

FORM OF LOAN AGREEMENT  
501(c)(3) Single Tier, Tax Exempt Structure  
For Use in 2007 PEDFA Pool Program

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LOAN AGREEMENT  
between  
PENNSYLVANIA ECONOMIC DEVELOPMENT FINANCING AUTHORITY  
and  
«BORROWER\_CAPS\_NAME»

Dated  
as of  
«Dated\_Date»

«Bond\_Amount» Pennsylvania Economic Development Financing Authority  
Economic Development Revenue Bonds, 2007 Series «Series\_and\_Number»  
(«Project\_Name» Project)

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## LOAN AGREEMENT

THIS LOAN AGREEMENT dated as of «Dated\_Date» between PENNSYLVANIA ECONOMIC DEVELOPMENT FINANCING AUTHORITY (the “Issuer”), a public instrumentality and body corporate and politic of the Commonwealth of Pennsylvania organized and existing under the Pennsylvania Economic Development Financing Law, as amended, and «BORROWER\_CAPS\_NAME» (the “Borrower”), a nonprofit corporation duly organized and validly existing under the laws of the Commonwealth of Pennsylvania (the capitalized terms not defined in the recitals being used therein as defined or otherwise described in Article I of this Agreement),

### WITNESSETH THAT:

A. The Issuer is a public instrumentality of the Commonwealth of Pennsylvania and a body corporate and politic organized and existing under the Act. Under the Act, the Issuer, at the request of «Local\_Entity» (the “Local Entity”), is authorized to enter into agreements providing for the financing of industrial facilities, commercial facilities, pollution control facilities, public facilities and other facilities and activities which promote any of the public purposes set forth in the Act.

B. The Issuer has undertaken, at the request and with the approval of the Local Entity, the financing of certain costs of «Project\_Description» (the “Project”) [to be] located on certain real property located at \_\_\_\_\_ (the “Project Site”). [The Project Site and such facilities are herein collectively called the “Project.”] The Project [will be] [is] owned [and operated] by the Borrower [and leased to and operated by «Tenant\_Name» (the “Tenant”)]. A more complete description of the Project and the estimated costs thereof is set forth in Exhibit A attached hereto.

C. In order to finance the Project, the Issuer has duly authorized the issuance and sale of its Economic Development Revenue Bonds, 2007 Series «Series\_and\_Number» («Project\_Name» Project) (the “Bonds”) to be issued under the terms of a Trust Indenture dated as of the date hereof (as the same may hereafter be amended or supplemented from time to time, including the Standard Provisions incorporated therein, the “Indenture”) by and between the Issuer and The Bank of New York Trust Company, N.A., as Trustee.

D. The Issuer and the Borrower intend that the interest on the Bonds will not be included in the gross income of the recipients thereof under the Code.

E. The Issuer has entered into this Agreement with the Borrower for the purposes of providing for (i) the loan of the proceeds of the Bonds to the Borrower in order to finance the Project and (ii) the repayment of such loan by the Borrower in amounts sufficient to pay, when due, the principal of, premium, if any, on and interest on the Bonds and the Additional Payments.

NOW, THEREFORE, intending to be legally bound, the Issuer and the Borrower hereby agree as follows:

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## ARTICLE I DEFINITIONS

Section 1.1. Use of Terms Defined in Indenture. Terms used in this Agreement which are defined in the Indenture and are not otherwise defined in this Agreement shall have the meanings set forth in the Indenture unless the context or use clearly indicates another meaning or intent.

Section 1.2. Definitions. In addition to the terms defined in the recital clauses of this Agreement, as used herein:

“Additional Payments” means the amounts required to be paid by the Borrower pursuant to Section 4.4.

“Agreement” means this Loan Agreement, as amended or supplemented from time to time.

“Authorized Representative” means, with respect to the Issuer, each person at the time designated to act on behalf of the Issuer by written certificate furnished to the Trustee containing the specimen signature of such person and signed on behalf of the Issuer by its Secretary or Assistant Secretary, and, with respect to the Borrower, each person at the time designated to act on behalf of the Borrower by written certificate furnished to the Trustee containing the specimen signature of such person and signed on behalf of the Borrower by its Secretary or Assistant Secretary.

“Bond Purchase Agreement” means the Bond Purchase Agreement among the Issuer, the Borrower and PNC Capital Markets LLC, as the Underwriter, relating to the Bonds.

“Bond Service” means, for any period or payable at any time, the principal of, premium, if any, on and interest on the Bonds for that period or payable at the time whether due on an Interest Payment Date, at maturity or upon acceleration or redemption.

“Borrower’s Agreements” means this Agreement, the Bond Purchase Agreement, the Remarketing Agreement and the Reimbursement Agreement.

“Code” means the Internal Revenue Code of 1986, as amended from time to time. References to the Code and Sections of the Code include relevant applicable regulations, temporary regulations and proposed regulations thereunder and under the Internal Revenue Code of 1954, as amended, and any successor provisions to those Sections, regulations, temporary regulations or proposed regulations.

“Completion Date” means the date of completion of the Project evidenced in accordance with the requirements of Section 3.6.

“Construction Period” means the period between the beginning of the acquisition, construction, installation, equipment or improvement of the Project or the date on which the Bonds are issued, whichever is earlier, and the Completion Date.

“Event of Default” means any of the events described as an Event of Default in Section 7.1.

“Issuer’s Fee” means the amount of equal to .02% of the amount of the Loan.

“Loan” means the loan by the Issuer to the Borrower of the proceeds of the Bonds pursuant to Section 4.1 in the original principal amount of «Bond\_Amount».

“Loan Payments” means the amounts required to be paid by the Borrower in repayment of the Loan pursuant to Section 4.2.

“Project Approval” means the initial official action of the Issuer declaring its intent with respect to the financing of the Project with the proceeds of the Issuer’s bonds. The date of the Project Approval is \_\_\_\_\_.

“Project Costs” means costs of the Project permitted under the Act, including, but not limited to, the following:

(a) Costs incurred in acquisition, construction, installation, equipment or improvement of the Project, including costs incurred in respect of the Project for preliminary planning and studies; architectural, engineering, accounting, consulting, legal and other professional fees and expenses; labor, services and materials;

(b) Fees, charges and expenses incurred in connection with the authorization, sale, issuance and delivery of the Bonds, including without limitation bond discount, printing expense, title insurance, recording fees and the initial fees and expenses of the Trustee, Issuer, Local Entity, Remarketing Advisor and the Bank; provided that the amount of the proceeds of the Bonds used to finance issuance costs (but excluding Bank letter of credit fees) shall not exceed 2% of the aggregate face amount of the Bonds within the meaning of Section 147(g) of the Code;

(c) Payment of interest on the Bonds and fees of the Bank, Trustee and Remarketing Advisor accruing during the Construction Period; and

(d) Any other costs, expenses, fees and charges properly chargeable to the cost of acquisition, construction, installation, equipment or improvement of the Project.

“Purchase Payments” means the amounts required to be paid by the Borrower pursuant to Section 4.3.

“Reimbursement Agreement” means the Reimbursement, Credit and Security Agreement between the Bank and the Borrower relating to the Letter of Credit and the Bonds, as amended, supplemented or replaced from time to time.

“Related Person” shall have the meaning set forth in Section 144(a)(3) of the Code and shall include (to the extent there provided) any parent, subsidiary, affiliated corporation or unincorporated enterprise, majority shareholder and commonly owned entity.

“Remarketing Agreement” means the Remarketing Agreement between the Borrower and the Remarketing Advisor relating to the Bonds, as amended, supplemented or replaced from time to time.

“Resolutions” means the resolution or resolutions of the Issuer approving and authorizing the Bonds, the Indenture and this Agreement.

“Unassigned Issuer’s Rights” means all of the rights of the Issuer to receive Additional Payments under Section 4.4, to be held harmless and indemnified under Section 5.10, to be reimbursed for attorney’s fees and expenses under Section 7.4, and to give or withhold consent to or approval of amendments, modifications, termination or assignment of this Agreement, or sale, transfer, assignment, lease (or assignment of lease) or other disposal of the Project, under Sections 5.1, 5.2, 5.4, 8.5 and 8.9.

“Underwriter” means, initially, PNC Capital Markets LLC, or any successor to the Underwriter.

Section 1.3. Interpretation. In this Agreement, unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa, the terms “hereof”, “hereby”, “herein”, “hereto”, “hereunder” and similar terms refer to this Agreement, and the term “hereafter” means after and the term “heretofore” means before the Series Issue Date, and words of any gender include the correlative words of the other

genders. In this Agreement, unless otherwise indicated, all references to particular Articles, Sections, Subsections or paragraphs are references to the Articles, Sections, Subsections or paragraphs of this Agreement.

Section 1.4. Captions, Headings and Table of Contents. The captions, headings and table of contents in this Agreement are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Articles, Sections, Subsections or paragraphs hereof.

(End of Article I)

## **ARTICLE II REPRESENTATIONS**

Section 2.1. Representations and Findings of Issuer. The Issuer hereby confirms its findings and represents that:

(a) The Issuer is a public body corporate and politic established in the Commonwealth of Pennsylvania pursuant to the laws of the Commonwealth of Pennsylvania (including the Act). Under the Act, the Issuer has the power to enter into the Indenture, the Bond Purchase Agreement and this Agreement and to carry out its obligations thereunder and to issue the Bonds to finance the Project.

(b) By adoption of the Resolutions at one or more duly convened meetings of the Issuer at which a quorum was present and acting throughout, the Issuer has duly authorized the execution and delivery of the Indenture, the Bond Purchase Agreement and this Agreement and performance of its obligations thereunder and the issuance of the Bonds. Simultaneously with the execution and delivery of this Agreement, the Issuer has duly executed and delivered the Indenture and issued and sold the Bonds.

(c) Based on representations and information furnished to the Issuer by or on behalf of the Borrower and the Local Entity, the Issuer has found that the Borrower is qualified to be a beneficiary of financing provided by the Issuer pursuant to the Act.

(d) Based on representations and information furnished to the Issuer by or on behalf of the Borrower, the Issuer has found that the Project (i) will promote the public purposes of the Act, (ii) is located within the boundaries of the Commonwealth of Pennsylvania and within the boundaries of the county, city, town, borough or township which organized the Local Entity (or within the boundaries of the county in which such city, town, borough or township is located or in which such Local Entity is certified by the Pennsylvania Industrial Development Authority to act as an industrial development agency as defined in the Act), and (iii) will constitute a project within the meaning of the Act.

(e) The Project has been approved (i) by the Local Entity, as required by the Act, (ii) by the Governor or Lieutenant Governor of the Commonwealth of Pennsylvania as the “applicable elected representative”, as that term is defined under the Code, after a public hearing held upon reasonable notice, as required by the Code, and (iii) by the Issuer by adoption of the Resolutions, as required by the Act.

(f) The Issuer has not and will not pledge the income and revenues derived from this Agreement other than pursuant to and as set forth in the Indenture.

Section 2.2. Representations of Borrower. The Borrower hereby represents that:

(a) The Borrower is a nonprofit corporation duly organized and validly existing under the laws of the Commonwealth of Pennsylvania, and has full power and authority to execute, deliver and perform its obligations under the Borrower’s Agreements and to enter into and carry out the transactions contemplated thereby. The Borrower is not a Disqualified Contractor.

(b) The Borrower’s Agreements have been duly authorized, executed and delivered by the Borrower and constitute valid and binding obligations of the Borrower. The execution, delivery and performance of the Borrower’s Agreements by the Borrower do not, and will not, violate any provision of law applicable to the Borrower or the Borrower’s articles of incorporation or bylaws or any agreement or instrument to which the Borrower is a party or by which it or any of its properties is bound.

(c) The Project will promote the public purposes of the Act and will not cause, directly or indirectly, the removal, either in whole or in part, of a plant, facility or establishment from one area of the Commonwealth of Pennsylvania to another. The Project is located within the boundaries of the county, city, town, borough or township which organized the Local Entity (or within the boundaries of the county in which



such city, town, borough or township is located or in which such Local Entity is certified by the Pennsylvania Industrial Development Authority to act as an industrial development agency as defined in the Act).

(d) The Borrower has acquired or will acquire before they are needed all permits and licenses, and has satisfied or will satisfy other requirements necessary, for the acquisition, construction, installation and/or operation of the Project. The Project is a project within the meaning of the Act and will be operated as such.

(e) The Borrower presently intends to use or operate[, or to cause the Tenant to use or operate,] the Project in a manner consistent with the Act until the date on which the Bonds have been fully paid and knows of no reason why the Project will not be so used or operated.

(f) The Borrower is an organization described in Section 501(c)(3) of the Code, is not a “private foundation” as defined in Section 509(a) of the Code, and, has received a letter from the Internal Revenue Service dated \_\_\_\_\_ **[IRS determination letter date]** (the “IRS Determination Letter”). The Borrower has done nothing to impair its status as a tax-exempt organization, and there has been no change or threatened change in the tax-exempt status of the Borrower since the date of the IRS Determination Letter.

(g) The facilities financed or refinanced with the proceeds of the Bonds will at all times be owned by a Section 501(c)(3) organization.

(h) The information furnished by the Borrower and used by the Issuer in preparing the arbitrage certificate pursuant to Section 148 of the Code and information statement pursuant to Section 149(e) of the Code is accurate and complete as of the Series Issue Date.

(i) The proceeds of the Bonds will not exceed the Project Costs.

(j) The costs of issuance financed with proceeds of the Bonds, including any bond discount on the sale of the Bonds, but not including fees and charges in respect of the Letter of Credit, will not exceed 2% of the proceeds of the Bonds.

(k) No costs of the Project to be financed with the proceeds of the Bonds have been paid by or on behalf of the Borrower or any Related Person more than 60 days prior to the date of the Project Approval.

(l) [The Tenant is [not] an Affiliate. The Tenant is not a Disqualified Contractor.]

(m) The Borrower does not control, either directly or indirectly, through one or more intermediaries, the Bank. Likewise, the Bank does not control, either directly or indirectly, through one or more intermediaries, the Borrower. “Control” for this purpose means the definition given to such term in Section 2(a)(9) of the Investment Company Act of 1940, as amended and as interpreted by the Securities and Exchange Commission. The Borrower will provide written notice to the Trustee and the Remarketing Agent thirty days prior to consummation of any transaction that would result in the Borrower controlling or being controlled by the Bank.

(End of Article II)

**ARTICLE III**  
**ACQUISITION OF PROJECT; ISSUANCE OF BONDS; PROJECT FUND**

Section 3.1. Acquisition of Project. The Borrower (a) has acquired, or reasonably expects within 120 days of the Series Issue Date to acquire, title to or a leasehold interest in the Project Site and shall construct, install, equip and/or improve the Project on the Project Site with all reasonable dispatch and in accordance with the description thereof in Exhibit A attached hereto and applicable law, (b) shall procure or cause to be procured all permits and licenses necessary for the prosecution of any and all work on the Project, and (c) shall pay when due all costs and expenses incurred in connection with such acquisition, construction, installation, equipment and improvement from funds made available therefor in accordance with this Agreement or otherwise. It is understood that the Project is the property of the Borrower and that any contracts made by the Borrower with respect thereto and any work to be done by the Borrower on the Project are made or done by the Borrower in its own behalf and not as agent or contractor for the Issuer. The Borrower may cause legal title to the Project Site and buildings thereon to be conveyed to an industrial development corporation for the purpose of obtaining financing for the benefit of the Borrower through the Pennsylvania Industrial Development Authority of costs of the Project Site and buildings thereon not financed with proceeds of the Bonds.

Section 3.2. Additions and Changes to Project. Subject to the provisions of Sections 5.11 and 5.12, the Borrower may, at its option and at its own cost and expense, at any time and from time to time, revise the description of the Project in Exhibit A attached hereto and/or make such additions and changes to the Project as it may deem to be desirable for its uses and purposes, provided that (a) such additions and changes shall constitute part of the Project, (b) the Borrower shall supplement the information contained in Exhibit A attached hereto by filing with the Issuer and the Trustee such supplemental information as is necessary to reflect such additions and changes so that the Issuer and the Trustee will be able to ascertain the nature and cost of the facilities included in the Project and covered by this Agreement, (c) such additions and changes will not result in a Misuse of Bond Proceeds and (d) if an addition or change is substantial in relation to the Bonds, the Borrower shall have first obtained and filed with the Issuer and the Trustee an opinion of Bond Counsel to the effect that such addition or change is authorized or permitted under the Act and will not adversely affect the exclusion from gross income of interest on the Bonds under the Code. In any case, the Borrower shall obtain the Issuer's approval of the addition to the Project of any proposed facilities or any other changes not generally described in Exhibit A attached hereto on the date of delivery of this Agreement, and the Borrower shall delete any facilities from the Project if such deletion is necessary to avoid a Misuse of Bond Proceeds or to maintain the exclusion from gross income of interest on the Bonds under the Code.

Section 3.3. Issuance of Bonds; Application of Proceeds. To provide funds to make the Loan for purposes of paying Project Costs in accordance with Exhibit B attached hereto, the Issuer will issue the Bonds in the aggregate principal amount of «Bond Amount». The Bonds will be issued pursuant to the Indenture and will bear interest, mature and be subject to redemption all as set forth therein. The Borrower hereby approves the terms and conditions of the Indenture and the Bonds, and the terms and conditions under which the Bonds will be issued, sold and delivered.

The proceeds from the sale of the Bonds (including any bond discount) shall be loaned to the Borrower pursuant to Section 4.1 and such proceeds (net of any bond discount) shall be paid over to the Trustee for deposit initially in the Settlement Account. Pending disbursement pursuant to Section 3.4, the proceeds of the Bonds transferred to the Project Fund from the Settlement Account, together with any investment earnings thereon, shall constitute a part of the Trust Estate and shall be subject to the lien of the Indenture pursuant to the granting clauses therein as security for the obligations described in such granting clauses, and to such end the Borrower hereby grants to the Trustee as security for such obligations a security interest in all of the Borrower's right, title and interest in and to the Project Fund.

Section 3.4. Disbursements from Project Fund. Subject to the provisions below, disbursements from the Project Fund shall be made to reimburse or pay the Borrower, or any Person designated by the Borrower, for Project Costs. The Borrower agrees that the sums so disbursed from the Project Fund will be used only for the payment of Project Costs, and will not be used for any other purpose.

Any disbursements from the Project Fund for the payment of the Project Costs shall be made by the Trustee only upon the written order of an Authorized Representative of the Borrower, with the written approval

of the Bank, delivered to the Trustee; provided that disbursements made for costs described in clause (b) of the definition of Project Costs may be made by the Trustee upon delivery to the Trustee of a closing statement signed by the respective Authorized Representatives of the Issuer and the Borrower and approved by the Bank. Each such written order shall be substantially in the form of the disbursement request attached hereto as Exhibit B and shall be consecutively numbered and accompanied by invoices or other appropriate documentation supporting the payments or reimbursements requested. Any disbursement for any item not described in, or the cost for which item is other than as described in, the information statement filed by the Issuer in connection with the issuance of the Bonds as required by Section 149(e) of the Code and referred to in Section 5.12, shall be accompanied by an opinion of a Bond Counsel to the effect that such disbursement will not result in the interest on the Bonds becoming included in the gross income of the Holders for federal income tax purposes. In case any contract provides for the retention by the Borrower of a portion of the contract price, there shall be paid from the Project Fund only the net amount remaining after deduction of any such portion, and only when that retained amount is due and payable, may it be paid from the Project Fund.

If any payment under this Section 3.4 is to be made by the Trustee to the Borrower or its designees by wire transfer, the Borrower agrees to enter into an Agreement For Issuance Of Payment Instructions with the Trustee in a form to be provided to the Borrower by the Trustee. Until such agreement is executed by the Borrower, the Trustee shall not be required to make any payment hereunder to the Borrower by wire transfer.

Any moneys in the Project Fund (including the earnings from investments therein) remaining after the Completion Date and payment, or provision for payment, in full of the Project Costs shall, at the direction of an Authorized Representative of the Borrower, be transferred to the General Account of the Bond Fund and applied as provided in Subsection 5.05(c) of the Standard Provisions; provided that (a) any such transfer and application shall be made only to the extent that such use or application will not, in the opinion of Bond Counsel or under ruling of the Internal Revenue Service, cause the interest on the Bonds to become included in the gross income of the Holders for federal income tax purposes, and (b) unless there shall be delivered to the Trustee a similar opinion of Bond Counsel, such remaining moneys shall not be invested in "investment property" (as defined in Section 148 of the Code) at a yield in excess of the yield on the Bonds. In the event that the opinion of Bond Counsel described in clause (a) above depends on the use of all or part of the remaining moneys in the Construction Fund for the optional redemption of Bonds, the Borrower shall also pay to the Trustee for deposit in the General Account of the Bond Fund such additional amount as is necessary to provide sufficient funds to redeem Bonds in an Authorized Denomination. Any additional deposit made to the Bond Fund to effect a redemption must be in immediately available funds.

Section 3.5. Borrower Required to Pay Costs in Event Project Fund Insufficient. If moneys in the Project Fund are not sufficient to pay all Project Costs, the Borrower nonetheless shall complete the Project in accordance with Exhibit A attached hereto and shall pay all such additional Project Costs. The Borrower shall not be entitled to any reimbursement for any such payments from the Issuer, the Trustee, the Bank or any Holder; nor shall it be entitled to any abatement, diminution or postponement of the Loan Payments.

Section 3.6. Completion. Except to the extent otherwise approved by the Issuer and by an opinion of Bond Counsel furnished by the Borrower to the Trustee, within three years of the date of original delivery and payment for the Bonds, the Borrower shall have completed the Project and caused all of the proceeds of the Bonds to be expended for Project Costs in accordance with Exhibit A attached hereto or otherwise applied as described in Section 3.4. The Borrower shall notify the Issuer and the Trustee of the Completion Date by a certificate signed by an Authorized Representative of the Borrower stating

- (a) the date on which the Project was substantially completed,
- (b) that all other facilities necessary in connection with the Project have been acquired, constructed, installed, equipped and/or improved,
- (c) that the acquisition, construction, installation, equipment and/or improvement of the Project and such other facilities have been accomplished in such a manner as to conform with all applicable zoning, planning, building, environmental and other similar governmental regulations,

(d) that except as provided in clause (e) below, all costs of the Project then or theretofore due and payable have been paid, and

(e) the amounts which the Trustee shall retain in the Project Fund for the payment of Project Costs not yet due or for liabilities which the Borrower is contesting or which otherwise should be so retained and the reasons therefor.

Such certificate may state that it is given without prejudice to any rights against third parties which then exist or subsequently may come into being. The Authorized Representative of the Borrower shall include with such certificate a statement specifically describing all items of personal property comprising a part of the Project. The certificate shall be delivered as promptly as practicable after the Borrower is in a position to certify as to the matters referred to in clauses (a) through (e) above.

Section 3.7. Investment and Use of Fund Moneys. At the oral request, to be promptly confirmed in writing, or written request of an Authorized Representative of the Borrower, any moneys held as part of the Bond Fund (except moneys in the Letter of Credit Debt Service Account created under Section 5.05 of the Standard Provisions and except any moneys representing principal of, or premium, if any, or interest on, any Bonds which are deemed paid under Section 10.02 of the Indenture) or the Project Fund shall be invested or reinvested by the Trustee in Eligible Investments. The Issuer and the Borrower each hereby covenants that it will restrict that investment and reinvestment and the use of the proceeds of the Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time of delivery of and payment for the Bonds, so that the Bonds will not constitute arbitrage bonds under Section 148 of the Code.

Any Authorized Representative of the Issuer having responsibility for issuing the Bonds is authorized and directed, alone or in conjunction with an Authorized Representative of the Borrower and/or any other officer, partner, employee or agent of or consultant to the Issuer or the Borrower, to give an appropriate certificate of the Issuer pursuant to Section 148 of the Code, for inclusion in the transcript of proceedings for the issuance of the Bonds, setting forth the reasonable expectations of the Issuer regarding the amount and use of the proceeds of the Bonds and the facts, estimates and circumstances on which those expectations are based, all as of the Series Issue Date. The Borrower shall provide the Issuer with, and the Issuer's certificate may be based on, a certificate of the Authorized Representative of the Borrower or other appropriate officer, partner, employee or agent of or consultant to the Borrower setting forth the reasonable expectations of the Borrower on the Series Issue Date regarding the amount and use of the proceeds of the Bonds and the facts, estimates and circumstances on which they are based.

(End of Article III)

**ARTICLE IV**  
**LOAN BY ISSUER; LOAN PAYMENTS; OTHER PAYMENTS**

Section 4.1. Loan by Issuer. Upon the terms and conditions of this Agreement, the Issuer will make the Loan to the Borrower on the Series Issue Date in a principal amount equal to the aggregate principal amount of the Bonds. The Loan shall be deemed fully advanced upon deposit of the proceeds of the Bonds (net of any bond discount) in the Settlement Account pursuant to Section 3.3.

Section 4.2. Loan Payments. In consideration of and in repayment of the Loan, the Borrower shall make, as Loan Payments, payments which correspond, as to amounts and due dates, to the Bond Service on the Bonds; provided that, except to the extent that the Bank shall otherwise stipulate by written notice delivered to the Issuer and the Trustee, such payments shall be made in advance as set forth below in this Section. Amounts received upon a drawing by the Trustee under the Letter of Credit for the payment of Bond Service shall be credited against the Loan Payments otherwise payable by the Borrower corresponding to such Bond Service; provided that the Bank has been fully reimbursed for such drawing by the Borrower.

To provide funds to pay the Bond Service as and when due as specified above, the Borrower shall make the Loan Payments (a) on or before the Business Day next preceding the first Business Day of each month in an amount equal to the interest due on the Bonds on the Interest Payment Date for such month, and, (b) on or before the Business Day next preceding the date that the principal of the Bonds is due and payable, whether by redemption or at maturity, in an amount equal to the principal of and premium, if any, on the Bonds due by redemption or at maturity, taking into account funds held in the General Account of the Bond Fund under the Indenture which would be available for such purposes. In addition, to provide funds to pay the principal of and premium, if any, and interest on the Bonds as and when due, the Borrower hereby agrees to make and shall make Loan Payments prior to the date when such principal, premium, if any, and interest is due and payable in accordance with a schedule prepared by the Bank, a copy of which shall be delivered to the Trustee on or before the Series Issue Date. The foregoing requirement to make Loan Payments in advance of the corresponding dates for payment of the principal of and interest on the Bonds may be waived if and to the extent stipulated by the Bank by written notice delivered to the Issuer and the Trustee; provided that in no event shall Loan Payments be made later than such corresponding dates.

It is the intention of the Issuer and the Borrower that, notwithstanding any other provision of this Agreement, the Trustee, as assignee of the Issuer, shall receive funds from or on behalf of the Borrower (taking into account such credits for amounts drawn on the Letter of Credit) in such amounts and at such times as will enable the Issuer to pay when due all of its Bond Service on the Bonds and any obligations arising under Section 4.3 and any such obligations surviving the payment of the Bonds.

All Loan Payments shall be payable in lawful money of the United States of America and shall be made by, or on behalf of the Borrower, to the Trustee at its Delivery Office or other office as the Trustee may designate to Borrower for the account of the Issuer and deposited in the General Account of the Bond Fund created pursuant to the Indenture. Such Loan Payments shall be applied as provided in the Indenture.

The Borrower shall be entitled to credits against the Loan Payments as and to the extent provided in Subsection 5.05(f) of the Standard Provisions.

Section 4.3. Purchase Payments. To the extent that moneys on deposit in the Remarketing Proceeds Purchase Account or the Letter of Credit Purchase Account established under the Indenture are insufficient to pay the full purchase price of Bonds payable pursuant to Sections 4.01 and 4.02 of the Indenture on the applicable Purchase Date, the Borrower shall also pay to the Trustee as Purchase Payments for deposit in the Borrower Purchase Account established under the Indenture amounts sufficient to cover the shortfalls.

Section 4.4. Additional Payments. The Borrower shall pay as Additional Payments hereunder: (a) to the Issuer, the Issuer's Fee on the Series Issue Date and any and all costs and expenses (including reasonable legal fees and expenses) incurred or to be paid by the Issuer in connection with the issuance and delivery of the Bonds or otherwise related to actions taken by the Issuer under this Agreement or the Indenture or any amendment thereof, supplement thereto or consent or waiver thereunder, including without limitation the Borrower's pro rata

share of any annual charge made by a Rating Service to maintain a rating on the Bonds; (b) to the Local Entity, the Local Entity's fee on the Series Issue Date and any and all costs and expenses incurred or to be paid by the Local Entity in connection with the Project; (c) to the Remarketing Advisor, the fees and expenses of the Remarketing Advisor under the Indenture and the Remarketing Agreement for services rendered in connection with the Bonds; and (d) to the Trustee, the reasonable fees, charges and expenses of the Trustee and its agents for acting as such under the Indenture.

Section 4.5. Obligations Unconditional. The obligations of the Borrower to make Loan Payments, Purchase Payments and Additional Payments shall be absolute and unconditional, and the Borrower shall make such payments without abatement, diminution or deduction regardless of any cause or circumstances whatsoever including without limitation any defense, set-off, recoupment or counterclaim which the Borrower may have or assert against the Issuer, the Trustee, the Remarketing Advisor, the Bank or any other Person, whether express or implied, or any duty, liability or obligation arising out of or connected with this Agreement, it being the intention of the parties that the payments required of the Borrower hereunder will be paid in full when due without any delay or diminution whatsoever. Loan Payments and Purchase Payments required to be paid by or on behalf of the Borrower hereunder shall be received by the Issuer or the Trustee as net sums and the Borrower agrees to pay or cause to be paid all charges against or which might diminish such net sums.

Section 4.6. Assignment of Issuer's Rights. To secure the payment of, first, the Bond Service, and second, the Borrower's obligations under the Reimbursement Agreement, the Issuer shall pledge and assign to the Trustee all the Issuer's rights in, to and under this Agreement (except for the Unassigned Issuer's Rights), the Revenues and the other property comprising the Trust Estate. The Borrower consents to such pledge and assignment and agrees to make or cause to be made Loan Payments and Purchase Payments directly to the Trustee without defense or set-off by reason of any dispute between the Borrower and the Trustee. Whenever the Borrower is required to obtain the consent of the Issuer hereunder, the Borrower shall also obtain the consent of the Trustee; provided that, except as otherwise expressly stipulated herein or in the Indenture, the Borrower shall not be required to obtain the Trustee's consent with respect to the Unassigned Issuer's Rights.

Section 4.7. Letter of Credit. Concurrently with the initial delivery of the Bonds pursuant to Section 2.01 of the Indenture, the Borrower shall cause the initial Letter of Credit to be issued by the Bank pursuant to the Reimbursement Agreement, which Letter of Credit (a) shall be substantially in the same form as the exhibit attached to the Reimbursement Agreement; (b) shall be dated the date of delivery of the Bonds; and (c) shall authorize the Trustee to draw on the Bank, subject to the terms and conditions thereof, up to (i) an amount equal to the principal amount of the Bonds (A) to enable the Trustee to pay the principal amount of the Bonds when due at maturity or upon redemption or acceleration and (B) to enable the Trustee to pay the portion of the purchase price of Bonds tendered to it for purchase and not remarketed corresponding to the principal amount of such Bonds, plus (ii) an amount equal to 60 days' interest on the Bonds at the Maximum Rate (A) to enable the Trustee to pay interest on the Bonds when due and (B) to enable the Trustee to pay the portion of the purchase price of Bonds tendered to it for purchase and not remarketed corresponding to the accrued interest on such Bonds. The Letter of Credit may be extended, amended or replaced by an Alternate Letter of Credit complying with the provisions of Sections 5.09 of the Standard Provisions.

It is anticipated that all payments of principal of and interest on the Bonds, and all payments of purchase price of the Bonds payable upon optional or mandatory tender for purchase for the payment of which remarketing proceeds are not available pursuant to Article IV of the Indenture, will be funded from draws on the Letter of Credit.

The Borrower shall take whatever action may be necessary to maintain the Letter of Credit in full force and effect during the period required by the Indenture, including the payment of any transfer fees required by the Bank upon any transfer of the Letter of Credit to any successor Trustee.

(End of Article IV)

**ARTICLE V**  
**ADDITIONAL COVENANTS OF BORROWER**

Section 5.1. Maintenance of Existence. The Borrower shall do all things necessary to preserve and keep in full force and effect its existence, rights, franchises and qualification to do business in Pennsylvania and shall not (a) dissolve or otherwise sell, transfer or dispose of all, or substantially all, of its assets or (b) consolidate with or merge into any other entity; provided that, subject to the provisions of Sections 5.11 and 5.12, the preceding restrictions shall not apply to a transaction to which the Issuer and the Bank consent in writing if the transferee or the surviving or resulting entity, if other than the Borrower, by written instrument satisfactory to the Trustee, irrevocably and unconditionally assumes and agrees to perform and observe the agreements and obligations of the Borrower under this Agreement and the provisions of Section 8.9 are satisfied.

Section 5.2. Compliance with Laws; Commencement and Continuation of Operations at Project; No Sale, Removal or Demolition of Project. The Borrower will acquire, construct, install, operate and maintain the Project in such manner as to comply with the Act and all applicable requirements of federal, state and local laws and the regulations, rules and orders of any federal, state or local agency, board, commission or court having jurisdiction over the Project or the operation thereof, including without limitation applicable zoning, planning, building and environmental laws, regulations, rules and orders; provided that the Borrower shall be deemed in compliance with this Section so long as it is contesting in good faith any such requirement by appropriate legal proceedings. The Borrower shall not cause, permit or suffer to exist a Misuse of Bond Proceeds. The Borrower (or its lessee) shall commence operations at the Project within three years from the Series Issue Date and shall continue such operations throughout the term of this Agreement. The Borrower shall not sell, assign or otherwise dispose of (whether in one transaction or in a series of transactions) its interest in the Project or any material portion thereof (other than as permitted by Section 5.1 and other than leases permitted under Section 5.4) or undertake or permit the demolition or removal of the Project or any material portion thereof without the prior written consent of the Issuer; provided that the Borrower shall be permitted (a) to sell, transfer, assign or otherwise dispose of or remove any portion of the Project which is retired or replaced in the ordinary course of business and (b) to convey legal title to the Project Site and buildings thereon to an industrial development corporation for the purpose of obtaining financing for the benefit of the Borrower through the Pennsylvania Industrial Development Authority of costs of the Project Site and buildings thereon not financed with proceeds of the Bonds.

Section 5.3. Right of Inspection. Subject to reasonable security and safety regulations and upon reasonable notice, the Issuer and the Trustee, and their respective agents, shall have the right during normal business hours to inspect the Project.

Section 5.4. Lease by Borrower. The Borrower may, subject to the provisions of Sections 5.11 and 5.12, lease the Project, in whole or in part, to [the Tenant or] one or more other Persons, provided that:

(a) No such lease shall relieve the Borrower from its obligations under this Agreement, the Reimbursement Agreement or the Remarketing Agreement;

(b) In connection with any such lease the Borrower shall retain such rights and interests as will permit it to comply with its obligations under this Agreement, the Reimbursement Agreement and the Remarketing Agreement;

(c) No such lease shall impair materially the accomplishment of the purposes of the Act to be accomplished by operation of the Project as herein provided;

(d) Any such lease shall require the lessee to operate the Project as a “project” under the Act as long as the Bonds are outstanding;

(e) In the case of a lease to a new lessee or an assignment of an existing lease to a new lessee of substantially all of the Project, such new lessee (i) shall not be a Disqualified Contractor and (ii) shall have been approved by the Issuer (such approval not to be unreasonably withheld); and

(f) Any [Tenant and any other] lessees under any such leases, including any leases in force on the Series Issue Date, shall be subject to the applicable terms and conditions of Section 5.12.

Section 5.5. Financial Statements; Books and Records. The Borrower shall prepare or have prepared such financial statements and reports in such form as are required by the Bank, and shall keep true and proper books of records and accounts in which full and correct entries are made of all its business transactions. Copies of such financial statements and reports shall be provided to the Issuer and the Trustee promptly upon request, and such books of records and accounts shall be made available for inspection during normal business hours upon request by the Issuer or the Trustee and/or their respective agents.

Section 5.6. Taxes, Other Governmental Charges and Utility Charges. The Borrower shall pay, or cause to be paid before the same become delinquent, all taxes, assessments, whether general or special, and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Project, including any equipment or related property installed or brought by the Borrower therein or thereon, and all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Project. With respect to special assessments or other governmental charges that lawfully may be paid in installments over a period of years, the Borrower shall be obligated to pay only such installments as are required to be paid during the term hereof. The Borrower may, at its expense, in good faith contest any such taxes, assessments and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom, unless the Issuer or the Trustee shall notify the Borrower that, in the opinion of counsel selected by the Issuer or the Trustee, by nonpayment of any such items the Project or any part thereof will be subject to loss or forfeiture, in which event such taxes, assessments or charges shall be paid promptly. The Borrower shall also comply at its own cost and expense with all notices received from public authorities with respect to the Project.

Section 5.7. Insurance. The Borrower shall at its own cost and expense obtain or cause to be obtained insurance policies against such risks, and in such amounts, as are customarily insured against by entities owning facilities of like size and type to the Project, paying, as the same become due and payable, all premiums in respect thereof.

Section 5.8. Damage to or Condemnation of Project. In the event of damage, destruction or condemnation of part or all of the Project, the Borrower shall either: (a) restore the Project or (b) if permitted by the terms of the Bonds, direct the Issuer to call the Bonds for redemption as set forth in Section 6.2. Damage to, destruction of or condemnation of all or a portion of the Project shall not terminate this Agreement or cause any abatement of or reduction in the payments to be made by the Borrower under this Agreement.

Section 5.9. Misuse of Bond Proceeds; Litigation Notice. The Borrower shall give the Issuer, Trustee, the Remarketing Advisor and the Bank prompt written notice of any Misuse of Bond Proceeds or action, suit or proceeding pending or threatened against it at law or in equity, or before any governmental instrumentality or agency, which, if adversely determined, would materially impair the tax exempt status of the Bonds or the right of the Borrower to carry on the business which is contemplated in connection with the Project or would materially and adversely affect its business, operations, properties, assets or condition.

Section 5.10. Indemnification. The Borrower will indemnify and hold harmless the Issuer and each member, director, officer, employee, attorney and agent of the Issuer for and against any and all claims, losses, damages or liabilities (including the costs and expenses of defending against any such claims) to which the Issuer or any member, director, officer, employee, attorney or agent of the Issuer may become subject, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise directly or indirectly out of (a) any loss or damage to property or injury to or death of or loss by any Person that may be occasioned by any cause whatsoever pertaining to the construction, maintenance, operation and use of the Project; (b) any breach or default on the part of the Borrower in the performance of any covenant or agreement of the Borrower under any of the Borrower's Agreements or any related document, or arising from any act or failure to act by the Borrower or any of its agents, contractors, servants, employees or licensees; (c) the authorization, issuance and sale of the Bonds, or the provision of any information or certification furnished in connection therewith concerning the Bonds, the Project or the Borrower (including, without limitation, any information furnished by the Borrower for inclusion in any certification made by the Issuer or for inclusion in, or as a basis for preparation of, the information statements furnished by the



Issuer and any information or certification obtained from the Borrower) to assure the exclusion of the interest on the Bonds from the gross income of the Holders for federal income tax purposes; (d) the Borrower's failure to comply with any requirements of this Agreement pertaining to compliance with the Code to assure such exclusion of the interest or the provisions set forth in Sections 5.11 and 5.12; (e) any failure by the Borrower to comply with the provisions of the Act; and (f) any claim, action or proceeding brought with respect to any matter set forth in clause (a), (b), (c), (d) or (e) above.

The Borrower will indemnify and hold the Trustee and its directors, officers, agents and employees (collectively, the "Indemnitees") harmless from and against any and all claims, liabilities, losses, damages, fines, penalties and expenses, including out-of-pocket expenses, incidental expenses, legal fees and expenses, the allocated costs and expenses of in-house counsel and legal staff and the costs and expenses of defending against any such claim ("Losses") that may be imposed on, incurred by or asserted against, the Indemnitees or any of them for following any instruction or other direction upon which the Trustee is authorized to rely pursuant to the terms of this Agreement, the Bonds, the Letter of Credit, the Remarketing Agreement or the Indenture. In addition to and not in limitation of the immediately preceding sentence, the Borrower also agrees to indemnify and hold the Indemnitees and each of them harmless from and against any and all Losses that may be imposed on, incurred by or asserted against the Indemnitees or any of them in connection with or arising out of the Trustee's performance under this Agreement, the Bonds, the Letter of Credit, the Remarketing Agreement or the Indenture.

The Borrower will indemnify and hold harmless the Remarketing Advisor for and against all liabilities, claims, costs and expenses incurred without negligence or bad faith on the part of the Remarketing Advisor on account of any action taken or omitted to be taken by the Remarketing Advisor in accordance with the terms of this Agreement, the Bonds, the Reimbursement Agreement, the Letter of Credit, the Remarketing Agreement or the Indenture or any action taken at the request of or with the consent of the Borrower, including the costs and expenses incurred by the Remarketing Advisor in defending themselves against any such claims.

In case any action or proceeding is brought against the Issuer, the Remarketing Advisor or the Trustee in respect of which indemnity may be sought hereunder, the party seeking indemnity promptly shall give notice of that action or proceeding to the Borrower, and the Borrower upon receipt of that notice shall have the obligation and the right to assume the defense of the action or proceeding; provided that failure of a party to give that notice shall not relieve the Borrower from any of its obligations under this Section unless (and then only to the extent) that failure prejudices the defense of the action or proceeding by the Borrower. At its own expense, an indemnified party may employ separate counsel and participate in the defense. The Borrower shall not be liable for any settlement made without its consent, which shall not be unreasonably withheld. The Borrower shall not enter into any settlement involving the Trustee without its written consent, which shall not be unreasonably withheld.

The indemnification set forth above is intended to and shall (a) include the indemnification of all affected directors, officers, agents and employees of the Issuer, the Remarketing Advisor and the Trustee, respectively, and (b) be enforceable by the Issuer, the Remarketing Advisor and the Trustee, respectively, to the full extent permitted by law.

The provisions of this Section 5.10 shall survive the termination of this Agreement and the Indenture, payment of the Bonds and the removal or resignation of the Trustee in accordance with the Indenture.

Section 5.11. Tax Covenants of Borrower and Issuer. The Borrower covenants and represents that it will at all times do and perform all acts and things necessary or desirable and within its reasonable control in order to assure that interest paid on the Bonds shall not be includable in the gross income of any Holder for federal income tax purposes. The Borrower also covenants and represents that it shall not take or omit to take, or permit to be taken on its behalf, any actions which, if taken or omitted, would adversely affect the excludability from the gross income of the Holders of interest paid on the Bonds for federal income tax purposes. The Issuer and the Borrower mutually covenant for the benefit of the Holders that they will not use the proceeds of the Bonds, any moneys derived, directly or indirectly, from the use or investment thereof or any other moneys on deposit in any fund or account maintained in respect of the Bonds (whether such moneys were derived from the proceeds of the sale of the Bonds or from other sources) in a manner which would cause the Bonds to be treated as "arbitrage bonds" within the meaning of Section 148 of the Code or would otherwise violate Section 6.08 of the Indenture.

Section 5.12. Further Tax Covenants of Borrower. The Borrower further represents and covenants as follows:

(a) Action to Maintain Tax-Exempt Status. The Borrower will take such actions as shall be necessary or desirable, from time to time and within its reasonable control, to cause all of the representations and warranties in this Section to remain true and correct during such periods as shall be necessary to maintain the exclusion of interest paid on the Bonds from the gross income of the Holders for federal income tax purposes, pursuant to the requirements of the Code.

(b) Maintenance of Tax-Exempt Status of Borrower. The Borrower (i) will take whatever actions are necessary for the Borrower to continue to be organized and operated in a manner which will preserve and maintain its status as an organization which is (A) described in Section 501(c)(3) of the Code, (B) exempt from federal income taxes under Section 501(a) of the Code, and (C) not a private foundation under Section 509(a) of the Code (or corresponding provisions of prior law); and (ii) will not perform any acts nor enter into any agreements which would cause any revocation or adverse modification of such federal income tax returns.

(c) Limitations on Non-Exempt Use.

(i) No more than 5% of the net proceeds of the Bonds, less any amounts applied to the payment of the costs of issuance of the Bonds, will be used for any private business use as described in Sections 141(b)(1) and 145(a)(2)(B) of the Code.

(ii) No more than 5% of the payment of principal of or interest on the Bonds will be (A) secured, directly or indirectly, by property used for a private business use or payments in respect of such property, or (B) derived from payments (whether or not to the Borrower or the Issuer) in respect of property or borrowed money, used or to be used for a private business use as described in Sections 141(b)(2) and 145(a)(2)(B) of the Code.

(iii) No more than 5% of the property financed with the proceeds of the Bonds will be used in an unrelated trade or business of the Borrower as defined in Section 513(a) of the Code.

(iv) No more than the lesser of 5% or \$5 million of the proceeds of the Bonds will be used to make or finance loans with respect to an unrelated trade or business or to persons who are not governmental units or to persons other than Section 501(c)(3) organizations (other than the investment in nonpurpose investments).

(d) Prohibition on Financing Certain Facilities. The Borrower will not use any proceeds of the Bonds to provide any airplane, any sky box or other private luxury box, any facility primarily used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises.

(e) Lease of Project. In connection with any lease or other grant by the Borrower of the use of the portion of the Project financed with Bond proceeds, the Borrower will require that the lessee or user of any portion of the Project and all Related Persons with respect to such lessee or user will not violate the covenants set forth herein.

(f) Bond Maturity Limitation. The average reasonably expected economic life of the property financed with the proceeds of the Bonds, disregarding land, will be at least 84% of the average maturity of the Bonds, as determined pursuant to Section 147(b) of the Code.

(g) Nonpurpose Investments. At no time will any funds constituting gross proceeds of the Bonds be used to acquire investments at other than fair market value within the meaning of the applicable Treasury Regulations pertaining to, or in any other fashion as would constitute failure of compliance with, Section 148 of the Code. The term "gross proceeds" has the meaning assigned to it for purposes of Section 148 of the Code.

(h) No Higher Yield Collateral to Bank. In no event will the Borrower provide collateral to the Bank or establish any sinking fund containing investments which bear a yield higher than the yield on the Bonds within the meaning of Section 148 of the Code and any lawful regulations promulgated thereunder, except upon receipt by the Borrower of an opinion of Bond Counsel to the effect that the pledge of such collateral or the establishment of such sinking fund, as applicable, shall not cause the interest on the Bonds to be included in the gross income of the Holders for federal income tax purposes; provided that no such yield restriction or opinion is required with respect to the pledge of any collateral or the establishment of any sinking fund, as applicable, that consists solely of obligations, the interest on which is excluded from the gross income of the holders thereof for federal income tax purposes.

(i) Limitation on Non-Hospital Bonds. The aggregate face amount of all tax-exempt non-hospital bonds of the Borrower and any organizations under common management and control with the Borrower does not and will not at any time exceed the \$150,000,000 limitation contained in Section 145(b) of the Code.

(j) Notice. The Borrower shall provide a written statement signed by its Authorized Representative to the Issuer and the Trustee immediately upon the violation of any of the covenants set forth in this Section 5.12, setting forth in detail the facts, nature and scope of such violation.

Section 5.13. Nondiscrimination/Sexual Harassment. The Borrower hereby accepts and agrees to be bound by the nondiscrimination/sexual harassment clause set forth in Exhibit C attached hereto.

(End of Article V)

**ARTICLE VI**  
**REDEMPTION OF BONDS**

Section 6.1. Optional Redemption. Provided no Event of Default shall have occurred and be subsisting, at any time and from time to time, the Borrower may deliver or cause to be delivered Loan Payments to the Trustee in addition to the scheduled Loan Payments required to be made under Section 4.2 and direct the Trustee to use the Loan Payments so delivered for the purpose of calling Bonds for optional redemption in accordance with the applicable provisions of the Indenture and redeeming such Bonds at the redemption price stated in the Indenture. Such Loan Payments shall be held and applied as provided in Section 5.05 of the Standard Provisions and delivery thereof shall not operate to abate or postpone Loan Payments otherwise becoming due or to alter or suspend any other obligations of the Borrower under this Agreement. Whenever the Bonds are subject to optional redemption pursuant to the Indenture, the Issuer will, but only upon direction of the Borrower, direct the Trustee to call the same for redemption as provided in the Indenture.

Section 6.2. Mandatory Redemption. The Borrower shall deliver or cause to be delivered to the Trustee the moneys needed to redeem the Bonds in accordance with the mandatory redemption provisions set forth in the Bonds and the Indenture and to fully reimburse the Bank with respect to all drawings on the Letter of Credit with respect thereto. Whenever the Bonds are subject to mandatory redemption pursuant to the Indenture, the Borrower will cooperate with the Issuer and the Trustee in effecting such redemption.

Section 6.3. Actions by Issuer. At the request of the Borrower or the Trustee, the Issuer shall take all steps required of it under the applicable provisions of the Indenture or the Bonds to effect the redemption of all or a portion of the Bonds pursuant to this Article.

(End of Article VI)

**ARTICLE VII  
EVENTS OF DEFAULT AND REMEDIES**

Section 7.1. Events of Default. Each of the following shall be an Event of Default:

- (a) Failure by the Borrower to make or cause to be made any Loan Payment or Purchase Payment on or prior to the date on which such payment is due and payable;
- (b) Failure by the Borrower to observe and perform any other agreement, term or condition contained in this Agreement and continuation of such failure for a period of 30 days after notice thereof shall have been given to the Borrower by the Issuer or the Trustee, or for such longer period as the Issuer and the Trustee may agree to in writing; provided that if the failure is other than the payment of money and is of such nature that it can be corrected but not within the applicable period, such failure shall not constitute an Event of Default so long as the Borrower institutes curative action within the applicable period and diligently pursues such action to completion;
- (c) The Borrower shall (i) apply for or consent to the appointment of a receiver, trustee, liquidator or custodian or the like of itself or of its property, or (ii) admit in writing its inability to pay its debts generally as they become due, or (iii) make a general assignment for the benefit of creditors, or (iv) be adjudicated a bankrupt or insolvent, or (v) commence a voluntary case under the United States Bankruptcy Code, or file a voluntary petition or answer seeking reorganization, an arrangement with creditors or an order for relief, or seeking to take advantage of any insolvency law or file an answer admitting the material allegations of a petition filed against it in any bankruptcy, reorganization, or insolvency proceeding, or action shall be taken by it for the purpose of effecting any of the foregoing, or (vi) have instituted against it, without the application, approval or consent of the Borrower, a proceeding in any court of competent jurisdiction, under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking in respect of the Borrower an order for relief or an adjudication in bankruptcy, reorganization, dissolution, winding up, liquidation, a composition or arrangement with creditors, a readjustment of debts, the appointment of a trustee, receiver, liquidator or custodian or the like of the Borrower or of all or any substantial part of its assets, or other like relief in respect thereof under any bankruptcy or insolvency law, and, if such proceeding is being contested by the Borrower in good faith, the same shall (A) result in the entry of an order for relief or any such adjudication or appointment or (B) remain unvacated, undismissed and undischarged for a period of 60 days;
- (d) Any representation or warranty made by the Borrower herein or any statement in any report, certificate, financial statement or other instrument furnished in connection with this Agreement or with the purchase of the Bonds shall at any time prove to have been false or misleading in any material respect when made or given;
- (e) For any reason the Bonds are declared due and payable by acceleration in accordance with Section 7.03 of the Standard Provisions;
- (f) The Trustee receives written notice from the Bank (i) stating that an Event of Default as defined in the Reimbursement Agreement has occurred and is continuing and (ii) directing the Trustee to call the Bonds for mandatory purchase or to declare the principal of the outstanding Bonds immediately due and payable;
- (g) The Trustee receives written notice from the Bank prior to the tenth Business Day following payment of a drawing under the Letter of Credit for interest on Bonds which remain outstanding after the application of the proceeds of such drawing, stating that the Letter of Credit will not be reinstated with respect to such interest; or
- (h) A Misuse of Bond Proceeds occurs, or the Borrower fails to complete the Project (except for immaterial items) and commence operations at the Project within three years from the Series Issue Date, or fails to maintain (or to cause to be maintained) or within such period to create and thereafter maintain (or to cause to be created and thereafter be maintained) at least 50% of the employment at the Project projected in

the Local Entity's application to the Issuer on behalf of the Borrower pursuant to which the Bonds were issued, or ceases or permits to be ceased operations at the Project (other than temporary cessation beyond the control of the Borrower and its lessee), or sells, assigns or otherwise disposes of (whether in one transaction or in a series of transactions) its interest in the Project or any substantial portion thereof (other than leases permitted under Section 5.4) or undertakes or permits any demolition or removal of a substantial portion of the Project without the prior written consent of the Issuer (except as otherwise permitted under Section 5.2), or assigns its interest under this Agreement in violation of Section 8.9.

The declaration of an Event of Default under paragraph (c) above, and the exercise of remedies upon any such declaration, shall be subject to any applicable limitations of federal bankruptcy law affecting or precluding that declaration or exercise during the pendency of or immediately following any bankruptcy, liquidation or reorganization proceedings.

#### Section 7.2. Remedies on Default.

(a) Whenever an Event of Default shall have happened and be subsisting, any one or more of the following remedial steps may be taken:

(i) If acceleration of the principal amount of the Bonds has been declared pursuant to Section 7.03 of the Standard Provisions, the Trustee shall declare all Loan Payments to be immediately due and payable, whereupon the same shall become immediately due and payable; and

(ii) The Issuer or the Trustee may pursue any and all remedies now or hereafter existing at law or in equity to collect all amounts then due and thereafter to become due under this Agreement or the Letter of Credit or to enforce the performance and observance of any other obligation or agreement of the Borrower under this Agreement.

(b) The Borrower covenants that, in case it shall fail to pay or cause to be paid any Loan Payments or Purchase Payments as and when the same shall become due and payable whether at maturity or by acceleration or otherwise, then, upon demand of the Trustee, the Borrower will pay to the Trustee the whole amount that then shall have become due and payable hereunder; and, in addition thereto, such further amounts as shall be sufficient to cover the costs and expenses of collection, including a reasonable compensation to the Trustee, its agents and counsel, and any expenses or liabilities incurred by the Issuer or the Trustee. In case the Borrower shall fail forthwith to pay such amounts upon such demand, the Trustee shall be entitled and empowered to institute any actions or proceedings at law or in equity for the collection of the sums so due and unpaid.

(c) In case there shall be pending proceedings for the bankruptcy or reorganization of the Borrower under the federal bankruptcy laws or any other applicable law, or in case a receiver or trustee shall have been appointed for the benefit of the creditors or the property of the Borrower, the Trustee shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the whole amount due hereunder, including interest owing and unpaid in respect thereof, and, in case of any judicial proceedings, to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee allowed in such judicial proceedings relative to the Borrower, its creditors or its property, and to collect and receive any moneys or other property payable or deliverable on any such claims, and to distribute the same after the deduction of its charges and expenses. Any receiver, assignee or trustee in bankruptcy or reorganization is hereby authorized to make such payments to the Issuer or the Trustee, and to pay to the Issuer or the Trustee any amount due it for compensation and expenses, including counsel fees incurred by it up to the date of such distribution.

Notwithstanding the foregoing, the Trustee shall not be obligated to take any step which in its opinion will or might cause it to expend money or otherwise incur liability unless and until an indemnity bond satisfactory to the Trustee in its sole discretion has been furnished to the Trustee at no cost or expense to the Trustee. Any amounts collected as Loan Payments or applicable to Loan Payments and any other amounts which would be applicable to payment of Bond Service collected pursuant to action taken under this Section shall, after the deduction of the Trustee's charges and expenses, be paid into the Bond Fund and applied in accordance with the provisions of the Indenture or, if the outstanding Bonds have been paid and discharged in accordance with the

provisions of the Indenture, shall be paid as provided in Article X of the Standard Provisions for transfers of remaining amounts in the Bond Fund.

The provisions of this Section are subject to the further limitation that the annulment by the Trustee of its declaration that all of the Bonds are immediately due and payable also shall constitute an annulment of any corresponding declaration made pursuant to Subsection 7.2(a)(i) hereof; provided that no such waiver or rescission shall extend to or affect any subsequent or other default or impair any right consequent thereon.

Section 7.3. Remedies Not Exclusive. No remedy conferred upon or reserved to the Issuer or the Trustee by this Agreement 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 the Letter of Credit, or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair that right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer or the Trustee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than any notice required by law or for which express provision is made herein.

Section 7.4. Payment of Legal Fees and Expenses. If an Event of Default should occur and the Issuer or the Trustee should incur expenses, including attorneys' fees and expenses, in connection with the enforcement of this Agreement or the Letter of Credit or the collection of sums due thereunder, the Borrower shall reimburse the Issuer and the Trustee, as applicable, for the expenses so incurred, upon demand.

Section 7.5. No Waiver. No failure by the Issuer or the Trustee to insist upon the strict performance by the Borrower of any provision hereof shall constitute a waiver of their right to strict performance and no express waiver shall be deemed to apply to any other existing or subsequent right to remedy the failure by the Borrower to observe or comply with any provision hereof.

The Issuer and the Trustee may waive any Event of Default hereunder only with the prior written consent of the Bank; provided that the Trustee shall not waive an Event of Default under Section 7.1(h) without the prior written consent of the Issuer.

Section 7.6. Notice of Default. The Borrower shall immediately notify the Trustee, the Issuer and the Bank in writing if it becomes aware of the occurrence of any Event of Default hereunder or of any fact, condition or event which, with the giving of notice or passage of time or both, would become an Event of Default.

(End of Article VII)

**ARTICLE VIII  
MISCELLANEOUS**

Section 8.1. Term of Agreement. This Agreement shall be and remain in full force and effect from the Series Issue Date until such time as all of the Bonds shall have been fully paid (or provision made for such payment) pursuant to the Indenture, the Indenture shall have been released pursuant to Section 10.01 thereof, and all other sums payable by the Borrower under this Agreement and the Reimbursement Agreement shall have been paid, except for obligations of the Borrower under Section 5.10, which shall survive any termination of this Agreement.

Section 8.2. Notices. All notices, certificates, requests or other communications hereunder shall be in writing and shall be deemed to be sufficiently given when mailed by registered or certified mail, postage prepaid, sent by telecopier or nationally recognized overnight courier or delivered in person and addressed as follows:

If to the Borrower:

«Borrower\_Name»

\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_

If to the Issuer:

Pennsylvania Economic Development Financing  
Authority c/o Department of Community and  
Economic Development  
Center for Private Financing  
Commonwealth Keystone Building  
400 North Street, 4th Floor  
Harrisburg, PA 17120-0225  
Phone: (717) 783-1109  
Fax: (717) 783-0879

If to the Trustee:

The Bank of New York Trust Company, N.A.,  
Trustee  
One Liberty Place  
1650 Market Street, 47<sup>th</sup> Floor  
Philadelphia, PA 19103  
Attention: Institutional Trust Services  
Phone: (215) 640-3414  
Fax: (215) 640-3420

If to the Remarketing Advisor:

PNC Capital Markets LLC  
1600 Market Street, 21<sup>st</sup> Floor  
Philadelphia, PA 19103  
Attention: Remarketing Desk  
Phone: (215) 585-1441  
Fax: (215) 585-1463

If to the Bank:

PNC Bank, National Association  
One PNC Plaza  
249 Fifth Avenue  
Pittsburgh, PA 15222-2707  
Attention: Public Finance Group  
Phone: (412) 762-2204  
Fax: (412) 762-2784



with a copy to:

PNC Bank, National Association  
Third Floor, Firstside Center  
500 First Avenue  
Pittsburgh, PA 15219  
Attention: Trade Service Operations  
Phone: (412) 762-2789  
Fax: (412) 705-0966

If to the Underwriter:

PNC Capital Markets LLC  
One PNC Plaza  
249 Fifth Avenue, 25<sup>th</sup> Floor  
Pittsburgh, PA 15222-2707  
Attention: Public Finance Department  
Phone: (412) 762-2213  
Fax: (412) 762-5098

The Borrower, the Issuer, the Trustee, the Bank and the Remarketing Advisor, by notice given hereunder to the Persons listed above, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

Section 8.3. Limitation of Liability; No Personal Liability. In the exercise of the powers of the Issuer, the Trustee or the Remarketing Advisor hereunder or under the Indenture, including without limitation the application of moneys and the investment of funds, neither the Issuer, the Trustee, the Remarketing Advisor nor their members, directors, officers, employees or agents shall be accountable to the Borrower for any action taken or omitted by any of them in good faith and with the belief that it is authorized or within the discretion or rights or powers conferred. The Issuer, the Trustee, the Remarketing Advisor and their members, directors, officers, employees and agents shall be protected in acting upon any paper or document believed to be genuine, and any of them may conclusively rely upon the advice of counsel and may (but need not) require further evidence of any fact or matter before taking any action. In the event of any default by the Issuer hereunder, the liability of the Issuer to the Borrower shall be enforceable only out of the Issuer's interest under this Agreement and there shall be no other recourse for damages by the Borrower against the Issuer, its members, directors, officers, attorneys, agents and employees, or any of the property now or hereafter owned by it or them. All covenants, obligations and agreements of the Issuer contained in this Agreement or the Indenture shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future member, director, officer, agent or employee of the Issuer, and no official executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof or by reason of the covenants, obligations or agreements of the Issuer contained in this Agreement or the Indenture.

Section 8.4. Binding Effect. This Agreement shall inure to the benefit of and shall be binding in accordance with its terms upon the Issuer, the Borrower and their respective successors and assigns; provided that this Agreement may not be assigned by the Borrower (except in connection with a sale or transfer of assets pursuant to Section 5.1 or in compliance with Section 8.9) and may not be assigned by the Issuer except to the Trustee pursuant to the Indenture or as otherwise may be necessary to enforce or secure payment of Bond Service. This Agreement may be enforced only by the parties, their assignees and others who may, by law, stand in their respective places. In addition, the Remarketing Advisor and the Bank are hereby explicitly recognized as third party beneficiaries of this Agreement.

Section 8.5. Amendments. Except as otherwise expressly provided in this Agreement or the Indenture, subsequent to the issuance of the Bonds and unless and until all conditions provided for in the Indenture for release of the Indenture are met, this Agreement may not be effectively amended, modified or terminated except by an instrument in writing signed by the Borrower and the Issuer, consented to by the Trustee, and in accordance with the provisions of Article IX of the Standard Provisions as applicable.

Section 8.6. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same instrument.

Section 8.7. Severability. If any provision of this Agreement is determined by a court to be invalid or unenforceable, such determination shall not affect any other provision hereof, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. Such invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision shall be deemed to be effective, operative and entered into in the manner and to the full extent permitted by applicable law.

Section 8.8. Governing Law. This Agreement shall be deemed to be a contract made under the laws of the Commonwealth of Pennsylvania and for all purposes shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania.

Section 8.9. Assignment. The Borrower shall not assign this Agreement or any interest of the Borrower herein, either in whole or in part, without the prior written consent of the Trustee and the Bank, which consent shall be given if the following conditions are fulfilled: (i) the assignee assumes in writing all of the obligations of the Borrower hereunder; (ii) the assignee provides the Trustee with an opinion of counsel satisfactory to the Trustee to the effect that neither the validity nor the enforceability of this Agreement shall be adversely affected by such assignment; (iii) the Project shall continue in the opinion of Bond Counsel to be a “project” as such term is defined in the Act after such assignment; (iv) such assignment shall not, in the opinion of Bond Counsel, have an adverse effect on the exclusion from gross income for federal income tax purposes of interest on the Bonds; (v) the assignee shall not be a Disqualified Contractor; and (vi) consent by the Issuer, which consent shall not be unreasonably withheld. For purposes of this Section, no foreclosure by the Bank, or conveyance in lieu thereof, or other transfer to the Bank or an affiliate of the Bank, shall, of itself, be deemed an assignment for purposes of this Section or a sale, transfer, assignment or other disposition for purposes of Section 5.2. Subject to the foregoing, the terms “Issuer”, “Borrower”, “Trustee” and “Remarketing Advisor” shall, where the context requires, include the respective successors and assigns of such persons. No assignment pursuant to this Section shall release the Borrower from its obligations under this Agreement, unless the Bank has consented to such release.

Section 8.10. Receipt of Indenture. The Borrower hereby acknowledges that it has received an executed copy of the Indenture and of the Standard Provisions incorporated therein and is familiar with their provisions, and agrees that it is subject to and bound by the terms thereof and it will take all such actions as are required or contemplated of it under the Indenture and the Standard Provisions to preserve and protect the rights of the Trustee and of the Holders and the Bank thereunder and that it will not take any action which would cause a default thereunder. Any redemption of Bonds prior to maturity shall be effected as provided in the Indenture.

(End of Article VIII)

IN WITNESS WHEREOF, the Issuer and the Borrower, intending to be legally bound, have caused this Agreement to be duly executed in their respective names, all as of the date first above written.

Attest: \_\_\_\_\_  
Assistant Secretary

PENNSYLVANIA ECONOMIC DEVELOPMENT  
FINANCING AUTHORITY

By: \_\_\_\_\_  
Executive Director

Attest: \_\_\_\_\_  
(Assistant) Secretary

«BORROWER\_CAPS\_NAME»

By: \_\_\_\_\_  
(Vice) President

This execution page is part of the Loan Agreement dated as of «Dated\_Date» between Pennsylvania Economic Development Financing Authority and «Borrower\_Name».

EXHIBIT A

«PROJECT\_CAPS\_NAME» PROJECT

The Project consists of [a \_\_\_\_\_ square foot building and related equipment], [to be] located on approximately \_\_\_\_ acres of land in \_\_\_\_\_, Pennsylvania, to be [acquired] [constructed] [renovated] and equipped by the Borrower and owned [and operated] by the Borrower [and leased to and operated by the Tenant] as a facility for \_\_\_\_\_.

Sources and Uses of Funds

	<u>Bond</u> <u>Proceeds</u>	<u>Other</u> <u>Borrowed</u> <u>Funds</u>	<u>Equity</u>	<u>Total</u>
Acquisition of Land				
Acquisition of Existing Building and Equipment				
Rehabilitation of Existing Building and Equipment				
New Construction				
Acquisition of New Equipment				
Costs of Issuance				
Total				

EXHIBIT B

Form of Disbursement Request

STATEMENT NO. \_\_\_\_\_ REQUESTING DISBURSEMENT OF FUNDS FROM PROJECT FUND PURSUANT TO SECTION 3.4 OF THE LOAN AGREEMENT DATED AS OF «BORROWER\_CAPS\_NAME» (“LOAN AGREEMENT”) BETWEEN PENNSYLVANIA ECONOMIC DEVELOPMENT FINANCING AUTHORITY (“ISSUER”) AND «BORROWER\_CAPS\_NAME» (“BORROWER”).

The terms used herein shall have the meanings specified for such terms in or pursuant to the Loan Agreement. Pursuant to Section 3.4 of the Loan Agreement, the undersigned Authorized Representative of the Borrower hereby requests and authorizes the Trustee to pay to the Borrower or to the Person(s) listed on the Disbursement Schedule attached hereto out of the moneys deposited in the Project Fund the aggregate sum of \$\_\_\_\_\_ to reimburse the Borrower or to pay such Person(s), as indicated in the Disbursement Schedule, for the items of Project Cost listed in the Disbursement Schedule.

In connection with the foregoing request and authorization, the undersigned hereby certifies that:

(a) Each item for which disbursement is requested hereunder is due, is an item of incurred Project Cost properly reimbursable or payable out of the Project Fund in accordance with the terms and conditions of the Loan Agreement and none of those items has formed the basis for any disbursement heretofore made from the Project Fund.

(b) Each such item is or was necessary or appropriate in connection with the acquisition, construction or equipment of the Project.

(c) Each such item is as described in the information statement filed by the Issuer in connection with the issuance of the Bonds (as defined in the Loan Agreement), as required by Section 149(e) of the Code; provided that if any such item is not as described in that information statement, attached hereto is an opinion of Bond Counsel that such disbursement will not result in the interest on the Bonds becoming included in the gross income of the Holders for federal income tax purposes.

(d) The reimbursement or payment of the Project Costs requisitioned hereby will comply with the restrictions contained in Sections 3.4, 5.11 and 5.12 of the Loan Agreement.

(e) This statement and all exhibits hereto, including the Disbursement Schedule, shall constitute full warrant, protection and authority to the Trustee for its actions taken pursuant hereto.

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

«BORROWER\_CAPS\_NAME»

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

Approved by PNC Bank, National Association

By: \_\_\_\_\_  
Authorized Signatory

DISBURSEMENT SCHEDULE

TO STATEMENT NO. \_\_\_\_\_ REQUESTING AND AUTHORIZING  
DISBURSEMENT OF FUNDS FROM PROJECT FUND PURSUANT TO  
SECTION 3.4 OF THE LOAN AGREEMENT DATED AS OF  
«DATED\_DATE\_CAPS» BETWEEN PENNSYLVANIA ECONOMIC  
DEVELOPMENT FINANCING AUTHORITY AND  
«BORROWER\_CAPS\_NAME»

PAYEE

AMOUNT

PURPOSE

## EXHIBIT C

### NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE

During the term of the contract, Contractor agrees as follows:

1. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not, by reason of gender, race, creed, or color, discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.

2. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract on account of gender, race, creed, or color.

3. Contractors and subcontractors shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.

4. Contractors shall not discriminate by reason of gender, race, creed, or color against any subcontractor or supplier who is qualified to perform the work to which the contracts relates.

5. The Contractor and each subcontractor shall furnish all necessary employment documents and records to and permit access to their books, records, and accounts by the contracting agency and the Bureau of Contract Administration and Business Development, for purposes of investigation, to ascertain compliance with provisions of this Nondiscrimination/Sexual Harassment Clause. If the Contractor or any subcontractor does not possess documents or records reflecting the necessary information requested, the Contractor or subcontractor shall furnish such information on reporting forms supplied by the contracting agency or the Bureau of Contract Administration and Business Development.

6. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that such provisions will be binding upon each subcontractor.

7. The Commonwealth may cancel or terminate the contract, and all money due or to become due under the contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.