to any Project Costs and also to reimburse the Company for any Project Costs paid directly by the Company upon receipt of a Requisition Certificate substantially in the form attached as Exhibit "B" to the Indenture. The Company shall retain copies of all such Requisition Certificates until the date that is six years from the first date on which no Series 2011A Bonds are outstanding.

(b) Disbursements from the Costs of Issuance Account of the Construction Fund. Subject to Section 406 of the Indenture, the Trustee is authorized and directed to disburse funds on or after the Closing Date for the Costs of Issuance of the Bonds upon receipt of a Requisition Certificate. The Company shall retain copies of all Requisition Certificates until the date that is six years from the first date on which no Bonds are Outstanding.

(c) The Trustee may rely fully on any Requisition Certificate delivered pursuant to this Section 3.3 and shall not be required to make any investigation in connection therewith.

Section 3.4 Completion of Project if Bond Proceeds Insufficient. The Company agrees to pay all Project Costs which are not, or cannot be, paid or reimbursed from the proceeds of the Bonds. The Company agrees that if, after exhaustion of the moneys in the Construction Fund established pursuant to the Indenture, the Company should pay any portion of the Project Costs, it shall not be entitled to any reimbursement therefor from the Issuer, the Trustee or from any Bondholder, nor shall it be entitled, as a consequence of such unreimbursed payment, to any abatement, postponement or diminution of the amounts payable under this Agreement.

Section 3.5 Completion. Upon completion of the Project, but not later than the end of the fifth Bond Year, the Company shall deliver to the Trustee an Officer's Certificate in the form of Exhibit "B" hereto.

Section 3.6 Modification of the Project. The Project may be altered or added to by the Company; provided, however, that the Company shall make no revision to the Project that results in the Project ceasing to (i) constitute educational facilities, as defined in the Act, or (ii) be substantially similar to the Project as approved by the Issuer; provided, further, that no revision to the Project may be made unless the Company has delivered a Favorable Opinion of Bond Counsel to the Trustee.

### Section 3.7 Casualty and Condemnation.

(a) In the event of any damage, destruction, condemnation or taking under the threat of condemnation with respect to the Project, the Company shall promptly engage the services of the Construction Consultant, which shall make a determination as to the amount of insurance or condemnation proceeds anticipated to result therefrom within fifteen (15) days of the occurrence of such damage, destruction, condemnation or taking.

(b) If the insurance or condemnation proceeds of any damage, destruction, condemnation or taking under the threat of condemnation with respect to the Project as determined by the Construction Consultant pursuant to paragraph (a) above are equal to or less than \$250,000, such proceeds shall be transferred to the Trustee for deposit in an Insurance Proceeds Account of the Construction Fund and shall be applied to repair, restore, modify, improve or replace the Project. The Trustee is hereby directed to make payments from such Insurance Proceeds Account of the Construction Fund for such purposes or to reimburse the Company for costs paid by it in connection therewith upon receipt of a Requisition Certificate signed by an Authorized Representative of the Company and approved by the Construction Consultant, in the same form as Exhibit "B" to the Indenture. Any balance of the insurance or condemnation proceeds remaining after the Project has been repaired, restored or replaced to a state substantially like that prior to the event of damage, destruction or taking, as determined by the Construction Consultant, shall, upon delivery to the Trustee of a certificate executed by the Construction Consultant to such effect, be deposited to the Debt Service Fund and applied to the redemption of the Bonds at the earliest practical date.

(c) If the insurance or condemnation proceeds of any damage, destruction, condemnation or taking under the threat of condemnation with respect to the Project as determined by the Construction Consultant pursuant to paragraph (a) above are greater than \$250,000, such insurance or condemnation proceeds shall be transferred to the Trustee for deposit in the special separate account of the Construction Fund for the Bonds, and:

(1) The Company shall immediately request that the Construction Consultant prepare a report to determine (A) if the repair, reconstruction, restoration or replacement of the Project or a portion thereof damaged or taken is economically feasible and will restore the Project to the physical and operating condition as existed before and (B) if the Company will have sufficient funds from the insurance proceeds and other available funds to make the payments required hereunder when due, to pay the cost of repairing, reconstructing, restoring or replacing the portion of the Project affected by such loss, damage or condemnation (including without limitation architects' and attorneys' fees and expenses), to pay Company's operating costs until completion of the repair, construction or replacement of such portion of the Project which report shall be delivered to the Trustee and any Holder owning at least ten percent (10%) in aggregate principal amount of any series of Outstanding Bonds, within thirty (30) days of the occurrence of such damage, destruction, condemnation or taking. If the report determines the foregoing conditions are satisfied, then within thirty (30) days after delivery thereof, the Company shall deliver to the Trustee:

(A) cash in an amount equal to the funds, if any, in excess of insurance proceeds required by the report delivered under clause (1) above for deposit in a special separate account of the Construction Fund; and

(B) such other documents and information as the Holders of a majority of the Outstanding Bonds may reasonably require; and

the Company shall promptly proceed to repair, reconstruct and replace the affected portion of the Project, including all fixtures, furniture and equipment and effects, to its original condition to the extent possible. Each request for payment shall comply with the requirements of the Indenture in Section 406 for payments from the Construction Fund.

(2) If the Construction Consultant's report does not determine that the conditions are satisfied or fails to meet the requirements relating to repair or reconstruction or replacement in clause (1) above, the Company shall prepay the Loan and the Bonds shall be redeemed as set forth in paragraph (e) below.

(d) If the insurance or condemnation proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement undertaken pursuant to this Section, the Company will nonetheless complete the work and will pay any cost in excess of the amount of the insurance or condemnation proceeds held by the Trustee. The Company agrees that if by reason of any such insufficiency of the insurance or condemnation proceeds, the Company shall make any payments pursuant to the provisions of this Section, the Company shall not be entitled to any reimbursement therefor from the Trustee or any Holder, nor shall the Company be entitled to any diminution of the amount payable hereunder.

(e) Under the circumstances set forth in subsection (c)(2) hereof, the Loan shall be paid and the Bonds redeemed in full without premium and the insurance proceeds shall be transferred by the Trustee from the applicable account in the Construction Fund to the applicable account in the Debt Service Fund for such purpose. If the insurance proceeds are insufficient to redeem the Bonds in full, the Company shall provide to the Trustee for deposit into the Debt Service Fund moneys which, together with the insurance proceeds, will be sufficient to redeem all of the Bonds pursuant to the Extraordinary Optional Redemption provisions of the Bonds. In the event that the Company has completed any repair, reconstruction or replacement of the Project after the occurrence of any damage, destruction or condemnation and there are excess insurance proceeds, such excess shall be deposited in the Debt Service Fund and applied to the redemption of all or a portion of the Bonds pursuant to the Extraordinary Optional Redemption provision of the Bonds.

Section 3.8 Inspection of the Project. The Company agrees that the Issuer and its duly authorized agents, including the Trustee, may, but have no obligation to at reasonable times as determined by the Company, enter upon the Project site and examine and inspect the Project and, upon the occurrence of an Event of Default, the books and records of the Company that relate to the Project.

Section 3.9 Maintenance and Operation. The Company undertakes to cause each item of its buildings and other facilities, including the Project, to be maintained and operated so long

as the operation of each such item, in the sole judgment of the Company, is economical, lawful, and feasible and in accordance with good operating practice. The Company agrees that during the term of this Agreement it will pay all costs of operating, maintaining, and repairing its buildings and other facilities, including the Project, and that the Issuer shall have no responsibility or liability whatsoever for operating, maintaining, or repairing its buildings and other facilities, including the Project. The Company agrees that it shall not enter into a contract for the management of the Project by a third party service provider unless it receives a Favorable Opinion of Bond Counsel.

Section 3.10 No Establishment and No Impairment of Religion. The Company and the Issuer intend that the loan to the Company and all other transactions provided for in this Agreement be made in strict compliance with all applicable laws and constitutional provisions of the United States and the State. Accordingly, the Company agrees that to the full extent required from time to time by applicable laws and constitutional provisions of the United States and the State in order for the loan to the Company and all other transactions provided for in this Agreement to be made and effected in compliance with such laws and constitutional provisions: (a) no part of the Project financed in whole or in part with proceeds of the Bonds shall be used for sectarian instruction or as a place of religious worship; (b) notwithstanding the payment in full of the Loan Payments and the Bonds, and notwithstanding the termination of this Agreement, each such part of the Project will continue to be subject to the restrictions set out in clause (a) of this Section for so long as it is owned by the Company, or any voluntary grantee of the Company, provided, the continuance of such restriction is necessary to preserve the exemption from federal income taxation of interest on the Bonds under the Code. Provided, however, that to any extent that a restriction or agreement set out in this Section shall at any time not be required in order for the loan to the Company and all other transactions provided for in this Agreement to be made and effected in compliance with applicable constitutional provisions of the United States and the State, such restriction or agreement shall, to that extent and without necessary action by any party, be without any force or effect; and provided further, that in no event shall such restriction or agreement set out in this Section be more expansive than required by an applicable constitutional provision.

Section 3.11 Issuer Relieved From Responsibility With Respect to Project. The Company and the Issuer hereby expressly acknowledge and agree that the Issuer is under no responsibility to insure, maintain, operate or repair the Project or to pay taxes with respect thereto, and the Company expressly relieves the Issuer from any such responsibility.

Section 3.12 Force Majeure. If by reason of Force Majeure the Company shall be rendered unable wholly or in part to carry out its obligations under this Article (other than its obligations to pay money contained in this Agreement), and if the Company gives notice and full particulars of such Force Majeure in writing to the Issuer and to the Trustee within a reasonable time after failure to carry out such obligations, then the obligations of the Company under this Article, so far as they are affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, including a reasonable time for removal of the effect thereof. The requirement that any Force Majeure shall be reasonably beyond the control of the Company shall be deemed to be fulfilled even though any existing or impending strike, lockout or other industrial disturbance may not be settled but could have been settled by acceding to the demand of the opposing Person. The occurrence of any Force Majeure shall not suspend or

otherwise abate, and the Company shall not be relieved from, the obligation to pay the Bond Obligations and to pay any other payments required to be made by it under this Agreement at the times required. For purposes of this Section, "Force Majeure" means acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, acts or orders of any kind of the government of the United States of America, or of any state or locality thereof, or any civil or military authority, terrorist acts, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, tornadoes, storms, floods, washouts, droughts, arrests, restraining of government and people, civil disturbances, explosions, nuclear accidents, wars, breakage or accidents to machinery, transmission pipes or canals, partial or entire failure of utilities, shortages of labor, material, supplies or transportation, or any other cause not reasonably within the control of the party claiming such inability.

Section 3.13 Insurance. So long as the Bonds remain Outstanding, the Company shall at all times keep and maintain the insurance required by Section 213 of the Master Indenture.

Section 3.14 Disposition of Project. Subject to Section 5.13 hereof, the Company covenants that the Project will not be sold or otherwise disposed in a transaction resulting in the receipt by the Company of cash or other compensation, unless the Company delivers a Favorable Opinion of Bond Counsel to the Issuer and the Trustee. For purposes of the foregoing, the portion of the Property comprising personal property and disposed in the ordinary course shall not be treated as a transaction resulting in the receipt of cash or other compensation.

## **ARTICLE IV**

### **PAYMENTS**

#### Section 4.1 Loan Payments.

(a) To repay the Loan of the proceeds of the Bonds evidenced by the Series 2011 Notes, the Company shall, subject to the limitations of Section 4.5 of this Agreement, make or cause to be made Loan Payments in immediately available funds in accordance with the Indenture and this Agreement directly to the Trustee as follows:

(i) on or before the earlier of the fifth (5th) Business Day prior to any Interest Payment Date or the 25th day of each month, in equal monthly installments, for deposit in the Debt Service Fund, amounts sufficient to provide for the payment of interest which is due on the next ensuing date for payment of such interest with respect to the Bonds;

(ii) on or before the earlier of the fifth (5th) Business Day prior to any Interest Payment Date or the 25th day of each month, in equal monthly installments, for deposit in the Debt Service Fund, amounts sufficient to provide for the payment of the principal of or sinking fund payment on the Bonds which is next due for payment of such principal or for such sinking fund redemption payment; and

(iii) on or before the earlier of the fifth (5th) Business Day prior to any Interest Payment Date or the 25th day of each month, for deposit into the Debt Service Reserve Fund, such amounts as are required by the Section 4.6 of this Agreement to restore the Reserve Fund Requirement.

(b) If, subsequent to a date on which the Company is not obligated to pay the Loan Payments (as a result of defeasance of the Bonds pursuant to Section 1002 of the Indenture), losses (net of gains) shall be incurred in respect of any investments, or any other event or circumstance has occurred causing the amounts in the Debt Service Fund, together with any other amounts then held by the Trustee and available for the purpose, to be less than the amount sufficient at the time of such occurrence or other event or circumstance to pay, in accordance with the provisions of the Indenture, all principal (premium, if any) and interest on the Bonds due and payable or to become due and payable, the Trustee shall notify the Company of such fact and thereafter the Company, as and when required for purposes of such Debt Service Fund, but subject to the limitations of Section 4.5 of this Agreement, shall pay to the Trustee for deposit in the Debt Service Fund the amount of any such deficiency below such sufficient amount.

**Section 4.2 Prepayment of Loan; Redemption of Bonds.** The Company may at any time deliver money or Defeasance Obligations to the Trustee with instructions to the Trustee to hold such money or Defeasance Obligations pursuant to the Indenture in connection with a deemed payment or redemption of Bonds. The Issuer agrees that, at the request at any time of the Company, it will notify the Trustee, exercise its rights and otherwise cooperate with the Company to cause the Bonds or any portion thereof to be redeemed to the extent required or permitted by the Indenture. Except to the extent of any such deemed payment or any redemption of the Bonds in whole or in part, neither the Loan made hereunder nor the Series 2011 Notes shall be prepayable. Any excess or unclaimed money held by the Trustee under the Indenture shall be paid by the Trustee to the Company in accordance with Article V or Article X of the Indenture, as applicable.

**Section 4.3 Security Interests.**

(a) As security for repayment of the Series 2011 Notes and performance of the Company's obligations under this Agreement, the Company hereby pledges, sets over, assigns and grants a security interest to the Issuer in all of the Company's right, title and interest in and to all amounts at any time deposited in the funds established pursuant to the Indenture (except the Rebate Fund), including all investments and reinvestments made with such amounts and the proceeds thereof, and in all of its rights to and interests in such amounts, investments, reinvestments and proceeds. The Company hereby authorizes and directs the Trustee to invest and disburse such amounts and proceeds in accordance with the Indenture and this Agreement. The Company represents that, under the laws of the State, (i) this Agreement creates a valid and binding lien in favor of the Issuer as security for the payment of the Series 2011 Notes, enforceable in accordance with the terms hereof; and (ii) the lien on the collateral granted hereunder, is and shall be prior to any judicial lien hereafter imposed on such collateral to enforce a judgment against the Company on a simple contract.

(b) The Company will (i) upon the execution and delivery of the Bond Documents and thereafter, from time to time cause any Bond Document and each amendment and supplement thereto (or financing statements or a memorandum with respect thereto or to such amendment or supplement) to be filed, registered and recorded and to be refiled, reregistered and rerecorded in such manner and in such places as may be required in order to publish notice of and fully to protect the liens, or to perfect or continue the perfection of the security interests, created thereby and (ii) perform or cause to be performed from time to time any other act as

required by law, and execute or cause to be executed any and all instruments of further assurance that may be necessary for such publication, perfection, continuation and protection, including without limitation the execution of any deposit account control agreement and the delivery of legal opinions as to the perfection of any such security interests. The Company will not change or relocate its place of business (or its chief executive office if it has more than one place of business) unless it has taken all actions, and made all filings necessary to continue the effectiveness and perfection of all security interests created by the Bond Documents to which it is a party. The Trustee shall either (i) file continuation statements as may be required to maintain the perfection and priority of the security interests granted hereby and by the Bond Documents, or (ii) confirm, on an annual basis, the filing of continuation statements by the Company required to maintain the perfection and priority of the security interests granted hereby and by the Bond Documents and, if necessary, make such filings as may be required to maintain the perfection and priority of the security interests granted hereby and by the Bond Documents.

(c) Under the Indenture, the Issuer is, as security for the Bonds, pledging, assigning, transferring and granting a security interest in certain of its rights, title and interest under this Agreement to the Trustee. The Company agrees that this Agreement, and all of the rights, interests, powers, privileges and benefits accruing to or vested in the Issuer shall be protected and enforced in conformity with the Indenture and (except for the Issuer's Unassigned Rights) are being assigned by the Issuer to the Trustee as security for the Bonds and may be exercised, protected and enforced solely by the Trustee for or on behalf of the Bondholders in conformity with this Agreement and the Indenture. The Trustee is hereby given the exclusive right to enforce, as assignee of the Issuer, the performance of the obligations of the Company, and the Company hereby consents to the same and agrees that the Trustee may enforce such rights as provided in this Agreement and in the Indenture. The Issuer and the Company recognize that the Trustee is a third party creditor-beneficiary of this Agreement. The Issuer hereby directs the Company to make all payments (other than payments relating to any money or rights not granted to the Trustee as part of the Trust Estate pursuant to the granting clauses in the Indenture) to the Trustee instead of to the Issuer and the Company hereby agrees to do so. All such payments shall be made in lawful money of the United States of America directly to the Trustee, as assigned by the Issuer, at the location specified by the Trustee, and shall be applied as provided in Section 4.1 of this Agreement. The Company and the Issuer further acknowledge that except for the obligation of the Trustee to credit amounts paid or recovered from this Agreement or the collateral therefor to the Issuer's debt evidenced by the Bonds and except for certain rights not granted to the Trustee as part of the Trust Estate, the Issuer has no further interest in this Agreement and the Trustee shall have the exclusive right (subject to the provisions of the Indenture) to grant consents, extensions, forgiveness, and waivers, make amendments, release collateral and otherwise deal with the Company as the sole owner of this Agreement and the Trustee exclusively may start and prosecute suit hereon or otherwise take action to recover amounts owing under this Agreement without first obtaining the consent of the Issuer or without joining the Issuer as a plaintiff.

Section 4.4 Nature of Obligations of the Company. The Company agrees that its obligations to make payments hereunder shall be absolute and unconditional, irrespective of any rights of set-off, diminution, abatement, recoupment or counterclaim the Company might otherwise have against any Person, and except in connection with a discharge of the Indenture, the Company will perform and observe all its payment obligations and covenants,

representations and warranties hereunder without suspension and will not terminate the Bond Documents to which it is a party for any cause. The Company covenants not to seek and hereby waives, to the extent permitted by applicable law, the benefits of any rights which it may have at any time to any stay or extension of time for performance or to terminate, cancel or limit its liability under the Bond Documents to which it is a party except through payment or deemed payment of the Bond Obligations as provided in such Bond Documents. The Holders of the Bonds shall be entitled to rely upon the agreements and covenants in this Section regardless of the validity or enforceability of the remainder of this Agreement or any other Bond Document or agreement.

The preceding paragraph shall not be construed to release the Issuer from the performance of any of its agreements contained in this Agreement, or except to the extent provided in this Section and Section 5.1, prevent or restrict the Company from asserting any rights which it may have against the Issuer, the Trustee or any other Person under this Agreement or any of the other Bond Documents to which it is a party or under any provision of law or prevent or restrict the Company, at its own cost and expense, from prosecuting or defending any action or proceeding against or by third parties or taking any other action to secure or protect its rights in connection with the acquisition, construction, improvement, possession and use of the Project and its rights under such Bond Documents.

Section 4.5 Limitation on Interest. Notwithstanding any provision of the Bond Documents to the contrary, it is hereby agreed that in no event shall the amount of interest (as defined and calculated in accordance with applicable law) contracted for, charged, reserved, received or taken in connection with any loan made hereunder exceed the amount of interest which could have been contracted for, charged, reserved, received or taken at the Highest Lawful Rate. If the applicable law is ever judicially interpreted so as to render usurious any amount called for under the Bond Documents or otherwise contracted for, charged, reserved, received or taken in connection with any loan made hereunder, or if the Trustee's exercise of the right to accelerate the Maturity of any loan made hereunder or if any prepayment of any such loan by the Company results in there having been paid or received any interest in excess of that permitted by applicable law, then notwithstanding anything to the contrary contained in the Bond Documents, all excess amounts theretofore paid or received shall be credited on the principal balance of such loan (or, if such loan has been or would thereby be paid in full, refunded), and the provisions of this Agreement and the related Note shall immediately be deemed reformed and the amounts thereafter collectible thereunder reduced, without the necessity of the execution of any new document, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for thereunder. All sums paid or agreed to be paid for the use, forbearance or detention of the indebtedness evidenced by any such loan shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of such indebtedness until payment in full so that the rate or amount of interest on account of such indebtedness does not exceed the usury ceiling from time to time in effect and applicable to such indebtedness for so long as such indebtedness is outstanding (it being understood that the foregoing provisions permit the rate of interest on such loan to exceed the Highest Lawful Rate for any day as long as the total amount of interest paid on such loan from the date of initial delivery of the Bonds to the date of calculation does not exceed the amount of interest which would have been paid on such loan to the date of calculation if such loan had borne interest for such period at the Highest Lawful Rate). For purposes of this Section, "Highest Lawful Rate"

means the maximum rate of nonusurious interest (determined as provided in this Agreement) applicable to each loan made to the Company under this Agreement allowed from time to time by applicable law as is now in effect or, to the extent allowed by applicable law, such higher rate as may hereafter be in effect.

**Section 4.6 Restoration of Debt Service Reserve Fund.** In the event of any withdrawal from the Debt Service Reserve Fund pursuant to Section 404 of the Indenture in order to cure any deficiency in the Debt Service Fund or in the event that the Trustee notifies the Company that the amount on deposit in the Debt Service Reserve Fund is less than the Reserve Fund Requirement because of a decline in the Value of the securities in either of such Funds, the Company shall pay, or cause to be paid, to the Trustee, (i) if the amount in the Debt Service Reserve Fund is less than the Reserve Fund Requirement because of any withdrawal from the Debt Service Reserve Fund pursuant to Section 404(b) of the Indenture in order to cure any deficiency in the Debt Service Fund, the amount needed to restore the amount in the Debt Service Reserve Fund to the Reserve Fund Requirement (A) in full within thirty (30) days from the date of deposit in the Debt Service Reserve Fund or (B) in no more than twelve (12) equal, consecutive, monthly installments, each payable on the date that a Loan Payment is due, commencing in the month immediately succeeding the month of the withdrawal or (ii) in the event that the Trustee notifies the Company that the amount on deposit in the Debt Service Reserve Fund is less than the Reserve Fund Requirement because of a decline in the value of the securities, the amount of such decline in value for deposit into the Debt Service Reserve Fund in no more than four (4) consecutive equal monthly installments, each payable on the date that a Loan Payment is due, commencing in the month immediately succeeding the month in which the calculation of the Reserve Fund Requirement showed a deficiency in the Debt Service Reserve Fund; provided that if an additional decline occurs prior to the restoration of any decline, such additional decline shall be restored in equal monthly installments over the remainder of the restoration period for the initial decline.

**Section 4.7 Fees and Expenses.**

(a) **Issuer.** The Company agrees to pay promptly upon demand therefor all fees and costs paid, incurred or charged by the Issuer in connection with the Bonds, including without limitation, (i) all out-of-pocket expenses and costs of issuance (including reasonable fees and expenses of attorneys employed by the Issuer) reasonably incurred by the Issuer in connection with the issuance of the Bonds and the administration of the Bond Documents, (ii) all payments required to be paid by the Issuer with respect to the Bonds, and (iii) out-of-pocket expenses (including reasonable fees and expenses of attorneys employed by the Issuer) reasonably incurred by the Issuer in connection with the enforcement of any of its rights or remedies or the performance of its duties under the Bond Documents to which it is a party.

The Company agrees to pay an amount equal to the “Company’s Portion” of the General Costs (as hereinafter defined) of the Issuer. The “Company’s Portion” shall be that portion of the General Costs obtained by multiplying the total amount of the General Costs by a fraction, the numerator of which is equal to the aggregate principal amount of Bonds issued by the Issuer on behalf of the Company which are outstanding at the time of determination and the denominator of which is equal to the total aggregate principal amount of bonds issued by the Issuer then outstanding. The annual liability of the Company for the General Costs of the Issuer

shall not exceed .05% of the largest aggregate principal amount of Bonds issued on behalf of the Company Outstanding on any date during such year. “General Costs” shall mean the costs and expenses of the Issuer which are not otherwise required to be reimbursed to the Issuer pursuant to the agreement of the Company as provided in the preceding paragraph or pursuant to agreements similar to the preceding paragraph by other Persons on whose behalf bonds are issued by the Issuer.

(b) Trustee and Paying Agent. The Company agrees to pay all costs paid, incurred or charged by the Trustee and the Paying Agent including, without limitation, (i) all fees and out-of-pocket expenses incurred with respect to services rendered under any of the Bond Documents, (ii) all amounts payable to the Trustee and the Paying Agent pursuant to Section 807 of the Indenture, and (iii) all out-of-pocket expenses (including reasonable fees and expenses of attorneys employed by the Paying Agent and the Trustee) incurred in connection with the enforcement of any rights or remedies or the performance of duties under the Bond Documents.

## ARTICLE V

### COVENANTS OF THE COMPANY

#### Section 5.1 Indemnification.

(a) Agreements to Indemnify. The Company agrees that it will at all times indemnify and hold harmless each of the Indemnified Parties against any and all Losses other than Losses resulting from fraud, willful misconduct or theft on the part of the Indemnified Party claiming indemnification. IT IS THE EXPRESS INTENTION AND AGREEMENT OF THE PARTIES THAT THE COMPANY WILL INDEMNIFY THE INDEMNIFIED PARTIES AGAINST LOSSES WHICH ARISE FROM THE NEGLIGENCE OF ANY INDEMNIFIED PARTY.

(b) Release. None of the Indemnified Parties shall be liable to the Company for, and the Company hereby releases each of them from, all liability to the Company for, all injuries, damages or destruction to all or any part of any property owned or claimed by the Company that directly or indirectly result from, arise out of or relate to the design, construction, operation, use, occupancy, maintenance or ownership of the Project or any part thereof, even if such injuries, damages or destruction directly or indirectly result from, arise out of or relate to, in whole or in part, one or more acts or omissions of the Indemnified Parties (other than fraud, willful misconduct or theft on the part of the Indemnified Party claiming release) in connection with the issuance of the Bonds or in connection with the Project.

(c) Subrogation. Each Indemnified Party, as appropriate, shall reimburse the Company for payments made by the Company pursuant to this Section to the extent of any proceeds, net of all expenses of collection, actually received by it from any other source (but not from the proceeds of any claim against any other Indemnified Party) with respect to any Loss to the extent necessary to prevent a multiple recovery by such Indemnified Party with respect to such Loss. At the request and expense of the Company, each Indemnified Party shall claim or prosecute any such rights of recovery from other sources (other than any claim against another Indemnified Party) and such Indemnified Party shall assign its rights to such rights of recovery

from other sources (other than any claim against another Indemnified Party), to the extent of such required reimbursement, to the Company.

(d) Notice. In case any Claim shall be brought or, to the knowledge of any Indemnified Party, threatened against any Indemnified Party in respect of which indemnity may be sought against the Company, such Indemnified Party promptly shall notify the Company in writing; provided, however, that any failure so to notify shall not relieve the Company of its obligations under this Section.

(e) Defense. The Company shall have the right to assume the investigation and defense of all Claims, including the employment of counsel and the payment of all expenses. Each Indemnified Party shall have the right to employ separate counsel in any such action and participate in the investigation and defense thereof, but the fees and expenses of such counsel shall be paid by such Indemnified Party unless (i) the employment of such counsel has been specifically authorized by the Company, in writing, (ii) the Company has failed after receipt of notice of such Claim to assume the defense and to employ counsel, or (iii) the named parties to any such action (including any impleaded parties) include both an Indemnified Party and the Company, and the Indemnified Party shall have been advised by counsel that there may be one or more legal defenses available to it which are different from or additional to those available to the Company (in which case, if such Indemnified Party notifies the Company in writing that it elects to employ separate counsel at the Company's expense, the Company shall not have the right to assume the defense of the action on behalf of such Indemnified Party; provided, however, that the Company shall not, in connection with any one action or separate but substantially similar or related actions in the same jurisdiction arising out of the same general allegation or circumstances, be liable for the reasonable fees and expenses of more than one separate firm of attorneys for the Indemnified Parties, which firm shall be designated in writing by the Indemnified Parties).

(f) Cooperation; Settlement. Each Indemnified Party shall cooperate with the Company in the defense of any action or Claim. The Company shall not be liable for any settlement of any action or Claim without the Company's consent but, if any such action or Claim is settled with the consent of the Company or there be final judgment for the plaintiff in any such action or with respect to any such Claim, the Company shall indemnify and hold harmless the Indemnified Parties from and against any Loss by reason of such settlement or judgment to the extent provided in Subsection (a).

(g) Survival; Right to Enforce. The provisions of this Section shall survive the termination of this Agreement, and the obligations of the Company hereunder shall apply to Losses or Claims under Subsection (a) whether asserted prior to or after the termination of this Agreement. In the event of failure by the Company to observe the covenants, conditions and agreements contained in this Section, any Indemnified Party may take any action at law or in equity to collect amounts then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Company under this Section. The obligations of the Company under this Section shall not be affected by any assignment or other transfer by the Issuer of its rights, titles or interests under this Agreement to the Trustee pursuant to the Indenture and will continue to inure to the benefit of the Indemnified Parties after any such

transfer. The provisions of this Section shall be cumulative with and in addition to any other agreement by the Company to indemnify any Indemnified Party.

(h) Trustee. The Company also agrees to indemnify the Trustee, and any of its officers, directors, employees, agents, affiliates (including without limitation, the Trustee as Paying Agent under the Indenture) or successors (collectively, the “Indemnitees”), for, and to defend and hold them harmless against, any loss, liability, claims, proceedings, suits, demands, penalties, costs and expenses, including without limitation, the costs and expenses of outside and in house counsel and experts and their staffs and all expenses of document location, duplication and shipment and of preparation to defend and defending any of the foregoing (“Losses”), that may be imposed on, incurred by or asserted against any Indemnitee in respect of (i) any loss, or damage to any property, or injury to or death of any person, asserted by or on behalf of any Person arising out of, resulting from, or in any way connected with the Project, or the conditions, occupancy, use, possession, conduct or management of, or any work done in or about the Project or from the planning, design, acquisition or construction of any Project facilities or any part thereof, (ii) the issuance of the Bonds or the Issuer’s authority therefore; (iii) the Indenture and any instrument related thereto, (iv) the Trustee’s execution, delivery and performance of the Indenture in respect of any Indemnitee except to the extent such Indemnitee’s negligence or bad faith primarily caused the Loss, and (v) compliance with or attempted compliance with or reliance on any instruction or other direction upon which the Trustee may rely under the Indenture or any instrument related thereto. The Company further agrees to indemnify the Indemnitees against any Losses as a result of (1) any untrue statement or alleged untrue statement of any material fact or the omission or alleged omission to state a material fact necessary to make the statements made not misleading in any statement, information or material furnished by the Company to the Issuer or the Trustee, including, but not limited to any disclosure utilized in connection with the sale of the Bonds or (2) the inaccuracy of the statement contained in any section of any Bond Document relating to environmental representations and warranties. The foregoing indemnification shall include, without limitation, indemnification for any statement or information concerning the Company or its officer and members or its Property contained in any official statement or other offering document furnished to the Trustee or the purchaser of any Bonds that is untrue or incorrect in any material respect, and any omission from such official statement or other offering document of any statement or information which should be contained therein for the purpose for which the same is to be used or which is necessary to make the statements therein concerning the Company, its officers and members and its Property not misleading in any material respect. The foregoing is in addition to any other rights, including rights to indemnification, to which the Trustee may otherwise be entitled.

Section 5.2 Removal of Liens. If any lien, encumbrance or charge of any kind based on any claim of any kind (including, without limitation, any claim for income, franchise or other taxes, whether federal, state or otherwise) shall be asserted or filed against the Trust Estate, or any Loan Payment paid or payable by the Company under or pursuant to this Agreement, or any order (whether or not valid) of any court shall be entered with respect to the Trust Estate, or any such Loan Payment by virtue of any claim of any kind, in any case so as to:

(a) interfere with the due payment of such amount to the Trustee or the due application of such amount by the Trustee or any Paying Agent pursuant to the applicable provisions of the Indenture,

(b) subject the Bondholders to any obligation to refund any money applied to payment of principal (premium, if any) and interest on any Bond, or

(c) result in the refusal of the Trustee or any Paying Agent to make such due application because of its reasonable determination that liability might be incurred if such due application were to be made,

then the Company will promptly take such action (including, but not limited to, the payment of money) as may be necessary to prevent, or to nullify the cause or result of, such interference, obligation or refusal, as the case may be.

Section 5.3 Tax Covenants. The Company will not, through any act or omission, adversely affect the exclusion from gross income of interest paid or payable on the Series 2011A Bonds for federal income tax purposes, and, in the event of such action or omission, it will use all reasonable efforts to cure the effect of such action or omission. Certain terms used in this Section are defined in Section 5.3(q). With the intent not to limit the generality of the foregoing, the Company covenants and agrees that prior to the final Maturity of the Series 2011A Bonds, unless it has received and filed with the Issuer and the Trustee a Favorable Opinion of Bond Counsel:

(a) Maintenance of Exempt Status. The Company will (i) conduct its operations in a manner that will result in its continued qualification as an organization described in Section 501(c)(3) of the Code as represented in Section 2.2(i)(A) through 2.2(i)(L) of this Agreement, and (ii) timely file or cause to be filed all materials, returns, reports and other documents which are required to be filed with the IRS.

(b) Diversion of Funds for Unrelated Purposes. The Company will not divert any substantial part of its corpus or income for a purpose or purposes other than those for which it is organized and operated as represented in Section 2.2(i)(A) through 2.2(i)(J) of this Agreement.

(c) Ownership of Project. All of the property financed or refinanced with the Net Proceeds of the Series 2011A Bonds will, at all times prior to final Maturity of the Series 2011A Bonds or prior to the expiration of the useful life of such property, be owned for federal income tax purposes by the Company or by another Exempt Person.

(d) Limit on Costs of Issuance. The Sale Proceeds of the Series 2011A Bonds will be expended for the purposes set forth in this Agreement and in the Indenture and no portion thereof in excess of 2 percent of the Sale Proceeds of the Series 2011A Bonds, within the meaning of Section 147(g) of the Code, will be expended to pay Costs of Issuance with respect to the Series 2011A Bonds.

(e) Use of Net Proceeds. The Company will not use or permit to be used, directly or indirectly, in any trade or business carried on by any Person who is not an Exempt Person, more than the lesser of (i) 5 percent of the Net Proceeds of the Series 2011A Bonds or (ii) \$15,000,000. For purposes of the preceding sentence, (w) use of Net Proceeds by an organization described in Section 501(c)(3) of the Code with respect to an unrelated trade or business, determined according to Section 513(a) of the Code, does not constitute a use by an Exempt Person; (x) use of any property financed with the Net Proceeds of the Series 2011A

Bonds constitutes use of such proceeds to the extent of the cost of such property financed with such Net Proceeds; (y) any use of the Net Proceeds of the Series 2011A in any manner contrary to the guidelines set forth in Revenue Procedure 97-13, 1997-1 C.B. 632 (as modified by Revenue Procedure, 2001-39, 2001-2 C.B. 38), shall constitute the use of such proceeds in the trade or business of a Person who is not an Exempt Person; and (z) any use of the Net Proceeds to pay Costs of Issuance shall constitute the use of such proceeds in the trade or business of a Person who is not an Exempt Person.

(f) Loans of Proceeds. The Company will not use or permit the use of any portion of the Sale Proceeds of the Series 2011A Bonds, directly or indirectly, to make or finance loans to persons who are not Exempt Persons. For purposes of the preceding sentence, (i) a loan to an organization described in Section 501(c)(3) of the Code for use with respect to an unrelated trade or business, determined according to Section 513(a) of the Code, does not constitute a loan to an Exempt Person and (ii) any transaction which constructively transfers ownership of property financed with Sale Proceeds of the Series 2011A Bonds for federal income tax purposes constitutes a loan of such Sale Proceeds.

(g) Rebate. The Company agrees to take all steps necessary to compute and pay any rebatable arbitrage in accordance with Section 148(f) of the Code, including:

(i) Delivery of Documents and Money on Computation Dates. The Company shall deliver to the Trustee, within 45 days after each Computation Date,

(A) a statement, signed by an officer of the Company, stating the Rebate Amount as of such Computation Date; and

(B) (1) if such Computation Date is an Installment Computation Date, an amount which, together with any amount then held for the credit of the Rebate Fund, is equal to at least 90 percent of the Rebate Amount in respect of the Series 2011A Bonds as of such Installment Computation Date, less any prior payments made to the United States for rebatable arbitrage in respect of the Series 2011A Bonds, (2) if such Computation Date is the Final Computation Date, an amount which, together with any amount then held for the credit of the Rebate Fund in respect of the Series 2011A Bonds, is equal to the Rebate Amount as of such Final Computation Date, less any prior payments made to the United States for rebatable arbitrage in respect of the Series 2011A Bonds, or (3) if such Computation Date is an Expenditure Date, an amount which, together with any amount then held for the credit of the Rebate Fund in respect of the Series 2011A Bonds, is equal to the Rebate Amount in respect of the Series 2011A Bonds as of such Expenditure Date; and

(C) an IRS Form 8038-T completed as of such Computation Date.

(ii) Correction of Underpayment. If the Company shall discover or be notified as of any date that any payment paid to the United States Treasury pursuant to the Indenture of an amount described in Section 5.3(g) above shall have failed to satisfy any requirement of Section 1.148-3 of the Regulations (whether or not such failure shall be

due to any default by the Company, the Issuer, or the Trustee), the Company shall (1) pay to the Trustee (for deposit to the Rebate Fund) and cause the Trustee to pay to the United States Treasury from the Rebate Fund the Rebate Amount, together with any penalty and/or interest due, as specified in Section 1.148-3(h) of the Regulations, within 175 days after any discovery or notice and (2) deliver to the Trustee an IRS Form 8038-T completed as of such date. If such Rebate Amount, together with any penalty and/or interest due, is not paid to the United States Treasury in the amount and manner and by the time specified in the Regulations the Company shall take such steps as are necessary to prevent the Series 2011A Bonds from becoming arbitrage bonds, within the meaning of Section 148 of the Code. Additionally, the Company agrees that if at any point the Rebate Fund incurs losses from investment, the Company will repay amounts equaling such losses into the Rebate Fund.

(iii) Records. The Company shall retain all of its accounting records relating to the Debt Service Fund, the Construction Fund, the Debt Service Reserve Fund and the Rebate Fund and the investment and expenditure of the Proceeds of the Series 2011A Bonds and all calculations made in preparing the statements described in this Section 5.3(g) for at least six years after the later of the final Maturity of the Series 2011A Bonds or the first date on which no Series 2011A Bonds are Outstanding.

(iv) Fees and Expenses. The Company agrees to pay all of the fees and expenses of a nationally-recognized bond counsel, a certified public accountant and any other necessary consultant employed by the Company, the Trustee or the Issuer in connection with computing the Rebate Amount.

(v) No Diversion of Rebateable Arbitrage. The Company will not indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any Person other than the federal government by entering into any investment arrangement with respect to the Gross Proceeds of the Series 2011A Bonds that is not purchased at fair market value or includes terms that the Company would not have included if the Series 2011A Bonds were not subject to Section 148(f) of the Code.

(vi) Modification of Requirements. If at any time during the term of this Agreement the Issuer, the Trustee, or the Company desires to take any action that would otherwise be prohibited by the terms of this Section, such Person shall be permitted to take such action if it shall first obtain and provide to the other Persons named herein a Favorable Opinion of Bond Counsel. The Company will hire a Rebate Analyst to perform the calculations required in this Section 5.3(g); provided, however, this shall not absolve the Company of any of the covenants of this Section 5.3(g).

(h) “Federally Guaranteed” Obligations. The Company will not cause the Series 2011A Bonds to be treated as “federally guaranteed” obligations for purposes of Section 149(b) of the Code.

(i) Prohibited Facilities. None of the Proceeds of the Series 2011A Bonds will be used to provide any airplane, sky-box or other private luxury box, facility primarily used for

gambling or store the principal business of which is the sale of alcoholic beverages for consumption off premises.

(j) Information Reporting Requirements. The Company will cause the Issuer to comply with the information reporting requirements of Section 149(e)(2) of the Code requiring certain information regarding the Series 2011A Bonds to be filed with the IRS within prescribed time limits.

(k) Yield on Investment of Gross Proceeds. The Company will restrict the cumulative, blended Yield on the investment of the Gross Proceeds of the Series 2011A Bonds, to the Yield of such issue, other than amounts (i) not subject to yield restriction due to any applicable temporary period under Section 148(c) of the Code, or as a result of being on deposit in a Reasonably Required Reserve or Replacement Fund, the Rebate Fund, a bona fide debt service fund (including the Debt Service Fund), or as a minor portion, or (ii) invested at a restricted yield by virtue of being invested in obligations described in Section 103(a) of the Code that are not “specified private activity bonds” within the meaning of Section 57(a)(5) of the Code to the extent required by the Code or the Regulations.

(l) Notification of the Internal Revenue Service. The Company will timely notify the IRS of any changes in its organizational documents or method of operations to the extent that the IRS does not already have knowledge of any such changes.

(m) No Arbitrage. The Company will not use or invest the Proceeds of the Series 2011A Bonds such that the Series 2011A Bonds become “arbitrage bonds” within the meaning of Section 148 of the Code, and as evidence of this intent, a representative of the Company has reviewed the No-Arbitrage Certificate prepared in connection with the Series 2011A Bonds and the Company understands, and will take (or request the Trustee or the Issuer to take), the actions described therein.

(n) Bonds are Not Hedge Bonds. The Company covenants and agrees that not more than 50 percent of the Proceeds of the Series 2011A Bonds will be invested in Nonpurpose Investments having a substantially guaranteed Yield for four years or more within the meaning of Section 149(g)(3)(A)(ii) of the Code, and the Company reasonably expects that at least 85 percent of the spendable proceeds of the Series 2011A Bonds will be used to carry out the governmental purposes of the Series 2011A Bonds within the three-year period beginning on the Closing Date.

(o) Limit on Nonhospital Bonds. The Company will expend at least 95 percent of the Net Proceeds of the Series 2011A Bonds for Capital Expenditures incurred after August 5, 1997. Accordingly, the Series 2011A Bonds are not subject to the \$150,000,000 limit on nonhospital bonds imposed by section 145(b) of the Code.

(p) Public Approval. The Company covenants and agrees that the Proceeds of the Series 2011A Bonds will not be used in a manner that deviates other than in an insubstantial degree from the Project described in the written notice of public hearing regarding the Series 2011A Bonds published by the Issuer on [insert date] in the Texas Register.

(q) Definitions. The following terms have the meanings assigned to them below whenever they are used in this Agreement:

“Bond Year” means, with respect to the Series 2011A Bonds, each one-year period (or shorter period from the Closing Date) that ends at the close of business on the day selected by the Company. The first and last Bond Years may be short periods. If no day is selected by the Company before the earlier of the final Maturity of such issue of Bonds or the date that is five years after the Closing Date, Bond Years end on each anniversary of the Closing Date and on the date of final Maturity. Unless notified in writing to the contrary, the Trustee may conclusively presume that Bond Years end on each anniversary of the Closing Date and the date of final maturity.

“Computation Date” means each Installment Computation Date and the Final Computation Date, and, in addition, with respect to the Series 2011A Bonds which is a Construction Bond Issue, with respect to which the penalty set forth in Section 148(f) of the Code has been elected, each Expenditure Date.

“Construction Bond Issue” means the Series 2011A Bonds, (or any portions thereof elected by the Issuer in accordance with Section 148(f)(4)(C)(v) of the Code) at least 75 percent of the “available construction proceeds, within the meaning of Section 148(f)(4)(C)(iv) of the Code, which are to be used for construction expenditures (including expenditures for reconstruction and rehabilitation) with respect to property that is or will be owned by an Exempt Person.

“Costs of Issuance” means issuance costs with respect to the Series 2011A Bonds within the meaning of Section 147(g) of the Code.

“Exempt Person” means a state or local governmental unit or an organization exempt from federal income taxation under Section 501(a) of the Code by reason of being described in Section 501(c)(3) of the Code.

“Expenditure Date” means, with respect to any portion of the Series 2011A Bonds that is a Construction Bond Issue, each six-month anniversary of the Closing Date.

“Expenditure Delay Penalty” means, with respect to any portion of the Series 2011A Bonds that is a Construction Bond Issue, an amount equal to (i) the amount calculated under Section 1.148-3 of the Regulations (i.e., the Rebate Amount calculated as if no part of the Series 2011A Bonds is a Construction Bond Issue), or (ii) with respect to a Construction Bond Issue for which an election has been made to pay the penalty in lieu of rebate, one and one half percent of the Unexpended Required Amount on each Expenditure Date, all in accordance with Section 148(f)(4)(C)(vii) of the Code.

“Final Computation Date” means the final Maturity of the Series 2011A Bonds.

“Gross Proceeds” means any Proceeds and Replacement Proceeds of the Series 2011A Bonds.

“Installment Computation Date” means the last day of the fifth and each succeeding fifth Bond Year.

“Investment Proceeds” means any amounts actually or constructively received from investing Proceeds.

“Investment Property” means (i) any security (within the meaning of Section 165(g)(2)(A) or (B) of the Code), (ii) any obligation, (iii) any annuity contract, (iv) any investment-type property, or (v) in the case of a bond other than a private activity bond, any residential rental property for family units which is not located within the jurisdiction of the issuer and which is not acquired to implement a court ordered or approved housing desegregation plan.

“Issue Price” means, with respect to the Series 2011A Bonds, “issue price” as defined in Sections 1273 and 1274 of the Code, unless otherwise provided in Sections 1.148-0 through 1.148-11 of the Regulations and, generally, is the aggregate initial offering price to the public (excluding bond houses, brokers and other intermediaries acting in the capacity of wholesalers or underwriters) at which a substantial number of each Maturity of the Series 2011A Bonds is sold.

“Net Proceeds” means, any Net Sale Proceeds, Investment Proceeds and Transferred Proceeds of the Series 2011A Bonds.

“Net Sale Proceeds” means the Sale Proceeds less any Sale Proceeds deposited into a Reasonably Required Reserve or Replacement Fund.

“Nonpurpose Investments” means Investment Property acquired with the Gross Proceeds of the Series 2011A Bonds.

“Proceeds” means, any Sale Proceeds, Investment Proceeds and Transferred Proceeds of the Series 2011A Bonds.

“Qualifying Costs” means the Project Costs (excluding the costs for funding a debt service reserve fund or the purchase of a Reserve Fund Surety Policy) that will be used, directly or indirectly in any trade or business carried on by any Person who is an Exempt Person. For purposes of the preceding sentence, (i) use by an organization described in Section 501(c)(3) of the Code with respect to an unrelated trade or business, determined according to Section 513(a) of the Code, does not constitute use by an Exempt Person, and (ii) any use in any manner contrary to the guidelines set forth in Revenue Procedures 97-13, 1997-1 C.B. 632 (as modified by Revenue Procedure 2001-39, 2001-2 C.B. 38), or the Regulations promulgated under Section 141 of the Code, shall constitute use by a Person who is not an Exempt Person.

“Reasonably Required Reserve or Replacement Fund” means any fund described in Section 148(d) of the Code provided that the amount thereof allocable to the Series 2011A Bonds invested at a Yield materially higher than the Yield on the Series 2011A Bonds does not exceed the lesser of (i) 10 percent of the stated principal amount of the Series 2011A Bonds; (ii) the maximum annual debt service on the Series 2011A Bonds; or (iii) 125 percent of the average annual debt service on the Series 2011A Bonds, within the meaning of Section 1.148-2(f)(2)(ii) of the Regulations; provided that, if the Series 2011A Bonds are sold with more than a de

minimum amount of original issue discount or premium, the issue price will be used to measure the 10 percent limit.

“Rebate Amount” has the meaning ascribed in Section 1.148-3 of the Regulations and generally means the excess as of any date of the future value of all receipts on Nonpurpose Investments over the future value of all payments on Nonpurpose Investments, all as determined in accordance with Section 1.148-3 of the Regulations. In the case of any Temporary Period Issue, the “Rebate Amount” as of any Computation Date shall be limited to the “Rebate Amount” attributable to any Reasonably Required Reserve or Replacement Fund. For any Construction Bond Issue, the “Rebate Amount” as of any Computation Date shall be the Expenditure Delay Penalty plus (in the case of a Computation Date other than an Expenditure Date) the “Rebate Amount” attributable to any Reasonably Required Reserve or Replacement Fund.

“Rebate Analyst” means an independent certified public accountant, financial analyst or bond counsel, or any firm of the foregoing, or financial institution, experienced in making the arbitrage and rebate calculations required pursuant to Section 148(f) of the Code, selected, retained and compensated by the Company pursuant to this Section 5.3(g) to make the computations and give the directions required under Section 405 of the Indenture.

“Replacement Proceeds” has the meaning set forth in Section 1.148-1(c) of the Regulations.

“Required Amount” means, with respect to the Series 2011A Bonds (or portion thereof) that is a Construction Bond Issue, (i) 10 percent of the “available construction proceeds,” within the meaning of Section 148(f) of the Code, on the Expenditure Date that falls on the six-month anniversary of the Closing Date, (ii) 45 percent of the “available construction proceeds,” within the meaning of Section 148(f) of the Code, on the Expenditure Date that falls on the one-year anniversary of the Closing Date, (iii) 75 percent of the “available construction proceeds,” within the meaning of Section 148(f) of the Code, on the Expenditure Date that falls on the 18-month anniversary of the Closing Date, and (iv) 100 percent of the “available construction proceeds,” within the meaning of Section 148(f) of the Code, on any Expenditure Date that falls on or after the two year anniversary of the Closing Date.

“Sale Proceeds” means, any amounts actually or constructively received from the sale (or other disposition) of any Series 2011A Bond, including amounts used to pay underwriters’ discount or compensation and accrued interest other than pre-issuance accrued interest. Sale Proceeds also include, but are not limited to, certain amounts derived from the sale of a right that is associated with any Series 2011A Bond, as described in Section 1.148-4(b)(4) of the Regulations, and certain amounts received upon termination of certain hedges, as described in Section 1.148-4(h)(5) of the Regulations.

“Temporary Period Issue” means the Series 2011A Bonds that meet either the six month exception or the 18-month exception set forth in Section 1.148-7 of the Regulations.

“Transferred Proceeds” means, with respect to the portion of the Series 2011A Bonds that is a refunding issue, proceeds that have ceased to be proceeds of a refunded issue and are transferred proceeds of the refunding issue by reason of section 1.148-9 of the Regulations.

“Unexpended Required Amount” means, for any Construction Bond Issue, the Required Amount on any Expenditure Date less the percentage of “available construction proceeds,” within the meaning of Section 148(f) of the Code, actually expended on and prior to such Expenditure Date; provided, however, that in the case of any Expenditure Date that falls on or after the two year anniversary of the Closing Date, “available construction proceeds,” within the meaning of Section 148(f) of the Code, actually expended shall include a reasonable retainage (not in excess of five percent of “available construction proceeds,” within the meaning of Section 148(f) of the Code) if such retainage is expended prior to the three year anniversary of the Closing Date.

“Yield” means yield as determined in accordance with Section 148(h) of the Code and the Regulations, and generally, is the yield which when used in computing the present worth of all payments of principal and interest to be paid on an obligation produces an amount equal to the Issue Price of such obligation.

To the extent that published rulings of the IRS, or amendments to the Code or the Regulations modify the covenants of the Company which are set forth in this Section 5.3 or which are necessary to preserve the excludability from gross income of interest on the Series 2011A Bonds for federal income tax purposes, the Company and the Issuer will comply with such modifications.

Section 5.4 Financial Reports; No Default Certificates; Notice of Default. The Company shall cause an annual audit of its books and accounts to be made by independent certified public accountants and delivered to it within 150 days after the end of each Fiscal Year of the Company. At the same time said audit report is delivered to the Company, the Company shall deliver to the Trustee a copy thereof, a copy of the management letter of such accountants and a certificate signed by the Superintendent or President of the Governing Body of the Company stating that such person has reviewed the obligations of the Company under the Agreement, the Deed of Trust, the Series 2011 Notes, the Master Indenture and the Indenture and the performance of the Company hereunder and thereunder, and has consulted with such officers and employees of the Company as he deemed appropriate and necessary for the purpose of delivering such certificate, and based on such review and consultation, no Event of Default and no event which, with the giving of notice or the passage of time or both, would constitute an Event of Default has occurred and is continuing under the aforementioned documents. The Trustee shall have no duty to examine or independently verify any such audit reports or the matters described in any such certificate other than to examine the certificate for compliance with the required statements therein, and shall have no duty to furnish such audits to any third party. The Company shall also, promptly upon receiving notice thereof, notify the Issuer and the Trustee in writing upon the occurrence of an Event of Default or any event which with the giving of notice or the passage of time or both would constitute an Event of Default hereunder or under the Series 2011 Notes, the Master Indenture or the Indenture.

Section 5.5 Further Assurances and Corrective Instruments; Recordation. The Issuer and the Company agree that they will, from time to time, execute, acknowledge, and deliver, or cause to be executed, acknowledged, and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the intention or facilitating the performance of this Agreement, the Master Indenture and the Indenture.

The Company covenants that it will act and cooperate so that this Agreement, the Master Indenture, the Indenture, any financing statements, and all supplements thereto, and any other instruments as may be required from time to time to be kept, will be recorded and filed in such manner and in such places as may from time to time be required by law in order fully to preserve and protect the security of the Holders and the rights of the Trustee under the Indenture.

Section 5.6 Environmental Indemnity. The Company hereby agrees to indemnify and hold harmless the Master Trustee, the Trustee, the Issuer and their successors, assigns, officers, affiliates and employees (collectively referred to in this Section 5.6 as the “Indemnified Parties”) for, from and against any and all loss, costs, damages, exemplary damages, natural resources damages, liens, and expenses (including, but not limited to, attorneys’ fees and any and all other costs incurred in the investigation, defense and settlement of claims) that Indemnified Parties may incur as a result of or in connection with the assertion against Indemnified Parties, of any claim, civil, criminal or administrative, which:

(a) arises out of the actual, alleged or threatened discharge, dispersal, release, storage, treatment, generation, disposal or escape of any Regulated Chemical, including, but not limited to, any solid, liquid, gaseous or thermal irritant or contaminant, including, but not limited to, smoke, vapor, soot, fumes, acids, alkalis, chemicals, medical waste and waste (including materials to be recycled, reconditioned or reclaimed); or

(b) actually or allegedly arises out of the use of any Regulated Chemical, the existence or failure to detect the existence or proportion of any Regulated Chemical in the soil, air, surface water or groundwater, or the performance or failure to perform the abatement or removal of any Regulated Chemical or of any soil, water, surface water or groundwater containing any Regulated Chemical; or

(c) arises out of the actual or alleged existence of any Regulated Chemical on, in, under, or affecting all or a portion of the Project; or

(d) arises out of any misrepresentations of the Company concerning any matter involving Regulated Chemicals; or

(e) arises out of the Company’s failure to provide all information, make all submissions and filings, and take all steps required by appropriate government authority under any applicable environmental law, regulation, statute or program, whether federal, state or local, whether currently existing or hereinafter enacted.

The obligations under this Section 5.6 shall not be affected by any investigation by or on behalf of Indemnified Parties, or by any information which Indemnified Parties may have or obtain with respect thereto.

Notwithstanding anything to the contrary contained in this Section 5.6, no indemnification shall be required for any damages under this Section incurred solely as the result of the gross negligence or willful misconduct of the party seeking indemnification. The indemnification of the Indemnified Parties as provided in this Section 5.6 shall remain in full force and effect if any such Losses directly or indirectly results from, arises out of or is asserted to have resulted from, or arisen out of, or related to sole or contributory negligence of any of the Indemnified Parties.

Section 5.7 Continuing Disclosure Undertaking.

(a) (1) Annual Reports. The Company shall provide annually to the MSRB, within six months after the end of each Fiscal Year, financial information and operating data with respect to the Company of the general type included in the final Official Statement in Appendix A and under the headings “THE BORROWER” and “FINANCIAL AND OPERATIONS INFORMATION.” The information will include the annual financial statements of the Company. The financial statements so to be provided shall be (1) prepared in accordance with the accounting principles prescribed by the Texas State Board of Education or such other accounting principles as the Company may be required to employ from time to time pursuant to State law or regulation and (2) audited, if the Company commissions an audit and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within such period, then the Company shall provide unaudited financial statements within such six month period to the MSRB, and audited financial statements if and when and if the audit report on such statements becomes available.

If the Company changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the Company otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by reference to other publicly available documents, as permitted by the Rule.

(2) Quarterly Reports. The Company will provided the financial reports (income statement and balance sheet) customarily prepared for and provided to the Board of Directors of the Company to the MSRB within 45 days from the end of a each quarter, beginning May 31, 2011.

(b) Material Event Notices. The Company shall notify the MSRB, in a timely manner not in excess of ten business days after the occurrence of the event, of any of the following events with respect to the Bonds:

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults, if material;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;

- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (7) Modifications to rights of Bondholders, if material;
- (8) Bond calls, if material, and tender offers;
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the Bonds, if material;
- (11) Rating changes;
- (12) Bankruptcy, insolvency, receivership, or similar event of the Company;
- (13) The consummation of a merger, consolidation, or acquisition involving the Company or the sale of all or substantially all of the assets of the Company, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action, or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
- (14) The appointment of a successor or additional trustee or the change of name of a trustee, if material.

The Company shall notify the MSRB, in a timely manner, of any failure by the Company to provide financial information or operating data in accordance with Section 5.7(a) of this Agreement by the time required by such Section.

(c) Limitations, Disclaimers, and Amendments. The Company shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the Company remains an “obligated person” with respect to the Bonds within the meaning of the Rule, except that the Company in any event will give notice of any deposit made in accordance with Texas law that causes Bonds no longer to be outstanding.

The provisions of this Section are for the sole benefit of the holders and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The Company undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete

presentation of the Company's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The Company does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE COMPANY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE COMPANY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the Company in observing or performing its obligations under this Section shall comprise a breach of or default under this Agreement for purposes of any other provision of this Agreement.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the Company under federal and state securities laws.

The provisions of this Section may be amended by the Company from time to time to adopt to changed circumstances that arise from a change in legal requirements, change in law, or change in the identity, nature, status or type of operations of the Company, but only if (i) the agreement, as amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (ii) either (a) the holders of a majority in aggregate principal amount of the outstanding Bonds consent to such amendment, or (b) a person unaffiliated with the Company (such as nationally recognized bond counsel), determines that the amendment will not materially impair the interests of the holders and beneficial owners of the Bonds. If any such amendment is made, the Company will include in its next annual update an explanation in narrative form of the reasons for the change and its impact on the type of operating data or financial information being provided.

Section 5.8 Existence of the Company. (a) While any of the Bonds remain Outstanding, the Company shall maintain its corporate existence and qualification to do business in the State, the state of the Company's incorporation, and shall not merge or consolidate with any other corporation or entity or sell or dispose of all or substantially all of its assets, unless (and subject to the provisions of Sections 3.14 and 5.3) (a) either the Company shall be the surviving corporation in the case of a merger, or the surviving, resulting, or transferee corporation, as the case may be, shall expressly and unconditionally assume, in a written instrument delivered to the Issuer and the Trustee, the punctual performance and observance of all of the covenants and conditions of this Agreement to be performed by the Company; (b) the Company or such surviving, resulting, or transferee corporation, as the case may be, shall not, immediately after such merger or consolidation, or sale or disposition, be in default in the

performance of any covenant or condition hereunder; (c) the surviving, resulting, or transferee corporation, as the case may be, shall be duly authorized to transact business in the State; (d) the Company or such surviving, resulting, or transferee corporation, as the case may be, shall have a net worth at least equal to the net worth of the Company immediately preceding such merger or consolidation, or sale or disposition, with net worth being determined in accordance with generally accepted accounting principles; and (e) the Trustee shall have received, to its reasonable satisfaction, such other information, documents, certificates and opinions as the Trustee may reasonably require. Prior to the consummation of any such merger, sale, conveyance or transfer, (y) the Company shall deliver to the Issuer and the Trustee a Favorable Opinion of Bond Counsel and an Opinion of Bond Counsel to the effect that such act does not violate the Act or the Code and (z) the surviving, resulting, or transferee entity's certification to the Issuer and the Trustee to the effect that each of the conditions stated in clauses (a) through (e) of the preceding sentence is and will remain satisfied as of the date of such consummation and that such consummation will not cause any such condition to not be satisfied. Furthermore, the Company or any surviving, resulting or transferee corporation shall, at all times during the term of this Agreement, qualify as an "accredited primary or secondary school" or "authorized charter school" as such terms are defined in Section 53.02, Texas Education Code.

#### Section 5.9 Debt Service Coverage Ratio

(a) Available Revenues for each Fiscal Year (without excluding any Discretionary Expenses actually incurred in such Fiscal Year) must be equal to at least 1.10x the Annual Debt Service Requirements of the Company as of the end of the first Fiscal Year after the date of issuance of the Bonds and thereafter until the Bonds have been paid in full. If the Company does not maintain Available Revenues for any Fiscal Year ending on or after August 31, 2011, of at least one hundred ten percent (110%) of the Annual Debt Service Requirements during such Fiscal Year, then, upon the written direction of a majority of the Holders, the Company will, at its sole expense, promptly employ an Independent Management Consultant acceptable to a majority of the Holders to review and analyze the operations and administration of the Company, inspect the Project, and submit to the Company and Related Bond Trustee written reports, and make such recommendations as to the operation and administration of the Company as such Independent Management Consultant deems appropriate, including any recommendation as to a revision of the methods of operation thereof. The Company agrees to consider any recommendations by the Independent Management Consultant and, to the fullest extent practicable, to adopt and carry out such recommendations; provided that, in the Opinion of Counsel, the actions recommended by Independent Management Consultant will not cause the interest on the Related Bonds Outstanding issued as tax-exempt bonds to be includable in the gross income of the Owners thereof for purposes of federal income taxation. Notwithstanding the preceding sentence, if the debt service coverage ratio falls below 1.0x of the Annual Debt Service Requirements of the Company, it shall constitute a default hereunder.

Section 5.10 Working Capital Balance (a) For so long as the Bonds are outstanding, the Company covenants and agrees to budget and maintain operating reserves in an amount equal to fifteen (15) days of Expenses ("Working Capital Balance"). Such amounts will not be funded with Bond proceeds. The Company's Working Capital Balance shall be tested as of August 31 of each year, commencing August 31, 2011.

(b) The Company will deliver to the Administrator, the Related Bond Trustee and the Underwriter, within 150 days after the end of each Fiscal Year (commencing with the Fiscal Year ending August 31, 2011), a certificate executed by the Authorized Representative of the Company stating the Working Capital Balance for such Fiscal Year just ended. If the Company fails to maintain balances equal to the Working Capital Balance, then, upon the written direction of a majority of the Holders, the Company shall retain, at its expense, an Independent Management Consultant acceptable to a majority of the Holders to submit a written report and make recommendations (a copy of such report and recommendations shall be filed with the Trustee) with respect to revenues or other financial matters of the Company which are relevant to increasing the Working Capital Balance to equal or exceed fifteen (15) days of Expenses. So long as the Company is implementing these recommendations to the extent practical, the Company will be deemed to have complied with its covenants hereunder.

Section 5.11 Negative Pledge. The Company shall not create or allow any liens to exist on any of its plant, property or equipment, except as permitted by the Deed of Trust, including, without limitation, any mortgage or other lien on the property comprising the Company's Dallas, Lancaster, Cedar Hill, and Waxahachie campuses (except in connection with the issuance of additional Debt for such campuses and provided that any such mortgage or other lien on these campuses shall secure the Bonds in addition to such additional Debt).

Section 5.12 Disposition of Assets.

(a) Property Plant and Equipment ("PP&E"). No PP&E of the Company may be sold or otherwise disposed of unless (i) the PP&E is obsolete or worn out or (ii) fair market value is received in return or (iii) the market value of all PP&E disposed of in any fiscal year does not exceed five percent (5%) of the total market value of all PP&E of the Company, and such disposition must comply with the requirements of Section 45.082, Texas Education Code.

(b) Cash, Investments and Other Current Assets ("Liquid Assets"). No Liquid Assets of the Company may be sold or otherwise disposed of unless (i) fair market value is received in return or (ii) the total market value of Liquid Assets disposed of in any fiscal year does not exceed one percent (1%) of all Liquid Assets of the Company.

## ARTICLE VI

### EVENTS OF DEFAULT; REMEDIES

Section 6.1 Events of Default Defined. The following shall be "Events of Default" under this Agreement and the term "Events of Default" shall mean, whenever used in this Agreement, any one or more of the following events:

(a) Failure by the Company to pay the Loan Payments when due.

(b) Any representation or warranty made or deemed made by the Company under the Bond Documents shall be false, misleading or erroneous in any material respect when made or deemed made, or a failure by the Company to observe and perform any covenant, condition, or agreement on its part to be observed or performed under this Agreement or the Indenture, other than as referred to in subsection (a) of this Section, for a period of 60 days after written notice,

specifying such failure and requesting that it be remedied, is given to the Company by the Issuer or the Trustee.

(c) The occurrence and continuance of any “Events of Default” specified in the Bond Documents or the Master Indenture that has not been waived.

The foregoing provisions of this Section (except Subsection (a) of this Section) are subject to the following limitations: If by reason of force majeure the Company is unable in whole or in part to carry out its agreements contained herein, other than the obligations on the part of the Company to make payments, the Company shall not be deemed in default during the continuance of such inability. The Company agrees, however, to remedy with all reasonable dispatch the cause or causes preventing the Company from carrying out its agreements by reason of such force majeure.

**Section 6.2 Remedies Upon An Event of Default.** Whenever any Event of Default shall have happened and be continuing, the Issuer, or the Trustee as assignee of the Issuer, may, subject to Article VIII of the Indenture, take any one or more of the following remedial steps:

(a) From time to time, may take whatever action at law or in equity or under the terms of the Bond Documents as necessary or desirable to collect the amounts then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement, or covenant of the Company under this Agreement or any other Bond Document.

(b) From time to time take whatever actions at law or in equity as necessary or desirable to enforce the obligations of the Company under Sections 4.7, 5.1 and 6.6 hereof.

**Section 6.3 No Remedy to be Exclusive.** No remedy herein conferred upon or reserved to the Trustee or the Issuer is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Trustee or the Issuer to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice other than such notice as may be herein expressly required.

**Section 6.4 No Additional Waiver Implied by One Waiver.** In the event any provision, covenant, or agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

**Section 6.5 Remedial Rights Assigned to the Trustee.** Such rights and remedies as are given the Issuer hereunder (except the Issuer’s rights under Sections 4.7, 5.1 and 6.6 hereof) shall upon execution and delivery of the Indenture be assigned to the Trustee, and the Trustee shall have the right to exercise such rights and remedies, without the joinder or consent of the Issuer, in the same manner and under the limitations and conditions that the Trustee is entitled to exercise rights and remedies under the Indenture.

Section 6.6 Agreement to Pay Attorney's Fees and Expenses. If the Company should default under any of the provisions of this Agreement and as a consequence the Issuer and/or the Trustee should employ attorneys or incur other expenses for the collection for amounts payable hereunder or the enforcement of performance or observance of any obligation or agreement on the part of the Company contained in this Agreement, the Company agrees that it will on demand therefor reimburse the Issuer and/or the Trustee for the reasonable fees of such attorneys and such other reasonable expenses so incurred. When the Trustee or the Issuer incurs expenses, attorneys' fees, or renders services after an Event of Default specified in Section 601(c) or (d) of the Master Indenture occurs that is related to the dissolution or liquidation by the Company or the filing by the Company of a voluntary petition for relief, or the entry of an order or decree for relief in an involuntary case, or the entry of an order or decree for dissolution, liquidation or winding up of the affairs of the Company under any applicable bankruptcy, insolvency, or similar law, the expenses, attorneys' fees and compensation for the services are intended to constitute post-petition expenses of administration under any bankruptcy law.

## ARTICLE VII

### MISCELLANEOUS

Section 7.1 Severability of Provisions of this Agreement. In the event any provision of this Agreement shall be held invalid or unenforceable by any court or competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 7.2 Execution of this Agreement in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 7.3 Captions and Preambles. The captions or headings in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any provisions or sections of this Agreement. The preambles hereto are hereby incorporated herein and made a part of this Agreement for all purposes.

Section 7.4 No Pecuniary Liability of the Issuer. No provision, covenant, or agreement contained in this Agreement or breach thereof shall constitute or give rise to any pecuniary liability on the part of the Issuer or any charge upon its general credit. In making such provisions, covenants, or agreements, the Issuer has not obligated itself, except with respect to the Project and the application of the revenues of this Agreement, as hereinabove provided. It is recognized that the Issuer's only source of funds with which to carry out its commitments under this Agreement will be from the proceeds of the sale of the Bonds and payments to be made by the Company hereunder; and it is expressly agreed that the Issuer shall have no liability, obligation, or responsibility with respect to this Agreement or the Project except to the extent of funds available from such Bond proceeds and payments to be made by the Company hereunder.

Section 7.5 Payment to the Issuer. The Company agrees to pay directly to the Issuer all fees required to be paid by the Company under the Issuer's regulations as in effect as of the date hereof, costs of issuance reasonably incurred by the Issuer in connection with the issuance

of the Bonds, and other expenses, if any, incurred from time to time by the Issuer in connection with the Project or the Bonds.

Section 7.6 Status of the Parties' Relationship. Nothing in this Agreement shall be construed to make either party the partner or joint venturer of or with the other party.

Section 7.7 Governing Law. The validity, interpretation, and performance of this Agreement shall be governed by the laws of the State.

Section 7.8 Final Agreement. THIS WRITTEN AGREEMENT AND THE OTHER BOND DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

Section 7.9 Third Party Beneficiary. The parties hereto expressly recognize that the Master Trustee and the Trustee are third party beneficiaries to this Agreement and may enforce any right, remedy, or claim conferred, given or granted hereunder.

(Signature Pages Follow)

IN WITNESS WHEREOF, the Issuer and the Company have caused this Agreement to be signed in their behalf by their duly authorized representatives as of the date set forth above.

LA VERNIA HIGHER EDUCATION FINANCE  
CORPORATION

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

[Remainder of page intentionally left blank]

LIFESCHOOL OF DALLAS

By: \_\_\_\_\_  
President, Board of Directors

LOAN AGREEMENT

EXHIBIT A  
TO  
LOAN AGREEMENT

The Project consists of the following “educational facilities” (as defined in the Higher Education Corporation Development Act):

- Cedar Hill Campus - expansion of existing facility for additional classroom space. Project costs are estimated at \$1,800,000. Other improvements include playground equipment of \$125,000.
- Lancaster Campus - improvements include playground equipment and parking lot and roof repairs of \$500,000.
- Oak Cliff Campus - purchase of 11 acres of adjacent property at a purchase price of \$2,500,000 and renovation and infrastructure improvements of \$1,875,000. Other improvements include parking lot/concrete work of \$100,000.
- Red Oak Campus -improvements include repairs to parking lot and water wells of \$85,000.
- Waxahachie Campus - improvements include repairs to parking lot and Athletic Field upgrades of \$135,000.
- Refinancing of the following Loans:
  - Southwest Securities I in amount of \$2,421,656
  - Southwest Securities II in an amount of \$1,159,924.58
  - Southwest Securities III in an amount of \$1,510,060.80
  - Regions Bank I in an amount of \$1,300,000.00
  - Regions Bank II in the amount of \$16,530,363.36
  - Vintage Bank A in an amount of \$ 275,619.39
  - Vintage Bank B in an amount of \$465,016.54
  - Oaks Fellowship in an amount of \$3,321,685.69
- funding a debt service reserve fund or the purchase of a Reserve Fund Surety Policy and capitalized interest; and
- paying the costs of issuance of the Bonds.

EXHIBIT B

FORM OF COMPLETION CERTIFICATE

\_\_\_\_\_]

Regions Bank

1111 W. Mockingbird Blvd.  
Suite 1200  
Dallas, Texas 75247  
Attention: Corporate Trust Services

Re: \$\_\_\_\_\_ LIFESCHOOL OF DALLAS EDUCATION REVENUE BONDS, Series 2011A and \$\_\_\_\_\_ LIFESCHOOL OF DALLAS TAXABLE EDUCATION REVENUE BONDS, Series 2011B

Ladies and Gentlemen:

The undersigned, being the owner of the Project, as defined in that certain Loan Agreement dated as of \_\_\_\_\_, 2011 (the "Loan Agreement") by and among the undersigned and the Issuer hereby certifies to Regions Bank, as trustee (the "Trustee") that "Completion" of the Project on the \_\_\_\_\_ Campus has been attained as of the date hereof and all conditions relating thereto as set forth below have been satisfied. Capitalized terms used herein and not defined shall have the meanings ascribed thereto in the Loan Agreement.

The undersigned hereby represents and warrants that:

1. that as of that date all Project Costs payable with respect to the acquisition of the Project have been paid;

2. the amount from the Construction Fund expended for Project Costs relating to the Project totaled \$\_\_\_\_\_;

3. the amount from the Construction Fund expended for Project Costs which are not Qualifying Costs (as defined in Section 5.3(q) of the Loan Agreement) totaled \$\_\_\_\_\_.

4. Not less than 95 percent of the Net Proceeds of the Series 2011A Bonds were used for Qualifying Costs. If less than 95 percent of the Proceeds of the Series 2011A Bonds were used for Qualified Costs, the Company has redeposited amounts into the Construction Fund such that the amount of proceeds disbursed for Qualified Costs is equal to at least 95 percent of the Net Proceeds of the Series 2011A Bonds; provided, however, that such redeposit and expenditure did occur not later than 18 months after the later of (i) the date the expenditure to which the redeposited funds are allocated was paid, or (ii) the date the asset to which the redeposited funds are allocated was placed in service, and in no event later than 60 days after the fifth anniversary of the date of issue of the Series 2011A Bonds or the date 60 days after the

retirement of the issue, if earlier. Moreover, proceeds in an amount equal to not more than 2 percent of the Sale Proceeds of the Series 2011A Bonds were used for Costs of Issuance.

LIFESCHOOL OF DALLAS

By: \_\_\_\_\_  
Authorized Representative

APPROVED BY:

\_\_\_\_\_  
as Construction Consultant for the  
\_\_\_\_\_ Campus

By: \_\_\_\_\_  
Authorized Representative