

DORMITORY AUTHORITY OF THE STATE OF NEW YORK

TO

WILMINGTON TRUST, NATIONAL ASSOCIATION,
AS TRUSTEE

ASSIGNMENT

WITH

ACKNOWLEDGMENT

THEREOF BY

NEW YORK INSTITUTE OF TECHNOLOGY

DATED AS OF JULY __, 2020

RELATING TO THE DORMITORY AUTHORITY OF THE
STATE OF NEW YORK NEW YORK INSTITUTE OF
TECHNOLOGY REVENUE BONDS, SERIES 2020A ISSUED
BY THE DORMITORY AUTHORITY OF THE STATE OF
NEW YORK IN THE AGGREGATE PRINCIPAL AMOUNT
OF \$[PAR AMT].

ASSIGNMENT

THIS ASSIGNMENT dated as of July __, 2020 (the “Assignment”) is from the DORMITORY AUTHORITY OF THE STATE OF NEW YORK, having its principal place of business at 515 Broadway, Albany, New York 12207, a body corporate and politic of the State of New York, constituting a public benefit corporation (the “Issuer”) to WILMINGTON TRUST, NATIONAL ASSOCIATION, a national banking association duly organized and existing under the laws of the United States, having an office for the transaction of business located at One M&T Plaza, 7th Floor Buffalo, New York 14203 (the “Trustee”) for the Issuer’s New York Institute of Technology Revenue Bonds, Series 2020A in the aggregate principal amount of \$[PAR AMT] (the “Bonds”) issued pursuant to the terms of the New York Institute of Technology Revenue Bond Resolution, adopted on July 20, 2016 (the “**General Resolution**”) and the series resolution adopted thereunder on June 24, 2020 (the “**Series 2020A Resolution**” and together with the General Resolution, the “**Resolution**”). The proceeds of the Bonds were loaned to New York Institute of Technology (the “Institution”) by the Issuer pursuant to a loan agreement, dated as July __, 2020 (the “Loan Agreement”), by and between the Issuer and the Institution.

For value received, the receipt of which is hereby acknowledged, the Issuer hereby assigns, transfers and sets over to the Trustee all of the Issuer’s right, title and interest in any and all moneys due or to become due to the Issuer and any and all other rights and remedies of the Issuer (except for the “Unassigned Rights,” as defined in the Loan Agreement, and moneys payable to the Issuer pursuant to the Unassigned Rights) under or arising out of (A) the Loan Agreement, provided, however, that the assignment made hereby shall not permit the amendment of the Loan Agreement without the prior written consent of the Issuer, (B) the Collateral securing the Institution’s obligations under the Loan Agreement, (C) the Shared Collateral pursuant to the Intercreditor Agreement dated as of July __, 2020, by and among the Issuer, the Trustee and Wilmington Trust, National Association, as trustee for the Prior Bonds (the “Intercreditor Agreement”), (D) the Mortgage dated as of July __, 2020, made by the Institution to the Issuer (the “Mortgage”) and (E) the Security Agreement dated as of July __, 2020, by and between Institution and the Issuer (the “Security Agreement”). Issuer further reserves unto itself the right to direct the Trustee to take any actions authorized by clauses (ii), (iii), (iv) and (v) of subsection 9.1(b) of the Loan Agreement as shall be necessary to enforce the Issuer’s Unassigned Rights. All capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Loan Agreement.

The Trustee shall have no obligation, duty or liability under the Loan Agreement, nor shall the Trustee be required or obligated in any manner to fulfill or perform any obligation, covenant, term or condition of the Issuer thereunder or to make any inquiry as to the nature or sufficiency of any payment received by it, or to present or file any claim, or to take any other action to collect or enforce the payment of any amounts which may have been assigned to it or to which it may be entitled hereunder at any time or times except as provided in the Resolution. The Issuer shall at all times remain liable to observe and perform all of its covenants and obligations under the Loan Agreement in accordance with the terms and limitations thereof.

The Issuer hereby irrevocably constitutes and appoints the Trustee its true and lawful attorney, with power of substitution for the Issuer and in the name of the Issuer or in the name of

the Trustee or otherwise, for the use and benefit of the holders of the Bonds, to ask, demand, require, receive, collect, compromise, compound and give discharges and releases of all claims for any and all moneys due or to become due under or arising out of the Loan Agreement (except for claims relating to moneys due or to become due with respect to the Unassigned Rights) and to endorse any checks and other instruments or orders in connection therewith, and, if any Event of Default specified in the Loan Agreement or any other Institution Document shall occur, (A) to settle, compromise, compound and adjust any such claims (except for claims arising pursuant to the Unassigned Rights), (B) to exercise and enforce any and all claims, rights, powers and remedies of the Issuer under or arising out of the Loan Agreement, the Collateral, the Shared Collateral, [the Intercreditor Agreement] the Mortgage or the Security Agreement (except for rights of the Issuer relating to, and moneys payable pursuant to, the Unassigned Rights), (C) to file, commence and prosecute any suits, actions and proceedings at law or in equity in any court of competent jurisdiction to collect any such sums assigned to the Trustee hereunder and to enforce any rights in respect thereto and all other claims, rights, powers and remedies of the Issuer under or arising out of the Loan Agreement, the Collateral, the Shared Collateral, [the Intercreditor Agreement] the Mortgage or the Security Agreement (except for rights of the Issuer relating to, and moneys payable pursuant to, the Unassigned Rights), and (D) generally to sell, assign, transfer, pledge, make any agreement with respect to and otherwise deal with any of such claims, rights, powers and remedies as fully and completely as though the Trustee were the absolute owner thereof for all purposes, and at such times and in such manner as may seem to the Trustee to be necessary or advisable in its absolute discretion.

The Issuer further agrees that at any time and from time to time, and at the sole cost and expense of the Institution, the Issuer will promptly and duly execute and deliver any and all such further instruments and documents as the Trustee may deem desirable in order to obtain the full benefits of this Assignment and all rights and powers herein granted.

This Assignment is made without any representation or warranty whatsoever by the Issuer and upon the express condition, understanding and agreement that this Assignment is made without recourse to the Trustee, for any cause whatsoever, express or implied, by the Issuer, or by any successor to the interest of the Issuer in the Loan Agreement, the Collateral, the Shared Collateral, [the Intercreditor Agreement] the Mortgage and the Security Agreement.

All moneys due and to become due to the Trustee under or pursuant to the Loan Agreement shall be paid directly to the Trustee at One M&T Plaza, 7th Floor, Buffalo, New York 14203, or at such other address as they Trustee may designate to the Institution and the Issuer in writing from time to time.

This Assignment shall be binding upon the Issuer and its successors and assigns and shall inure to the benefit of the Trustee and its successors and assigns as trustee under the Resolution.

[signature page follows]

IN WITNESS WHEREOF, the Issuer has duly executed this Assignment as of the day and year first above written.

DORMITORY AUTHORITY OF THE STATE OF NEW
YORK

By: _____
Authorized Officer

DRAFT

[Signature page to Assignment]

Issuer Acknowledgement

STATE OF NEW YORK)
) SS.:
COUNTY OF ALBANY)

On the __ day of _____, in the year 2020, before me, the undersigned, a notary public in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

DRAFT

ACCEPTANCE

Wilmington Trust, National Association, as trustee (the “Trustee”) hereby accepts the foregoing assignment dated as of July __, 2020 (the “Assignment”).

IN WITNESS WHEREOF, the Trustee has duly executed this Acceptance as of July __, 2020.

WILMINGTON TRUST, NATIONAL
ASSOCIATION, as Trustee

By: _____
Name:
Title:

[Signature Page to Acceptance of Assignment]

Trustee Acknowledgement

STATE OF NEW YORK)
)
COUNTY OF ERIE) SS.:

On the ___ day of July in the year 2020, before me, the undersigned, a notary public in and for said state, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

DRAFT

ACKNOWLEDGMENT BY INSTITUTION OF ASSIGNMENT OF
RIGHTS UNDER LOAN AGREEMENT

NEW YORK INSTITUTE OF TECHNOLOGY (the “Institution”) hereby acknowledges receipt of notice of the assignment by the DORMITORY AUTHORITY OF THE STATE OF NEW YORK. (the “Issuer”) to WILMINGTON TRUST, NATIONAL ASSOCIATION, as trustee (the “Trustee”) of certain of the Issuer’s rights and remedies (A) under a loan agreement dated as of July __, 2020 (the “Loan Agreement”) by and between the Issuer and the Institution, (B) with respect to the Collateral securing the Institution’s obligations under the Loan Agreement(C) the Shared Collateral pursuant to the Intercreditor Agreement dated as of July __, 2020, by and among the Issuer, the Trustee and Wilmington Trust, National Association, as trustee for the Prior Bonds (the “Intercreditor Agreement”), (D) the Mortgage dated as of July __, 2020, made by the Institution to the Issuer (the “Mortgage”) and (E) the Security Agreement dated as of July __, 2020, by and between Institution and the Issuer (the “Security Agreement”), which assignment is dated as of July __, 2020 (the “Assignment”) from the Issuer to the Trustee and which Assignment includes the right to collect and receive all amounts payable by the Institution under the Loan Agreement (except for rights of the Issuer and moneys payable pursuant to the “Unassigned Rights”, as defined in the Loan Agreement). The Institution, intending to be legally bound, hereby agrees with the Trustee (A) to pay directly to the Trustee all sums due and to become due to the Issuer from the Institution under the Loan Agreement (except for moneys payable pursuant to the Unassigned Rights), without set-off, counterclaim or deduction for any reason whatsoever, except as otherwise provided in the Loan Agreement, (B) to perform for the benefit of the Trustee all of the duties and undertakings of the Institution under the Loan Agreement (except for duties and obligations relating to the Unassigned Rights), [the Intercreditor Agreement] the Mortgage and the Security Agreement, and (C) that the Trustee shall not be obligated by reason of the Assignment or otherwise to perform or be responsible for the performance of any of the duties, undertakings or obligations of the Issuer under the Loan Agreement, [the Intercreditor Agreement] the Mortgage or the Security Agreement.

All capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Loan Agreement.

[signature page follows]

IN WITNESS WHEREOF, the Institution has caused this Acknowledgment to be duly executed as of July __, 2020.

NEW YORK INSTITUTE OF TECHNOLOGY

By: _____

Name:

Title:

DRAFT

*[Signature Page to Acknowledgement by Institution of Assignment of
Rights under the Loan Agreement, [the Intercreditor Agreement]
the Mortgage and the Security Agreement]*

Institution Acknowledgement

STATE OF NEW YORK)
) SS.:
COUNTY OF NASSAU)

On the __ day of July in the year 2020, before me, the undersigned, a notary public in and for said state, personally appeared _____], personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

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\$[_____]
**DORMITORY AUTHORITY OF THE STATE OF NEW YORK
NEW YORK INSTITUTE OF TECHNOLOGY REVENUE BONDS
SERIES 2020A (FEDERALLY TAXABLE)**

BOND PURCHASE AGREEMENT

[_____], 2020

Dormitory Authority of the
State of New York
515 Broadway
Albany, New York 12207

New York Institute of Technology
Northern Boulevard, P.O. Box 8000
Old Westbury, New York 11568-8000

Ladies and Gentlemen:

Morgan Stanley & Co. LLC (the “Underwriter”) offers to enter into the following agreement (this “Bond Purchase Agreement”) with the Dormitory Authority of the State of New York (“**DASNY**”) and New York Institute of Technology (the “**Institution**”), which Bond Purchase Agreement is subject to acceptance by DASNY and the Institution at or before 5:30 p.m., New York time, on the date hereof or at such later time or date as may be agreed upon by DASNY, the Underwriter and the Institution. This Bond Purchase Agreement, upon the acceptance of this offer by DASNY and the Institution, will be binding upon DASNY, the Institution and the Underwriter. All terms not defined in this Bond Purchase Agreement shall have the meanings specified in the Preliminary Official Statement referred to in Section 2 hereof.

1. Purchase and Sale of Bonds; Description of Bonds. (a) Upon the terms and conditions and upon the basis of the representations, warranties and agreements set forth herein, the Underwriter hereby agrees to purchase from DASNY for a bona fide offering to the public, and DASNY hereby agrees to sell to the Underwriter for such purpose, all (and not less than all) of DASNY’s New York Institute of Technology Revenue Bonds, Series 2020A (Federally Taxable) (the “**Bonds**”) in the aggregate principal amount set forth in the heading of this Bond Purchase Agreement.

The purchase price for the Bonds shall be \$[____], which represents the par amount of the Bonds, less the Underwriter's discount of \$[____] (the "**Purchase Price**"). The Bonds shall mature, be subject to redemption and bear interest as set forth in Exhibit A hereto.

(b) The Bonds shall be as described in Exhibit A hereto and in the Official Statement, as defined in Section 2 hereof. The Bonds shall be issued and secured under the provisions of the New York Institute of Technology Revenue Bond Resolution adopted by DASNY on July 20, 2016 (the "**General Resolution**") and authorized by the Series Resolution Authorizing Up To \$[30,000,000] New York Institute of Technology Revenue Bonds, Series 2020A (Federally Taxable) adopted by DASNY on June 24, 2020 (the "**Series Resolution**") and, together with the General Resolution, the "**Resolution**"). The Bonds are to be issued in connection with the loan by DASNY to the Institution pursuant to a loan agreement, dated as of June 24, 2020 (the "**Loan Agreement**"), between DASNY and the Institution for the purpose of financing or refinancing the Institution's Project as defined in the Loan Agreement (the "**Project**"). The Bonds will be special obligations of DASNY, payable solely from certain payments to be made by the Institution to DASNY under the Loan Agreement and moneys and securities held by Manufacturers and Traders Trust Company, as trustee (the "**Trustee**") under the Resolution. The obligations of the Institution under the Loan Agreement will be secured by a mortgage, dated as of July [], 2020 (the "**Mortgage**") given by the Institution on certain real property of the Institution and by a pledge of revenues given by the Institution pursuant to the Security Agreement, dated as of July [], 2020 (the "**Security Agreement**"). Pursuant to the Resolution and the Assignment from DASNY to the Trustee (with an acknowledgement by the Institution), dated as of July [], 2020 (the "**Assignment**"), DASNY will pledge and assign to the Trustee, with certain specified exceptions, all of DASNY's right, title and interest in and to the Loan Agreement, the Mortgage, the Security Agreement and the Intercreditor Agreement dated as of July [], 2020 between DASNY, the Prior Bonds Trustee (as hereinafter defined) and the Trustee (the "**Intercreditor Agreement**").

2. Official Statement; Amendment; Rule 15c2-12. (a) (1) As soon as reasonably practicable, but no later than seven business days, after the time of acceptance of this Bond Purchase Agreement by DASNY and the Institution, DASNY and the Institution will deliver to the Underwriter an official statement, dated the date of this Bond Purchase Agreement (the "**Official Statement**"), in "designated electronic format" (as defined in Rule G-32 of the Municipal Securities Rulemaking Board (the "**MSRB**")) and in sufficient quantity as determined by the Underwriter to permit the Underwriter to comply with Rule 15c2-12 of the Securities Exchange Act of 1934, as amended ("**Rule 15c2-12**") and other applicable rules of the Securities and Exchange Commission (the "**SEC**") and the MSRB. DASNY and the Institution authorize the Official Statement, any amendments or supplements thereto made in accordance with this Section 2, and the information contained therein to be used by the Underwriter in connection with the offering and sale of the Bonds. DASNY and the Institution also hereby ratify and confirm the use by the Underwriter prior to the date of this Bond Purchase Agreement of the preliminary official statement, dated June [], 2020, in connection with the offering of the Bonds (the "**Preliminary Official Statement**").

(2) If, from the date of the Official Statement until the later of (A) the date on which the Official Statement is filed with the MSRB pursuant to paragraph 2(b)

below; and (B) 25 days following the “end of the underwriting period” as defined in Section 2(b) below, any event shall occur as a result of which, in the reasonable judgment of the Underwriter, it is necessary to amend or supplement the Official Statement in order for the Official Statement not to contain any untrue statement of a material fact or not to omit to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading, except as provided in the last sentence of this paragraph, the Institution agrees, in cooperation with the Underwriter and DASNY, to prepare and furnish to the Underwriter, at the expense of the Institution, either amendments or supplements to the Official Statement so that the statements in the Official Statement as so amended or supplemented will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made therein, in the light of the circumstances in which they were made, not misleading. The Institution shall notify the Underwriter and DASNY promptly upon becoming aware of any such event. DASNY shall notify the Underwriter and the Institution of any such event relating to information contained under the caption “**PART 9 — DASNY**” (the “**DASNY Section**”) in the Official Statement. DASNY will be required to prepare and furnish any amendments or supplements relating to information under the DASNY Section in the Official Statement that may be required by this Section 2. The Institution and DASNY will, before the Official Statement is amended or supplemented, furnish a copy of each proposed amendment or supplement to the Underwriter, who will have the right to approve it, which approval shall not be unreasonably withheld.

(b) The Underwriter agrees to (i) promptly file a copy of the Official Statement with the MSRB upon receipt of the final Official Statement by delivering such Official Statement (with any required forms) to the Electronic Municipal Market Access System of the MSRB within one (1) business day after receipt of such final Official Statement from DASNY and the Institution pursuant to MSRB Rule G-32; and (ii) take any and all other actions necessary to comply with applicable SEC and MSRB rules governing the offering, sale and delivery of the Bonds to ultimate purchasers. The Underwriter shall notify DASNY and the Institution of the date on which the final Official Statement is filed with the MSRB. Unless otherwise notified in writing by the Underwriter at or prior to the Closing Date (as defined in Section 10 hereof), the “end of the underwriting period” for purposes of Rule 15c2-12 shall be the Closing Date. In the event such notice is so given in writing by the Underwriter, the Underwriter agrees to notify DASNY and the Institution promptly in writing following the occurrence of the “end of the underwriting period” as defined in Rule 15c2-12. The “**end of the underwriting period**” as used in this Bond Purchase Agreement shall mean either the Closing Date or such later date as to which notice is given by the Underwriter, which date shall constitute the “end of the underwriting period” as defined in Rule 15c2-12.

(c) In order to assist the Underwriter in complying with Rule 15c2-12(b)(5), the Institution will undertake, pursuant to an Agreement to Provide Continuing Disclosure, to provide annual reports and notices of certain events (the “**Continuing Disclosure Agreement**”) as described in the Official Statement. The Underwriter acknowledges that the Continuing Disclosure Agreement, when executed, will enable it to comply with Rule 15c2-12(b)(5). The Underwriter and the Institution also acknowledge and agree that DASNY is not an “obligated person” under Rule 15c2-12.

(d) The Underwriter and the Institution acknowledge that DASNY has made no independent investigation and has furnished no information contained in the Preliminary Official Statement or Official Statement, except the information contained in the DASNY Section, and that except for the DASNY Section, DASNY assumes no responsibility with respect to the sufficiency, accuracy, or completeness of any of the information contained in the Preliminary Official Statement or the Official Statement or any other document used by the Underwriter or the Institution in connection with the offer and sale of the Bonds.

3. Reserved.

4. Sale of all the Bonds; Offering. (a) It shall be a condition to the Underwriter's obligation to purchase and accept delivery of the Bonds that all the Bonds be sold and delivered by DASNY at the Closing (as defined in Section 10 hereof). It shall be a condition to DASNY's obligation to sell and deliver the Bonds to the Underwriter that all the Bonds be accepted and paid for by the Underwriter at the Closing. The Underwriter agrees to make a bona fide public offering of all of the Bonds at prices not in excess of the initial offering prices (or at yields not less than the yields) set forth on the inside cover page of the Official Statement and Exhibit A hereto. The Underwriter may offer and sell the Bonds to certain dealers (including dealers depositing Bonds into investment trusts or mutual funds) at prices lower (or yields higher) than the public offering prices (or yields) described above.

5. Representations and Warranties of DASNY. DASNY represents and warrants to the Underwriter and the Institution as follows:

(a) DASNY is: (i) a body corporate and politic constituting a public benefit corporation of the State of New York (the "**State**"), duly created and established and validly existing pursuant to the Dormitory Authority Act, being Chapter 524 of the Laws of 1944 of the State, as amended, and constituting Titles 4 and 4B of Article 8 of the Public Authorities Law of the State, as amended; (ii) the successor to the powers, duties and functions of the New York State Medical Care Facilities Finance Agency, duly created and established and validly existing pursuant to the New York State Medical Care Facilities Finance Agency Act, being Section 4 of Section 1 of Chapter 392 of the Laws of 1973, as amended; and (iii) the successor to the powers, duties and functions of the Facilities Development Corporation, duly created and established and validly existing pursuant to the Facilities Development Corporation Act, being Section 4 of Section 1 of Chapter 359 of the Laws of 1968, as amended (the "**Enabling Legislation**").

(b) DASNY has all requisite legal right, power and authority to: (i) adopt the Resolution and to execute and deliver, as applicable, the other "**DASNY Documents**" (as defined in Exhibit B hereto) and perform its obligations under the DASNY Documents, (ii) execute, deliver and authorize distribution of the Official Statement, (iii) execute, issue, sell and deliver the Bonds and (iv) consummate the transactions to which DASNY is or is to be a party as contemplated by the DASNY Documents.

(c) DASNY has duly authorized by all necessary actions: (i) the adoption of the Resolution and the execution and delivery, as applicable, of the other DASNY Documents and the performance of its obligations under the DASNY Documents, (ii) the execution,

delivery and distribution of the Official Statement, (iii) the execution, issuance, sale and delivery of the Bonds and (iv) the consummation of the transactions as contemplated by the DASNY Documents. Such authorized acts do not and will not in any material respect conflict with, or constitute on the part of DASNY a breach of or default under, any agreement or other instrument to which DASNY is a party or any existing law, administrative regulation, judgment, order, decree or ruling by which DASNY is bound or to which it is subject.

(d) The Resolution constitutes, and the other DASNY Documents, when duly executed and delivered by the other parties thereto, will constitute legal, valid and binding obligations of DASNY enforceable in accordance with their respective terms; and the Bonds, when delivered to and paid for by the Underwriter at the Closing in accordance with the provisions of Section 10 hereof, will constitute legal, valid and binding special obligations of DASNY, enforceable in accordance with their terms and in conformity with, and entitled to the benefits of the provisions of, the Enabling Legislation and the DASNY Documents (except as the enforceability of any of the foregoing may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights and general equitable principles).

(e) The statements and information contained in the Preliminary Official Statement, as of the date thereof and hereof, and the Official Statement under the DASNY Section are, as of the date hereof, and will be, as of the Closing Date, true, correct and complete, and the DASNY Section of the Official Statement does not and will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make such statements and information, in the light of the circumstances under which they were made, not misleading. DASNY hereby confirms that the DASNY Section of the Preliminary Official Statement was deemed "final" (except for permitted omissions) as of its date by DASNY for purposes of paragraph (b)(1) of Rule 15c2-12.

(f) All consents, approvals, authorizations or orders of, or filings, registrations or declarations with, any court, governmental authority, legislative body, board, agency or commission which are required for the due authorization of, which would constitute a condition precedent to or the absence of which would materially adversely affect the due performance by DASNY of its obligations in connection with the execution, issuance, delivery or sale of the Bonds under the DASNY Documents have been duly obtained (including the approval of the Public Authorities Control Board of the State) and are in full force and effect, except for such approvals, consents and other actions as may be required under the blue sky or other securities laws of any state or other jurisdiction of the United States in connection with the offering and sale of the Bonds.

(g) DASNY is not now in default under, and the execution and delivery of the DASNY Documents will not conflict with or constitute a breach of, any agreement or other instrument to which it is a party or any existing administrative regulation, judgment, order, decree, ruling or other law by which it is bound or subject, which breach or default is material to the transactions contemplated by the DASNY Documents; and no event has occurred and is continuing that with the passage of time or the giving of notice, or both, would constitute, under any such instrument or law, such a breach or default material to such transactions.

(h) No action, suit, proceeding or investigation, at law or in equity, before or by any court or governmental agency or body, is pending or, to the best knowledge of DASNY, threatened against or affecting DASNY seeking to restrain or enjoin the execution, issuance, sale or delivery of the Bonds or the proceedings or authority under which the Bonds are to be issued, or contesting the legal existence of DASNY, the title of any of its members or officers to their respective offices or wherein an unfavorable decision, ruling or finding would, in any way, adversely affect (i) the transactions contemplated by the DASNY Documents, (ii) the validity of the DASNY Documents or any agreement or instrument to which DASNY is a party and which is used or is contemplated for use in the consummation of the transactions contemplated by the DASNY Documents, or (iii) the exemption of the Bonds from taxation by the State of New York and its political subdivisions, as set forth in the approving opinion of Bryant Rabbino LLP, bond counsel to DASNY (“**Bond Counsel**”).

Any certificate signed by any Authorized Officer of DASNY and delivered to the Underwriter pursuant to the DASNY Documents shall be deemed a representation and warranty by DASNY as to the statements made therein with the same effect as if such representation and warranty were set forth in the DASNY Documents.

6. Agreements of DASNY. DASNY agrees with the Underwriter and the Institution as follows:

(a) DASNY will furnish such information, execute such instruments and take such other actions in cooperation with the Underwriter as the Underwriter may request in order to: (i) qualify the Bonds for offering and sale under the blue sky or other securities laws of such states and other jurisdictions of the United States as the Underwriter may designate, and DASNY will use its best efforts to continue such qualifications in effect so long as required for the distribution of the Bonds, and (ii) determine the eligibility of the Bonds for investment under the laws of such states and other jurisdictions; provided, however, that DASNY will not be required to execute a general or special consent to service of process or to qualify to do business in connection with any such qualification or determination. DASNY hereby consents to the use of the DASNY Documents (and drafts of the DASNY Documents prior to the availability of such documents in final form) by the Underwriter in obtaining such qualifications and determining such eligibilities.

(b) Prior to the Closing Date, DASNY will not, without the prior written consent of the Underwriter, offer or issue any bonds under the Resolution, other than the Bonds, except as described in or contemplated by the Official Statement.

7. Representations and Warranties of the Institution. The Institution represents and warrants to DASNY and to the Underwriter as follows:

(a) The Institution is a not-for-profit education corporation duly organized, validly existing and in good standing under the laws of the State, no part of the net earnings of which inures or will inure to the benefit of any private stockholder or individual.

(b) (i) The Institution is an organization described in Section 501(c)(3) of the Code, or corresponding provisions of prior law, and has received a determination letter from

the Internal Revenue Service to that effect, which letter has not been modified, limited or revoked, (ii) the Institution is in compliance with all terms, conditions and limitations, if any, contained in such letter, (iii) the facts and circumstances which form the basis of such letter or other notification as represented to the Internal Revenue Service continue to exist, (iv) the Institution is exempt from federal income taxes, except for unrelated business income subject to taxation under Section 511 of the Code and (v) the Institution is not a “private foundation” as that term is defined in Section 509(a) of the Code.

(c) Except as disclosed in the Preliminary Official Statement and the Official Statement, in the previous five years the Institution has not failed to comply, in all material respects, with any previous undertakings under Rule 15c2-12.

(d) The Institution has all requisite legal right, power and authority to (i) execute and deliver, as applicable, the “**Institution Documents**” (as defined in Exhibit C hereto) and to perform its obligations thereunder, (ii) consummate the transactions to which it is or is to be a party as contemplated by the Institution Documents, and (iii) as applicable, acquire, construct, own, operate, repair and maintain the Project.

(e) The Institution has duly authorized by all necessary actions: (x) the execution and delivery, as applicable, of the Institution Documents, (y) the performance of its obligations thereunder and (z) the consummation of the transactions to which the Institution is or is to be a party as contemplated by the Institution Documents. Such authorized acts: (i) do not and will not in any material respect conflict with or constitute on the part of the Institution a breach of or default under (A) any agreement or other instrument to which the Institution is a party or by or to which it or its revenues, properties, assets or operations are bound or subject or (B) any existing law, administrative regulation, judgment, order, decree or ruling by or to which it or its revenues, properties, assets or operations are bound or subject; and (ii) except as contemplated in the Institution Documents, will not result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the Institution’s revenues, properties, assets or operations.

(f) This Bond Purchase Agreement constitutes, and the other Institution Documents will, when executed and delivered by the Institution and the other parties thereto, constitute legal, valid and binding obligations of the Institution, enforceable in accordance with their respective terms except as they may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors’ rights and general equitable principles.

(g) The Institution Information (as defined below) contained in the Preliminary Official Statement was as of its date and is as of the date hereof, and the Official Statement is as of the date hereof and will be as of the Closing, true and correct in all material respects and did not, does not and will not omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. The Institution has approved and consents to the use of the Preliminary Official Statement and the Official Statement by the Underwriter. The Institution hereby confirms that Institution Information contained in the Preliminary Official Statement was deemed “final” (except for permitted omissions) as of its date by the Institution for purposes of paragraph (b)(1) of Rule 15c2-12. “Institution Information” shall include [“PART 1-INTRODUCTION-Purpose of the

Issue,” “PART 1-INTRODUCTION-The Institute,” “PART 1-INTRODUCTION-Covenants,” “PART 2-SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2020A BONDS-Covenants,” “PART 4-PRINCIPAL AND INTEREST REQUIREMENTS,” “PART 5-THE INSTITUTE,” “PART 6-BONDHOLDERS' RISKS,” “PART 7-THE REFUNDING PLAN,” “PART 8-ESTIMATED SOURCES AND USES OF FUNDS,” “PART 18-CONTINUING DISCLOSURE,” “PART 19-RATINGS,” “Appendix B-Consolidated Financial Statements of New York Institute of Technology with Independent Auditors' Report” and “Appendix F-Refunded Bonds”.]

(h) All consents, approvals, authorizations or orders of, or filings, registrations or declarations with, any court, governmental authority, legislative body, board, agency or commission which are required for the due authorization of, which would constitute a condition precedent to, or the absence of which would materially adversely affect the due performance by the Institution of, its obligations under the Institution Documents or the consummation of the transactions to which the Institution is or is to be a party as contemplated by the Institution Documents and the Bonds, which are required to be obtained by the Institution, have been duly obtained and are in full force and effect except for (i) recordings and filings to be done at the time of the Closing and (ii) such approvals, consents and other actions as may be required under the blue sky or other securities laws of any state or other jurisdiction of the United States in connection with the offering and sale of the Bonds.

(i) The Institution is not in breach of or in default under any agreement or other instrument to which the Institution is a party or by or to which it or its revenues, properties, assets or operations are bound or subject or any existing administrative regulation, judgment, order, decree, ruling or other law by or to which it or its revenues, properties, assets or operations are bound or subject, which breach or default is material to the transactions contemplated by the Institution Documents and the Bonds; and no event has occurred and is continuing that with the passage of time or the giving of notice, or both, would constitute, under any such instrument, such a breach or default material to such transactions.

(j) Except as specifically set forth in the Preliminary Official Statement and the Official Statement, no action, suit, proceeding or investigation, in equity or at law, before or by any court or governmental agency or body, is pending or, to the best knowledge of the Institution, threatened: (i) that, in the reasonable judgment of the Institution, might (A) result in material liability on the part of the Institution or (B) materially and adversely affect, as applicable, the acquisition, construction, operation, condition or feasibility of the Project; or (ii) wherein an adverse decision, ruling or finding might adversely affect (A) the transactions contemplated by the Institution Documents or (B) the validity or enforceability of the Institution Documents or any agreement or instrument to which the Institution is a party and which is used or is contemplated for use in the consummation of the transactions contemplated by the Institution Documents and the Bonds.

(k) Since August 31, 2019, no material adverse change has occurred in the financial position of the Institution or in its results of operations, except as set forth in or contemplated by the Preliminary Official Statement and the Official Statement, nor has the Institution, since such date, incurred any material liabilities other than in the ordinary course of

business or as set forth or contemplated in the Preliminary Official Statement and the Official Statement.

(l) The audited financial statements with respect to the Institution included in the Preliminary Official Statement and the Official Statement: (i) have been included with the consent of Grant Thornton LLP; (ii) have been prepared in accordance with generally accepted accounting principles consistently applied throughout the periods concerned (except as otherwise disclosed in the notes to such financial statements); and (iii) fairly present the financial position and results of operations of the Institution at the respective dates and for the respective period indicated therein.

(m) Except as specifically set forth in the Preliminary Official Statement and the Official Statement, there are no pledges, liens, charges or encumbrances of any nature whatsoever on any item pledged by the Institution pursuant to the Institution Documents and the Institution has not entered into any contract or arrangement of any kind and there is no existing, pending, threatened or anticipated event or circumstance, that might give rise to any such pledge, lien, charge or encumbrance.

(n) Neither DASNY nor any of its members, officers, employees or agents shall have any responsibility to the Underwriter or the Institution for the completeness of the information obtained from any source with respect to the Institution or its assets, operations, circumstances, financial conditions and properties, not-for-profit status, or with respect to the Project, the Bonds or the security purported to be afforded by the DASNY Documents and the Institution Documents, or otherwise (other than the DASNY Section) and the Institution acknowledges that it assumes responsibility for all such information provided to the Underwriter in connection with the Underwriter's decision to purchase the Bonds.

Any certificate signed by any officer of the Institution and delivered to DASNY or the Underwriter pursuant to the Institution Documents shall be deemed to be a representation and warranty by the Institution as to the statements made therein with the same effect as if such representation and warranty were set forth in the Institution Documents.

8. Agreements of the Institution. The Institution agrees with DASNY and the Underwriter that the Institution will furnish such information, execute such instruments and take such other actions in cooperation with the Underwriter as the Underwriter may reasonably request in order to: (i) qualify the Bonds for offer and sale under the blue sky or other securities laws of such states and other jurisdictions of the United States as the Underwriter and the Institution may designate, and the Institution will use its best efforts to continue such qualifications in effect so long as required for the distribution of the Bonds and (ii) determine the eligibility of the Bonds for investment under the laws of such states and other jurisdictions; provided, however, that the Institution shall not be required to execute a general or special consent to service of process or to qualify to do business in connection with any such qualification or determination. The Institution hereby consents to the use of the Institution Documents, the Preliminary Official Statement and the Official Statement by the Underwriter in obtaining such qualifications and determining such eligibilities.

9. Underwriter's Representations and Agreements. The Underwriter hereby represents, warrants and agrees as follows:

(a) The Underwriter represents that it is an entity duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization with the power and all the authority necessary to enter into this Bond Purchase Agreement and to perform its respective covenants, obligations and undertakings hereunder.

(b) When executed and delivered by the other parties hereto, this Bond Purchase Agreement will constitute a valid, binding and enforceable obligation of the Underwriter in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights and general equitable principles.

(c) The Underwriter has neither requested nor received from (nor does the Underwriter expect to receive from or have reviewed by) DASNY or any of its members, officers, employees or agents any information with respect to the Institution, the Project, the Bonds or the security purported to be afforded by the DASNY Documents and the Institution Documents, or otherwise, except for any such information that is included within the express representations and warranties of DASNY in the DASNY Documents or in the DASNY Section of the Official Statement or in any other instrument delivered to the Underwriter by or on behalf of DASNY in connection with the transactions contemplated thereby.

(d) The Underwriter has not relied and does not rely on any findings or actions made or taken by DASNY as required by the Enabling Legislation as constituting information with respect to the Institution, the Project, the Bonds or the security purported to be afforded by the DASNY Documents and the Institution Documents, or otherwise.

(e) Neither DASNY nor any of its members, officers, employees or agents shall have any responsibility to the Underwriter for the completeness of the information obtained by the Underwriter from any source with respect to the Institution or its assets, operations, circumstances, financial conditions and properties, not-for-profit status, or with respect to the Project, the Bonds or the security purported to be afforded by the DASNY Documents and the Institution Documents, or otherwise, or, subject only to the exceptions stated in (d) above, for the accuracy of such information and the Underwriter acknowledges that, as between itself and DASNY, the Underwriter assumes responsibility for obtaining such information and making such investigation as it deems necessary or desirable in connection with its decision to purchase the Bonds.

(f) The Underwriter represents that it is licensed by and registered with the Financial Industry Regulatory Authority as a broker-dealer and the MSRB as a municipal securities dealer.

(g) In connection with the sale of the Bonds to the public, the Underwriter agrees to take such actions and make such disclosures as may be required by applicable Federal and state laws and applicable rules of any governmental or self-regulatory organizations, and to otherwise comply with such laws and rules. Without limiting the generality of the foregoing,

the Underwriter assumes responsibility for delivering to each purchaser of the Bonds a copy of the Official Statement, in each case together with any and all amendments and supplements, if any, thereto. The Underwriter has taken and shall continue to take action to comply with Rule 15c2-12 and the provisions of this paragraph shall survive the expiration hereof to the extent necessary for such purpose. Except as set forth above, nothing in this paragraph shall impose any responsibility on the Underwriter in addition to that under applicable laws and rules referred to above.

10. Closing. On July [], 2020 or on such other date as may be agreed upon by DASNY, the Institution and the Underwriter (such date as finally determined is referred to herein as the “**Closing Date**”), DASNY will deliver or cause to be delivered to the Underwriter through the facilities of The Depository Trust Company (“**DTC**”) in New York, New York, or at such other place as DASNY and the Underwriter may mutually agree upon, the Bonds, in definitive form, duly executed and authenticated, and will deliver or cause to be delivered to the Underwriter, the documents mentioned in Section 11(c) hereof, at such place and in such manner as shall have been mutually agreed to by DASNY and the Underwriter.

The Underwriter will accept such Bonds and pay the Purchase Price of the Bonds (as set forth in Section 1 hereof) by the delivery to DASNY of a certified or official bank check or checks, payable in federal funds or by a wire transfer of federal funds to the order of DASNY or, if directed by DASNY, to the order of the Trustee under the Resolution, in an aggregate amount equal to such Purchase Price. The deliveries of such Bonds and such check or checks or funds are referred to herein as the “**Closing.**” The Bonds shall be issued in form to satisfy the requirements of DTC’s book entry system and shall be prepared and delivered in such authorized denominations and registered in such names as the Underwriter may request. The Bonds shall be made available to the Underwriter for purposes of inspection and packaging, at any time not more than two (2) business days nor less than one (1) business day prior to the Closing Date, at any place in New York, New York, agreed upon by the Underwriter and DASNY.

11. Conditions of Closing and Termination of Underwriter’s Obligation. The obligation of the Underwriter to purchase and pay for the Bonds at the Closing shall be subject to the performance by DASNY and the Institution, prior to or concurrently with the Closing, of their respective obligations to be performed under this Bond Purchase Agreement and to the accuracy of the representations and warranties of DASNY and the Institution contained in this Bond Purchase Agreement as of the date hereof and as of the Closing Date, as if made on and as of the Closing Date (it being specifically understood that for purposes of satisfying this condition and the conditions in Section 11(c) hereof, the term “Official Statement” shall include any amendments thereof or supplements thereto pursuant to Section 2(b) hereof), and shall also be subject to the following additional conditions:

(a) (i) Each of the DASNY Documents and the Institution Documents shall have been duly authorized, executed and delivered, as applicable, and each of the foregoing shall be in full force and effect and shall not have been amended, modified or supplemented, except as may have been agreed to by the Underwriter, (ii) DASNY shall have duly adopted and there shall be in full force and effect such additional resolutions or agreements as shall be necessary, in the opinion of Bond Counsel, in connection with the transactions contemplated hereby, (iii) DASNY shall perform or have performed all of its obligations required under or

specified in the DASNY Documents to be performed at or prior to the Closing, (iv) the Institution shall perform or have performed all of its obligations required under or specified in the Institution Documents to be performed at or prior to the Closing and (v) the Official Statement shall not have been amended or supplemented, except in such manner as may have been approved by the Underwriter pursuant to Section 2(b) hereof.

(b) The Underwriter shall not have elected to cancel its obligation hereunder to purchase the Bonds, which election may be made by notice to DASNY and the Institution, if between the date hereof and the time of the Closing:

(i) legislation shall be introduced in or enacted by the Congress of the United States or adopted by either House thereof or introduced in or enacted by the legislature of the State, or a decision by a federal court (including the Tax Court of the United States) or State court shall be rendered, or a ruling, regulation (proposed, temporary or final) or official statement by or on behalf of the Treasury Department of the United States, the Internal Revenue Service or other federal, State or City of New York agency shall be made, with respect to federal, State or City of New York taxation upon revenues or other income of the general character expected to be derived by DASNY or upon interest received on bonds of the general character of the Bonds, or which would have the effect of changing directly or indirectly the federal, State or City of New York income tax consequences of interest on bonds of the general character of the Bonds in the hands of the holders thereof, which legislation, ruling, regulation or official statement would, in the reasonable judgment of the Underwriter, materially adversely affect the market price of the Bonds;

(ii) there shall occur any event which, in the reasonable judgment of the Underwriter, either (A) makes untrue or incorrect in any material respect any statement or information contained in the Official Statement (other than any statement or information provided by the Underwriter) or (B) is not reflected in the Official Statement but should be reflected therein in order to make the statements and information contained therein not misleading in any material respect and, in either such event, the Institution or DASNY refuses to permit the Official Statement to be amended or supplemented to correct or supply such statement or information, or the effect of the Official Statement as so corrected or supplemented is, in the reasonable judgment of the Underwriter, to materially adversely affect the market for the Bonds or the sale, at the contemplated offering price or prices (or yield or yields), by the Underwriter of the Bonds;

(iii) there shall occur any outbreak or escalation of hostilities or any national or international calamity or crisis or a financial crisis, or escalation thereof, the effect of which on the financial markets of the United States is, in the reasonable judgment of the Underwriter, to materially adversely affect the market for the Bonds or the sale, at the contemplated offering price or prices (or yield or yields), by the Underwriter of the Bonds;

(iv) a general suspension of trading on the New York Stock Exchange shall have occurred and be in force or minimum or maximum prices for trading shall have been fixed and be in force or maximum ranges for prices for securities shall have been required and be in force on the New York Stock Exchange, whether by virtue of a determination by such Exchange or by order of the Securities and Exchange Commission or any other governmental authority the effect of which on the financial markets of the United States is, in the reasonable judgment of the

Underwriter, to materially adversely affect the market for the Bonds or the sale, at the contemplated offering price or prices (or yield or yields), by the Underwriter of the Bonds;

(v) a general banking moratorium shall have been declared by either federal or State authorities and be in force, the effect of which on the financial markets of the United States is, in the reasonable judgment of the Underwriter, to materially adversely affect the market for the Bonds or the sale, at the contemplated offering price or prices (or yield or yields), by the Underwriter of the Bonds;

(vi) a material disruption in commercial banking or securities settlement, payment or clearance services in the United States shall have occurred;

(vii) legislation shall have been enacted, a decision of any federal or State court shall have been made, or a ruling or regulation (proposed, temporary or final) of the Securities and Exchange Commission or other governmental agency shall have been made or issued that, in the opinion of counsel for the Underwriter, has the effect of requiring the contemplated distribution of the Bonds to be registered under the Securities Act of 1933, as amended, or the Resolution to be qualified under the Trust Indenture Act of 1939, as amended; or

(viii) the purchase of and payment for the Bonds by the Underwriter, or the resale of the Bonds by the Underwriter, on the terms and conditions herein provided shall be prohibited by any applicable law, governmental regulation or order of any court, governmental authority, board, agency or commission.

(c) The Underwriter shall receive or have received the following documents, in each case satisfactory in form and substance to the Underwriter:

(i) Three (3) executed copies of the Official Statement executed on behalf of DASNY by one of its Authorized Officers.

(ii) Executed and certified copies of the DASNY Documents and the Institution Documents, as applicable.

(iii) A certificate, dated the Closing Date, of an Authorized Officer of DASNY substantially in the form attached hereto as Exhibit D.

(iv) A certificate, dated the Closing Date, of an Authorized Officer of the Institution substantially in the form attached hereto as Exhibit E.

(v) A certificate of the Board of Regents of the University of the State of New York Education Department as to the incorporation and good standing of the Institution in the State of New York.

(vi) A letter of Grant Thornton LLP, dated the date hereof and addressed to the Underwriter and DASNY, to the effect that within [two] business days prior to the date hereof they performed certain procedures with respect to certain aspects of the financial statements of the Institution as and to the extent requested by the Underwriter and the Institution and as approved by DASNY, and for purposes of such letter, they have read certain financial

and statistical information set forth on certain pages of the Official Statement and performed certain additional procedures specified in such letter, as and to the extent requested by DASNY and the Underwriter.

(vii) A letter of Grant Thornton LLP, dated the Closing Date and addressed to the Underwriter and DASNY, to the effect that, on the basis of the procedures described therein, they reaffirm the statements contained in the letter delivered pursuant to Section 11(c)(vi) hereof, as if such statements were made on and as of the Closing Date, except that the statements made pursuant to clause (c)(vi) of such Section shall be as of a date not more than [two] business days prior to the Closing Date.

(viii) Letters of Grant Thornton LLP dated the date of the Preliminary Official Statement and dated the date hereof, to the effect that (A) they are independent certified public accountants with respect to the Institution, within the meaning of the Rules of Conduct of the Code of Professional Ethics of the American Institute of Certified Public Accountants, and (B) they consent to the inclusion of their report on the financial statements of the Institution for the fiscal year ended August 31, 2019 and to all references to their firm included in the Preliminary Official Statement and the Official Statement.

(ix) A copy of the approving opinion of Bond Counsel, dated the Closing Date and addressed to DASNY, substantially in the form attached as Appendix E to the Official Statement and a letter from Bond Counsel addressed to the Underwriter authorizing the Underwriter to rely upon the approving opinion as if such opinion was addressed to the Underwriter.

(x) Supplemental opinion of Bond Counsel, dated the Closing Date and addressed to DASNY and the Underwriter in substantially the form attached hereto as Exhibit F hereto.

(xi) The opinion of Katten Muchin Rosenman LLP, counsel for the Underwriter, dated the Closing Date and addressed to the Underwriter in substantially the form attached hereto as Exhibit G hereto.

(xii) The opinion of Cullen and Dykman LLP, counsel for the Institution, dated the Closing Date and addressed to DASNY, the Trustee and the Underwriter, substantially in the form required by Exhibit H and in substance satisfactory to DASNY and Bond Counsel.

(xiii) The opinion of Hodgson Russ LLP, counsel for the Trustee, dated the Closing Date, in substantially the form required by Exhibit I and in substance satisfactory to DASNY and Bond Counsel.

(xiv) A copy of the Trustee's certificate of acceptance of the duties as Trustee.

(xv) Written evidence that Moody's Investors Service, Inc. and S&P Global Ratings have assigned ratings to the Bonds of "[__]" and "[__]," respectively.

(xvi) Evidence of the approval by the Public Authorities Control Board of the issuance of the Bonds for the purposes set forth in the Resolution.

(xvii) A Preliminary Blue Sky Survey, dated the date of the Preliminary Official Statement prepared by counsel to the Underwriter.

(xviii) Such Uniform Commercial Code financing statements and fixture filings, completed for filing as the Underwriter may reasonably request.

(xix) The Mortgage in form and substance satisfactory to DASNY encumbering a portion of the Institution's campus at Old Westbury, New York (the "**Mortgaged Property**"), a title insurance policy in favor of DASNY, its successors and/or assigns insuring the lien of the Mortgage, and a title survey certified to DASNY, its successors and/or assigns with respect to the Mortgaged Property.

(xx) A copy of DASNY's executed Blanket Letter of Representation to DTC.

(xxi) A Letter of Instruction to Manufacturers and Traders Trust Company, as trustee (the "**Prior Bonds Trustee**") for the holders of that portion of the Dormitory Authority of the State of New York New York Institute of Technology Revenue Bonds, Series 2016A (Federally Taxable) that will be refunded with proceeds of the Bonds (the "**Refunded Bonds**") and one or more opinions of counsel acceptable to the issuer of the Refunded Bonds to the effect that the Refunded Bonds have been deemed to have been paid in accordance with the resolution pursuant to and under which the Refunded Bonds were issued and that the covenants, agreements and other obligations of the issuer of the Refunded Bonds under said resolution to the holders of the Refunded Bonds have been discharged and satisfied in accordance with the terms of said resolution (which opinion may be given in reliance upon the verification described in paragraph (xxii) below).

(xxii) A report from [_____] satisfactory to Bond Counsel.

(xxiii) Such additional legal opinions, certificates, proceedings, instruments and other documents as the counsel to the Underwriter or Bond Counsel may reasonably request to evidence compliance by DASNY and the Institution with legal requirements relating to the transactions contemplated by the Official Statement and this Bond Purchase Agreement, the truth and accuracy, as of the Closing Date, of the representations of DASNY and the Institution contained herein, and the due performance or satisfaction by DASNY and the Institution at or prior to such time of all agreements then to be performed and all conditions then to be satisfied by DASNY and the Institution.

In addition to anything contained herein, DASNY's obligation to deliver the Bonds shall be subject to its receipt of the certificates, letters and opinions identified in Section 11(c) hereof, at or prior to the Closing, all in form and substance satisfactory to DASNY.

If DASNY or the Institution shall be unable to satisfy the respective conditions to the obligation of the Underwriter contained in this Bond Purchase Agreement or if the obligation of

the Underwriter shall be terminated for any reason permitted by this Bond Purchase Agreement, this Bond Purchase Agreement may be canceled by the Underwriter and, upon such cancellation, neither the Underwriter, the Institution nor DASNY shall be further obligated hereunder except that the respective obligations of the Institution and the Underwriter as provided in Sections 12 and 13 hereof shall continue in full force and effect.

12. Expenses. (a) The Institution agrees to pay all expenses incident to the performance of the obligations of the Institution and DASNY hereunder, including but not limited to: (i) all costs and expenses incident to preparing and printing or otherwise reproducing (for distribution on or prior to the date of execution of this Bond Purchase Agreement) the DASNY Documents and the Institution Documents; (ii) all costs and expenses incident to the preparation, and the printing of, the Preliminary Official Statement and the Official Statement and each amendment thereof or supplement thereto made pursuant to Section 2(a)(2) hereof; (iii) all costs of preparing the definitive Bonds; (iv) all fees of rating agencies; and (v) all fees and disbursements of Bond Counsel and any other experts or consultants retained by DASNY or the Institution. The Underwriter shall have no obligation to pay any of the expenses set forth in the foregoing sentence.

(b) The Underwriter shall pay: (i) all costs of printing any underwriting documents; (ii) all costs of qualifying the Bonds for sale in various states chosen by the Underwriter; (iii) all costs of preparing and printing blue sky and legal investment surveys to be used in connection with the public offering of the Bonds; (iv) all advertising expenses in connection with the public offering of the Bonds; (v) all costs and expenses, including those of DASNY and the Institution and the fees and disbursements of their counsel, incident to the preparation, printing and distribution of each amendment of or supplement to the Official Statement made other than pursuant to Section 2(a)(2) hereof; and (vi) all other expenses incurred by the Underwriter in connection with the public offering and distribution of the Bonds, including the fees and disbursements of counsel retained by the Underwriter and the costs associated with compliance with Section 2(c) hereof.

13. Indemnification. (a) The Institution shall indemnify and hold harmless DASNY, its members, officers, employees and agents and each person who controls the Underwriter within the meaning of Section 15 of the Securities Act of 1933, as amended (such Act being herein called the “**Securities Act**” and any of the foregoing being herein called an “**DASNY Indemnified Party**”) against any and all losses, claims, damages or liabilities, joint or several, to which they or any of them may become subject under any statute or at law or in equity or otherwise, and shall reimburse any such DASNY Indemnified Party for any reasonable legal or other expenses incurred by it in connection with investigating any claims against it and defending any actions, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon (i) an allegation or determination that the Bonds should have been registered under the Securities Act or the Resolution should have been qualified under the Trust Indenture Act of 1939, as amended, or (ii) an allegation or determination that any statement or information (other than information contained in the DASNY Section in the Official Statement or any amendment thereof or supplement thereto or in the Preliminary Official Statement, that is (or is alleged to be) untrue, incorrect or misleading in any material respect or the omission (or alleged omission) therefrom of any material fact necessary in order to make the statements therein, in the light of the circumstances

under which they were made, not misleading; provided, however, that the Institution will not be liable for the amount of any settlement of any claim or action made without its prior written consent. This indemnity agreement shall not be construed as a limitation on any other liability which the Institution may otherwise have to any DASNY Indemnified Party, provided that in no event shall the Institution be obligated for double indemnification.

(b) The Institution shall indemnify and hold harmless, the Underwriter, its respective members, officers, employees and agents and each person who controls the Underwriter within the meaning of Section 15 of the Securities Act of 1933, as amended (such Act being herein called the “**Securities Act**” and any of the foregoing being herein called an “**Underwriter Indemnified Party**”), against any and all losses, claims, damages or liabilities, joint or several, to which they or any of them may become subject under any statute or at law or in equity or otherwise, and shall reimburse any such Underwriter Indemnified Party for any reasonable legal or other expenses incurred by it in connection with investigating any claims against it and defending any actions, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon (i) any breach by the Institution of any of its representations and warranties as set forth in Section 7 hereof; or (ii) any allegation that there is, as of the date hereof or as of the Closing Date, any untrue statement of a material fact contained in the Institution Information or the omission therefrom of any material fact necessary in order to make the statements made in light of the circumstances under which they were made not misleading in the Official Statement or any amendment thereof or supplement thereto or in the Preliminary Official Statement; provided, however, that (A) the Institution will not be liable for the amount of any settlement of any claim or action made without its prior written consent and (B) the foregoing indemnity agreement: (i) with respect to any Preliminary Official Statement shall not inure to the benefit of any Underwriter Indemnified Party from whom the person asserting any such losses, claims, damages or liabilities purchased Bonds if a copy of the Official Statement (as then amended or supplemented if the Institution shall have furnished any amendments or supplements thereto) was not sent or given by or on behalf of the Underwriter to such person at or prior to delivery of Bonds to such person, and if the Official Statement (as so amended or supplemented) would have cured the alleged defect giving rise to such loss, claim, damage or liability and (ii) shall not inure to the benefit of any Underwriter Indemnified Party if any such losses, claims, damages or liabilities arise (or are alleged to arise) from the breach of any of the Underwriter’s representations and agreements in Section 9 hereof. This indemnity agreement shall not be construed as a limitation on any other liability which the Institution may otherwise have to any Underwriter Indemnified Party, provided that in no event shall the Institution be obligated for double indemnification.

(c) Any DASNY Indemnified Party or Underwriter Indemnified Party (each an “**Indemnified Party**”) shall, promptly after the receipt of notice of the commencement of any action against such Indemnified Party in respect of which indemnification will be sought against the Institution under this Section 13, notify the Institution in writing of the commencement thereof. Failure of the Indemnified Party to give such notice will reduce the liability of the Institution by the amount of damages attributable to the failure of such Indemnified Party to give such notice to the Institution, but the failure to notify the Institution of any such claim or action shall not relieve the Institution from any liability that it may have to such Indemnified Party otherwise than under the indemnity agreement contained in this Section 13. In case any such action shall be brought against an Indemnified Party and such Indemnified Party shall notify the Institution of the

commencement thereof, the Institution may, or if so requested by such Indemnified Party shall, participate therein or assume the defense thereof, with counsel satisfactory to such Indemnified Party and after notice from the Institution to such Indemnified Party of an election so to assume the defense thereof and approval of counsel by the Indemnified Party the Institution will not be liable to such Indemnified Party under this Section 13 for any legal or other expenses subsequently incurred by such Indemnified Party in connection with the defense thereof other than reasonable costs of investigation; provided, however, that unless and until the Institution assumes the defense of any such action at the request of such Indemnified Party, the Institution shall have the right to participate at its own expense in the defense of any such action. If the Institution shall not have employed counsel, satisfactory to the Indemnified Party, to have charge of the defense of any such action within a reasonable time after notice of commencement of such action, or if an Indemnified Party shall have reasonably concluded that there may be defenses available to it and/or any other Indemnified Party that are different from or additional to those available to the Institution (in which case the Institution shall not have the right to direct the defense of such action on behalf of such Indemnified Party), legal and other expenses, including the expenses of separate counsel, incurred by such Indemnified Party shall be borne by the Institution.

(d) (i) The Underwriter agrees to indemnify and hold harmless DASNY and the Institution and each of their members, trustees, officers, employees and agents (such person being herein called an “**Indemnitee**”) against any and all claims, causes of action, damages, liabilities, amounts paid in settlement of litigation, losses or expenses whatsoever incurred by it in connection with investigating any claims against it and defending any actions, insofar as such losses, claims, damages, liabilities (or actions in respect thereof), arise out of or are based upon any statement or information contained under the caption “**PART 16-UNDERWRITING**” in the Preliminary Official Statement or the Official Statement or any amendment thereof or supplement thereto and that is (or is alleged to be) untrue, incorrect or misleading in any material respect, or the omission (or alleged omission) therefrom of any material fact necessary in order to make the statements therein (under said caption), in the light of the circumstances under which they were made, not misleading.

(ii) An Indemnitee shall, promptly after the receipt of notice of commencement of any action against such Indemnitee in respect of which indemnification will be sought against the Underwriter under this Section 13(d), notify the Underwriter in writing of the commencement thereof. Failure of the Indemnitee to give notice will reduce the liability of the Underwriter by the amount of damages attributable to the failure of the Indemnitee to give such notice to the Underwriter, but the omission to notify the Underwriter of any such claim or action shall not relieve the Underwriter from any liability that they may have to such Indemnitee otherwise than under the indemnity agreement contained in this Section 13(d). In case any such action shall be brought against an Indemnitee and such Indemnitee shall notify the Underwriter of the commencement thereof, the Underwriter may, or if so requested by such Indemnitee shall, participate therein or assume the defense thereof, with counsel satisfactory to such Indemnitee and after notice from the Underwriter to such Indemnitee of an election so to assume the defense thereof and approval of counsel by the Indemnitee the Underwriter will not be liable to such Indemnitee under this Section 13(d) for any legal or other expenses subsequently incurred by such Indemnitee in connection with the defense thereof other than reasonable costs of investigation; provided, however, that unless and until the Underwriter assumes the defense of any such action

at the request of such Indemnitee, the Underwriter shall have the right to participate at its own expense in the defense of any such action. If the Underwriter shall not have employed counsel, satisfactory to the Indemnitee, to have charge of the defense of any such action within a reasonable time after notice of commencement of such action, or if an Indemnitee shall have reasonably concluded that there may be defenses available to it and/or any other Indemnitee that are different from or additional to those available to the Underwriter (in which case the Underwriter shall not have the right to direct the defense of such action on behalf of such Indemnitee), legal and other expenses, including the expenses of separate counsel, incurred by such Indemnitee shall be borne by the Underwriter.

(e) In order to provide for just and equitable contribution in circumstances in which the indemnification provided for in paragraphs (a), (b) or (d) of this Section 13 is due in accordance with its terms but is for any reason held by a court to be unavailable from the Institution or the Underwriter on grounds of public policy or otherwise, the Institution and the Underwriter shall contribute to the aggregate losses, claims, damages and liabilities (including legal or other expenses reasonably incurred in connection with investigating or defending same) to which the Institution and the Underwriter may be subject in such proportion so that the Underwriter is responsible for that portion represented by the percentage that the underwriting discount bears to the initial offering prices set forth on the cover of the Official Statement and the Institution is responsible for the balance; provided, however, that (i) in no case shall the Underwriter be responsible for any amount in excess of the underwriting discount applicable to the Bonds purchased by such Underwriter and (ii) no person guilty of fraudulent misrepresentation within the meaning of Section 11(f) of the Securities Act shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. For purposes of this Section 13, each person who controls the Underwriter within the meaning of Section 15 of the Securities Act shall have the same rights as the Underwriter. Any party entitled to contribution shall, promptly after receipt of notice of any claim or commencement of any action, suit or proceeding against such party in respect of which a claim for contribution may be made against another party or parties under this paragraph 13(e), notify such party or parties from whom contribution may be sought, but the omission so to notify such party or parties shall not relieve the party or parties from whom contribution may be sought from any other obligation it or they may have hereunder or otherwise than under this paragraph 13(e).

14. Limitation of Liability of DASNY. Neither DASNY nor its members, officers, employees or agents shall be directly, indirectly, contingently or otherwise liable for any costs, expenses, losses, damages, claims or actions of any kind under any theory under this Bond Purchase Agreement or any document or instrument referred to herein or by reason of or in connection with this Bond Purchase Agreement or other document or instrument except to the extent it receives amounts from the Institution available for such purpose. No provision, covenant or agreement contained in, and no obligation herein imposed upon DASNY under, this Bond Purchase Agreement, or the breach thereof, shall constitute a charge against the general credit or give rise to a pecuniary liability of DASNY, except for DASNY's responsibility to make payments from money received from the Institution pursuant to, and from amounts held in the funds and accounts established pursuant to, the DASNY Documents and pledged therefor. Neither DASNY nor its members, officers, employees or agents shall have any monetary liability arising out of the obligations of DASNY hereunder or in connection with any covenant, representation or warranty

made by DASNY herein, and neither DASNY nor its members, officers, employees or agents shall be obligated to pay any amounts in connection with the transactions contemplated hereby other than from the Revenues or money received from the Institution.

15. Underwriter Not Fiduciary. The Institution and DASNY hereby acknowledge and agree in connection with the issuance, purchase and sale of the Bonds under this Bond Purchase Agreement, that: (i) the transaction contemplated by this Bond Purchase Agreement is an arm's-length commercial transaction among DASNY, the Institution and the Underwriter; (ii) the Underwriter is acting solely as principal and not as an agent or a fiduciary of, or an advisor (including, without limitation, a "municipal advisor" as such term is defined in Section 975(e) of the Dodd-Frank Wall Street Reform and Consumer Protection Act) to, the Institution or DASNY; (iii) the Underwriter has not assumed a fiduciary responsibility in favor of the Institution or DASNY with respect to offering of the Bonds or the process leading thereto (whether or not the Underwriter, or any affiliates, have advised or are currently advising the Institution or DASNY on any other matter) or any other obligation to the Institution or DASNY except those obligations expressly set forth in this Bond Purchase Agreement; (iv) the Underwriter has financial and other interests that differ from those of the Institution and DASNY; and (v) the Institution and DASNY have consulted with their own legal, financial, tax and accounting advisors to the extent they deemed appropriate.

16. Notices. Any notice or other communication to be given to DASNY under this Bond Purchase Agreement may be given by delivering the same in writing at its address set forth above, Attention: General Counsel; any notice or other communication to be given to the Underwriter under this Bond Purchase Agreement may be given by delivering the same in writing to Morgan Stanley & Co. LLC, 1585 Broadway, 24th Floor, New York, New York 10036, Attention: Eric Wild; and any notice or other communication to be given to the Institution may be given by delivering the same in writing to New York Institute of Technology, Northern Boulevard, P.O. Box 8000 Old Westbury, New York 11568-8000, Attention: Chief Financial Officer. All notices or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by registered or certified mail, postage prepaid, or delivered by overnight courier, or sent by facsimile transmission (with electronic confirmation) to the parties hereto at the addresses set forth above.

17. Parties in Interest; Survival of Representations and Warranties. This Bond Purchase Agreement is made solely for the benefit of DASNY, the Underwriter (including the successors or assigns of the Underwriter) and the Institution and no other person, partnership, association or corporation shall acquire or have any right hereunder or by virtue hereof. All the representations, warranties and agreements made by the Institution, DASNY and the Underwriter in this Bond Purchase Agreement, together with Section 14 hereof, shall remain operative and in full force and effect, regardless of (a) any investigations made by or on behalf of the Underwriter, (b) delivery of and payment for the Bonds hereunder or (c) any termination of this Bond Purchase Agreement.

18. Headings. The headings of the sections of this Bond Purchase Agreement are inserted for convenience only and shall not be deemed to be a part hereof.

19. Governing Law; Venue. This Bond Purchase Agreement shall be construed in accordance with and governed by the laws of the State of New York without regard to principles

of conflict of law and action arising hereunder shall be filed and maintained in a State or federal court in either the County of Albany or New York County.

20. Execution by Counterparts. This Bond Purchase Agreement will become a binding agreement among DASNY, the Institution and the Underwriter upon its acceptance by both DASNY and the Institution. DASNY and the Institution may each accept this Bond Purchase Agreement by delivering to the Underwriter by the time and date herein provided a counterpart of this Bond Purchase Agreement that has been executed by an Authorized Officer of DASNY and the Institution, respectively, or a telecopy of such a counterpart.

21. Miscellaneous.

(a) If any provision of this Bond Purchase Agreement shall be held or deemed to be or shall, in fact, be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions because it conflicts with any provision of any constitution, statute, rule of public policy or for any other reasons, such circumstances shall not have the effect of rendering any other provision or provisions of this Bond Purchase Agreement invalid, inoperative or unenforceable to any extent whatever.

(b) This Bond Purchase Agreement shall not be amended nor shall any provision hereof be waived by either party hereto without the prior written consent of DASNY, the Institution and the Underwriter.

(c) It is understood and agreed that the members, trustees, officers, employees and agents of DASNY and the Institution shall not be subject to personal liability or accountability by reason of the issuance of the Bonds or by reason of the representations, warranties, covenants, obligations or agreements of DASNY and the Institution contained in this Bond Purchase Agreement.

Very truly yours,

MORGAN STANLEY & CO. LLC, as
Underwriter

By: _____

Authorized Officer

The foregoing is hereby accepted
as of the date first written above.

DORMITORY AUTHORITY OF THE
STATE OF NEW YORK

By: _____
Authorized Officer

The foregoing is hereby accepted as of the
date first written above.

NEW YORK INSTITUTE OF TECHNOLOGY

By: _____
Authorized Officer

EXHIBIT A

**MATURITIES, PRINCIPAL AMOUNTS, INTEREST RATES,
YIELDS, PRICES, AND REDEMPTION REQUIREMENTS**

[To come]

DRAFT

EXHIBIT B

SCHEDULE OF DASNY DOCUMENTS

1. Dormitory Authority of the State of New York New York Institute of Technology Revenue Bond Resolution adopted by DASNY on July 20, 2016;
2. Dormitory Authority of the State of New York Series Resolution Authorizing Up To \$[30,000,000] New York Institute of Technology Revenue Bonds, Series 2020A (Federally Taxable) adopted by DASNY on June 24, 2020;
3. Loan Agreement, dated as of June 24, 2020, between DASNY and the Institution;
4. Security Agreement, dated as of July [], 2020, between the Institution and DASNY;
5. Bond Series Certificate, dated as of July [], 2020, relating to the Bonds;
6. Intercreditor Agreement, dated July [], 2020, among DASNY, the Prior Bonds Trustee and the Trustee;
7. Assignment by DASNY to the Trustee, dated as of July [], 2020 regarding the Loan Agreement, the Security Agreement, the Mortgage and the Intercreditor Agreement;
8. [Assignment of Series 2016A Mortgage dated as of July [], 2020];
9. The Bonds; and
10. Bond Purchase Agreement, dated as of [], 2020, among DASNY, the Institution and Morgan Stanley & Co. LLC.

EXHIBIT C

SCHEDULE OF INSTITUTION DOCUMENTS

1. Loan Agreement, dated as of June 24, 2020, between DASNY and the Institution;
2. Security Agreement, dated as of July [], 2020, between the Institution and DASNY;
3. Institution's Acknowledgement of Assignment by DASNY to the Trustee , dated July [], 2020;
4. DASNY's Acknowledgement and Consent dated July [], 2020 regarding the Intercreditor Agreement;
5. Mortgage, dated as of July [], 2020 made by the Institution to the DASNY;
6. Agreement to Provide Continuing Disclosure, dated as of July [], 2020, among the Institution, the Trustee and Digital Assurance Certification LLC;
7. Bond Purchase Agreement, dated as of [], 2020, among DASNY, the Institution and Morgan Stanley & Co. LLC;
8. Preliminary Official Statement dated as of June [], 2020 related to the Bonds; and
9. Official Statement dated as of [], 2020 related to the Bonds.

EXHIBIT D

CERTIFICATE OF DASNY

I, the undersigned, an Authorized Officer of the Dormitory Authority of the State of New York (the “Authority”), **DO HEREBY CERTIFY** as follows:

This certificate is executed in compliance with Paragraph 11(c)(iii) of the Bond Purchase Agreement, dated [____], 2020 (the “Bond Purchase Agreement”), by and among the Authority, New York Institute of Technology and Morgan Stanley & Co. LLC, as underwriter in connection with the sale and issuance by the Authority of \$_____ aggregate principal amount of its New York Institute of Technology Revenue Bonds, Series 2020A (Federally Taxable) (the “Series 2020A Bonds”), issued pursuant to the Dormitory Authority of the State of New York New York Institute of Technology Revenue Bond Resolution, adopted July 20, 2016, and with respect to the Series 2020A Bonds, Dormitory Authority of the State of New York Series Resolution Authorizing Up To \$[30,000,000] New York Institute of Technology Revenue Bonds, Series 2020A (Federally Taxable) adopted by DASNY on June 24, 2020.

1. Attached to the Record of Proceedings as documents __, __ and __ are true and complete copies of the DASNY Documents (as defined in the Bond Purchase Agreement), each of which is duly executed by an Authorized Officer of the Authority, which DASNY Documents have not been amended, supplemented, modified or terminated and, assuming due execution thereof by any other party thereto, are in full force and effect on the date hereof.

2. The representations and warranties of the Authority contained in Section 5 of the Bond Purchase Agreement are true and correct in all material respects on and as of the date hereof as if such representations and warranties had been made on and as of the date hereof.

3. The Authority has complied with all the terms of the DASNY Documents to be complied with by it prior to or concurrently with the delivery of the Series 2020A Bonds.

4. As of the date hereof, the Authority is not, and, as a result of the issuance of the Series 2020A Bonds, shall not be, in default in the performance of any of the covenants, conditions, agreements or provisions of the DASNY Documents.

5. With respect to the Official Statement, dated [____], 2020, relating to the Series 2020A Bonds (the “Official Statement”), no event affecting the Authority has occurred since the date of the Official Statement that would cause the information contained in the DASNY Section (as defined in the Bond Purchase Agreement) of the Official Statement to be either untrue or incorrect in any material respect or to contain any untrue statement of a material fact or to omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

6. Attached hereto as Exhibit A is a true and complete copy of the By-Laws of the Authority as the same have been amended from time to time and as the same have been in full force and effect during the period from June 24, 2020, to and including the date hereof.

7. The duly appointed, qualified and acting members of the Authority from June 24, 2020, to and including the date hereof, are as set forth in the Official Statement

8. The duly elected or appointed and acting officers of the Authority from June 24, 2020, to and including the date hereof are identified on Exhibit B attached hereto.

9. The signatures of the Authorized Officers of the Authority, as such term is defined in the Resolution, set forth opposite their names and titles in Exhibit B attached hereto, are true specimens of their signatures.

10. Alfonso L. Carney, Jr., Esq., Chair of the Authority, and Michael E. Cusack, as Assistant Secretary of the Authority, did heretofore cause to be officially executed the Series 2020A Bonds. Said Chair of the Authority has caused the Series 2020A Bonds to be executed by imprinting thereon a facsimile of his signature and said Chair of the Authority was on the date his facsimile signature was imprinted on the Series 2020A Bonds and is now, the duly elected, qualified and acting Chair of the Authority. Said Assistant Secretary has caused the official seal of the Authority to be imprinted on the Series 2020A Bonds and attested by his facsimile signature, and said Assistant Secretary was, on the date his facsimile signature was imprinted on the Series 2020A Bonds, and is now, the duly elected, qualified and acting Assistant Secretary of the Authority.

11. The seal which has been imprinted on the Series 2020A Bonds is the legally adopted proper and only official corporate seal of the Authority.

12. Attached as Exhibit A to document number ___ of the Record of Proceedings are specimens identical in all respects with the Series 2020A Bonds in fully registered form, this day delivered to, or upon the order of, Morgan Stanley & Co. LLC, as the Underwriter of the Series 2020A Bonds, except as to number, amount, maturity, interest rate, signatures and name of registered owner or owners. Such specimens of the Series 2020A Bonds are in the form prescribed by the Resolution.

13. As of the date hereof, the Authority has not been notified by any representative of the Public Authorities Control Board (the "PACB") that the PACB's Resolution No. ___ adopted on _____, 2020 (the "PACB Resolution"), has been amended, modified, supplemented, annulled, rescinded or revoked, and to the best knowledge of the undersigned, said PACB Resolution remains in full force and effect on and as of the date hereof.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, I have hereunto set my hand this __ day of July, 2020.

**DORMITORY AUTHORITY OF
THE STATE OF NEW YORK**

By _____
Name:
Title:

DRAFT

EXHIBIT E

CERTIFICATE OF THE INSTITUTION

I, the undersigned, the _____ of New York Institute of Technology (the “Institution”), as an Authorized Officer thereof, **DO HEREBY CERTIFY** that:

1. This certificate is executed in compliance with Paragraph 11(c)(iv) of the Bond Purchase Agreement, dated [____], 2020 (the “Bond Purchase Agreement”), by and among the Dormitory Authority of the State of New York (the “Authority”), the Institution and Morgan Stanley & Co. LLC, as underwriter in connection with the sale and issuance by the Authority of \$_____ aggregate principal amount of its New York Institute of Technology Revenue Bonds, Series 2020A (Federally Taxable) (the “Series 2020A Bonds”), issued pursuant to the Dormitory Authority of the State of New York New York Institute of Technology Revenue Bond Resolution, adopted July 20, 2016, and with respect to the Series 2020A Bonds, Dormitory Authority of the State of New York Series Resolution Authorizing Up To \$[30,000,000] New York Institute of Technology Revenue Bonds, Series 2020A (Federally Taxable) adopted by DASNY on June 24, 2020.

2. The representations and warranties of the Institution contained in the Loan Agreement, dated as of June 24, 2020 (the “Loan Agreement”), between the Authority and the Institution, and in Section 7 of the Bond Purchase Agreement are true and correct in all material respects on and as of the date hereof as if such representations and warranties had been made on and as of the date hereof.

3. The Institution has complied with all terms of the Institution Documents (as defined in the Bond Purchase Agreement) required to be complied with by it prior to or concurrently with the delivery of the Series 2020A Bonds.

4. I have reviewed the Official Statement, dated [____], 2020, relating to the Series 2020A Bonds (the “Official Statement”), and no event affecting the Institution has occurred since the date of the Official Statement that would cause the Institution Information contained in the Official Statement (as defined in the Bond Purchase Agreement) to be either untrue or incorrect in any material respect or to contain any untrue statement of a material fact or to omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

5. Attached hereto is a true and complete copy of the Charter of the Institution, which has not been amended, modified or supplemented since the date of the certificate of the Board of Regents of the University of the State of New York Education Department as to the incorporation and good standing of the Institution in the State of New York, as referred to in Section 11(c)(v) of the Bond Purchase Agreement.

6. Since the date of the financial statements of the Institution included in the Official Statement, there has been no material adverse change, or, in the reasonable judgement of the Institution, any development involving a prospective material adverse change, in the condition (financial or other), earnings, business or properties of the Institution, whether or not arising from

transactions in the ordinary course of business, except as set forth or contemplated in the Official Statement.

7. Attached hereto is a true and complete copy of the By-Laws of the Institution as in effect from the date of adoption of the resolutions referred to in Paragraph 8 below through the date hereof, which have not been amended, modified or supplemented since the date thereof.

8. Attached hereto is a true and complete copy of resolutions duly adopted by the Board of Trustees of the Institution (the “Board of Trustees”), or by a committee of such Board of Trustees in accordance with authority delegated by such Board of Trustees, authorizing the execution and delivery of the Institution Documents, authorizing and approving the transactions contemplated in the Institution Documents, and approving the inclusion of the Institution Information in the Preliminary Official Statement and the Official Statement, and such resolutions have not been in any way amended, annulled, rescinded or revoked and are in full force and effect as of the date hereof.

9. The Institution is not, and, as the result of the issuance of the Series 2020A Bonds, shall not be, in default in the performance of any covenants, condition, agreements, or provisions contained in the Institution Documents.

10. The minute books that were made available to Katten Muchin Rosenman LLP, counsel to the Underwriter, contained all minutes of the proceedings of the Board of Trustees for the period requested.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, I have hereunto set my hand this __ day of July, 2020.

NEW YORK INSTITUTE OF TECHNOLOGY

By _____

Name:

Title:

DRAFT

EXHIBIT F

FORM OF BOND COUNSEL SUPPLEMENTAL OPINION

[To be provided by Bond Counsel]

DRAFT

EXHIBIT G
FORM OF UNDERWRITER'S COUNSEL OPINION

[To be provided by Underwriter's Counsel]

DRAFT

EXHIBIT H

FORM OF INSTITUTION'S COUNSEL OPINION

[To be provided by Institution's Counsel]

DRAFT

EXHIBIT I
FORM OF TRUSTEE'S COUNSEL OPINION

July __, 2020

Manufacturers and Traders Trust Company
Buffalo, New York

Dormitory Authority of the
State of New York
Albany, New York

New York Institute of Technology
Old Westbury, New York

Morgan Stanley & Co. LLC
New York, New York

Re: Dormitory Authority of the State of New York
New York Institute of Technology Revenue Bonds, Series 2020A (Federally Taxable)

Ladies and Gentlemen:

We have acted as counsel to Manufacturers and Traders Trust Company (the “Bank”) in connection with its appointment by the Dormitory Authority of the State of New York (the “Authority”) as Trustee (the “Trustee”) under its New York Institute of Technology Revenue Bond Resolution adopted by the Authority on July 20, 2016 and its Dormitory Authority of the State of New York Series Resolution Authorizing Up To \$[30,000,000] New York Institute of Technology Revenue Bonds, Series 2020A (Federally Taxable) adopted by DASNY on June 24, 2020 (collectively, the “Resolution”) relating to the Authority’s New York Institute of Technology Revenue Bonds, Series 2020A (Federally Taxable) (the “Bonds”). Unless otherwise defined herein, capitalized terms used herein shall have the same meaning ascribed to them in the Resolution.

We have examined the Resolution, the Bond Series Certificate relating to the Series 2020A Bonds (the “Series 2020A Certificate”), the Continuing Disclosure Agreement, by and among New York Institute of Technology (the “Institution”), Digital Assurance Certification LLC, as the Institution’s disclosure dissemination agent and the Trustee (the “Continuing Disclosure Agreement”) and originals or photostatic or certified copies of such records of the Bank,

certificates of officers of the Bank and of public officials, and such other documents as we have deemed relevant and necessary as the basis for the opinions set forth below.

In such examination we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as certified or photostatic copies, and the authenticity of the originals of such latter documents. As to questions of fact material to our opinion, we have relied, without independent investigation or verification, upon certain representations and warranties and statements of fact contained in the documents which we have examined. In rendering the opinions set forth below, we have assumed the due authorization, execution and delivery by the parties thereto (other than the Bank of all documents referred to herein).

On the basis of the foregoing, we advise you that in our opinion:

1. The Bank has been duly organized and is validly existing and in good standing as a national banking association duly organized and existing under the laws of the United States of America.
2. The Bank has full corporate trust power and authority to (i) act as Trustee under the Resolution, (ii) enter into and perform its obligations thereunder and under the Bonds and (iii) execute and deliver any and all agreements to which the Trustee is a party, and the Trustee has duly accepted its duties and obligations pursuant to those documents.
3. The Bank has duly authorized the acceptance of its obligations under the Resolution, the Series 2020A Certificate and the Continuing Disclosure Agreement and such obligations are valid, binding and enforceable against it in accordance with their respective terms, except that such enforceability may be subject (a) to applicable bankruptcy, insolvency, reorganization, and other similar laws of affecting the rights of creditors generally, and (b) to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).
4. The acceptance by the Bank of its obligations under the Resolution and the execution and delivery by the Bank of the Resolution do not require any consent, approval or authorization of, or any registration or filing with, any governmental authority having jurisdiction over the trust powers of the Bank, other than those consents, approvals or authorizations as have been obtained.

We are members of the State bar. We do not express any opinion concerning any law, rule, regulation or administrative regulation other than the law of the State and the federal law of the United States.

Very truly yours,

DORMITORY AUTHORITY OF THE STATE OF NEW YORK

and

NEW YORK INSTITUTE OF TECHNOLOGY

LOAN AGREEMENT

Dated as of July __, 2020

\$(PAR AMT)

Dormitory Authority of the State of New York
New York Institute of Technology
Taxable Revenue Bonds, Series 2020A (Federally Taxable)

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EXHIBIT B	ANNUAL CERTIFICATE OF COMPLIANCE

THIS LOAN AGREEMENT, dated as of July __, 2020 (this “**Loan Agreement**”), is by and between the DORMITORY AUTHORITY OF THE STATE OF NEW YORK, having its principal place of business at 515 Broadway, Albany, New York 12207, a body corporate and politic of the State of New York, constituting a public benefit corporation (the “**Issuer**”), and NEW YORK INSTITUTE OF TECHNOLOGY, an institution of higher education duly incorporated and existing under the laws of the State of New York, having an office at Northern Boulevard, Old Westbury, New York 11568-8000 (the “**Institution**”).

RECITALS

WHEREAS, the Issuer was created pursuant to and in accordance with the provisions of Titles 4 and 4B of Article 8 of the Public Authorities Law of the State of New York (the “**State**”), as amended (the “**Act**”); and

WHEREAS, the Institution has requested that the Issuer issue its \$[PAR AMT] New York Institute of Technology Revenue Bonds, Series 2020A (Federally Taxable) (the “**Bonds**”) for the purposes of:

- (A) financing or refinancing the cost of the acquisition, construction, reconstruction, rehabilitation and improvement, or otherwise providing, furnishing and equipping the project as described in Schedule A hereto (the “**Project**”);

and

- (B) paying all or a portion of the costs incidental to the issuance of the Bonds; and

WHEREAS, the Issuer is issuing the Bonds pursuant to the terms of the New York Institute of Technology Revenue Bond Resolution, adopted on July 20, 2016 (as amended and supplemented from time to time, the “**General Resolution**”) and the series resolution adopted thereunder on June 24, 2020 (the “**Series 2020A Resolution**”) and together with the General Resolution, the “**Resolution**”); and

WHEREAS, contemporaneously with the issuance of the Bonds, the Issuer is loaning the proceeds of the Bonds to the Institution pursuant to the terms of this Loan Agreement; and

WHEREAS, in order to further secure its obligations hereunder and the payment of the Bonds, the Institution is granting a security interest in the **Collateral** (as defined herein), which Collateral and the Issuer’s rights hereunder (with the exception of **Unassigned Rights** (as defined herein)) are being assigned by the Issuer to Manufacturers and Traders Trust Company, as Trustee (the “**Trustee**”).

AGREEMENT

For and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto do hereby mutually agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Definitions. Unless otherwise defined herein or the context hereof shall clearly indicate a different meaning, all terms which are defined in the Resolution shall have the same meanings, respectively, herein as such terms are given in the Resolution. In addition, as used herein, unless the context hereof shall clearly indicate a different meaning, the following terms shall have the following respective meanings.

“Annual Administrative Fee” means the fee payable during each Bond Year for the general administrative and supervisory expenses of the Issuer in the amount or amounts more particularly described in Schedule B hereto, which is made a part hereof.

“Bonds” shall have the meaning ascribed thereto in the Recitals hereto.

“Collateral” means (i) the Mortgaged Property and certain fixtures, furnishings and equipment of the Institution pledged thereby pursuant to the Mortgage and (ii) the Pledged Revenues of the Institution pledged thereby pursuant to the Security Agreement.

“Extraordinary Services” and **“Extraordinary Expenses”** means all services rendered and all fees and expenses incurred by or due to the Trustee or any Paying Agent under the Resolution other than Ordinary Services and Ordinary Expenses, including reasonable fees and disbursements of Trustee’s counsel.

“Favorable Opinion of Bond Counsel” means, with respect to any action the occurrence of which requires such an opinion, an unqualified opinion of Bond Counsel to the effect that such action is permitted under the Act and the Resolution.

“Fiscal Year” means the fiscal year of the Institution, which is from July 1 through June 30.

“General Resolution” shall have the meaning ascribed thereto in the Recitals hereto.

“Governmental Requirements” means any present and future laws, rules, orders, ordinances, regulations, statutes, requirements and executive orders applicable to the Project, of the United States, the State and any political subdivision thereof, and any agency, department, commission, board, bureau or instrumentality of any of them, now existing or hereafter created, and having or asserting jurisdiction over the Project or any part thereof, including without limitation, those relating to environmental matters.

“Institution Documents” means this Loan Agreement and the other documents to which the Institution is a party as set forth in Schedule D hereto.

“Intercreditor Agreement” means that Agreement, dated as of July __, 2020 (as the same may be amended, restated, modified or supplemented from time to time), by and among the Issuer and the Trustee, in its capacity as trustee for the Series 2016A Bonds and trustee for the Bonds pertaining to the application of Shared Collateral.

“Issuer Fee” means the fee payable to the Issuer attributable to the issuance of the Bonds, as more particularly described in Schedule C attached hereto and made a part hereof.

“Issuer Documents” means the Resolution, this Loan Agreement and the other documents to which the Issuer is a party as set forth in Schedule E hereto.

“Liens” means any mortgage, pledge, lien, charge, security interest or lease in the nature thereof (including any conditional sale agreement, equipment trust agreement or other title retention agreement) or other encumbrance of whatsoever nature that would have a material adverse effect on the ability of the Issuer to enforce its right and remedies under this Loan Agreement, any other Institution Document or any Security Agreement.

“Loan Agreement” means this Loan Agreement, as the same may be amended, supplemented or otherwise modified as permitted hereby and by the Resolution;

“Loan Repayments” means the scheduled payments of principal of and interest on the loan to be paid by the Institution pursuant to Section 4.2(a)(iii) hereof.

“Mortgage” means the mortgage, dated the date on which the Bonds are initially issued, on the property described therein, made by the Institution to the Issuer to secure the Institution’s obligation under this Loan Agreement with respect to the Bonds, as the same may be amended from time to time.

“Mortgaged Property” means the property secured by the Mortgage as described therein.

“Official Statement” means an official statement, prospectus, offering circular, offering memorandum or other offering document relating to and in connection with the sale of the Bonds.

“Ordinary Services” and **“Ordinary Expenses”** means those services normally rendered and those fees and expenses normally incurred by or due to the Trustee or paying agent, as the case may be, under the Resolution, including reasonable fees and disbursements of counsel for the Trustee.

“Pledged Revenues” shall have the meaning ascribed thereto in the Security Agreement.

“Project” means a “dormitory” as defined in the Act, which may include more than one part, financed and/or refinanced in whole or in part from the proceeds of the sale of the Bonds, as more particularly described in Schedule A hereto.

“Refunded Bonds” means the refunded Series 2016A Bonds, as set forth on Schedule G hereto.

“Resolution” shall have the meaning ascribed thereto in the Recitals hereto.

“Security Agreement” means the agreement dated July __, 2020, executed and delivered by the Institution to the Issuer for the purpose of granting a security interest in the Pledged Revenues as security for the Institution’s obligations under this Agreement.

“**Series 2016A Bonds**” means the \$_____ aggregate principal amount of the Issuer’s New York Institute of Technology Revenue Bonds, Series 2016A (Federally Taxable).

“**Series 2020A Resolution**” shall have the meaning ascribed thereto in the Recitals hereto.

“**Shared Collateral**” means the Collateral, for as long as any Series 2016A Bonds remain Outstanding following the issuance of the Bonds.

“**State**” means the State of New York.

“**Unassigned Rights**” means the rights of the Issuer to (a) execute and deliver supplements and amendments to the Resolution and the Loan Agreement, pursuant to Section 7.11 and Articles IX and X of the Resolution, (b) be held harmless and indemnified pursuant to Section 7.1 of this Loan Agreement, (c) receive any funds for its own use, whether as administration fees pursuant to Section 4.2 of this Loan Agreement, amounts payable to the Issuer pursuant to Sections 4.2(a)(v), 4.2(b), 4.2(h), 5.6 or 9.2, or indemnification pursuant to Section 7.1 of this Loan Agreement, (d) receive notices, Favorable Opinions of Bond Counsel and other documents as required under this Loan Agreement to be delivered to the Issuer; (e) require the Institution to take actions necessary to comply with Article VIII of this Loan Agreement; and (f) enforce any of the foregoing pursuant to Article IX of this Loan Agreement.

Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder,” and any similar terms, as used in this Loan Agreement refer to this Loan Agreement.

ARTICLE II

REPRESENTATIONS AND COVENANTS

Section 2.1 Representations of Issuer. The Issuer makes the following representations:

(a) Due Organization and Authority. The Issuer is duly established and validly existing under the provisions of the Act and has full legal right, power and authority to execute, deliver and perform each of the Issuer Documents and the other documents contemplated thereby. Each of the Issuer Documents and the other documents contemplated thereby has been duly authorized, executed and delivered by the Issuer.

(b) No Conflicts. Neither the execution and delivery of any of the Issuer Documents or the other documents contemplated thereby, nor the consummation of the transactions contemplated thereby nor the fulfillment of or compliance with the provisions of any of the Issuer Documents or the other documents contemplated thereby will conflict with or result in a breach of or constitute a default under any of the terms, conditions or provisions of the Act, any other law or ordinance of the State or any political subdivision thereof, the Issuer’s by-laws, as amended, or any statutory

restriction or any agreement or instrument to which the Issuer is a party or by which it is bound, or result in the creation or imposition of any Lien of any nature upon any of the Property of the Issuer under the terms of the Act or any such law, ordinance, restriction, agreement or instrument.

(c) Enforceability. Each of the Issuer Documents and the other documents contemplated thereby constitutes a legal, valid and binding obligation of the Issuer enforceable against the Issuer in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization or other laws relating to or affecting the enforcement of creditor's rights generally, and subject to usual principles of equity.

Section 2.2 Representations of the Institution. The Institution makes the following representations:

(a) Due Organization and Authority. The Institution is a not-for-profit educational corporation duly organized and validly existing under the laws of the State, is in good standing under the laws of the State and has full legal right, power and authority to execute, deliver and perform its obligations under each of the Institution Documents and the other documents contemplated thereby. Each of the Institution Documents and the other documents contemplated thereby has been duly authorized, executed and delivered by the Institution.

(b) Securities Law Status. The Institution is an organization organized and operated: (i) exclusively for educational or charitable purposes; (ii) not for pecuniary profit; and (iii) no part of the net earnings of which inures to the benefit of any person, private stockholder or individual, all within the meaning, respectively, of the Securities Act of 1933, as amended, and the Securities Exchange Act of 1934, as amended. The Institution agrees that it shall not perform any act or enter into any agreement which shall adversely affect such status as set forth in clauses (i), (ii) and (iii) of this Subsection.

(c) No Conflicts. Neither the execution and delivery of any of the Institution Documents or the other documents contemplated thereby nor the consummation of the transactions contemplated thereby nor the fulfillment of or compliance with the provisions of any of the Institution Documents or the other documents contemplated thereby will conflict with or result in a breach of or constitute a default under any of the terms, conditions or provisions of any law or ordinance of the State or any political subdivision thereof, the Institution's charter or by-laws, as amended, or any corporate restriction or any agreement or instrument to which the Institution is a party or by which it is bound which would have a material adverse effect on the Institution or the transaction, or result in, except as contemplated by the Institution Documents, the creation or imposition of any Lien of any nature upon any of the Property of the Institution under the terms of any such law, ordinance, charter, by-laws, restriction, agreement or instrument.

(d) No Litigation. There is no action, suit, investigation or proceeding pending or, to the knowledge of the Institution, threatened against the Institution or any properties or rights of the Institution before any court, arbitrator or administrative or governmental body which might result in any materially adverse change in the business, condition or operations of the Institution or which might materially adversely affect the ability of the Institution to comply with this Loan Agreement or other Institution Documents.

(e) Compliance with Governmental Requirements. The design, construction, renovation, equipping and operation of the Project and any contracts and agreements relating thereto do conform or will conform with all applicable Governmental Requirements.]

(f) Enforceability. Each of the Institution Documents and the other documents contemplated thereby to which the Institution is a party constitutes a valid and binding obligation of the Institution enforceable against the Institution in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization or other laws relating to or affecting the enforcement of creditor's rights generally, and subject to general principles of equity.

(g) Warranty of Title. The Institution warrants and represents to the Issuer that (i) it has good and marketable title to the Project, free and clear of liens and encumbrances, except for the matters set forth in Policy No. [_____] (title no. [_____]), dated [_____] issued by Stewart Title Insurance Company, so as to permit it to have quiet enjoyment and use thereof for purposes hereof and the Institution's programs and (ii) the Institution has such rights of way, easements or other rights in land as may be reasonably necessary for ingress and egress to and from the Project for proper operation and utilization of the Project and for utilities required to serve the Project, together with such rights of way, easements or other rights in, to and over land as may be necessary for construction by the Institution of the Project.

Section 2.3 Covenants of the Institution. The Institution makes the following covenants:

(a) Operation of Project. The Institution shall continue to be duly authorized to do business in the State and will operate all portions of the Project as a facility or facilities of higher education throughout the term of this Agreement.

(b) Pledges and Security Interests. All corporate action on the part of the Institution to authorize such pledges and security interests in the Collateral has been duly and validly taken. The Institution shall at all times, to the extent permitted by law, defend, preserve and protect such pledge and security interest and all of the rights of the Issuer and the Bondholders thereunder and under the Resolution against all claims and demands of all persons whomsoever.

(c) Maintenance of Corporate Existence. The Institution shall maintain its corporate existence, will continue to operate as a non-profit educational organization, shall obtain, maintain and keep in full force and effect such governmental approvals, consents, licenses, permits and accreditations as may be necessary for the continued operation of the Institution as a non-profit educational organization providing such programs and services as it may from time to time determine, shall not dissolve or otherwise dispose of all or substantially all of its assets and shall not consolidate with or merge into another corporation or permit one or more corporations to consolidate with or merge into it; provided, however, that if no Event of Default shall be continuing, then, upon prior written notice to the Issuer, the Institution may (i) sell or otherwise transfer all or substantially all of its assets to, or consolidate with or merge into, another organization or corporation which qualifies under Section 501(c)(3) of the Code, or any successor provision of federal income tax law, or (ii) permit one or more corporations or any other organization to consolidate with or merge into it, or (iii) acquire all or substantially all of the assets of one or more corporations or any other organization; provided, further, that in each case (a) the

Institution provides a Favorable Opinion of Bond Counsel addressed to the Issuer and the Trustee relating to any such sale, transfer, consolidation, merger or acquisition, (b) the surviving, resulting or transferee corporation, as the case may be, is incorporated under the laws of the State and qualified under Section 501(c)(3) of the Code or any successor provision of federal income tax law, and (c) the surviving, resulting or transferee corporation, as the case may be, assumes in writing all of the obligations of and restrictions on the Institution hereunder and under the Institution Documents, furnishes to the Issuer a certificate to the effect that upon such sale, transfer, consolidation, merger or acquisition such corporation shall be in compliance with applicable, laws, rules and regulations and each of the provisions hereof and shall meet the requirements of the Act and furnishes such other certificates and documents as the Issuer may reasonably request.

(d) Accounts and Records. The Institution shall at all times maintain proper accounts, records and books in which full and correct entries shall be made, in accordance with generally accepted accounting principles, of all transactions and events relating to the business and affairs of the Institution.

(e) Limitation on Agreements. Except as expressly provided hereby or by the Resolution, the Institution shall not enter into any contracts or agreements or perform any act which may materially adversely affect any of the assurances, interests or rights of the Issuer or the Bondholders hereunder or under the Resolution.

(f) Information Concerning Institution. (i) The Institution, whenever requested by the Issuer, shall provide and certify or cause to be provided and certified subject to legal restrictions, if any, such information concerning the Institution, its finances and other related topics as the Issuer from time to time reasonably determines to be necessary or desirable, including information reasonably necessary or desirable to enable the Issuer to make any reports or obtain any approvals required by law, governmental regulation or the Resolution to effect any of the transactions contemplated hereby or by the Resolution.

(ii) The Institution shall, if and when requested by the Issuer, provide to the Issuer reports with respect to the status of the construction of the Project. The Institution shall also furnish to the Issuer: (i) annually, not later than 120 days after the end of the Institution's Fiscal Year, copies of the Institution's audited financial statements and (ii) such other statements, reports and schedules describing the finances, operation and management of the Institution and such other information as the Issuer may from time to time reasonably request.

(iii) The Institution shall deliver to the Issuer each year no later than 120 days after the end of the Institution's Fiscal Year a Certificate signed by the Treasurer, Chief Financial Officer or the President of the Institution in the form attached hereto as Exhibit B (as such form may from time to time be revised by the Issuer), together with other statistical information required by the Issuer.

(iv) The Institution shall immediately notify the Issuer and the Trustee of the occurrence of any default or any event which with notice and/or lapse of time would constitute a default under this Loan Agreement or any of the other Institution Documents. Any notice required to be given pursuant to this subsection shall be signed by an

Authorized Representative of the Institution and set forth a description of the default and the steps, if any, being taken to cure said default. If no steps have been taken, the Institution shall state this fact on the notice.

(v) The Institution shall do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered such further acts, instruments, conveyances, transfers and assurances, at the sole cost and expense of the Institution, as the Issuer or the Trustee reasonably deems necessary or advisable for the implementation, effectuation, correction, confirmation or perfection of this Loan Agreement and any rights of the Issuer or the Trustee hereunder or under the Resolution.

(vi) The Institution shall furnish to the Issuer and the Trustee notice of the commencement of any proceeding by or against the Institution commenced under the United States Bankruptcy Code or any other applicable bankruptcy, insolvency, receivership, rehabilitation or similar law.

(g) Compliance with Certain Requirements. The Institution shall comply with (i) all Governmental Requirements which, if not complied with, could adversely affect the Institution, its operations or financial condition or title to its properties in any material respect, and (ii) any requirement of an insurance company providing insurance to or for the benefit of the Institution. Anything contained in this paragraph to the contrary notwithstanding, the Institution shall have the right to contest the validity of any Governmental Requirement or the application thereof at the Institution's sole cost and expense. During such contest, compliance with the contested Governmental Requirement may be deferred by the Institution, provided that prior to commencing any action or proceeding, administrative or judicial, contesting the Governmental Requirement, the Institution notifies the Issuer of the Institution's intention to contest such Governmental Requirement and, if the Issuer requests, shall furnish to the Issuer moneys or other security, satisfactory to the Issuer, securing compliance with the contested Governmental Requirement and payment of all interest, penalties, fines, fees and expenses resulting from or in connection with such contest or the failure of the Institution to comply with the contested Governmental Requirement. Any such action or proceeding instituted by the Institution shall be commenced as soon as is reasonably possible after the assertion of the applicability to the Project or any part thereof, of the contested Governmental Requirement by a governmental authority, and shall be prosecuted to final adjudication or other final disposition with reasonable dispatch. Notwithstanding the furnishing of any bond, deposit or other security, the Institution promptly shall comply with any such Governmental Requirement and compliance shall not be deferred if at any time the Project, or any part thereof, to which such contested Governmental Requirement relates, would be in substantial danger by reason of the Institution's noncompliance with such Governmental Requirement of being sold, attached, forfeited, foreclosed, transferred, conveyed, assigned or otherwise subjected to any proceeding, equitable remedy, lien, charge, fee or penalty that would impair (i) the interests or security of the Issuer hereunder or under the Resolution, (ii) the ability of the Issuer to enforce its rights hereunder or thereunder, (iii) the ability of the Issuer to fulfill the terms of any covenants or perform any of its obligations hereunder or thereunder or (iv) the ability of the Institution to fulfill the terms of any covenants or perform any of its obligations hereunder.

(h) Prohibition Against Liens. (i) The Institution, throughout the term of this Loan Agreement, shall not permit or create or suffer to be permitted or created any Lien upon the Project or the Collateral or any part thereof by reason of any labor, services or materials rendered or supplied or claimed to be rendered or supplied with respect to the Project or any part thereof.

(ii) Notwithstanding the provisions of subsection (i) of this paragraph (h), the Institution may in good faith contest any such Lien and, in such event, the Institution may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom, unless, by the Institution's nonpayment of any such item or items, the Project or any part thereof may be subject to loss or forfeiture, in which event the Institution shall promptly secure payment of all such unpaid items by filing a bond thereby causing such Lien to be removed or by taking such other actions as may be satisfactory to protect the Project or the Issuer's interest in any Collateral. Mechanics' Liens shall be discharged or bonded within ninety (90) days following the Institution's receipt of notice of the filing or perfection thereof.

(i) Restriction on Religious Use. With respect to the Project or any portion thereof, so long as any of the Bonds are outstanding, the Project or portion thereof shall not be used for sectarian religious instruction or as a place of religious worship or in connection with any part of a program of a school or department of divinity for any religious denomination.

(j) Sale of the Project. The Institution shall not transfer, sell or convey any interest in the Project or any part thereof or interest therein, including development rights unless (a) the Institution provides a Favorable Opinion of Bond Counsel addressed to the Issuer and the Trustee relating to such action and (b) [insert conditions under which transfer/sale/conveyance is permissible].

ARTICLE III

FINANCING AND REFINANCING OF PROJECT; ISSUANCE OF THE BONDS

Section 3.1 Financing and Refinancing of Project.

(a) The Institution agrees, and covenants and warrants to the Issuer that the proceeds of the Bonds will be used to finance and/or refinance the Costs of the Project and other purposes authorized by the Resolution.

(b) The Institution agrees that, whether or not there are sufficient moneys available to it under the provisions of the Resolution and hereunder, the Institution shall complete the acquisition, design, construction, reconstruction, rehabilitation and improving or otherwise providing and furnishing and equipping of the Project, substantially in accordance with the description herein and, if applicable in the Official Statement or other offering document. The Issuer makes no representation, express or implied, that the net proceeds of the Bonds will be sufficient to pay all costs to complete the Project. In the event that the moneys in the Construction Fund are not sufficient to pay in full all Costs of the Project, the Institution agrees to pay all such sums as may be in excess of the moneys available therefor and necessary to complete the Project.

Section 3.2 Application of Bond Proceeds.

(a) Subject to the conditions hereof, the Issuer will, to the extent of moneys available in the Construction Fund, cause the Institution to be reimbursed for, or pay, any costs and expenses incurred by the Institution that constitute Costs of the Project or any Cost of Issuance reimbursable to the Institution, provided such costs and expenses are approved by an Authorized Officer of the Issuer, which approval shall not be unreasonably withheld or delayed, as follows:

(i) To the extent that moneys are available therefor, moneys in the Construction Fund shall be disbursed as the construction of the Project progresses in amounts as shall be requested by the Institution pursuant to a request for disbursement as hereinafter provided to reimburse the Institution for, or to pay, any costs and expenses constituting Costs of the Project previously paid or then due that were incurred by the Institution in connection with the Project.

(ii) Prior to the Issuer making and delivering any certificate required to be delivered to the Trustee in connection with payments to be made pursuant to Section 5.04(c) of the Resolution for Costs of the Project, other than interest on Outstanding Bonds or any Cost of Issuance reimbursable to the Institution, the Issuer shall have received a certificate of the Institution substantially in the form of Exhibit A hereto.

(b) The Institution will receive the disbursements of moneys in the Construction Fund to be made hereunder, and will hold the right to receive the same, as a trust fund for the purpose of paying the Costs of the Project for which each disbursement was made, and will apply the same first to such payment before using any part thereof for any other purposes.

(c) The Institution shall permit the Issuer and its authorized representatives, at all reasonable times and upon reasonable notice, to enter upon the property of the Institution and the Projects to inspect the Project and all materials, fixtures and articles used or to be used in construction of the Project, and to examine all documents relating thereto. The Institution agrees to retain all original documentation related to expenditures for items which constitute Costs of the Project for at least three (3) years after the last of the Bonds or any related refunding bonds are retired, for inspection at any time by the Issuer or its auditors.

(d) The Institution acknowledges and agrees that disbursements from the Construction Fund are to be made by the Trustee and shall be made in accordance with the Resolution only upon receipt by the Trustee of the documents required by the Resolution to be executed and delivered in connection with such disbursements. The Issuer agrees to provide the Institution, upon request therefor, copies of requisitions, invoices and any related documents detailing payments made from the Construction Fund.

Section 3.3 [Reserved]

ARTICLE IV

LOAN PROVISIONS

Section 4.1 Loan of Bond Proceeds. The Issuer hereby agrees to loan the proceeds of the Bonds to the Institution in accordance with the provisions of this Loan Agreement. Such Bond proceeds shall be disbursed to the Institution in accordance with the provisions of Section 3.2 hereof and the provisions of the Resolution.

Section 4.2 Loan Payments and Other Amounts Payable.

(a) Except to the extent that moneys are available therefor under the Resolution or hereunder, including moneys in the Debt Service Fund (other than moneys required to pay the Redemption Price or purchase price of Outstanding Bonds theretofore called for redemption or contracted to be purchased, plus interest accrued to the date of redemption or purchase), and excluding interest accrued but unpaid on investments held in the Debt Service Fund, the Institution hereby unconditionally agrees to pay, so long as Bonds are Outstanding from its general funds or any other moneys legally available to it:

(i) On or before the date of delivery of the Bonds, the Issuer Fee agreed to by the Issuer and the Institution in connection with issuance of the Bonds;

(ii) On or before the date of delivery of the Bonds, such amount, if any, as is required, in addition to the proceeds of such Bonds available therefor, to pay the Costs of Issuance of the Bonds, and other costs in connection with the issuance of the Bonds;

(iii) On the 10th day of each month, commencing on September 10, 2020 to and including December 10, 2020, in an amount equal to one-fourth (1/4th) of the interest coming due on January 1, 2017, and on the tenth (10th) day of each month thereafter, commencing January 10, 2021, in an amount equal to one-sixth (1/6th) of the interest coming due on the Series 2020A Bonds on the immediately succeeding interest payment date therefor;

(iv) On the 10th day of each month commencing September 10, 2023 to and including June 10, 2024, in an amount equal to one-tenth (1/10th) of the principal and Sinking Fund Installments coming due on July 1, 2024, and on the tenth (10th) day of each month thereafter, commencing July 10, 2024, in an amount equal to one-twelfth (1/12th) of the principal and Sinking Fund Installment on the Series 2020A Bonds coming due on the next succeeding July 1;

(v) On or before any Redemption Date, the amount required to pay the Redemption Price or purchase price of such Bonds, together with the amount of any fees or expenses charged or incurred by the Issuer to effectuate the redemption or defeasance of such Bonds;

(vi) On December 10 of each Bond Year one-half (1/2) of the Annual Administrative Fee payable during such Bond Year in connection with the Bonds, and on June 10 of each Bond Year the balance of the Annual Administrative Fee payable during such Bond Year; provided, however, that the Annual Administrative Fee with respect to the Bonds payable during the Bond Year during which such Annual Administrative Fee became effective shall be equal to the Annual Administrative Fee with respect to the Bonds multiplied by a fraction the numerator of which is the number of calendar months or parts thereof remaining in such Bond Year and the denominator of which is twelve (12);

(vii) Promptly after notice from the Issuer, but in any event not later than fifteen (15) days after such notice is given, the amount set forth in such notice as payable to the Issuer (A) for the Issuer Fee then unpaid, (B) to reimburse the Issuer for payments made by it pursuant to paragraph h of this Section 4.2 and any expenses or liabilities incurred by the Issuer pursuant to Sections 4.2(b), 5.6, 7.1 or 9.2 hereof, (C) to reimburse the Issuer for any external costs or expenses incurred by it attributable to the issuance of the Bonds or the financing or construction of a Project, including but not limited to any fees or other amounts payable by the Issuer under a Remarketing Agreement, a Credit Facility or a Liquidity Facility (if any), (D) for the costs and expenses incurred by the Issuer to compel full and punctual performance by the Institution of all the provisions hereof or of the Resolution in accordance with the terms thereof and (E) for the fees and expenses of the Trustee and any paying agent in connection with performance of their duties under the Resolution; and,

(viii) Promptly upon demand by the Trustee, (a copy of which shall be furnished to the Issuer), all amounts required to be paid by the Institution as a result of an acceleration pursuant to Section 9.1 hereof.

(b) In addition to the Loan Payments pursuant to Section 4.2(a) hereof, throughout the Loan Term, the Institution shall pay to the Issuer as additional loan payments, within fifteen (15) days of the receipt of demand therefor, an amount equal to the sum of the out-of-pocket expenses of the Issuer and the members thereof actually incurred (i) by reason of the Issuer's financing of the Project, or (ii) in connection with the carrying out of the Issuer's duties and obligations under the Issuer Documents, the payment of which is not otherwise provided for under this Loan Agreement; or (iii) on account of any payments made by the Issuer for the purpose of fulfilling the

Institution's obligations under this Loan Agreement, including, but not limited to, Section 5.6 hereof.

(c) In addition, the Institution shall pay as additional loan payments within fifteen (15) days after receipt of a written demand therefor the Ordinary Expenses and Extraordinary Expenses payable by the Issuer to the Trustee pursuant to and under the Resolution.

(d) Subject to the provisions hereof and of the Resolution, the Institution shall receive a credit against the amount required to be paid by the Institution during a Bond Year pursuant to paragraph (a)(iii) of this Section on account of any Sinking Fund Installments if, prior to the date notice of redemption is given pursuant to the Resolution with respect to Bonds to be redeemed through any Sinking Fund Installments during the next succeeding Bond Year, either (i) the Institution delivers to the Trustee for cancellation one or more Bonds and maturity to be so redeemed or (ii) the Trustee, at the written direction of the Issuer, has purchased one or more Bonds of the maturity to be so redeemed from amounts on deposit in the Debt Service Fund in accordance with subdivision Section 5.06(c) of the Resolution during such Bond Year. The amount of the credit shall be equal to the principal amount of the Bonds so delivered.

(e) The Issuer hereby directs the Institution, and the Institution hereby agrees, to make the payments required by paragraphs (a)(iii), (a)(iv), and (a)(vii) of this Section directly to the Trustee for deposit and application in accordance with Section 5.05 of the Resolution, the payments required by paragraphs (a)(ii) and (a)(vi)(E) of this Section directly to the Trustee for deposit in the Construction Fund or other fund established under the Resolution, as directed by the Issuer, and the payments required by paragraphs (a)(i), (a)(v), (a)(vi) (A),(B),(C) and (D) and (b) of this Section directly to the Issuer.

(f) Notwithstanding any provisions herein to the contrary (except as otherwise specifically provided for in this subdivision), all moneys paid by the Institution to the Trustee pursuant hereto or otherwise held by the Trustee (other than moneys received by the Trustee pursuant to paragraphs (a)(ii) and (a)(vi)(E)) shall be applied in reduction of the Institution's indebtedness to the Issuer hereunder, first, with respect to interest and, then, with respect to the principal amount of such indebtedness, but only to the extent that, with respect to interest on such indebtedness, such moneys are applied by the Trustee for the payment of interest on Outstanding Bonds, and, with respect to the principal of such indebtedness, such moneys have been applied to, or are held for, payments in reduction of the principal amount of Outstanding Bonds and as a result thereof Bonds have been paid or deemed to have been paid in accordance with Section 12.01(b) of the Resolution. Except as otherwise provided in the Resolution and the preceding sentence of this paragraph (f), the Trustee shall hold such moneys in trust in accordance with the applicable provisions of the Resolution for the sole and exclusive benefit of the Holders of Bonds, regardless of the actual due date or applicable payment date of any payment to the Holders of Bonds.

(g) The Issuer, for the convenience of the Institution, may, in its sole discretion, furnish to the Institution statements of the due date, purpose and amount of payments to be made pursuant hereto. Neither the failure to furnish such statements nor any error contained in such statements shall excuse non-payment of the amounts payable hereunder at the time and in the manner provided hereby.

(h) The Issuer shall have the right in its sole discretion to make on behalf of the Institution any payment required pursuant to this Section which has not been made by the Institution when due. No such payment by the Issuer shall limit, impair or otherwise affect the rights of the Issuer under Article VII hereof arising out of the Institution's failure to make such payment and no payment by the Issuer shall be construed to be a waiver of any such right or of the obligation of the Institution to make such payment.

Section 4.3 Obligations of Institution Hereunder Unconditional. The Loan Agreement and the obligations of the Institution to make payments hereunder are general obligations of the Institution. The obligations of the Institution to make payments or cause the same to be made hereunder shall be absolute and unconditional and the amount, manner and time of making such payments shall not be decreased, abated, postponed or delayed for any cause or by reason of the happening or non-happening of any event, irrespective of any defense or any right of set-off, recoupment or counterclaim which the Institution may otherwise have against the Issuer, the Trustee or any Holder of Bonds for any cause whatsoever including, without limiting the generality of the foregoing, failure of the Institution to complete the Project or the completion thereof with defects, failure of the Institution to occupy or use the Project, any declaration or finding that the Bonds are or the Resolution is invalid or unenforceable or any other failure or default by the Issuer or the Trustee; provided, however, that nothing herein shall be construed to release the Issuer from the performance of any agreements on its part herein contained or any of its other duties or obligations, and in the event the Issuer shall fail to perform any such agreement, duty or obligation, the Institution may, subject to the provisions of Section 11.9 hereof, institute such action as it may deem necessary to compel performance or to recover damages for the Issuer's willful misconduct.

Section 4.4 Payment of Additional Moneys in Prepayment of Bonds. The Institution, if an Event of Default shall not then exist, shall have the right to make voluntary payments in any amount to the Trustee provided that the Institution has given the Issuer written notice of its intention to make any such voluntary payment at least [two (2)] business days prior to making the payment. In the event of a voluntary payment, the amount so paid shall be deposited in the Debt Service Fund and applied in accordance with Section 5.06 of the Resolution or held by the Trustee for the payment of Bonds in accordance with Section 12.01(b) of the Resolution. Upon any voluntary payment by the Institution, the Issuer agrees to direct the Trustee in writing to purchase or redeem Bonds in accordance with the Resolution or to give the Trustee irrevocable instructions in writing in accordance with Section 12.01(b) of the Resolution with respect to such Series of Bonds; provided, however, that in the event such voluntary payment is sufficient to pay all amounts then due hereunder and under the Resolution, including the purchase or redemption of all Bonds Outstanding, or to pay or provide for the payment of all Bonds Outstanding in accordance with Section 12.01(b) of the Resolution, the Issuer agrees, in accordance with the instructions of the Institution, to direct the Trustee in writing to purchase or redeem all Bonds Outstanding, or to cause all Bonds Outstanding to be paid or to be deemed paid in accordance with Section 12.01(b) of the Resolution.

Section 4.5 Rights and Obligations of the Institution upon Prepayment of Bonds. In the event the Bonds shall have been paid in full prior to the termination of this Loan Agreement, or provision for such payment shall have been made in accordance with the Resolution, the Issuer, at the sole cost of the Institution, shall deliver to the Institution appropriate terminations, discharges or releases of any security interest relating to the Project or under the Resolution.

Section 4.6 Security Interest. The Institution acknowledges that the payments by the Institution under this Loan Agreement are pledged as security for payment of the principal of, and Redemption Price of and interest on the Bonds. In addition, to secure payment of all loan payments and other sums owing by the Institution hereunder and to secure the payment and performance of all debts, liabilities and obligations of the Institution under all of the Institution Documents, the Institution hereby grants a security interest to the Issuer in the Collateral pursuant to the applicable Security Agreement and, with respect to Shared Collateral, subject to the provisions of the Intercreditor Agreement. The security interest referred to in this Section shall (except with respect to the Issuer's Unassigned Rights) be assigned by the Issuer to the Trustee pursuant to Section 4.7 hereof.

Section 4.7 Assignment to Trustee and Institution Consent. The Issuer shall pledge and assign its rights to and interest in this Loan Agreement, the Collateral, and in all amounts payable by the Institution to the Trustee pursuant to Section 4.2 hereof and all other provisions of this Loan Agreement (other than Unassigned Rights), to the Trustee as security for the payment of the principal of, and premium, if any, and interest on the Bonds. Any Collateral that constitutes Shared Collateral shall be subject to the provisions of the Intercreditor Agreement. The Institution hereby acknowledges and consents to such pledge and assignment by the Issuer. Notwithstanding the foregoing, (1) all indemnities herein contained shall, subsequent to such pledge and assignment, continue to run to the Issuer for its benefit; and (2) both the Trustee and the Issuer shall each have the right to enforce Events of Default arising from violations of Article 8 of this Loan Agreement.

Section 4.8 Financing Statements. The Institution shall file, or cause to be filed, all UCC Financing Statements required to be filed on the date of issuance of the Bonds. The Institution further hereby irrevocably appoints the Trustee as the Institution's lawful attorney-in-fact and agent, to prepare and execute any UCC-1 Financing Statements or UCC-3 Amendments or Assignments on the Institution's behalf in accordance with the requirements of the Resolution to protect the Issuer's and the Trustee's security interests in payments made pursuant to this Loan Agreement and any assignment thereof and in any Collateral pledged to secure the Institution's obligations hereunder, and on the Institution's behalf, to file such Financing Statements in any appropriate public office. The Institution shall be responsible for the reasonable costs incurred by the Trustee and the Issuer in filing all continuation statements hereunder.

ARTICLE V

MAINTENANCE, MODIFICATIONS, TAXES AND INSURANCE

Section 5.1 Maintenance and Modifications of Project by Institution.

(a) The Institution agrees that, throughout the term hereof, it shall, at its own expense, hold, operate and maintain the Project in a careful, prudent and economical manner, and keep the same, with the appurtenances and every part and parcel thereof, in good repair, working order and safe condition and shall from time to time make all necessary and proper repairs, replacements and renewals so that at all times the operation of the Project may be properly and advantageously conducted. The Institution shall have the right to remove or replace any type of fixtures, furnishings and equipment in the Project which may have been financed by the proceeds of the sale of the Bonds provided that such fixtures, furnishings and equipment continue to be used for

purposes permitted in a Favorable Opinion of Bond Counsel delivered by the Institution to the Issuer and the Trustee.

(b) The Institution further agrees that it shall pay at its own expense all extraordinary costs of maintaining, repairing and replacing the Project except insofar as funds are made available therefor from proceeds of insurance, condemnation or eminent domain awards.

Section 5.2 Use and Control of the Project. Subject to the rights, duties and remedies of the Issuer hereunder, the Institution shall have sole and exclusive control and possession of and responsibility for (i) the Project, (ii) the operation of the Project and supervision of the activities conducted therein or in connection with any part thereof and (iii) the maintenance, repair and replacement of the Project; provided, however, that, except as otherwise limited hereby, the foregoing shall not prohibit use of the Project by persons other than the Institution or its students, staff or employees in furtherance of the Institution's corporate purposes.

Section 5.3 Liens, Utilities and Access. The Institution warrants, represents and covenants that the Project (i) is and will be kept free from Liens, (ii) is and will be serviced by all necessary utilities (including, to the extent applicable, without limitation, electricity, gas, water, sewer, steam, heating, air conditioning and ventilation) and (iii) to the extent applicable, has and will have its own separate and independent means of access, apart from any other property owned by the Institution or others; provided, however, that such access may be through common roads or walks owned by the Institution used also for other parcels owned by the Institution.

Section 5.4 Taxes, Assessments and Utility Charges. The Institution shall pay when due at its own expense, and hold the Issuer harmless from, all taxes, assessments, water and sewer charges and other impositions, if any, which may be levied or assessed upon the Institution or any of its property. The Institution shall file exemption certificates as required by law. The Institution agrees to exhibit to the Issuer within ten (10) days after written demand by the Issuer, certificates or receipts issued by the appropriate authority showing full payment of all taxes, assessments, water and sewer charges and other impositions; provided, however, the Institution may, in good faith, contest any such taxes, assessments and other charges. In the event of any such proceedings, the Institution shall pay such taxes, assessments or other charges so contested, or, at its option, allow the same to remain unpaid during the period of such proceedings and any appeal therefrom, provided, however, that (i) neither the Project nor any part thereof or interest therein would be in any immediate danger of being sold, forfeited or lost by reason of such proceedings, and (ii) the Institution shall have set aside on its books adequate reserves with respect thereto and shall have furnished such security, if any, as may be required in such proceedings.

Section 5.5 Insurance Required.

(a) The Institution agrees to maintain or cause to be maintained insurance with insurance companies or by means of self-insurance, insurance of such type, against such risks and in such amounts as are customarily carried by non-profit educational organizations located in the State of a nature similar to that of the Institution, which insurance shall include property damage, fire and extended coverage, public liability and property damage liability insurance in amounts estimated to indemnify the reasonably anticipated damage, loss or liability, subject to reasonable

deductible provisions. The Institution shall at all times also maintain worker's compensation coverage and disability benefits insurance coverage as required by the laws of the State.

(b) If the Issuer shall so request in writing, the Institution shall provide to the Issuer summaries or other evidence of its insurance coverage and shall obtain endorsements reasonably requested by the Issuer.

(c) In the event the Institution fails to provide the insurance required by this Section, the Issuer may elect at any time thereafter to procure and maintain the insurance required by this Section at the expense of the Institution. The policies procured and maintained by the Issuer shall be open to inspection by the Institution at all reasonable times.

Section 5.6 Right of Issuer to Pay Taxes, Insurance Premiums and Other Charges. If the Institution fails (i) to pay any tax, together with any fine, penalty, interest or cost which may have been added thereto or become due or been imposed by operation of law for nonpayment thereof, assessment or other governmental charge required to be paid by Section 5.4 hereof, (ii) to maintain any insurance required to be maintained by Section 5.5 hereof, (iii) to pay any amount required to be paid by any law or ordinance relating to the use or occupancy of the Project or by any requirement, order or notice of violation thereof issued by any governmental person, (iv) to pay any mechanic's Lien which is recorded or filed against the Project or any part thereof (unless contested or bonded in accordance with the provisions of Section 2.4(h) hereof), or (v) to pay any other amount or perform any act hereunder required to be paid or performed by the Institution hereunder, the Issuer may pay or cause to be paid such tax, assessment or other governmental charge or the premium for such insurance or any such other payment or may perform any such act. No such payment shall be made or act performed by the Issuer until at least ten (10) days shall have elapsed since written notice shall have been given by the Issuer to the Institution and the Trustee), and in the case of any tax, assessment or governmental charge or the amounts specified in clauses (iii), (iv) and (v) hereof, no such payment shall be made in any event if the Institution is contesting the same in good faith and diligently prosecuting the same unless an Event of Default hereunder shall have occurred and be continuing. No such payment by the Issuer shall affect or impair any rights of the Issuer hereunder or of the Trustee under the Resolution arising in consequence of such failure by the Institution. The Institution shall, on demand, reimburse the Issuer for any amount so paid or for expenses or costs incurred in the performance of any such act by the Issuer pursuant to this Section (which shall include all reasonable legal fees and disbursements), together with interest thereon from the date of payment of such amount, expense or cost by the Issuer at the per annum rate of ten percent (10%) and such amount, together with such interest, shall become additional indebtedness secured by the Collateral, if any.

ARTICLE VI

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 6.1 Damage or Condemnation. (a) Any insurance, condemnation or eminent domain proceeds received by the Institution shall either be: (i) applied to the cost of replacing, repairing, rebuilding, restoring or relocating the Project; (ii) paid to the Trustee for deposit to the Debt Service Fund and applied to the purchase or redemption of Outstanding Bonds; or (iii) used

for any other purpose for which the Institution provides a Favorable Opinion of Counsel to the Issuer and the Trustee.

(b) All such repair, replacement, rebuilding, restoration or relocation of the Project (or such portion thereof) shall be effected with due diligence in a good and workmanlike manner in compliance with all applicable legal requirements and shall be promptly and fully paid for by the Institution in accordance with the terms of the applicable contracts.

(c) If any portion of the Project shall be damaged or destroyed (in whole or in part) at any time during the term of this Loan Agreement: (i) there shall be no abatement or reduction in the amounts payable by the Institution under this Loan Agreement (whether or not such portion of the Project is replaced, repaired, rebuilt, restored or relocated); and (ii) the Issuer shall have no obligation to replace, repair, rebuild, restore or relocate the Project or any portion of the Project.

ARTICLE VII

INDEMNITY AND OTHER COVENANTS

Section 7.1 Indemnity By Institution.

(a) To the extent permitted by law, the Institution hereby releases and agrees to hold harmless, defend and indemnify the Issuer and its members, officers, officials, counsel, consultants, agents and employees from and against all, and agrees that the Issuer and its members, officers, officials, counsel, consultants, agents and employees shall not be liable for any, (i) liabilities, suits, actions, claims, demands, damages, losses, expenses and costs of every kind and nature resulting from any action taken in accordance with, or permitted by, the Loan Agreement, the Mortgage, any other Issuer Documents, or arising therefrom or incurred by reason thereof or arising from or incurred by reason of the financing of the Project (but excluding any loss, damage or liability which may arise as a result of the willful misconduct, or intentional misrepresentation of the Issuer and its members, officers, officials, counsel, consultants, agents and employees), or (ii) loss or damage to property or any injury to or death of any or all persons that may be occasioned by any cause whatsoever pertaining to the Project or the Mortgaged Property or arising by reason of or in connection with the presence on, in or about the premises of such Project or the Mortgaged Property of any person; including in each case, without limiting the generality of the foregoing, causes of action and attorneys' fees and other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing and including any loss, damage or liability which may arise as a result of the negligence (but excluding any loss, damage or liability which may arise as a result of the willful misconduct or intentional misrepresentation) of any party so indemnified by the Institution, and to deliver at the request of the Issuer any further instrument or instruments in form satisfactory to the Issuer as in the reasonable judgment of the Issuer may be necessary to effectuate more fully the provisions of this paragraph (a); provided, however, that (i) the indemnity provided in this sentence shall be effective only to the extent of any loss or liability that may be sustained by the Issuer in excess of net proceeds received from any insurance carried by the Institution with respect to such loss or liability and (ii) the Issuer and the Institution shall each provide waiver of rights of subrogation against the other in any insurance coverage obtained relating to the Project and the Mortgaged Property. The indemnity provided for such parties by this paragraph (a) shall be in addition to and not limited by

any of the provisions of paragraph (b) of this Section or of Section 5.6 hereof; provided, however, that, to the extent the Issuer receives indemnification pursuant to such Sections, the Issuer shall not be entitled to additional indemnification pursuant to this paragraph (a).

(b) The Institution agrees, to the extent permitted by law, to indemnify, defend and hold harmless the Issuer, any member, officer, official, employee, counsel, consultant and agent of the Issuer against any and all losses, claims, damages, liabilities or expenses whatsoever, joint or several, insofar as such losses, claims, damages, liabilities or expenses (or actions in respect thereof) are caused by, arise out of or are based upon any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact in the Official Statement or other offering document (other than any information certified by Issuer or the Underwriters), or any amendment thereof or supplement thereto, relating to the Bonds offered for sale thereby, or caused by, arising out of or based upon any omission or alleged omission from such an official statement, or any amendment thereof or supplement thereto, of any material fact in the Official Statement (other than any information certified by Issuer or the Underwriters) necessary in order to make the statements made therein in the light of the circumstances under which they were made not misleading.

(c) In case any action shall be brought in respect of which indemnity may be sought against the Institution pursuant to this Section, any person seeking indemnity hereunder shall promptly notify the Institution in writing, and the Institution shall promptly assume the defense thereof, including the employment of counsel and the payment of all expenses; provided, however, that the Institution shall have the right to negotiate and consent to settlement and that it shall be the duty of such person to cooperate with the Institution in asserting such defense and in reaching such settlement. Any such person shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such person unless the employment of such counsel has been specifically authorized by the Institution. The Institution shall not be liable for any settlement of any such action effected without its consent, but if settled with the consent of the Institution or if there be a final judgment for the plaintiff in any such action with or without the Institution's consent, the Institution agrees to indemnify and hold harmless such person from and against any loss or liability by reason of such settlement or judgment in accordance with this Section.

(d) In the event that the Issuer is notified in writing that the Bonds or any transaction pertaining thereto is the subject of any Internal Revenue Service or Securities and Exchange Commission investigation, suit or order, it shall promptly give notice thereof to the Institution. In the event that the Institution is notified in writing that the Bonds or any transaction pertaining thereto is the subject of any Internal Revenue Service or Securities and Exchange Commission investigation, suit or order, it shall promptly give notice thereof to the Issuer. Upon the occurrence of such an event, the Institution and the Issuer shall fully cooperate with one another and participate in all aspects of the conduct of the response thereto. The Institution shall be responsible for the payment of all costs incurred by the Issuer (including, but not limited to, attorneys and other professional fees) in connection with any such investigation.

Section 7.2 Right to Inspect Project. The Issuer and the Trustee and the duly authorized agents of either of them shall have the right at all reasonable times upon prior written notice to the Institution to inspect the Project.

Section 7.3 Reliance by Trustee. The Trustee shall be entitled to rely on any instructions given by the Institution pursuant to the terms hereof and the Institution shall indemnify the Trustee for the consequences of all actions taken pursuant to any such instructions provided that the Trustee, at the time the instructions were given, reasonably believed in good faith that such instructions were genuine and signed by an Authorized Officer of the Institution; provided however, that any instructions given by the Institution pursuant to this Section 7.3 shall relate only to this Loan Agreement and shall not constitute instructions to the Trustee to act or refrain from acting under the Resolution (which latter instructions may be given only by the parties authorized to do so under the Resolution in the manner provided therein).

Section 7.4 Limitation On Issuer Rights. As long as no Event of Default has occurred and is continuing, and no event has occurred that, with the giving of notice or lapse of time, or both, would constitute an Event of Default, the Issuer shall not, without the prior written direction of the Institution (i) change the dates on which an Option Bond is to be tendered for purchase or the period during which a Variable Interest Rate Bond shall bear interest at a particular rate, (ii) convert a Variable Interest Rate Bond to bear interest at a fixed rate to its maturity, (iii) elect or direct the redemption of Bonds pursuant to Section 4.02 of the Resolution, or (iv) amend or modify the dates on or Redemption Price at which a Variable Interest Rate Bond after its conversion to bear interest at a fixed rate to the maturity date thereof may be redeemed at the election or direction of the Issuer in accordance with Section 4.02 of the Resolution.

Section 7.5 Compliance with Resolution. The Institution hereby approves of and agrees to the provisions of the Resolution. The Institution agrees to do all things within its power in order to enable the Issuer to comply with all requirements and to fulfill all covenants of the Resolution which require the Institution to comply with requests or obligations so that the Issuer will not be in default in the performance of any covenant, condition, agreement or provision of the Resolution.

Section 7.6 Investment of Funds. The Institution hereby acknowledges that the Issuer shall direct the investment of moneys held under the Resolution as provided therein and that no representation or warranty has been made by the Issuer with respect to interest rates on, or the amount to be earned as a result of, any such investment. The Issuer shall regularly consult with the Institution regarding any investments of funds being held in the Construction Fund. Neither the Issuer nor the Trustee shall have any liability arising out of or in connection with the making of any investment authorized by the provisions of Article VI of the Resolution in the manner provided therein, for any depreciation in value of any investment or for any loss, direct or indirect, resulting from any such investment. The Issuer hereby agrees that it shall direct the making of investments as permitted by the Resolution as soon as practicable when moneys are legally available therefor.

Section 7.7 Payment to Institution. The Issuer shall, as soon as practicable after receipt of moneys paid to the Issuer by the Trustee pursuant to Section 12.01 of the Resolution (other than Section 12.01(e) thereof), pay such moneys to the Institution after deducting therefrom the amount, if any, then owed to the Issuer by the Institution pursuant hereto.

ARTICLE VIII

TAX MATTERS

Section 8.1 Representations of Institution. The Institution represents and warrants that (i) it is an organization described in Section 501(c)(3) of the Code and it is not a “private foundation” as defined in Section 509 of the Code; (ii) it has received a letter from the Internal Revenue Service to that effect; (iii) such letters has not been modified, limited or revoked; (iv) it is in compliance with all terms, conditions and limitations, if any, contained in such letter; (v) the facts and circumstances which form the basis of such letter continue substantially to exist as represented to the Internal Revenue Service; (vi) it is not aware of any action, pending or threatened, that calls its status as represented in clause (i) into question; and (vii) it is exempt from federal income taxes under Section 501(a) of the Code.

Section 8.2 Covenants of Institution. The Institution covenants and agrees that it shall not perform any act or enter into any agreement or omit to take any action that would adversely affect its status as an organization described in Section 501(c)(3) of the Code and shall conduct its operations in a manner which conforms to the standards necessary to qualify the Institution as a charitable organization within the meaning of Section 501(c)(3) of the Code or any successor provisions of federal income tax law.

ARTICLE IX

EVENTS OF DEFAULT AND REMEDIES

Section 9.1 Events of Default and Remedies.

(a) As used herein the term “Event of Default” shall mean:

(i) the Institution shall default in the timely payment of any amount payable pursuant to Section 4.2 hereof or the payment of any other amounts required to be delivered or paid by or on behalf of the Institution in accordance herewith and the Resolution, and such default continues for a period in excess of seven (7) days; or

(ii) the Institution defaults in the due and punctual performance of any other covenant herein contained (other than those designated in subparagraph (i) hereof) or breaches any representation made herein and such default continues for thirty (30) days after written notice requiring the same to be remedied shall have been given to the Institution by the Issuer or the Trustee; provided, however, that, if in the reasonable determination of the Issuer such default cannot be corrected within such thirty (30) day period but can be corrected by appropriate action, it shall not constitute an Event of Default if corrective action is instituted by the Institution within such period and is diligently pursued until the default is corrected; or

(iii) as a result of any default in payment or performance required of the Institution hereunder or any other Event of Default hereunder, whether or not declared, continuing or cured, the Issuer shall be in default in the payment or performance of any of its obligations under the Resolution or an “event of default” (as defined in the Resolution) shall have been declared under the Resolution so long as such default or event of default shall remain uncured or the Trustee, a Provider or Holders of the Bonds shall be seeking the enforcement of any remedy under the Resolution as a result thereof; or

(iv) the Institution shall (A) be generally not paying its debts as they become due, (B) file, or consent by answer or otherwise to the filing against it of a petition under the United States Bankruptcy Code or under any other bankruptcy or insolvency law of any jurisdiction, (C) make a general assignment for the benefit of its general creditors, (D) consent to the appointment of a custodian, receiver, trustee or other officer with similar powers of itself or of any substantial part of its property, (E) be adjudicated insolvent or be liquidated, (F) take corporate action for the purpose of any of the foregoing or (G) shall admit in writing its inability to pay its debts generally as they become due; or

(v) a court or governmental authority of competent jurisdiction shall enter an order appointing, without consent by the Institution, a custodian, receiver, trustee or other officer with similar powers with respect to it or with respect to any substantial part of its property, or an order for relief shall be entered in any case or proceeding for liquidation or reorganization or otherwise to take advantage of any bankruptcy or insolvency law of any jurisdiction, or ordering the dissolution, winding-up or liquidation of the Institution, or any

petition for any such relief shall be filed against the Institution and such petition shall not be dismissed or stayed within ninety (90) days; or

(vi) the charter or certificate of incorporation of the Institution or any license necessary to operate the Project shall be suspended or revoked; or

(vii) a petition to dissolve the Institution shall be filed by the Institution with the New York State Education Department Board of Regents, the legislature of the State, the Attorney General of the State or other governmental authority having jurisdiction over the Institution; or

(viii) an order of dissolution of the Institution shall be made by the New York State Education Department Board of Regents, the legislature of the State or other governmental authority having jurisdiction over the Institution, which order shall remain undismissed or unstayed for an aggregate of thirty (30) days; or

(ix) a petition shall be filed with a court having jurisdiction for an order directing or providing for the sale, disposition or distribution of all or substantially all of the property belonging to the Institution which petition shall remain undismissed or unstayed for an aggregate of ninety (90) days; or

(x) an order of a court having jurisdiction shall be entered directing or providing for the sale, disposition or distribution of all or substantially all of the property belonging to the Institution, which order shall remain undismissed or unstayed for the earlier of (A) three (3) Business Days prior to the date provided for in such order for such sale, disposition or distribution or (B) an aggregate of thirty (30) days from the date such order shall have been entered; or

(xi) a final judgment for the payment of money, at least [one million] dollars (\$[1,000,000]) of which is not covered by insurance or reserves set aside by the Institution, shall be rendered against the Institution and at any time after forty-five (45) days from the entry thereof, (A) such judgment shall not have been discharged or paid, or (B) the Institution shall not have taken and be diligently prosecuting an appeal therefrom or from the order, decree or process upon which or pursuant to which such judgment shall have been granted or entered, and shall not have caused, within forty-five (45) days, the execution of or levy under such judgment, order, decree or process or the enforcement thereof to have been stayed pending determination of such appeal; or

(xii) the occurrence and continuance of an event of default under (A) any Security Agreement or Mortgage; or (B) any agreement executed in connection with the Shared Collateral and, upon such default, (y) the principal of any indebtedness secured by such Shared Collateral may be declared to be due and payable or (z) the lien upon or pledge may be foreclosed or realized upon.

(b) Upon the occurrence of an Event of Default, the Issuer may take any one or more of the following actions:

(i) declare all sums payable by the Institution hereunder immediately due and payable;

(ii) withhold any and all payments, advances and reimbursements from the proceeds of Bonds or the Construction Fund or otherwise to which the Institution may otherwise be entitled hereunder and apply any such proceeds or moneys for such purposes as are authorized by the Resolution;

(iii) maintain an action against the Institution hereunder to recover any sums payable by the Institution or to require its compliance with the terms hereof, the Mortgage or any other Security Agreement;

(iv) Pursuant to the terms of any Security Agreement, take or cause to be taken any and all actions necessary to implement any available remedies with respect to Collateral under any Security Agreement or any Mortgage; and

(v) take any action necessary to enable the Issuer to realize on its Liens hereunder or by law, and any other action or proceeding permitted by the terms hereof or by law.

(c) All rights and remedies herein given or granted to the Issuer are cumulative, non-exclusive and in addition to any and all rights and remedies that the Issuer may have or may be given by reason of any law, statute, ordinance or in equity or otherwise, and no failure to exercise or delay in exercising any remedy shall effect a waiver of the Issuer's right to exercise such remedy thereafter, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

(d) At any time before the entry of a final judgment or decree in any suit, action or proceeding instituted on account of any Event of Default or before the completion of the enforcement of any other remedies hereunder, the Issuer may annul any declaration made or action taken pursuant to paragraph (b) of this Section and its consequences if such Events of Default shall be cured. No such annulment shall extend to or affect any subsequent default or impair any right consequent thereto.

(e) Notwithstanding any assignment of this Agreement to the Trustee, the Issuer reserves the right to direct the Trustee to take any actions authorized by clauses (ii), (iii), (iv) and (v) of subsection (b) hereof as shall be necessary to enforce the Issuer's Unassigned Rights.

Section 9.2 Agreement to Pay Attorneys' Fees and Other Expenses. In the event the Institution should default under any of the provisions of this Loan Agreement and the Issuer or the Trustee should employ attorneys or other professionals or incur other out-of-pocket expenses for the collection of amounts payable hereunder or the enforcement of performance or observance of any obligations or agreements on the part of the Institution herein contained (or in the case of the Trustee under the Resolution), the Institution shall, on demand therefor, pay the reasonable fees of such attorneys or other professionals and such other reasonable out-of-pocket expenses so incurred to the Issuer or the Trustee.

Section 9.3 No Additional Waiver Implied by One Waiver. In the event any agreement contained herein should be breached by any party and thereafter waived by any other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

ARTICLE X

TERMINATION OF LOAN AGREEMENT

Section 10.1 Termination. The Loan Agreement shall remain in full force and effect until no Bonds are Outstanding and until all other payments, expenses and fees payable hereunder by the Institution shall have been made or provision made for the payment thereof; provided, however, that Section 7.8 and 9.2 hereof and the liabilities and the obligations of the Institution to provide reimbursement for or indemnification against expenses, costs or liabilities made or incurred pursuant to Sections 4.2(a)(vi), 4.2(b), 4.2(c), 4.2(h), 5.6, and 7.1 hereof shall nevertheless survive any such termination. Upon such termination, an Authorized Officer of the Issuer shall deliver such documents as may be reasonably requested by the Institution to evidence such termination and the discharge of its duties hereunder, and the release or surrender of any security interests granted by the Institution to the Issuer pursuant hereto.

Section 10.2 Payments To The Institution. The Issuer shall, as soon as practicable after receipt of moneys paid to the Issuer by the Trustee pursuant to Section 12.01 of the Resolution (other than Section 12.01(e) thereof), pay such moneys to the Institution after deducting therefrom the amount, if any, then owed to the Issuer by the Institution pursuant hereto.

ARTICLE XI

MISCELLANEOUS

Section 11.1 Notices. (a) All notices, certificates and other communications hereunder shall be in writing and shall be addressed as follows or to such other address as any party may specify in writing to the other:

To the Issuer:

Dormitory Authority of the
State of New York
515 Broadway
Albany, New York 12207
Attention: Executive Director

with a copy to:

Dormitory Authority of the
State of New York
515 Broadway
Albany, New York 12207
Attention: General Counsel

To the Institution:

New York Institute of Technology
Northern Boulevard
P.O. Box 8000
Old Westbury, New York 11568-8000
Attention: Chief Financial Officer

with a copy to:

New York Institute of Technology
Northern Boulevard
P.O. Box 8000
Old Westbury, New York 11568-8000
Attention: General Counsel and Secretary

To the Trustee:

Manufacturers and Traders Trust Company
One M&T Plaza, 7th Floor
Corporate Trust Department
Buffalo, New York 14203
Telephone: (716) 842-5602

With a copy to:

[TBD]

All notices or other communications hereunder shall be sufficiently given if given by any of the following means: personal delivery, deposit in the United States mail using certified mail, postage prepaid, return receipt requested, private courier or overnight delivery service which provides evidence of delivery, postage or other charges prepaid, or by telecopy or other electronic means which produces evidence of transmission. A duplicate copy of each notice, certificate and other written communication given hereunder by either the Issuer or the Institution to the other shall also be given to the Trustee, and a duplicate copy of each notice, certificate and any other written communication given hereunder by either the Trustee or the Issuer to the other shall also be given to the Institution, at the addresses herein set forth or provided for.

(b) Any notice, Favorable Opinion of Bond Counsel or other document delivered to the Issuer as provided in this Agreement neither requires nor implies that the Issuer is under any obligation to take any action with respect thereto.

Section 11.2 Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the parties and their respective successors and assigns.

Section 11.3 Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 11.4 Amendments, Changes and Modifications. This Agreement may be amended only in accordance with Section 7.11 of the Resolution and each amendment shall be made by an instrument in writing signed by an Authorized Officer of the Institution and the Issuer, an executed counterpart of which shall be filed with the Trustee.

Section 11.5 Execution of Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and such counterparts together shall constitute one instrument. Signatures to this Agreement transmitted by facsimile transmission or electronic mail in portable document format ("pdf") form will have the same force and effect as physical execution and delivery of the proper document bearing the original signature.

Section 11.6 Applicable Law; Venue. This Agreement shall be governed by and construed exclusively by the applicable laws of the State without regard or reference to its conflict of laws principles. Any action arising hereunder shall be filed and maintained in a state or federal court of competent jurisdiction located in the State in either Albany County or New York County.

Section 11.7 Further Assurances. The Institution, at any and all times, shall, so far as it may be authorized by law, pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable for the better assuring, conveying, granting, assigning and confirming all and singular the rights and moneys, securities, funds and security interests hereby or by the Resolution pledged, assigned or granted, or intended so to be, or which the Institution may hereafter become bound to pledge, assign or grant.

Section 11.8 Disclaimer Of Personal Liability. No recourse shall be had against or liability incurred by any member, director, trustee, officer, official, counsel, consultant, employee or agent of the Issuer or of the Institution or any person executing this Agreement for any covenants and provisions hereof or for any claims based thereon.

Section 11.9 No Recourse; Special Obligation. (c) The obligations and agreements of the Issuer contained herein and in any other instrument or document executed by the Issuer in connection herewith, and any other instrument or document supplemental thereto or hereto, shall be deemed the obligations and agreements of the Issuer, and not of any member, officer, director, agent or employee of the Issuer in his or her individual capacity, and the members, officers, directors, agents and employees of the Issuer shall not be liable personally hereon or thereon or be

subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby.

(d) The obligations and agreements of the Issuer contained herein and therein shall not constitute or give rise to an obligation of the State or any other public corporation other than the Issuer, and no public corporation other than the Issuer shall be liable hereon or thereon, and, further, such obligations and agreements shall not constitute or give rise to a general obligation of the Issuer, but rather shall constitute limited obligations of the Issuer payable solely from the revenues of the Issuer derived and to be derived from this Agreement (except for revenues derived by the Issuer with respect to the Unassigned Rights). The Issuer shall not be liable for any costs, expenses, losses, damages, claims or actions, of any conceivable kind on any conceivable theory, under or by reason of or in connection with this Agreement, the Bonds or the Resolution, except only to the extent amounts are received for the payment thereof from the Institution under this Agreement (except for revenues derived by the Issuer with respect to the Unassigned Rights), and except as may result solely from the Issuer's own willful misconduct.

(e) No order or decree of specific performance with respect to any of the obligations of the Issuer hereunder shall be sought or enforced against the Issuer unless (1) the party seeking such order or decree shall first have requested the Issuer in writing to take the action sought in such order or decree of specific performance, and ten (10) days shall have elapsed from the date of receipt of such request, and the Issuer shall have refused to comply with such request (or, if compliance therewith would reasonably be expected to take longer than ten days, shall have failed to institute and diligently pursue action to cause compliance with such request within such ten day period) or failed to respond within such notice period, (2) if the Issuer refuses to comply with such request and the Issuer's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree shall have placed in an account with the Issuer an amount or undertaking sufficient to cover such reasonable fees and expenses, and (3) if the Issuer refuses to comply with such request and the Issuer's refusal to comply is based on its reasonable expectation that it or any of its members, officers, agents or employees shall be subject to potential liability, the party seeking such order or decree shall (a) agree to indemnify, defend and hold harmless the Issuer and its members, officers, directors, agents and employees against any liability incurred as a result of its compliance with such demand, and (b) if requested by the Issuer, furnish to the Issuer satisfactory security to protect the Issuer and its members, officers, directors, agents and employees against all liability expected to be incurred as a result of compliance with such request.

Section 11.10 Actions by the Issuer. Any time the Issuer is permitted or directed to act pursuant to this Agreement, such action may be taken by an Authorized Officer of the Issuer.

Section 11.11 Table of Contents and Section Headings not Controlling. The Table of Contents and the headings of the several Sections in this Agreement have been prepared for convenience of reference only and shall not control or affect the meaning of or be taken as an interpretation of any provision of this Agreement.

Section 11.12 Effective Date. This Agreement shall be delivered and effective on the date on which the Bonds were first issued and delivered to the purchasers thereof.

IN WITNESS WHEREOF, the Issuer and the Institution have caused this Loan Agreement to be executed in their respective names by their duly authorized officers, all as of the date first above written.

**DORMITORY AUTHORITY OF STATE OF
NEW YORK**

By: _____

Name:

Title:

DRAFT

New York Institute of Technology

By: _____

Name: Barbara Holahan

Title: Chief Financial Officer and Treasurer

DRAFT

SCHEDULE A

PROJECT DESCRIPTION

The Project consists of the following components: as the context requires, (a) the refunding of the Refunded Bonds or (b) each of the buildings and improvements, and the land appurtenant thereto, acquired, constructed, reconstructed or otherwise renovated or improved with the proceeds of the bonds refunded by the Refunded Bonds, including the costs of:

(i) the construction, furnishing and equipping of an approximately 48,000 square foot building, site work and related structures thereon, all for use for classrooms, offices and other ancillary uses for NYIT's Schools of Osteopathic Medicine and Allied Health located in the center of NYIT's Old Westbury Campus; and

(ii) the making of improvements and renovations, and the acquisition and installation of equipment and furnishings, throughout NYIT's Old Westbury Campus in Old Westbury, New York; and

(iii) the effecting of capital improvements, and the acquisition and installation of machinery, equipment, furniture and furnishings throughout the campus, including, without limitation, renovation of the Wisser Library, conversion of the Blue/Gray House Office for use as academic office space, the completion of a new locker room facility, a new faculty office building being a one-story structure of approximately 13,440 square feet, a new facilities building being an approximately 7,200 square foot structure, wiring and voice infrastructure throughout the campus, replacing the roofing systems on NYCOM I and II, and on the Harry Schure Hall, and other assorted improvements, equipment and furnishings, all for the operation of an institution of higher education;

which were initially financed with the proceeds of the Nassau County Industrial Development Agency \$9,300,000 Civic Facility Revenue Bonds (1999 New York Institute of Technology Project), which were refunded in whole by the \$23,310,000 Nassau County Industrial Development Agency Civic Facility Revenue and Refunding Bonds (2000 New York Institute of Technology Project); and

(iv) the acquiring, constructing and equipping the Institution campus located on the grounds of the former Central Islip Hospital and psychiatric center, Carleton Avenue, Central Islip, New York, consisting of thirty-four buildings, comprising approximately 1,237,260 square feet on approximately 212.39 acres of land;

which were initially financed with the proceeds of the Town of Islip Community Development Agency Revenue Bonds (New York Institute of Technology Demonstration Project), Series 1986, which were refinanced by the Town of Islip Community Development Agency Community Development Refunding Revenue Bonds (New York Institute of Technology Demonstration Project), Series 1996, which were refinanced by the Suffolk County Industrial Development Agency Civic Facility Refunding Revenue Bonds (2000 New York Institute of Technology Project) Series 2000 A.][TO BE FURTHER DISCUSSED AS TO WHETHER ISLIP IS STILL PART OF PROJECT]

SCHEDULE B
ANNUAL ADMINISTRATIVE FEE

The Issuer Administrative Fee is the lesser of \$100,000 or the sum of the following:

- (1) 0.03% (3 basis points) of the total principal amount of the fixed rate refunding portion (\$XX,000,000 at initial issuance) of the Bonds Outstanding during which the Annual Administrative Fee is payable.

Provided, however, that the Institution shall in no event be obligated to pay more in one calendar year than the then-applicable maximum Annual Administrative Fee, if any, as set forth in Issuer's fee structure, as adopted by Issuer's Board.

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SCHEDULE C

ISSUER FEE

The fee payable to the Issuer consisting of all of the Issuer's internal costs and overhead expenses attributable to the issuance of the Bonds and the construction of the Project, which fee shall be payable in the amounts and dates set forth below:

On or before delivery of the Bonds	\$125,000.00
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DRAFT

SCHEDULE D
INSTITUTION DOCUMENTS

Loan Agreement dated as of July __, 2020, by and between the Institution and the Issuer.

Security Agreement dated as of July __, 2020, by and between Institution and the Issuer.

Mortgage dated as of July __, 2020, made by the Institution to the Issuer.

Institution's Acknowledgement of Assignment by the Issuer to the Trustee, dated as of July __, 2020.

Issuer's Acknowledgement and Consent dated July __, 2020 regarding the Intercreditor Agreement.

Bond Purchase Agreement, dated July __, 2020 by and among the Issuer, the Institution and Morgan Stanley & Co. LLC.

Agreement to Provide Continuing Disclosure, dated as of July __, 2020, among the Institution, the Trustee and Digital Assurance Certification LLC.

Preliminary Official Statement dated as of June __, 2020 related to the Bonds.

Official Statement dated as of _____, 2020 related to the Bonds.

SCHEDULE E
ISSUER DOCUMENTS

General Resolution of the Issuer adopted on July 20, 2016 (as amended and supplemented from time to time).

Series 2020A Resolution of the Issuer adopted on June 24, 2020.

Bond Series Certificate of the Issuer, dated July __, 2020 relating to the Bonds.

Loan Agreement dated as of July __, 2020, by and between the Institution and the Issuer.

Security Agreement dated as of July __, 2020, by and between the Institution and the Issuer.

Bond Purchase Agreement, dated July __, 2020 by and among the Issuer, the Institution and Morgan Stanley & Co. LLC.

The Bonds.

Intercreditor Agreement, dated July __, 2020, among the Issuer and the Trustee.

Assignment by the Issuer to the Trustee, dated as of July __, 2020 regarding the Loan Agreement, the Security Agreement, the Series 2020A Mortgage and the Intercreditor Agreement.

Assignment of Series 2016A Mortgage dated as of July __, 2020.

SCHEDULE F

ADDITIONAL TERMS AND CONDITIONS

SECTION 1. ADDITIONAL DEFINITIONS.

All terms used in this *Schedule F* that are defined in Section 1 of the Loan Agreement or in the Resolution or the Series Resolution shall have the respective meanings given to them therein unless the context clearly indicates a different meaning. In addition, as used in this *Schedule F*, the following terms shall have the following respective meanings unless the context clearly indicates a different meaning.

“**Annual Debt Service**” means as of any particular date of calculation, the payments or amounts payable on Long-Term Indebtedness plus interest paid on all Indebtedness, exclusive of capitalized interest, all as shown on the cash flow statements of the Institute, determined in accordance with generally accepted accounting principles then applicable to the Institute.

“**Debt Service Coverage Ratio**” is the ratio of Operating Income Available for Debt Service to Annual Debt Service.

“**Indebtedness**” means, without duplication, indebtedness for borrowed money incurred or guaranteed by the Institution, whether or not evidenced by notes, bonds, debentures or other similar evidences of indebtedness, including indebtedness under purchase money mortgages, capital leases, installment sales agreements and similar security arrangements which appear as debt on the annual audited financial statements of the Institution in accordance with generally accepted accounting principles then applicable to the Institution; *provided, however*, that Non-Recourse Indebtedness shall not constitute Indebtedness for purposes of Section 2 of this *Schedule F*.

“**Long-Term Indebtedness**” means Indebtedness having an original maturity of greater than one (1) year or Indebtedness on which the Institution has an option to extend the maturity thereof for a period of greater than one (1) year beyond the date of the original incurrence thereof, specifically excluding optional prepayment and accounting adjustments related to refundings.

“**Management Plan**” means a written plan prepared by management of the Institution that addresses the fees and tuition, operations and management of the Institution and any other matter it deems appropriate as will enable the Institution to comply with the covenants set forth in Section 2 of this *Schedule F*.

“**Maximum Annual Debt Service**” when used in connection with any Indebtedness means as of any particular date of calculation the greatest amount required to be paid by the Institution during the then current or any future Fiscal Year to pay the principal, whether at maturity or upon mandatory redemptions and prepayments, of and interest on such Indebtedness; *provided, however*, that such amounts required to be paid on Short-Term Indebtedness shall

include interest only; and provided further that such amount shall not include interest to be paid from the proceeds of Indebtedness (i.e. capitalized interest) or principal amounts paid during the then current Fiscal Year from proceeds of Refunding Debt.

“Non–Recourse Indebtedness” means Indebtedness secured by a mortgage or other lien on property (other than the Pledged Revenues or the Mortgaged Property) on which the creditor has agreed that it will not seek to enforce or collect such Indebtedness out of any property or assets of the Institution other than the property securing the same or to collect any deficiency upon a foreclosure, forced sale or other realization upon such property out of any other property or assets of the Institution.

“Operating Income Available for Debt Service” means net operating income excluding realized and unrealized gains and losses on investments (as shown in the footnotes of the annual audited financial statements of the Institution, determined in accordance with generally accepted accounting principles then applicable to the Institution), plus depreciation expense, amortization of bond issuance expense and accretion expense (as shown in the cash flow statements of the Institution, determined in accordance with generally accepted accounting principles then applicable to the Institution) plus interest paid (as show in the cash flow statements of the Institution, exclusive of capitalized interest).

“Parity Debt” means any Long–Term Indebtedness incurred as permitted by Section 4 of this *Schedule F* that is secured by a pledge of or security interest in the Pledged Revenues or a mortgage on the Mortgaged Property that is of equal priority with the pledge of or security interest in the Pledged Revenues or Mortgage on the Mortgaged Property securing the Institution’s obligations under this Loan Agreement.

“Refunding Debt” means Long–Term Indebtedness issued or incurred to pay or to provide for the payment of other Long–Term Indebtedness.

“Short–Term Indebtedness” means any debt with an original maturity of one year or less, including any options to renew.

SECTION 2. DEBT SERVICE COVERAGE RATIO COVENANT

(i) Debt Service Coverage Ratio Requirement. During each Fiscal Year, the Institution covenants to charge and maintain student tuition, fees and other charges and to budget operating expenses sufficient to provide a Debt Service Coverage Ratio of 1.2: 1.

(ii) Reporting Requirement. The Debt Service Coverage Ratio Covenant shall be tested annually based on the annual audited financial statements of the Institution. Within one hundred twenty (120) days after the end of the Institute’s Fiscal Year, the Institution shall file with the Issuer a certificate of an Authorized Officer of the Institution stating whether for the preceding Fiscal Year the Debt Service Coverage Ratio requirement is satisfied and setting forth the calculation upon which such statement is based.

(iii) Remedies. (a) If in two consecutive Fiscal Years the Institution does not satisfy the Debt Service Coverage Ratio requirement, or (b) if for any Fiscal Year the Debt Service Coverage Ratio falls below 1:1, the Institution shall prepare a Management Plan that

addresses the fees and tuition, operations and management of the Institute and any other matter it deems appropriate as will enable the Institution to maintain the Debt Service Coverage Ratio. Failure to maintain the required Debt Service Coverage Ratio, however, shall not constitute an Event of Default under this Loan Agreement.

SECTION 3. Reserved.

SECTION 4. ADDITIONAL DEBT TEST

A. Long-Term Indebtedness.

The Institution may issue, incur, assume or guarantee Long-Term Indebtedness subject to the following conditions:

The Institution must, at the time of issuance, have a Long-Term Indebtedness rating not lower than investment grade (BBB-/Baa3) from at least one Nationally Recognized Statistical Rating Organization (“NRSRO”), and that rating must be maintained from at least one NRSRO after the issuance of the additional Long-Term Indebtedness, and except for an amount that does not exceed \$150,000,000 if such Long-Term Indebtedness is issued on or prior to June 30, 20__:

(i) the amount issued in any year is less than or equal to 10% of the value of the Institution’s unrestricted plus temporarily restricted net assets as reported on the most recent annual audited financial statements of the Institution, or

(ii) if the amount of such new Long-Term Indebtedness issued is in excess of 10% of the value of the Institution’s unrestricted plus temporarily restricted net assets as reported on the most recent annual audited financial statements of the Institution, the Institution must provide a certificate of an Authorized Officer of the Institution and pro forma calculations to the Issuer demonstrating that the Institution’s required Debt Service Coverage Ratio would be met, based on the annual audited financial statements of the Institution for the most recently ended Fiscal Year, except as noted below, taking into account the additional debt and debt service. For purposes of calculating the pro forma Debt Service Coverage Ratio requirement for purposes of this subparagraph (ii), the Institution’s projected Maximum Annual Debt Service will be used instead of Annual Debt Service to determine compliance. In the event the project to be financed with such additional Long-Term Indebtedness is expected to generate additional revenues, such revenues, net of anticipated expenses, may be included in the pro forma calculations of the Debt Service Coverage Ratio requirement.

B. Parity Debt.

To the extent the Institution issues, incurs, assumes or guaranties Long-Term Indebtedness or Refunding Debt in accordance with paragraph A or paragraph C of this Section 4, such Long-Term Indebtedness or Refunding Debt may be secured by a security interest in the Pledged Revenues and/or a mortgage on the Mortgaged Property on a parity with the security interest in the Pledged Revenues and/or the Mortgage on the Mortgaged Property granted to the Issuer to secure the Institution’s obligations under this Loan Agreement, subject to the execution

of an intercreditor agreement, in form and substance satisfactory to the Issuer, by and among the Issuer, the Trustee and each other creditor with a lien on such Pledged Revenues and/or Mortgaged Property.

C. Refunding Debt.

The Institution may issue, incur, assume or guaranty Refunding Debt without compliance with the requirements of paragraph A of this Section 4 provided that, after giving effect to such Refunding Debt, the Annual Debt Service on the Institution's Long-Term Indebtedness to be outstanding thereafter will not be increased in any Fiscal Year as established by a certificate or report to that effect by an Authorized Officer of the Institution delivered to the Issuer on or prior to the date such Refunding Debt is issued, incurred, assumed or guaranteed.

D. Non-Recourse Indebtedness.

Notwithstanding the foregoing, the Institution may issue Non-Recourse Indebtedness provided that any assets pledged as collateral or for the repayment of such indebtedness must have been acquired by the Institution after the issuance of the Bonds.

E. Short-Term Indebtedness.

The Institution may incur Short-Term Indebtedness if, with respect to such indebtedness, during any twelve (12) month period, there will be no outstanding balance for a period of not less than thirty (30) days or such shorter period as acceptable to the Issuer.

SECTION 5. EXCEPTIONS

Notwithstanding the foregoing, the Institution will not be considered to have failed to meet the Debt Service Coverage Ratio requirement in accordance with Section 2 of this *Schedule F* if the Institution can demonstrate that such failure was solely due to a change in generally accepted accounting principles not previously applicable to the Institution.

SCHEDULE G
REFUNDED BONDS

New York Institute of Technology Revenue Bonds, Series 2016A (Federally Taxable)

Maturing July 1,	Principal Amount Outstanding	Principal Amount to be Refunded	Interest Rate	Maturity or Redemption Date	Redemption Price
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DRAFT

EXHIBIT A

REQUEST FOR DISBURSEMENT OF PROCEEDS OF THE NEW YORK INSTITUTE OF TECHNOLOGY REVENUE BONDS, SERIES 2020A (FEDERALLY TAXABLE)

This certificate is delivered by New York Institute of Technology (the “Institution”) pursuant to the Loan Agreement dated as of July __, 2020 (the “Loan Agreement”) by and between the Dormitory Authority of the State of New York (the “Authority”) and the Institution in connection with the disbursement of proceeds of the above-referenced Bonds (the “Bonds”) issued under New York Institute of Technology Revenue Bond Resolution, adopted on July 20, 2016 , as amended or supplemented and the Series Resolution Authorizing the Issuance of a Series of The New York Institute of Technology Revenue Bonds, Series 2020A, adopted June 24, 2020 (collectively, the “Resolution”). Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Loan Agreement or the Resolution, as applicable.

- A. The undersigned is an Authorized Officer of the Institution.
- B. Expenses or monies for which payment is requisitioned in the amount of \$_____ have been incurred or expended for capital items which constitute Costs of the Project. The Project has not been modified except as permitted by the Loan Agreement.
- C. Expenses or monies for which payment is requisitioned in the amount of \$_____, corresponding to the enclosed list of invoices and detail provided with respect thereto, have been incurred or expended for items which constitute Costs of Issuance, as that term is defined in the Resolution,
- C. No amount for which payment is being requisitioned hereby has been the basis of any prior disbursement from the Construction Fund established in connection with the Bonds.
- D. The Institution has complied with all provisions of the Loan Agreement and the tax certificate executed by the Institution in connection with the issuance of the Bonds, including, but not limited to those related to the use of the Project, prohibitions against use for sectarian religious instruction or religious worship and certain non tax-exempt purposes, and timing of the expenditures for which reimbursement is being requested.
- E. The Institution will retain all original documentation related to expenditures for items which constitute Costs of the Project for at least three (3) years (or such longer requirements as may be applicable for the Institution) after the last of the Bonds or any related refunding bonds are retired, for inspection at any time by the Issuer or its auditors.

The payment should be transmitted electronically using the following banking instructions:

Bank Name:
Bank ABA #:
Bank Account #:
Bank Account Name:

- The reimbursement should be sent via check to:
Address:

The undersigned attests to the accuracy of the representations made hereunder and acknowledges the Issuer will be relying upon them.

Facsimile signature shall constitute original signature for purposes of this reimbursement.

(Signature of Authorized Officer)

DRAFT

EXHIBIT B

**ANNUAL CERTIFICATE OF COMPLIANCE
For the Fiscal Year Ending in {Insert Year}**

**Re: New York Institute of Technology
\$[PAR AMT] New York Institute of Technology Revenue Bonds, Series 2020A
(Federally Taxable) (the “Bonds”)**

The undersigned hereby certifies as follows:

I am an Authorized Officer of New York Institute of Technology, (hereinafter referred to as the “Institution”), who has knowledge of, or is in a position to obtain information in regards to, the terms, conditions and covenants contained in the documents associated with the bonds to which the Institution is a party (hereinafter referred to as the “Bond Documents”). The Bond Documents may include, but are not limited to, any or all of the following:

Loan Agreement
Bond Purchase Agreement
Security Agreement
Mortgage
Acknowledgement of Assignment
Acknowledgement and Consent of Intercreditor Agreement
Agreement to Provide Continuing Disclosure
Preliminary Official Statement
Official Statement

I understand that the Institution is responsible for ensuring compliance with its obligations under the Bond Documents. By virtue of my position at the Institution, I would be aware, or would expect to be made aware, of any breach, or of any action or omission that could constitute, with the passage of time, a breach by the Institution under any of the Bond Documents.

To the best of my knowledge, having made reasonable inquiry, there is no outstanding breach of any of the terms, conditions or covenants contained in the Bond Documents, and the Institution is fully in compliance with all of its obligations under the Bond Documents. To the extent that the Institution believes that there has been a breach or the Institution is not in compliance, the Institution has contacted its counsel, conducted reasonable diligence, and/or obtained DASNY’s consent, as applicable, to confirm compliance or to resolve noncompliance.

I understand that this Certificate will be relied upon by DASNY and bond counsel, in complying with DASNY’s post-issuance tax compliance policies and procedures.

New York Institute of Technology

By: _____

Name:

Title:

DRAFT

INTERCREDITOR AGREEMENT

BY AND BETWEEN

DORMITORY AUTHORITY OF THE STATE OF NEW YORK

AND

MANUFACTURERS AND TRADERS TRUST COMPANY,
AS TRUSTEE

Dated as of July __, 2020

relating to Dormitory Authority of the State of New York New York Institute of
Technology Revenue Bonds, Series 2016A (Federally Taxable) and Dormitory
Authority of the State of New York New York Institute of Technology Revenue
Bonds, Series 2020A (Federally Taxable)

Record and Return to:
Manufacturers and Traders Trust Company, as Trustee
One M&T Plaza, 7th Floor
Buffalo, New York 14203
Attention: _____

INTERCREDITOR AGREEMENT

This Intercreditor Agreement (this “Agreement”), dated as of July __, 2020, by and between the **DORMITORY AUTHORITY OF THE STATE OF NEW YORK**, a body corporate and politic of the State of New York, constituting a public benefit corporation created pursuant to the Dormitory Authority Act, being Title 4 of Article 8 of the Public Authorities Law of the State of New York, having its principal office at 515 Broadway, Albany, New York 12207 (the “**Issuer**”) and **MANUFACTURERS AND TRADERS TRUST COMPANY**, a banking corporation organized and existing under the laws of the State of New York, having an office at One M&T Plaza, 7th Floor, Buffalo, New York 14203 (the “**Trustee**”), in its capacity as trustee under the Issuer’s New York Institute of Technology Revenue Bond Resolution, adopted July 20, 2016 (as from time to time amended, restated and supplemented, the “**Resolution**”).

RECITALS

WHEREAS, on August 25, 2016, the Issuer issued \$47,910,000 aggregate principal amount of its New York Institute of Technology Revenue Bonds, Series 2016A (Federally Taxable) (the “**Series 2016A Bonds**”) pursuant to the Resolution and its Series Resolution Authorizing Up To \$55,000,000 New York Institute of Technology Revenue Bonds, Series 2016, adopted July 20, 2016 and the Bond Series Certificate, dated as of August 11, 2016, executed by the Issuer relating to the Series 2016A Bonds, and loaned the proceeds of the Series 2016A Bonds to New York Institute of Technology (the “**Institution**”) pursuant to a Loan Agreement, dated July 20, 2016, by and between the Issuer and the Institution (as from time to time amended and supplemented, the “**Series 2016A Loan Agreement**”).

WHEREAS, on the date hereof, the Issuer issued \$_____ aggregate principal amount of its New York Institute of Technology Revenue Bonds, Series 2020A (Federally Taxable) (the “**Series 2020A Bonds**”) pursuant to the Resolution and its Series Resolution Authorizing Up To \$[30,000,000] New York Institute of Technology Revenue Bonds, Series 2020A, adopted June 24, 2020 and the Bond Series Certificate relating to the Series 2020A Bonds, dated as of July __, 2020, and loaned the proceeds of the Series 2020A Bonds to the Institution pursuant to a Loan Agreement, dated as of July __, 2020, by and between the Issuer and the Institution (as from time to time amended, restated and supplemented, the “**Series 2020A Loan Agreement**” and, together with the Series 2016A Loan Agreement, the “**Loan Agreements**”).

WHEREAS, the proceeds of the Series 2020A Bonds will be used to refund a portion of the Outstanding Series 2016A Bonds.

WHEREAS, the Institution’s obligations under the Series 2016A Loan Agreement are secured by security interests in (i) the Mortgaged Property and certain fixtures, furnishings and equipment of the Institution pledged thereby pursuant to a mortgage dated as of August 25, 2016 (the “**Series 2016A Mortgage**”) given by the Institution on certain real property of the Institution and (ii) the Pledged Revenues of the Institution pledged thereby pursuant to the 2016A Loan Agreement (collectively, the “**Collateral**”).

WHEREAS, the Institution's obligations under the Series 2020A Loan Agreement are secured by security interests in the (i) the Mortgaged Property and certain fixtures, furnishings and equipment of the Institution pledged thereby pursuant to a mortgage dated as of July __, 2020 (the "**Series 2020A Mortgage**" and, together with the 2016A Mortgage, the "**Mortgages**") given by the Institution on certain real property of the Institution and (ii) the Pledged Revenues of the Institution pledged thereby pursuant to the Series 2020A Security Agreement (as defined below).

WHEREAS, for as long as any portion of the Series 2016A Bonds remain Outstanding after the issuance of the Series 2020A Bonds, the Collateral shall be deemed Shared Collateral to secure the Institution's obligations under the Loan Agreements.

WHEREAS, the Issuer and the Trustee, in its capacity as trustee for the Series 2016A Bonds and trustee for the Series 2020A Bonds, now desire to enter into this Agreement on the date hereof in connection with the issuance of the Series 2020A Bonds to, among other things to (i) establish the relative priorities among the security interests in the Shared Collateral to secure the Institution's obligations under the Loan Agreements, and (ii) agree upon the manner in which any money realized from the enforcement, foreclosure or other realization upon such security interests is to be applied.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements set forth herein, the parties hereto agree as follows:

SECTION 1. Definitions and Construction. All capitalized terms used but not defined herein shall have the meanings ascribed thereto in the Loan Agreements, the Series 2020A Security Agreement and the Resolutions.

"Agreement" means this Intercreditor Agreement, as from time to time amended, restated or supplemented.

"Collateral" means (i) the Mortgaged Property and certain fixtures, furnishings and equipment of the Institution pledged thereby pursuant to the Mortgages and (ii) the Pledged Revenues of the Institution pledged thereby pursuant to (a) the Series 2016A Loan Agreement and (b) the Series 2020A Security Agreement, respectively.

"Collateral Agent" mean a party, if any, hereto appointed by the parties hereto who has joined in any action or proceeding to Foreclose upon the Shared Collateral in accordance with Section 4 hereof.

"Collateral Documents" means, collectively, the Series 2016A Loan Agreement, the Mortgages and the Series 2020A Security Agreement.

"Event of Default" means any of the respective events of default under and as defined in the Series 2020A Loan Agreement and the Collateral Documents.

"Foreclose" means to foreclose upon or to exercise any power of sale or otherwise to realize upon the Shared Collateral or any part thereof.

“Loan” means the loan of proceeds of bonds issued pursuant to the Resolutions and borrowed by the Institution pursuant to the Loan Agreements.

“Mortgaged Property” means the property secured by the Mortgages as described therein.

“Mortgages” means, collectively, the Series 2016A Mortgage and the Series 2020A Mortgage relating to the Mortgaged Property.

“Outstanding” shall have the meaning ascribed thereto in the Resolution.

“Pledged Revenues” means all receipts, revenues, income and other moneys received or receivable by or on behalf of the Institution, including, without limitation, gifts, grants, bequests, contributions, donations and pledges whether in the form of money, securities or other personal property, revenues derived from the operation of the facilities of the Institution, and all rights to receive the same, whether in the form of accounts, payment intangibles, contract rights, general intangibles, healthcare insurance receivables, chattel paper, deposit accounts, instruments, promissory notes or other rights, and the proceeds thereof, as such terms are presently or hereafter defined in the Uniform Commercial Code in effect from time to time in the State of New York, and any insurance thereon, whether now existing or hereafter coming into existence and whether now owned or held or hereafter acquired by the Institution; *provided, however*, that Pledged Revenues shall not include any restricted grants, scholarships, fellowships or revenues of the medical clinic received or receivable by or on behalf of the Institution.

“Resolutions” means, collectively, the Resolution, the Series 2016A Resolution and the Series 2020A Resolution.

“Secured Party” or **“Secured Parties”** means, individually, each of the Issuer, the Trustee, in its capacity as trustee with respect to the Series 2016A Bonds and the Trustee, in its capacity as trustee with respect to the Series 2020A Bonds; *provided, however*, that if all amounts due and owing by the Institution to any person who is a Secured Party hereunder shall have been fully paid, such person shall cease to be a Secured Party for all purposes of this Agreement, except that such person shall continue to be a Secured Party for purposes of Section 5(c) of this Agreement.

“Series 2020A Assignment” means the Assignment of certain of the Issuer’s rights to the Trustee, dated as of July __, 2020, as further described in Section 6 of this Agreement.

“Series 2020A Security Agreement” means the Security Agreement, dated July __, 2020 by and between the Institution and the Issuer relating to the Pledged Revenues.

“Shared Collateral” means the Collateral, for as long as any Series 2016A Bonds remain Outstanding following the issuance of the Series 2020A Bonds.

“State” means the State of New York.

Unless the context shall otherwise indicate, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies as well as natural persons.

The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder,” and any similar terms, as used in this Agreement, refer to this Agreement.

Any headings preceding the text of the several Sections hereof, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part hereof nor shall they affect its meaning, construction or effect.

SECTION 2. Priority of Liens and Indebtedness. The parties hereto each agree that each security interest in, pledge of and lien upon the Shared Collateral made or given to secure the Institution’s obligations under any of the Loan Agreements shall be of equal priority with each other. The priority specified above shall be applicable irrespective of the time or order in which any of the Collateral Documents were entered into, any loan was made under any of the Loan Agreements, any Series 2016A Bond or Series 2020A Bond was issued, the time or order of attachment or perfection of the security interests or other interests referred to herein, the time or order of recording or filing of financing statements or knowledge by any of the parties hereto of the making, giving or creation of security interest, pledge, lien or other interest referred to herein. None of the Secured Parties hereunder shall have a priority of payment over or be subordinate to any of the other Secured Parties hereunder with respect to payments of the Shared Collateral under any of the Collateral Documents, except as expressly set forth herein.

SECTION 3. Defaults and Actions. It is the intention of this Agreement that, except as limited by the provisions of Section 5 hereof, each Secured Party may declare or decline to declare, to the extent it has the right to do so under the Series 2020A Loan Agreement or the applicable Collateral Document, an Event of Default under the Series 2020A Loan Agreement or any Collateral Document to which it is a party, including by assignment, or made for its benefit or by which it is benefited.

Each Secured Party hereto agrees to give notice of any Event of Default under the Series 2020A Loan Agreement and the Collateral Documents and to give each other Secured Party hereto not less than sixty (60) days prior written notice of its intention to commence any action or proceeding under a Collateral Document to realize upon the Shared Collateral. The failure of a Secured Party to give any such notice shall not nullify or otherwise adversely affect or impair the validity of any notice or declaration of default under the Series 2020A Loan Agreement or any applicable Collateral Document given by such Secured Party to the Institution.

SECTION 4. Foreclosure. Any Secured Party may, without the consent of any other Secured Party, commence an action or proceeding to Foreclose, and Foreclose upon on any of the Shared Collateral whenever, and to the extent, such party is permitted to do so under any Collateral Document to which it is a party, including by assignment, or made for its benefit or by which it is benefited. Each of the Trustee on behalf of the Holders of Series 2020A Bonds, and the Trustee on behalf of the Holders of the Series 2016A Bonds, may, independently commence an action or proceeding to Foreclose on the Shared Collateral, or join in any action or proceeding commenced by any other Secured Party to Foreclose on any of the Shared Collateral. In any action

or proceeding commenced to Foreclose on the Shared Collateral in which two or more Secured Parties have joined, the parties to such action may in their sole and absolute discretion, but are not required to, by unanimous consent, appoint a Collateral Agent from among the parties to such action or proceeding to prosecute such action or proceeding on behalf of and as agent for all of the parties thereto; *provided, however*, that such Collateral Agent accepts such appointment and expressly agrees in writing to comply with this Agreement.

SECTION 5. Cash Proceeds. (a) All readily identifiable proceeds of the Shared Collateral shall be treated as being subject to and disposed of in accordance with the priorities established by this Agreement. The proceeds of any Shared Collateral received by a Secured Party and the Collateral Agent, if any, shall be held, in a segregated account established by it for application in accordance with this Agreement, in trust for the benefit of the Secured Parties, as their respective interests may appear. All proceeds of the Shared Collateral received by a Secured Party for whose benefit a Collateral Agent has been appointed shall promptly remit such proceeds to the Collateral Agent for deposit in the segregated trust account established by it.

(b) The proceeds of and collections on the Shared Collateral shall be distributed as soon as practicable whenever the aggregate amount of such proceeds held in the segregated account established pursuant to this Section 5 exceeds \$5,000, in the following order of priority:

(i) To the payment of the costs and expenses of foreclosing or realizing upon the Shared Collateral incurred by the Collateral Agent (if any), a Secured Party or third parties;

(ii) If any Secured Party shall have made reasonable advances under either Loan Agreement for the purpose of preserving or protecting the Shared Collateral, then the amount of such advances shall be repaid to such Secured Party;

(iii) To payment to each Secured Party, *pro rata* based on the unpaid principal amount of the indebtedness and interest due and payable at the time of calculation under each of the Loan Agreements, but not in excess of the principal of and interest on such indebtedness, or other financial obligations then due and unpaid thereunder;

(iv) To payment to each Secured Party, *pro rata*, based on, but not in excess of, the fees and expenses of each of them then due to each of them and then unpaid at the time of calculation under the Series 2020A Loan Agreement and the applicable Collateral Documents (but only in so far as the fees and expenses of the Secured Parties are reasonably related to the Series 2020A Loan Agreement or the applicable Collateral Document and not otherwise reimbursed pursuant to subparagraphs (i) and (ii) above); and

(v) To payment to each Secured Party, *pro rata*, based on, but not in excess of, all other amounts owing under the Series 2020A Loan Agreement and the Collateral Documents due at the time of calculation to each of them and then unpaid.

Any surplus of cash proceeds remaining after payment in full of all of the Institution's obligations under each of the Loan Agreements shall be paid over to the Institution or to whomever may be otherwise lawfully entitled to receive such surplus.

(c) Each Secured Party agrees with each of the other Secured Parties that if for any reason it shall ever receive or retain any proceeds of the Shared Collateral in excess of the amount to which it is entitled to receive pursuant to paragraph (b) of this Section (the "**Excess Amount**"), it shall on each date when proceeds of the Shared Collateral are to be divided pursuant to this Section make such arrangements with the other Secured Parties such that after taking into account all allocations previously made of proceeds of the Shared Collateral, each of the other Secured Parties shall have recovered from such Secured Party that portion of the Excess Amount such that each Secured Party shall have received its aggregate allocable share of all amounts realized as proceeds of the Shared Collateral through such date.

SECTION 6. Parties to Benefit. This Agreement and the provisions hereof are solely for the benefit of the Issuer and the Trustee, in its capacity as trustee for the Series 2016A Bonds and trustee for the Series 2020A Bonds, and shall not benefit in any way any other person, including, but not limited to, the Institution. Subject to the terms of the Resolution and the Series 2016A Resolution and pursuant to an Assignment of Mortgage dated as of July __, 2020, the Issuer has assigned certain of its rights under the 2016A Loan Agreement and the 2016A Mortgage to the Trustee, in its capacity as trustee for the Series 2016A Bonds, and accordingly, the Trustee, in its capacity as trustee for the Series 2016A Bonds has acceded to such rights as a Secured Party. Subject to the terms of the Resolution and the Series 2020A Resolution and pursuant to the Series 2020A Assignment, the Issuer has assigned certain of its rights under the Series 2020A Loan Agreement, the Series 2020A Mortgage and the Series 2020A Security Agreement to the Trustee, in its capacity as trustee for the Series 2020A Bonds, and accordingly, the Trustee, in its capacity as trustee for the Series 2020A Bonds has acceded to such rights as a Secured Party. Nothing in this Agreement is intended to affect, limit or in any way diminish the security interest which the Issuer or the Trustee have in the Shared Collateral insofar as the rights of the Institution and third parties are concerned. The parties hereto specifically reserve any and all of their respective rights and security interests and right to assert security interests against the Institution and any third parties.

SECTION 7. Termination, Rescission or Modification. The parity positions and agreements described herein shall remain in full force and effect regardless of whether any party hereto shall seek to rescind, amend, terminate or reform, by liquidation or otherwise, its respective agreements with the Institution.

SECTION 8. Waiver of Marshalling. Each party hereto hereby waives any right to require the other party to marshal any security or collateral or otherwise to compel any other party hereto to seek recourse against or satisfaction from another source.

SECTION 9. Relation of Parties. This Agreement is entered into solely for the purposes set forth herein, including in the Recitals hereto, and, except as is expressly provided otherwise herein, none of the parties hereto assume any responsibility to any other party to advise such other party of information known to it regarding the financial condition of the Institution or regarding the Shared Collateral or of any other circumstances bearing upon the risk of nonpayment

of the obligations of the Institution secured by the Shared Collateral. Each party shall be responsible for managing its relation with the Institution and no party hereto shall be deemed to be the agent of any other party hereto.

SECTION 10. Effective Date and Term. This Agreement shall be effective as of its date independent of the actual date each party executed the same, and shall continue in full force and effect and shall be irrevocable by any of the parties hereto until the earliest to occur of the following:

- (a) the parties mutually agree in writing to terminate this Agreement;
- (b) no Series 2016A Bonds are Outstanding under the Resolution; or
- (c) no Series 2020A Bonds are Outstanding under the Resolution.

SECTION 11. Request for Notice of Sale. Each of the parties hereto agree to give the other parties written notice of the time and place of any public sale or the time after which any private sale or other intended disposition is to be made by any of them of any of the Shared Collateral.

SECTION 12. Notices. Any notice, direction, waiver, consent, approval or other communication which is required or permitted to be given to any party hereunder shall be in writing and shall be deemed given only if delivered to the party personally and acknowledged by written receipt or sent to the party by telecopy or by registered or certified mail (return receipt requested), with postage and registration or certification fees thereon prepaid, addressed or sent to the party at its address or telecopy number set forth below:

If to the Authority:

Dormitory Authority of the
State of New York
515 Broadway
Albany, New York 12207
Attn: General Counsel
Telephone: (518) 257-3120
Fax: (518) 257-3101

If to the Trustee:

Manufacturers and Traders Trust Company
One M&T Plaza, 7th Floor
Corporate Trust Department
Buffalo, New York 14203
Telephone: (716) 842-5602

or to such other address or addresses or telecopy number or numbers or person or persons as any party may designate in a notice duly given to the other parties as provided herein. Such notice, direction, waiver, consent, approval or other communication shall be deemed to have been given as of the date so delivered, telecopied or mailed. A copy of each notice, direction, waiver, consent,

approval or other communication from or received by any party hereto given or received pursuant to this Agreement or the Collateral Documents shall be sent to each other party hereto, but any failure or delay by a party hereto in sending the same shall not release, diminish or impair the rights hereunder of said party or affect the parity of the security interests in the Shared Collateral as provided herein. Copies may be sent by regular first class mail, postage prepaid, but any failure or delay in sending copies shall not affect the validity of any such notice, direction, waiver, consent, approval or other communication given in accordance herewith. Any notice sent pursuant to this Agreement shall also be sent to the Institution in accordance with the notice provisions of the Collateral Documents.

SECTION 13. Severability. If any one or more of the covenants, stipulations, promises, obligations and agreements provided herein on the part of any party hereto to be performed should be contrary to law, then such covenant or covenants, stipulation or stipulations, promise or promises, obligation or obligations, agreement or agreements shall be null and void, shall be deemed and construed to be severable from the remaining covenants, stipulations, promises, obligations and agreements contained herein and shall in no way affect the validity of the other provisions hereof.

SECTION 14. Effect on Parties; Assignment; Amendments. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto, and their respective successors. Other than assignment to a successor Trustee, this Agreement may be assigned by any party hereto only with the prior written consent of the other parties hereto. This Agreement may not be modified or amended except by a written agreement, executed by each of the parties hereto.

SECTION 15. Governing Law; Venue. This Agreement shall be governed by and construed exclusively by the applicable laws of the State without regard or reference to its conflict of laws principles. Any action arising hereunder shall be filed and maintained in a State or federal court of competent jurisdiction located in the State in either Albany County or New York County.

SECTION 16. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed original. This Agreement and any counterpart so executed shall be deemed to be one and the same instrument. It shall not be necessary in making proof of this Agreement or any counterpart hereof to produce or account for any of the other counterparts.

SECTION 17. Direction. The Issuer hereby directs the Trustee to enter into this Agreement.

SECTION 18. Indemnification. The Trustee shall have under this Agreement all of the rights, protections, privileges and immunities that have been respectively granted to it under the Resolution, as though such rights, protections, privileges and immunities were fully set forth herein

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have duly executed this Agreement as of the date first above written.

**DORMITORY AUTHORITY OF THE
STATE OF NEW YORK**

By: _____
Authorized Officer

**MANUFACTURERS AND TRADERS
TRUST COMPANY,**
as Trustee

By: _____
Name:
Title:

[signature page of Intercreditor Agreement]

ACKNOWLEDGEMENT AND CONSENT OF INSTITUTION

The undersigned hereby acknowledges and consents to the foregoing Intercreditor Agreement (the “Intercreditor Agreement”). The undersigned agrees to be bound by the terms and provisions thereof as they relate to the relative rights of the Issuer, the Trustee in its capacity as trustee with respect to the Series 2016A Bonds, and the Trustee in its capacity as trustee with respect to the Series 2020A Bonds with respect to each other. However, nothing therein shall be deemed to amend, modify, supersede or otherwise alter the terms of the respective agreements between the undersigned and each of the Issuer and the Trustee (the “Collateral Documents”), and in the event of any inconsistency or conflict between the terms of the Collateral Documents and the Intercreditor Agreement, the Collateral Documents shall govern as between the undersigned and each of the parties to the Intercreditor Agreement. The undersigned agrees that each of the parties to the Intercreditor Agreement holding any of the Shared Collateral securing their respective loans may serve as bailee for the other parties thereto and each such party is hereby authorized to turn such Shared Collateral over to the other parties as provided for in the Intercreditor Agreement. The undersigned further agrees that the Intercreditor Agreement is solely for the benefit of the parties thereto and shall not give the undersigned, its successors and assigns, or any other person, any rights as against the parties to the Intercreditor Agreement.

NEW YORK INSTITUTE OF TECHNOLOGY

By: _____

Name: Barbara Holahan

Title: Chief Financial Officer and Treasurer

NEW YORK INSTITUTE OF TECHNOLOGY,

Mortgagor

to

DORMITORY AUTHORITY OF THE STATE OF NEW YORK,

Mortgagee

MORTGAGE

\$(PAR AMT)

Dated as of July __, 2020

Wheatley Road / Whitney Lane
Old Westbury, Nassau County, New York
Section 19 / Block A / Lots 24, 278, 375, 376, 383, 384, 390, 539 and 593

Record and Return to:

Dormitory Authority of the State of New York
515 Broadway
Albany, New York 12207
Attention: Dena T. Amodio, Esq.

MORTGAGE

THIS MORTGAGE made as of the ___^h day of July, 2020 between **NEW YORK INSTITUTE OF TECHNOLOGY**, a not-for-profit corporation duly organized and existing under the laws of the State of New York and having an office at Northern Boulevard, Old Westbury, New York 11568-8000 (hereinafter called “Mortgagor”) and the **DORMITORY AUTHORITY OF THE STATE OF NEW YORK**, a public benefit corporation organized pursuant to the provisions of Titles 4 and 4-B of Article 8 of the Public Authorities Law of the State of New York, with its principal office at 515 Broadway, Albany, New York 12207 (together with its successors and assigns, the “Mortgagee”).

WITNESSETH

WHEREAS, Mortgagee, at the request of Mortgagor, has sold its revenue bonds, designated as New York Institute of Technology Revenue Bonds, Series 2020 (Federally Taxable), in an aggregate principal amount of \$[PAR AMT] (the “Bonds”) for the purpose of making a loan to the Mortgagor to finance or refinance the Project, as defined in the Loan Agreement (hereinafter defined).

WHEREAS, as an inducement to Mortgagee to sell the Bonds, Mortgagor has executed and delivered to Mortgagee an agreement, dated as of July __, 2020 (the “Loan Agreement”), pursuant to which Mortgagor has agreed, inter alia, to pay to or upon the order of Mortgagee an amount equal to all principal required to be paid by Mortgagee under and pursuant to its New York Institute of Technology Revenue Bond Resolution adopted by the Authority on July 20, 2016 and the Series Resolution Authorizing Up To \$[30],000,000 New York Institute of Technology Revenue Bonds adopted by the Authority on June 24, 2020 (collectively, the “Resolution”), and certain other amounts, including interest thereon as more particularly described in the Loan Agreement. Capitalized terms not defined herein shall have the meanings ascribed to them in the Loan Agreement.

NOW, THEREFORE, to secure all obligations of Mortgagor under the Loan Agreement to make its payments of principal, interest and other amounts required therein, all obligations of the Mortgagor to pay all other sums advanced by Mortgagee hereunder, together with interest as provided herein (such principal, interest, fees, expenses and other amounts being collectively referred to as the “Payments”), and to secure the due and punctual performance by Mortgagor of all of the covenants and agreements contained in the Loan Agreement and this Mortgage (collectively, the “Loan Documents”), and in consideration of Ten Dollars (\$10), in hand paid, receipt whereof is hereby acknowledged, Mortgagor does hereby mortgage and grant a security interest unto the Mortgagee, its successors and assigns, the following described property, property rights and proceeds thereof (collectively, the “Mortgaged Property”) whether now owned or held or hereafter acquired:

ALL right, title and interest of the Mortgagor in the Premises described in Exhibit “A” annexed hereto and made a part hereof and the buildings and improvements thereon erected and hereinafter to be erected situate, lying and being in the County of Nassau and State of New York (the “Premises”);

TOGETHER with all easements, rights-of-way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments, and appurtenances of any nature whatsoever, in any way belonging, relating or pertaining to the Mortgaged Property (including, without limitation, any and all development rights, air rights or similar comparable rights of any nature whatsoever now or hereafter appurtenant to the Premises or now or hereafter transferred to the Premises) and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Premises to the center line thereof;

TOGETHER with all of the Mortgagor's right, title and interest in and to all floor areas permitted under any present or future applicable zoning ordinance(s) relative to the Mortgaged Property and all present or future zoning development rights under such zoning ordinance(s) relating to the Mortgaged Property;

TOGETHER with all of Mortgagor's right, title and interest in and to machinery, apparatus, equipment, fittings, fixtures, furnishings, chattel, and articles of personal property of every kind and nature whatsoever now or hereafter located in or upon the Mortgaged Property or any part thereof and used or useable in connection with any present or future operation or letting of the Mortgaged Property or the activities at any time conducted therein, including replacements therefor or additions thereto, and now owned or hereafter acquired by Mortgagor, including, but without limiting the generality of the foregoing, all heating, lighting, laundry, incinerating, and power equipment, engines, pipes, pumps, tanks, motors, conduits, switchboards, plumbing, lifting, cleaning, fire-prevention, fire-extinguishing, refrigerating, ventilating, and communications apparatus, air-cooling and air-conditioning apparatus, elevators, escalators, shades, awnings, screens, storm doors and windows, stoves, refrigerators, attached cabinets, partitions, ducts and compressors, classroom equipment and furnishings, office equipment and machinery. It is understood and agreed that to the fullest extent permissible by law, all equipment is appropriated to the use of the Mortgaged Property and, whether affixed or annexed or not, for the purpose of this Mortgage, shall be deemed conclusively to be Mortgaged Property and conveyed hereby. Mortgagor agrees to execute and deliver, from time to time, such further instruments as may be reasonably requested by Mortgagee to confirm the lien of this Mortgage on any of the foregoing equipment;

TOGETHER with any and all awards or payments, (including, without limitation, the proceeds of any insurance policy required to be maintained under the Loan Documents) including interest thereon, and the right to receive the same, which may be made with respect to the Mortgaged Property as a result of (a) the exercise of the right of eminent domain, or (b) the alteration of the grade of any street, or (c) any other injury to or decrease in the value of the Mortgaged Property, to the extent of all amounts which may be secured by this Mortgage at the date of receipt of any such payment or award by Mortgagee, and of the reasonable counsel fees, costs and disbursements incurred by Mortgagee in connection with the collection of such award or payment if Mortgagee shall be entitled to such reasonable counsel fees, costs and disbursements pursuant to the terms of the Loan Documents;

TOGETHER with all right, title and interest of Mortgagor in and to all leases and rents relating to the Mortgaged Property, as provided in Section 10 hereof, and all rights and interests of Mortgagor under any and all contracts relating to the use, operation, maintenance, repair and/or improvement of the Mortgaged Property;

TOGETHER with all right, title and interest of the Mortgagor in and to (i) all contracts from time to time executed by the Mortgagor or any manager or agent on its behalf relating to the ownership, construction, maintenance, repair, operation, occupancy, sale or financing of the Mortgaged Property or any part thereof and all agreements relating to the purchase or lease of any portion of the Mortgaged Property, together with the right to exercise such options and leases of equipment, (ii) all consents, licenses, building permits, certificates of occupancy and other governmental approvals relating to construction, completion, occupancy, use or operation of the Mortgaged Property or any part thereof, and (iii) all drawings, plans, specifications and similar or related items relating to the Mortgaged Property;

TOGETHER with all proceeds of any and unearned premiums on any insurance policies covering the Mortgaged Property, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to the Mortgaged Property;

TOGETHER with the right, in the name and on behalf of the Mortgagor, to appear in and defend any action or proceeding brought with respect to the Mortgaged Property and to commence any action or proceeding to protect the interest of the Mortgagee in the Mortgaged Property;

TOGETHER with all proceeds, both cash and non-cash, of any of the foregoing.

TO HAVE AND TO HOLD the Mortgaged Property, rights and privileges hereby mortgaged or intended so to be, unto Mortgagee, its successors and assigns, for the uses and purposes herein set forth.

THIS MORTGAGE FURTHER WITNESSETH the following covenants, agreements and conditions:

1. Mortgagor agrees to pay all Payments when due under the Loan Documents and to perform all of the covenants and agreements contained in the Loan Documents.

2. Mortgagor agrees (a) not to abandon the Mortgaged Property or commit or suffer waste thereto, and (b) to keep the Mortgaged Property in good, safe and insurable condition and repair and in a condition which satisfies all requirements of any governmental or quasi-governmental entity which licenses or regulates the operations of the Mortgagor at the Mortgaged Property. Mortgagor shall comply in all material respects with, or cause to be complied with, all covenants, restrictions, rights of way and use, privileges, franchises, servitudes, licenses, easements and tenements affecting the Mortgaged Property, the requirements of any insurance company insuring the Mortgaged Property, and all statutes, ordinances and requirements of any governmental authority relating to the Mortgaged Property including any Governmental Requirements as that term is defined in the Loan Agreement (each a "Requirement"). Mortgagor shall not initiate, join in, or

consent to any change to any covenant, rights of way and use, privileges, franchises, servitudes, licenses, easements, tenements, zoning ordinance or other public or private restrictions limiting or defining the uses which may be made of the Mortgaged Property or any part thereof without the written consent of Mortgagee. Anything contained in this Section to the contrary notwithstanding, Mortgagor shall have the right to contest the validity of any Requirement or the application thereof at the Mortgagor's sole cost and expense, subject to the conditions below. During such contest, compliance with any such contested Requirement will be deferred by the Mortgagee, provided that such compliance shall not be deferred unless, prior to commencing any action or proceeding, administrative or judicial, contesting such Requirement, Mortgagor shall notify the Mortgagee of the Mortgagor's intention to contest such Requirement and shall, upon the request of an Authorized Officer of the Mortgagee, furnish to the Mortgagee a surety bond, monies or other security, reasonably satisfactory to an Authorized Officer of the Mortgagee, securing compliance with the contested Requirement and payment of all interest, penalties, fines, fees and expenses resulting from or which could result from or arise in connection with such contest or the failure of the Mortgagor to comply with such contested Requirement. Any such action or proceeding instituted by the Mortgagor shall be commenced as soon as is reasonably possible after the assertion of the applicability of the contested Requirement to the Mortgaged Property or any part thereof by a governmental authority (other than the Mortgagee) or an insurance company insuring the Mortgaged Property or any part thereof, and shall be prosecuted to final adjudication or other final resolution or disposition with reasonable diligence. Notwithstanding the furnishing of any bond, deposit or other security, the Mortgagor promptly shall comply with any such Requirement, and compliance shall not be deferred if at the time the Mortgaged Property, or any part thereof, to which such contested Requirement relates, would in the reasonable judgment of an Authorized Officer of the Mortgagee be in substantial danger, by reason of the Mortgagor's noncompliance with such Requirement, of being sold, attached, forfeited, foreclosed, transferred, conveyed, assigned or otherwise subjected to any proceeding, equitable remedy, lien, charge, fee or penalty that would materially impair (i) the interests or security of the Mortgagee hereunder, under the Resolution or the Loan Documents; (ii) the ability of the Mortgagee to enforce its rights under the Resolution or the Loan Documents; (iii) the ability of the Mortgagee to fulfill the terms of any covenant or perform any of its obligations hereunder, under the Loan Documents or under the Resolution; or (iv) the ability of the Mortgagor to fulfill the terms of any covenants or perform any of its obligations hereunder or under the Loan Documents.

3. Unless Mortgagor shall be exempt therefrom, Mortgagor shall pay when due, at its own expense, and shall hold the Mortgagee harmless from, all taxes, assessments, water rates, water meter charges, sewer rents, vault charges, and other charges or impositions and any prior liens now or hereafter assessed or liens on or levied against the Mortgaged Property or any part thereof, and upon all ordinary costs of operating, maintaining, repairing and replacing the Mortgaged Property and its equipment and also any and all license fees or similar charges which may be imposed by the municipality in which the Mortgaged Property are located for the use of walks, chutes, vault areas and other space beyond the lot line and on or abutting the public sidewalks in front of or adjoining the Mortgaged Property, together with any penalties or interest on any of the foregoing (collectively, "Taxes"). Mortgagor agrees to deliver to an Authorized Officer of the Mortgagee, within ten (10) business days after written demand by such Authorized Officer copies of, certificates or receipts issued by the appropriate authority showing full payment of all Taxes then due; provided, however, that the good faith contest of the obligation to pay such Taxes shall be

deemed to be completely in compliance with the requirements hereof if the Mortgagor deposits with the Mortgagee the full amount of such contested Taxes. Notwithstanding the foregoing, in case of default in the payment thereof when the same shall be due and payable, Mortgagee, in its sole discretion after notice in writing to Mortgagor, may pay the same or any of them if, in the judgment of an Authorized Officer of the Mortgagee, the Mortgaged Property, or any part thereof, would, by reason of the Mortgagor's failure to pay such Taxes, be in danger of being sold, attached, forfeited, foreclosed, transferred, conveyed, assigned or otherwise subjected to any proceeding, equitable remedy, lien, charge, fee or penalty that would impair (i) the interests or security of the Mortgagee hereunder or under the Resolution or the Loan Documents; (ii) the ability of the Mortgagee to enforce its rights under the Resolution or the Loan Documents; (iii) the ability of the Mortgagee to fulfill the terms of any covenant or perform any of its obligations hereunder, under the Loan Documents or under the Resolution; or (iv) the ability of the Mortgagor to fulfill the terms of any covenant or perform any of its obligations hereunder or under the Loan Documents, and the Mortgagor agrees to reimburse the Mortgagee for any such payment, with interest thereon from the date payment was made by the Mortgagee at a rate equal to the sum of (i) the Federal Funds effective rate on the date such payment was made by the Mortgagee plus 0.50%; and (ii) 3% (hereinafter referred to as the "Applicable Interest Rate"). Mortgagor agrees to exhibit to Mortgagee, at least annually and at any time upon request, official receipts showing payment of all items specified in this Section 3.

4. If Mortgagor shall permit or create any default of its obligations pursuant to this Mortgage, and such default shall have continued beyond any applicable notice and grace periods, then at any time thereafter at the request of Mortgagee, unless Mortgagor shall be exempt therefrom, Mortgagor shall deposit with Mortgagee, on the first day of each month, an amount equal to one-twelfth (1/12) of the annual Taxes. The amount of Taxes, when unknown, shall be estimated by Mortgagee in its reasonable judgment. Such deposits shall be used by Mortgagee to pay the Taxes when due. From time to time on demand, Mortgagor shall pay to Mortgagee additional sums sufficient to permit payment of the next due installment of the Taxes, if, and to the extent, that the required monthly deposits thereafter falling due before the respective payments due would otherwise be insufficient to permit the full payment thereof. Notwithstanding the preceding sentences of this Section 4, Mortgagee shall not collect Taxes on a monthly basis from Mortgagor so long as Mortgagee has a good faith basis to believe that Mortgagor has and will continue to meet its obligations under Section 3 in a timely manner. If Mortgagor shall fail to meet its obligations under Section 3, Mortgagee may, in any such event and thereafter, enforce its rights and remedies under this Mortgage. Upon any default under this Mortgage, Mortgagee may apply any funds deposited for Taxes pursuant to Section 3 hereof or this Section 4 to any obligation then due under this Mortgage, and, thereafter, upon demand by Mortgagee, Mortgagor shall pay to Mortgagee an amount equal to the amount so applied by Mortgagee in order to restore the amount of the foregoing deposits to the amount required under Section 3 hereof or this Section 4, as the case may be. The enforceability of the covenants contained in the Mortgage relating to Taxes shall not be affected by the provisions of this Section 4, except insofar as the obligations thereunder have actually been met by compliance with this Section 4. If Mortgagee has commenced the monthly collection of Taxes, all sums so collected shall be deposited in an interest bearing account at a commercial bank reasonably acceptable to Mortgagor and the funds so held shall not be commingled with other funds of Mortgagee. Upon an assignment of this Mortgage, Mortgagee shall have the right to pay over the balance of any sums deposited pursuant to Section 3 hereof or

this Section 4 and in its possession to the assignee, and thereupon Mortgagee shall be completely released from all liability with respect to such sums, and Mortgagor shall look solely to the assignee with respect thereto. Mortgagee shall promptly notify Mortgagor of such assignment and payment. Such notice shall identify the assignee.

5. Mortgagor agrees that if the federal government, or any state, or municipal government, or any subdivisions of any of the foregoing having jurisdiction, shall levy, assess or charge any tax, assessment or imposition upon this Mortgage, the credit or indebtedness secured hereby, the Loan Documents, the interest of Mortgagee in the Mortgaged Property or on Mortgagee by reason of or as holder of any of the foregoing, Mortgagor shall pay all such taxes, assessments and impositions to or for Mortgagee as they become due and payable and on demand shall furnish proof of such payment to Mortgagee. In the event of passage of any law or regulation permitting, authorizing or requiring the tax, assessment or imposition to be levied, assessed or charged, which law or regulation prohibits Mortgagor from paying the tax, assessment or imposition to or for Mortgagee, then all sums secured by this Mortgage shall become immediately due and payable at the option of Mortgagee. Nothing herein shall require Mortgagor to pay any income tax or franchise tax imposed upon Mortgagee.

6. Mortgagor agrees that if at any time a mortgage tax shall be imposed on the Loan Documents or this Mortgage, Mortgagor, upon demand, shall pay said mortgage tax in the required amount and deliver same to Mortgagee. Mortgagor agrees to indemnify Mortgagee from and against any liability which Mortgagee may incur on account of such mortgage tax, whether such liability arises before or after payment of the indebtedness secured hereby and whether or not the lien of this Mortgage shall have been released.

7. Mortgagor agrees to keep the Mortgaged Property free from liens of mechanics and materialmen and from all other liens, charges or encumbrances, and if any such lien be filed, Mortgagor, within thirty (30) days after such filing, shall cause same to be discharged of record by payment, bonding or otherwise to the satisfaction of Mortgagee and to exhibit to Mortgagee, upon request, evidence of such payment or bonding and discharge. Provided such liens are discharged of record timely, by payment, bonding or otherwise, in accordance with the foregoing sentence and further provided Mortgagor prosecutes same in good faith and with due diligence, Mortgagor shall have the right to contest the claim underlying such liens at Mortgagor's sole cost and expense, except that Mortgagee may undertake such contest in its sole discretion at Mortgagor's sole cost and expense if the claim underlying such lien has not been discharged within ninety (90) days after such filing.

8. (a) Mortgagor shall keep the Mortgaged Property insured for the benefit of Mortgagee in accordance with the requirements of the Loan Documents. Mortgagor shall deliver to Mortgagee all such certificates evidencing such insurance as collateral and further security for the payment of all sums secured by this Mortgage, with loss payable to Mortgagee pursuant to a New York standard mortgagee endorsement. If Mortgagor defaults in maintaining such insurance or fails to deliver such certificate of insurance within five (5) business days of written demand therefor, Mortgagee, at its option and without notice to Mortgagor, may effect such insurance and pay the premiums therefor, and the amount of all such premiums shall be secured by this Mortgage and shall be payable on demand with interest at the Applicable Interest Rate. If Mortgagee, by

reason of such insurance, receives any money for loss or damage, then notwithstanding the provisions of Subdivision 4 of Section 254 of the New York Real Property Law, such amount shall be applied by Mortgagee in accordance with the Loan Agreement and the Resolution (unless the Resolution shall no longer be in effect, in which case such amounts shall be applied to the indebtedness secured hereby, or to the construction, reconstruction or repair of the Mortgaged Property, as Mortgagee shall determine, in its sole discretion). Not less than fifteen (15) days prior to the expiration date of the insurance policies required to be maintained by Mortgagor pursuant to this Section 8(a), Mortgagor shall deliver to Mortgagee a renewal certificate or certificates marked "premium paid" or accompanied by other evidence of payment satisfactory to Mortgagee. If requested by Mortgagee, Mortgagor shall forthwith make available for inspection by Mortgagee full and complete copies of all insurance policies required under the provisions of the Loan Documents. In the event of a foreclosure of this Mortgage, the purchaser of the Mortgaged Property shall succeed to all of the rights that Mortgagor shall have, following the foreclosure sale, in and to all policies of insurance, the certificates of which have been delivered to Mortgagee pursuant to the provisions of this Section 8 (a).

(b) If the Mortgaged Property or any part thereof shall be destroyed or damaged by fire or any other casualty, whether insured or uninsured, or by reason of taking by eminent domain or alteration of the grade of any street, Mortgagor shall comply with its obligations under any applicable provision of the Loan Agreement with respect to the restoration of the Mortgaged Property. Additionally, Mortgagee is hereby authorized to collect and receive the proceeds of such awards or payments and to give proper receipts and acquittances therefor and apply the same in accordance with the Loan Documents. Mortgagor agrees to execute and deliver such further instruments as may be requested by Mortgagee to confirm such assignment to Mortgagee of any such award or payment.

9. Mortgagor shall not, except in strict accord with the express terms of the Loan Documents:

(a) materially alter, lease (except as expressly permitted under paragraph 11 hereof), sell, convey or otherwise dispose of all or any part of the Mortgaged Property;

(b) initiate, join in and/or consent to any agreement, zoning modification or zoning variance which results in a sale, reduction, change in, transfer, mortgage and/or assignment of:

(i) all or any part of the floor area relating to the Mortgaged Property under any present or future applicable zoning ordinance; or

ii) all or any part of the zoning development rights now or hereafter attendant or appurtenant to the Mortgaged Property;

(c) combine the development or zoning rights of the Mortgaged Property with those of any other parcel of real property; or

(d) make any new or additional mortgage or other loan secured by the Mortgaged Property (whether superior or inferior to the lien of this Mortgage).

10. Mortgagor hereby assigns to Mortgagee, to further secure the obligation of Mortgagor to make the Payments, to pay all other indebtedness secured hereby and to perform all of the covenants and agreements contained in the Loan Documents and herein, all of the rents, issues and profits of the Mortgaged Property together with all Leases (as hereinafter defined) and other documents evidencing such rents, issues and profits arising in connection with the Mortgaged Property now or hereafter in effect and any and all deposits held as security under said Leases, and shall, upon demand, deliver to Mortgagee an executed counterpart of each such Lease or other document. Nothing contained in the foregoing sentence shall be construed to bind Mortgagee to the performance of any of the covenants, conditions or provisions contained in any such Lease or other document or otherwise to impose any obligation on Mortgagee (including, without limitation, any liability under the covenant of quiet enjoyment contained in any Lease in the event that any tenant shall have been joined as a party defendant in any action to foreclose this Mortgage and shall have been barred and foreclosed thereby of all right, title and interest and equity of redemption in the Mortgaged Property), except that Mortgagee shall be accountable for any money actually received by Mortgagee pursuant to such assignment. At such time as an Event of Default (as hereinafter defined) shall have occurred and be continuing beyond any applicable notice and cure period, Mortgagor hereby further grants to Mortgagee the right, to the extent permitted by law (a) to enter upon and take possession of the Mortgaged Property for the purpose of collecting the rents, issues and profits, (b) to dispossess by summary proceedings, pursuant to the Real Property Actions and Proceedings Law, any tenant defaulting in the payment thereof to Mortgagee, (c) to let the Mortgaged Property or any part thereof, (d) to apply said rents, issues and profits, after payment of all necessary charges and expenses, on account of the Payments and all other indebtedness secured hereby, and (e) to otherwise enforce (i) the provisions of all Leases so assigned, and (ii) other rights of Mortgagor against any tenant or occupant of the Mortgaged Property. Such assignment and grant shall continue in effect until all sums secured hereby are paid and all of the obligations of Mortgagor under the Loan Documents have been satisfied, the execution of this Mortgage constituting and evidencing the irrevocable consent of Mortgagor to the entry upon and taking possession of the Mortgaged Property by Mortgagee pursuant to such grant, whether foreclosure has been instituted or not and without applying for a receiver, and Mortgagor's irrevocable direction to the tenants under all Leases on the Mortgaged Property that they shall be authorized and obligated to pay rent directly to Mortgagee in accordance with any written instructions received by such tenants from Mortgagee.

Upon the occurrence of an Event of Default (as hereinafter defined), Mortgagor shall pay monthly in advance to Mortgagee, on its entry into possession pursuant to the foregoing grant, or to any receiver appointed to collect said rents, issues and profits, the fair and reasonable rental value for the use and occupation of the Mortgaged Property or of such part thereof as may be in the possession of Mortgagor, and upon default in any such payment shall vacate and surrender the possession of the Mortgaged Property to Mortgagee or to such receiver, and, in default thereof, may be evicted by such summary proceedings.

11. Mortgagor shall not enter into any lease, sublease, rental or occupancy agreement (whether written or oral), tenancy or subtenancy, with the exception of occupancy rights of individuals receiving services from Mortgagor in the ordinary course of its business, (a "Lease") affecting all or any portion of the Mortgaged Property, except as may be expressly permitted by the Loan Documents, without the prior written consent of Mortgagee, which consent shall not be

unreasonably withheld or delayed. Mortgagor agrees that every Lease hereafter entered into affecting space at the Mortgaged Property shall include a subordination clause providing that the Lease and the interest of the lessee in the Mortgaged Property demised thereby are in all respects subject and subordinate to this Mortgage. Each such Lease also shall provide that: (a) at the option of Mortgagee, the purchaser at a foreclosure sale or the grantee in a conveyance in lieu of foreclosure, the tenant thereunder shall attorn to Mortgagee, to the purchaser at a foreclosure sale, or to the grantee in a conveyance in lieu of foreclosure and recognize such entity as landlord of the leased Mortgaged Property for the balance of the term of the Lease (with Mortgagee having the right, in Mortgagee's sole discretion, to grant or withhold its granting of a non-disturbance agreement to any or all tenants of Mortgagor); provided, however, that in all events Mortgagee (or such other person or entity): (i) shall not be liable for any obligation, or any act or omission, of Mortgagor accruing prior to the date of such attornment; (ii) shall not be subject to any offsets, defenses or counterclaims that shall have accrued to the tenant against Mortgagor prior to the date of such attornment; (iii) shall not be bound by any prepayment of base rent (of more than one (1) month) or additional rent that the tenant shall have made to Mortgagor; (iv) shall not be liable for any security deposit, in whatever form, provided by the tenant, unless such security deposit shall actually have been received by Mortgagee (or such other person or entity); (v) shall not be responsible to the tenant for the performance or nonperformance of any obligation of Mortgagor with respect to any improvement of the Mortgaged Property; and (vi) shall be entirely relieved of all covenants, obligations and liabilities of Mortgagor under the applicable Lease accruing from and after the date on which Mortgagee (or such other person or entity) disposes of the Mortgaged Property; (b) except with the prior written consent of Mortgagee, no lien shall be created, or permitted to exist, upon the tenant's interest in such Lease with respect to indebtedness for borrowed money; and (c) such Lease may be terminated at the option of the purchaser at a foreclosure sale or the grantee in a conveyance in lieu of foreclosure. Mortgagor agrees faithfully to perform all of its obligations under all present and future Leases for space at the Mortgaged Property and to refrain from any action or inaction which would result in the termination by the tenants thereunder of any such Leases or in the diminution of the value thereof or of the rents, issues, profits and revenues thereunder. The Mortgagee shall have all of the rights against tenants of the Mortgaged Property as set forth in Section 291-f of the Real Property Law.

12. Mortgagor agrees to permit Mortgagee and its agents, upon reasonable notice, except where, in the sole discretion of the Mortgagee, Mortgagee shall require immediate access, in which case no notice need be given, to enter upon, inspect and examine the Mortgaged Property at any time during reasonable hours.

13. Mortgagor agrees that if Mortgagee shall incur or expend any sums, including reasonable attorneys' fees and disbursements, whether to sustain the lien of this Mortgage or its priority, or to protect or enforce any of Mortgagee's rights hereunder, or to recover any indebtedness hereby secured, or for any title examination or title insurance policy relating to the title to the Mortgaged Property, all such sums shall be deemed secured by this Mortgage and shall be payable immediately on demand, together with interest thereon at the Applicable Interest Rate. If any action or proceeding be commenced (including the action to foreclose this Mortgage or to collect the debt secured hereby), in which Mortgagee becomes a party or participates by reason of being the holder of this Mortgage, all sums paid by Mortgagee for the expense of so becoming a party or participating (including reasonable attorneys' fees and disbursements) shall be deemed secured by this Mortgage

and shall be payable on demand, together with interest thereon at the Applicable Interest Rate. In any action or proceeding to foreclose this Mortgage, or to recover or collect the debt secured hereby, the provisions of law respecting the recovering of costs, disbursements and allowances shall apply in addition to the foregoing.

14. Notwithstanding any taking by eminent domain, alteration of the grade of any street or other injury to or decrease in value of the Mortgaged Property by any public or quasi-public authority or corporation, Mortgagor shall continue to pay, when due, all Payments and other indebtedness due hereunder and to perform all of the covenants and agreements contained herein and in the other Loan Documents, and the award or payment received as a result of such taking shall be paid and deposited in accordance with the terms of the Loan Agreement and the Resolution (unless the Resolution shall no longer be in effect, in which case such amounts shall be applied to the indebtedness secured hereby, or to the construction, reconstruction or repair of the Mortgaged Property, as Mortgagee shall determine, in its sole discretion). If, prior to the receipt by Mortgagee of such award, the Mortgaged Property shall have been sold on foreclosure of this Mortgage, Mortgagee shall have the right to receive such award to the extent of any deficiency found to be due upon such sale, with legal interest thereon, whether or not a deficiency judgment on this Mortgage shall have been sought or recovered or denied, together with the reasonable attorneys' fees, costs and disbursements incurred by Mortgagee in connection with the collection of such award.

15. Mortgagor hereby warrants and represents to Mortgagee, its successors and assigns and the holders of the Bonds that (i) Mortgagor has good and marketable fee simple title to the Mortgaged Property free and clear of liens and encumbrances, except for the matters set forth in Policy No. M-8912-001238730 (title no. TA16(05)301), dated July __, 2020, issued by Stewart Title Insurance Company (the "Title Policy"), none of which contain any right of forfeiture or reverter or materially interfere with the use, occupancy or enjoyment of the Mortgaged Property for the purposes permitted under the Loan Documents, none of which matters set forth in the Title Policy are or will be violated or breached by the Mortgagor, and this Mortgage is and will remain a valid and enforceable first lien on the Mortgaged Property subject only to the exceptions referred to above in the Title Policy and (ii) Mortgagor has such rights of way, easements or other rights as may be reasonably necessary for ingress and egress to and from the Mortgaged Property, for proper legal operation and utilization of the Mortgaged Property and for all utilities required to properly serve the Mortgaged Property. Mortgagor warrants, represents, covenants and agrees that it has the right to mortgage the Mortgaged Property and that it shall (a) make, execute, acknowledge and deliver all such further or other deeds, documents, instruments or assurances as may at any time hereafter be reasonably desired or required to more fully protect the lien of this Mortgage, and (b) defend the Mortgaged Property unto all and every person or persons, corporation or corporations, deriving any estate, right, title or interest therein under or through this Mortgage.

16. Except for its obligation to remit all Payments when due under the Loan Documents, Mortgagor shall not be liable for any delay or nonperformance under this Mortgage due to any cause or event beyond Mortgagor's reasonable control, arising out of a pandemic, epidemic, natural disaster or governmental action (collectively, a "Force Majeure Delay"). Notwithstanding anything

to the contrary contained in this Mortgage, in connection with any Force Majeure Delay, all time and cure periods with respect to any non-monetary Event of Default, are reasonably extended and/or tolled for such periods that the Force Majeure Delay continues..

17. Mortgagee, upon and during the continuance of any Event of Default (as hereinafter defined), shall be entitled to the appointment of a receiver. In case of a foreclosure sale, the Mortgaged Property may to the extent permitted by law be sold in separate parcels or as one parcel, as Mortgagee shall elect. If the Mortgaged Property shall consist of one or more parcels, whether or not contiguous and whether or not located in the same county, or if, in addition to this Mortgage, the Mortgagee shall now or hereafter hold one or more additional mortgages, liens or other security (directly or indirectly) for the debt hereby secured upon other property in the State of New York, then to the fullest extent permitted by law, Mortgagee may, at its election, commence or consolidate in a single foreclosure action all foreclosure proceedings against all such collateral securing the debt hereby secured (including the Mortgaged Property), which action may be brought or consolidated in the courts of any county in which any of such collateral is located. Mortgagor acknowledges that the right to maintain a consolidated foreclosure action is a specific inducement to Mortgagee to extend the debt hereby secured, and Mortgagor expressly and irrevocably waives any objections to the commencement or consolidation of the foreclosure proceedings in a single action and any objections to the laying of venue or based on the grounds of forum non conveniens which it may now or hereafter have.

18. A. The term “Event of Default”, wherever used in this Mortgage, shall mean any one or more of the following events:

(i) Failure by Mortgagor to pay within seven (7) days of the date when due and payable, all Payments when due and payable under the Loan Documents;

(ii) Failure by Mortgagor duly to keep, perform and observe any other covenant, condition or agreement in the Loan Agreement or this Mortgage, and which failure shall continue thirty (30) days after Mortgagee has given written notice specifying the breach, or if it is not possible to so perform within a period of thirty (30) days, the failure by Mortgagor to commence performance within said thirty (30) day period and prosecute same with due diligence and in all events complete such performance within ninety (90) days after such notice, unless such time be extended by mutual written agreement of the Mortgagor and Mortgagee and it being understood by the parties that in circumstances in which completion within ninety (90) days is not possible, an acceptable time frame for performance will be reasonably agreed upon;

(iii) If: (a) Mortgagor: (i) files a voluntary petition in bankruptcy, or (ii) is adjudicated as a bankrupt or insolvent, or (iii) files any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any law relating to bankruptcy, insolvency or other relief for debtors, or (iv) seeks or consents to or acquiesces in the appointment of any trustee, receiver, master or liquidator of itself or of all or any substantial part of the Mortgaged Property or of any or all of the rents, revenues, issues, earnings, profits or income thereof, or (v) makes any general assignment for the benefit of creditors, or (vi) makes an admission in writing of its inability to pay its debts generally as they become due; or (vii) is generally not paying its debts as they become due; or (b) any

petition is filed against Mortgagor, seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors, which petition remains undismissed for an aggregate of ninety (90) days (whether or not consecutive) from the date thereof; or (c) any trustee, receiver or liquidator of Mortgagor or of all or any substantial part of the Mortgaged Property or of any or all of the rents, revenues, issues, earnings, profits or income thereof, is appointed without the prior written consent of Mortgagee;

(iv) The entry by any court of last resort of a decision that an undertaking by Mortgagor as herein provided to pay taxes, assessments, levies, liabilities, obligations, and encumbrances is legally inoperative or cannot be enforced, or in the event of the passage of any law changing in any way or respect the laws now in force for the taxation of mortgages or debts secured thereby for any purpose or the manner of collection of any such taxes, so as to materially affect adversely Mortgagee or the indebtedness or other sums secured hereby;

(v) Material breach of any warranty or material untruth of any representation of Mortgagor contained in the Loan Documents, or any other instrument securing the Loan Documents or executed in connection herewith or therewith;

(vi) Failure to materially comply with any Requirement or order or notice of violation of law or ordinance with respect to the Mortgaged Property or the use or occupancy thereof, issued by any governmental department claiming jurisdiction over the Mortgaged Property or the operation thereof, within three (3) months from the issuance thereof, subject to Mortgagor's right to contest any such order or notice pursuant to Section 2 hereof;

(vii) Material default by Mortgagor of its obligations as a landlord under any Lease of all or a portion of the Mortgaged Property;

(viii) If Mortgagor shall fail to pay within thirty (30) days of notice and demand by Mortgagee, any installment of any assessment against the Mortgaged Property for local improvements heretofore or hereafter laid, which assessment is or may become payable in annual or periodic installments and is or may become a lien on the Mortgaged Property, subject to Mortgagor's right to contest any such assessment, pursuant to Section 3 hereof.

(ix) If, without the prior written consent of Mortgagee, any part of the Mortgaged Property or any interest therein is in any manner, by operation of law or otherwise, whether directly or indirectly, further encumbered, sold, transferred, leased or otherwise conveyed in any way or if any improvement or equipment (except for normal replacement or disposal of obsolete equipment) is removed, demolished or materially altered or if the Mortgaged Property is not kept in good, safe and insurable condition and repair and in a condition which satisfies all requirements of any governmental or quasi-governmental entity which licenses or regulates the operations of the Mortgagor at the premises;

(x) If any insurance policies required under the Loan Documents are not kept in full force and effect, or if the related certificates of insurance are not delivered to Mortgagee within ten (10) days following request therefor;

(xi) If, without the prior written consent of Mortgagee, any Leases (except leases with students, faculty, administrators or other personnel of Mortgagor or their respective spouses) with respect to the Mortgaged Property are made or canceled or modified or if any portion of any rents from the Mortgaged Property is paid for a period of more than one (1) month or one period if longer in advance or if any of the rents are further assigned;

(xii) If any other material default shall occur under the Loan Documents or under any other mortgage, instrument or document evidencing, securing or guaranteeing payment, in whole or in part, in connection with any of the Loan Documents or this Mortgage and such default shall continue beyond any applicable grace period specified in said instruments; and

(xiii) If the Mortgaged Property shall become subject (a) to any tax lien which is superior to the lien of this Mortgage, other than a lien for local Mortgaged Property taxes and assessments not due and payable, or (b) to any mechanic's, materialman's or other lien which is or is asserted to be superior to the lien of this Mortgage and such lien shall remain undischarged, by bonding or otherwise, for thirty (30) days.

B. (i) Upon the occurrence of any Event of Default hereunder (except with respect to the occurrence of an Event of Default under subparagraph (iii) of Paragraph 18.A. hereof), Mortgagee may at its option at any time declare all Payments secured by this Mortgage immediately due and payable without presentment, demand or notice; or (ii) in the event of the passage after the date of this Mortgage of any law of the State of New York deducting from the value of the Mortgaged Property for the purposes of taxation or any lien thereon or changing in any way the laws for the taxation of mortgages or debts secured by mortgages for State or local purposes or the manner of the collection of any such taxes and imposing a tax, either directly or indirectly, on this Mortgage or the Loan Documents, unless Mortgagor is permitted by law to pay the whole of such tax in addition to all other payments required hereunder and Mortgagor pays such tax and agrees in writing to pay any such tax when thereafter levied and assessed against the Mortgaged Property; Mortgagee may at its option declare all Payments secured by this Mortgage immediately due and payable without presentment, demand or notice; or (iii) if any Event of Default under subparagraph (iii) of Paragraph 18.A. shall have occurred, all of the outstanding payments and other indebtedness secured by this Mortgage shall become immediately and automatically due and payable in full, all without presentment, demand, protest or notice of any kind, all of which are expressly waived by Mortgagor.

Upon the occurrence of an Event of Default hereunder, the Mortgagee, with or without entry, personally or by its agents or attorneys or otherwise, may proceed forthwith to protect and enforce its rights under this Mortgage and the other Loan Documents by such suits, actions or proceedings, in equity or at law, including, without limitation, an action to foreclose the lien of this Mortgage, as Mortgagee shall deem appropriate in its sole discretion.

19. If Mortgagor shall default beyond applicable notice and grace periods, if any, in any of its covenants or agreements contained herein, Mortgagee, at its option, may perform the same and the cost thereof, with interest at the Applicable Interest Rate shall immediately be due and payable without notice or demand and shall be deemed to be secured by this Mortgage provided, however, that Mortgagee shall use its best efforts to give notice of Mortgagee's exercise of such

option to Mortgagor, provided further that such notice shall not be a condition precedent to any such action taken by the Mortgagee and failure to give such notice shall not affect the validity of any action taken.

20. The rights and remedies granted to Mortgagee hereunder are cumulative and are not in lieu of but are in addition to, and shall not be affected by the exercise of, any other remedy or right now or hereafter existing at law or in equity or under the Loan Documents or any other document securing Mortgagor's obligations under the Loan Documents (the "Other Rights"). The rights and remedies of Mortgagee hereunder may be exercised concurrently with any of the Other Rights. Any failure by Mortgagee to insist upon the strict performance by Mortgagor of any of the terms and provisions of this Mortgage shall not be deemed to be a waiver of any of the terms and provisions hereof, and Mortgagee, notwithstanding any such failure, shall have the right thereafter to insist upon the strict performance by Mortgagor of any and all of the terms and provisions of this Mortgage to be performed by Mortgagor. Neither Mortgagor, nor any other person now or hereafter obligated for the payment of the whole or any part of the sums now or hereafter secured by this Mortgage, shall be relieved of such obligation by reason of (a) the failure of Mortgagee to comply with any request of Mortgagor or to enforce any of the provisions of this Mortgage or of any of the obligations secured by this Mortgage, (b) the release, regardless of the consideration therefor, of the whole or any part of the security held for the indebtedness secured by this Mortgage, or (c) any agreement or stipulation between any subsequent owner or owners of the Mortgaged Property and Mortgagee extending the time of payment or modifying the terms of the Loan Documents, as permitted thereby, without first having obtained the consent of Mortgagor or such other person, and in the latter event, Mortgagor and all other persons shall continue to be liable to make such payments according to the terms of any such agreement of extension or modification unless expressly released and discharged in writing by Mortgagee. Regardless of the consideration therefor, and without the necessity for any notice to or consent by the holder of any subordinate lien on the Mortgaged Property, Mortgagee may release the obligation of anyone at any time liable for any of the indebtedness secured by this Mortgage or any part of the security held for the indebtedness and may extend the time of payment or otherwise modify the terms of the Loan Documents without in any way impairing or affecting the lien of this Mortgage or the priority of such lien. Mortgagee may resort for the payment of the indebtedness secured hereby to any security therefor held by Mortgagee in such order and manner as Mortgagee may elect.

21. Mortgagee shall have the right from time to time to enforce any legal or equitable remedy against Mortgagor and to sue for any sums required to be paid under the terms of this Mortgage, as the same become due, without regard to whether or not the principal, interest and other sums secured by this Mortgage shall be due and without prejudice to the right of Mortgagee thereafter to bring an action of foreclosure or any other action seeking any remedy based upon an Event of Default by Mortgagor existing at the time such action was commenced.

22. Mortgagor agrees to indemnify Mortgagee, its successors and assigns from all loss, damage and expense, including reasonable attorneys' fees and disbursements, incurred in connection with any suit or proceeding in or to which Mortgagee, its successors and assigns may be made a party for the purpose of protecting the lien of this Mortgage or enforcing any of the Mortgagee's rights hereunder.

23. Mortgagor agrees that, promptly upon any reasonable request of Mortgagee, it shall execute, acknowledge and deliver all such additional instruments and further assurances of title and shall do or cause to be done all such further acts and things as may be reasonably necessary to fully effectuate the intent of this Mortgage.

24. Mortgagor shall not at any time insist upon, or plead, or in any manner whatever claim or take any benefit or advantage of any stay, extension, moratorium, appraisal or valuation law, or any exemption from execution or sale of the Mortgaged Property or any part thereof, whenever enacted, now or at any time hereafter in force, which may affect the covenants and terms of performance of this Mortgage, nor claim, take or insist upon any benefit or advantage of any law now or hereafter in force providing for the valuation or appraisal of the Mortgaged Property, or any part thereof, prior to any sale or sales thereof which may be made pursuant to any provision herein, or pursuant to the decree, judgment or order of any court of competent jurisdiction nor, after any such sale or sales, claim or exercise any right under any statutes heretofore or hereafter enacted to redeem the property so sold or any part thereof, and Mortgagor hereby expressly waives all benefit or advantage of such law or laws and covenants not to hinder, delay or impede the execution of any power herein granted or delegated to Mortgagee, but to suffer and permit the execution of every power as though no such law or laws had been made or enacted. Mortgagor, for itself and all who may claim under it, waives, to the extent that it lawfully may, all right to have the Mortgaged Property marshaled upon any foreclosure hereof.

25. The terms and provisions hereof which are construed by Section 254 of the Real Property Law shall be construed as provided in that Section, except as otherwise specifically provided herein. The additional clauses and covenants contained herein shall afford rights supplemental to and not exclusive of the rights conferred by the terms and provisions construed by such Section 254 and shall not impair, modify, alter or defeat such rights notwithstanding that such additional terms and provisions may relate to the same subject matter or provide for different or additional rights in the same or similar contingencies as the terms and provisions construed by such Section 254. The rights of Mortgagee arising under the terms and provisions contained in this Mortgage shall be separate, distinct and cumulative and none of them shall be in exclusion of the others. No act of Mortgagee shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision, anything herein or otherwise to the contrary notwithstanding.

26. Mortgagor shall keep this Mortgage a valid mortgage lien upon the Mortgaged Property, shall not at any time create or allow to accrue or exist any debt, lien or charge which would be prior to or on a parity with the lien of this Mortgage upon any part of the Mortgaged Property (other than, as permitted under the Loan Documents, a lien for local real estate taxes and assessments not due and payable) and shall not cause or permit the lien of this Mortgage to be diminished or impaired in any way.

27. All notices, demands and other communications required or permitted to be given or made pursuant to the terms hereof to the Mortgagee shall be in writing and shall be hand delivered against written receipt therefor or sent by registered or certified mail or by overnight delivery and sent to the party to whom the notice, demand or other communication is being made at its address set forth herein. All such notices, demands and other communications to Mortgagor

shall be addressed to New York Institute of Technology, Gerry House, Old Westbury, New York 11568, Attention: Chief Financial Officer and Treasurer, with a copy to Cullen and Dykman LLP, 100 Quentin Roosevelt Blvd., Garden City, New York 11530, Attention: Jeffrey F. Herz, Esq., and Mortgagor shall likewise send all such notices, demands and other communications to Mortgagee and such notices, demands or other communications shall be addressed to the Office of General Counsel, the Dormitory Authority of the State of New York, 515 Broadway, Albany, New York 12207, with a copy to the Senior Director, Portfolio Management. Any party may change the place that notices, demands or other communications are to be sent by written notice delivered in accordance with this Mortgage.

28. All provisions hereof shall inure to and bind the respective successors, vendees and assigns of the parties hereto. Wherever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

29. Mortgagor, in compliance with Section 13 of the Lien Law, shall receive the advances secured hereby and shall hold such advances as a trust fund to be applied first for the purpose of paying the cost of improvements and shall apply the same first to the payment of the cost of improvement before using any part of the total of the same for any other purpose.

30. The execution of this Mortgage has been duly authorized by the board of directors or trustees or governors, as the case may be, of Mortgagor.

31. This Mortgage and the provisions hereof may not be terminated, changed or waived except by an instrument in writing signed by the party against whom enforcement of termination, change or waiver is sought.

32. This Mortgage shall be governed by, construed under and enforced in accordance with the laws of the State of New York.

33. This Mortgage constitutes both a real property mortgage, and a “security agreement” within the meaning of the Uniform Commercial Code, and the Mortgaged Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Mortgagor in the Mortgaged Property. Mortgagor, by executing and delivering this Mortgage, has granted to Mortgagee, as security under the Loan Documents and evidenced by this Mortgage, a security interest in the equipment and other personal property comprising the Mortgaged Property. If Mortgagor shall default under the Loan Documents or this Mortgage, which default shall continue beyond any applicable grace period, Mortgagee, in addition to any other rights and remedies which it may have, shall have and may exercise immediately and without demand, any and all rights and remedies upon default granted to a secured party pursuant to the Uniform Commercial Code, including, without limiting the generality of the foregoing, the right to take possession of the equipment and other personal property comprising the Mortgaged Property or any part thereof, and to take such other measures as Mortgagee may deem necessary for the care, protection and preservation thereof. Mortgagor hereby irrevocably appoints Mortgagee as its lawful attorney-in-fact to execute, on behalf of Mortgagor, one or more financing statements and continuation statements therefor as to the security interests granted hereunder or under any of

the Loan Documents and to file such financing statements and continuation statements therefor in any appropriate public office.

34. (a) The Mortgagor hereby makes the following representations and warranties:

For the purposes of this paragraph, the following terms shall have the following meanings: (i) the term "Hazardous Material" shall mean any material or substance that whether by its nature or use, is now or hereafter defined or regulated as a hazardous waste, hazardous substance, pollutant or contaminant under any Environmental Requirement (as hereinafter defined), or which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic or otherwise hazardous or which is or contains petroleum, gasoline, diesel fuel, another petroleum hydrocarbon product, asbestos, asbestos-containing materials or polychlorinated biphenyls, (ii) the term "Environmental Requirements" shall collectively mean all present and future laws, statutes, common law, ordinances, rules, regulations, orders, codes, licenses, permits, decrees, judgments, directives or the equivalent of or by any Governmental Authority (as herein after defined) and relating to or addressing the protection of the environment or human health, and (iii) the term "Governmental Authority" shall mean the Federal government, or any state or other political subdivision thereof, or any agency, court or body of the Federal government, any state or other political subdivision thereof, exercising executive, legislative, judicial, regulatory or administrative functions.

(b) The Mortgagor hereby represents and warrants to the Mortgagee that (i) to the best of its knowledge, no Hazardous Material is currently located at, in, on, under or about the Mortgaged Property in any manner which violates any Environmental Requirement, or which requires cleanup or corrective action of any kind under any Environmental Requirement, (ii) to the best of its knowledge, no releasing, emitting, discharging, leaching, dumping, disposing or transporting of any Hazardous Material from the Mortgaged Property onto any other property or from any other property onto or into the Mortgaged Property has occurred or is occurring in violation of any Environmental Requirement, (iii) no notice of violation, non-compliance, liability or potential liability, lien complaint, suit, order or other notice with respect to the Mortgaged Property is presently outstanding under any Environmental Requirement, nor does the Mortgagor have knowledge or reason to believe that any such notice will be received or is being threatened, and (iv) to the best of its knowledge, the Mortgaged Property and the operation thereof are in material compliance with all Environmental Requirements.

(c) The Mortgagor shall comply, and shall cause all tenants or other occupants of the Mortgaged Property to comply, in all material respects with all Environmental Requirements, and will not generate, store, handle, process, dispose of or otherwise use, and will not permit any tenant or other occupant of the Mortgaged Property to generate, store, handle, process, dispose of or otherwise use, Hazardous Materials at, in, on, or about the Mortgaged Property in a manner that could lead or potentially lead to the imposition on the Mortgagor, the Mortgagee or the Mortgaged Property of any liability or lien of any nature whatsoever under any Environmental Requirement. The Mortgagor shall notify the Mortgagee promptly in the event of any spill or other release of any Hazardous Material at, in, on, under or about the Mortgaged Property which is required to be reported to a Governmental Authority under any Environmental Requirement, will promptly forward to the Mortgagee copies of any notices received by the Mortgagor relating to the alleged

violations of any Environmental Requirement or any potential liability under any Environmental Requirement and will promptly forward to the Mortgagee copies of any notices received by the Mortgagor relating to the alleged violations of any Environmental Requirement or any potential liability under any Environmental Requirement and will promptly pay when due any fine or assessment against the Mortgagee, the Mortgagor or the Mortgaged Property relating to any Environmental Requirement. If at any time it is determined that the operation or use of the Mortgaged Property violates any applicable Environmental Requirement or that there are Hazardous Materials located at, in, on, under or about the Mortgaged Property which, under any Environmental Requirement, require special handling in collection, storage, treatment or disposal, or any form of cleanup or corrective action, the Mortgagor shall, within thirty (30) days after receipt of notice thereof from any Governmental Authority or from the Mortgagee, take, at the Mortgagor's sole cost and expense, such actions as may be necessary to fully comply in all respects with all Environmental Requirements, provided, however, that if such compliance cannot reasonably be completed within such thirty (30) day period, the Mortgagor shall commence such necessary action within such thirty (30) day period and shall thereafter diligently and expeditiously proceed to fully comply in all respects and in a timely fashion with all Environmental Requirements.

(d) If the Mortgagor fails to timely take, or to diligently and expeditiously proceed to complete in a timely fashion, any such action described in clause (c) above, the Mortgagee may, in its sole and absolute discretion, make advances or payments toward the performance or satisfaction of the same, but shall in no event be under any obligation to do so. All sums so advanced or paid by the Mortgagee (including, without limitation, reasonable counsel and consultant fees and expenses, investigation and laboratory fees and expenses and fines or other penalty payments) and all sums advanced or paid in connection with any judicial or administrative investigation or proceeding relating thereto, will immediately, upon demand, become due and payable from the Mortgagor and shall bear interest at the Applicable Interest Rate from the date any such sums are so advanced or paid by the Mortgagee until the date any such sums are repaid by the Mortgagor to the Mortgagee. The Mortgagor will execute and deliver, promptly upon request, such instruments as the Mortgagee may deem useful or necessary to permit the Mortgagee to take any such action, and such additional notes and mortgages, as the Mortgagee may require to secure all sums so advanced or paid by the Mortgagee. If a lien is filed against the Mortgaged Property by any Governmental Authority resulting from the need to expend or the actual expending of monies arising from an action or omission, whether intentional or unintentional, of the Mortgagor or for which the Mortgagor is responsible, resulting in the releasing, spilling, leaking, leaching, pumping, emitting, pouring, emptying or dumping of any Hazardous Material into the waters or onto land located within or without the State where the Mortgaged Property is located, then the Mortgagor will, within thirty (30) days from the date that the Mortgagor is first given notice that such lien has been placed against the Mortgaged Property (or within such shorter period of time as may be specified by the Mortgagee if such Governmental Authority has commenced steps to cause the Mortgaged Property to be sold pursuant to such lien), either (a) pay the claim and remove the lien, or (b) furnish a cash deposit, bond, or other security with respect thereto as is satisfactory in all respects to the Mortgagee and is sufficient to effect a complete discharge of such lien on the Mortgaged Property.

(e) The Mortgagee may, at its option, at intervals of not less than one year, or more frequently if the Mortgagee reasonably believes that a Hazardous Material or other environmental condition violates or threatens to violate any Environmental Requirement, cause an environmental audit of the Mortgaged Property or portions thereof to be conducted to confirm the Mortgagor's compliance with the provisions of this paragraph, and the Mortgagor shall cooperate in all reasonable ways with the Mortgagee in connection with any such audit. If such audit discloses that a violation of or a liability under an Environmental Regulation exists or if such audit was required or prescribed by law, regulation or governmental or quasi-governmental authority, the costs and expenses of such audit shall, notwithstanding anything to the contrary set forth in this paragraph, be paid by the Mortgagor.

(f) If this Mortgage is foreclosed, or if the Mortgaged Property is sold pursuant to the provisions of this Mortgage, or if the Mortgagor tenders a deed or assignment in lieu of foreclosure or sale, the Mortgagor shall deliver the Mortgaged Property to the purchaser at foreclosure or sale or to the Mortgagee, its nominee, or wholly-owned subsidiary, as the case may be, in a condition that complies in all respects with all Environmental Requirements.

(g) The Mortgagor will defend, indemnify, and hold harmless the Mortgagee, its employees, agents, officers, and directors, from and against any and all claims, demands, penalties, causes of action, fines, liabilities, settlements, damages, costs, or expenses of whatever kind or nature known or unknown, foreseen or unforeseen, contingent or otherwise (including, without limitation, reasonable counsel and consultant fees and expenses, investigation and laboratory fees and expenses, court costs, and litigation expenses) arising out of, or in any way related to, (i) any breach by the Mortgagor of any of the provisions of this Section 34, (ii) the presence, disposal, spillage, discharge, emission, leakage, release, or threatened release of any Hazardous Material which is at, in, on, under, about, from or affecting the Mortgaged Property, including, without limitation, any damage or injury resulting from any such Hazardous Material to or affecting the Mortgaged Property or the soil, water, air, vegetation, buildings, personal property, persons or animals located at, in, on, under or about the Mortgaged Property or on any other property or otherwise, (iii) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to any such Hazardous Material, (iv) any lawsuit brought or threatened, settlement reached, or order or directive of or by any Governmental Authority relating to such Hazardous Material, or (v) any violation of any Environmental Requirement or any policy or requirement of the Mortgagee hereunder. The aforesaid indemnification shall be secured by this Mortgage and constitute the personal recourse undertakings, obligations and liabilities of the Mortgagor.

(h) The obligations and liabilities of the Mortgagor under Section 34 Subsection (g) shall survive and continue in full force and effect and shall not be terminated, discharged or released, in whole or in part, irrespective of whether the indebtedness has been paid in full and irrespective of any foreclosure of this Mortgage, sale of the Mortgaged Property pursuant to the provisions of this Mortgage or acceptance by the Mortgagee, its nominee or affiliate, of a deed or assignment in lieu of foreclosure or sale and irrespective of any other fact or circumstance of any nature whatsoever.

35. This Mortgage does not cover real property principally improved or to be improved by one or more structures containing in the aggregate not more than six residential dwelling units, each having their own separate cooking facilities.

36. There shall be no merger of the interests of the parties in this Mortgage or the other Loan Documents by reason of the fact that the same person, firm or entity may acquire, own or hold, directly or indirectly, such interests or any other interests in the Mortgaged Property unless and until such person, firm or entity and all others having an interest therein shall join in a written instrument effecting such merger and shall duly record the same.

37. A determination that any provision of this Mortgage is unenforceable or invalid shall not affect the enforceability or validity of any other provision, and any determination that the application of any provision of this Mortgage to any person or circumstance is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to any other persons or circumstances.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF this Mortgage has been duly executed by Mortgagor as of the day and year first above written.

NEW YORK INSTITUTE OF TECHNOLOGY

By: _____
Barbara Holahan

Chief Financial Officer and Treasurer

DRAFT

STATE OF NEW YORK)

)ss:

COUNTY OF NEW YORK)

On the ___ day of July in the year 2020 before me, the undersigned, personally appeared Barbara Holahan, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that s/he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

STATE OF NEW YORK)

)ss:

COUNTY OF NEW YORK)

On the ___ day of July in the year 2020 before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that s/he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Exhibit "A"

Description of New York Institute of Technology
Old Westbury Campus

All that piece or parcel of property located in the Incorporated Villages of Brookville and Old Westbury, Town of Oyster Bay, Nassau County, New York, shown as Nassau County Tax Map Section 19, Block A, Lots 24, 278, 375, 376, 383, 384, 390, 539 and 593 and being more particularly described as follows:

Beginning at a point on the westerly line of Whitney Lane, said point being 999.98' southerly from the intersection of the southerly line of North Hempstead Turnpike (Northern Boulevard) and the westerly line of Whitney Lane;

Thence the following ten (10) courses and distances along the westerly line of Whitney Lane:

- (1) South 13° 25' 10" East a distance of 206.53' to a point
- (2) South 5° 16' 50" East a distance of 279.08' to a point
- (3) South 6° 53' 30" East a distance of 225.97' to a point
- (4) South 9° 01' 40" East a distance of 67.40' to a point
- (5) South 18° 52' 10" East a distance of 49.69' to a point
- (6) South 30° 26' 40" East a distance of 62.88' to a point
- (7) South 35° 46' 10" East a distance of 175.07' to a point
- (8) South 37° 58' 40" East a distance of 688.90' to a point
- (9) South 34° 41' 30" East a distance of 254.97' to a point, and
- (10) South 32° 18' 50" East a distance of 374.42' to a point

Thence South 57° 41' 10" West a distance of 1,075.38' to a point,

Thence North 86° 00' 00" West a distance of 760.42' to a point,

Thence South 15° 15' 20" East a distance of 989.15' to a point,

Thence South 49° 59' 30" East a distance of 133.55' to a point,

Thence South 78° 24' 05" East a distance of 406.97' to a point,

Thence South 36° 16' 51" East a distance of 201.36' to a point,

Thence South 52° 15' 06" East a distance of 252.44' to a point,

Thence South 44° 39' 46" East a distance of 457.14' to a point,

Thence South 12° 13' 35" West a distance of 379.25' to a point,

Thence South 37° 00' 00" East a distance of 369.24' to a point,

Thence South 56° 03' 31" East a distance of 488.03' to a point on the northerly line of Wheatley Road (Post Avenue)

Thence the following six (6) courses and distances along the northerly line of Wheatley Road (Post Avenue)

- (1) Along a curve bearing to the left having a radius of 258.02' and an arc length of 263.67', subtended by a chord bearing South 4° 40' 00" West a distance of 252.35' to a point
- (2) South 24° 36' 30" East a distance of 35.11' to a point
- (3) South 29° 27' 30" East a distance of 49.87' to a point
- (4) South 23° 10' 30" East a distance of 34.86' to a point
- (5) Along a curve bearing to the right having a radius of 226.96' and an arc length of 291.51', subtended by a chord bearing South 13° 50' 00" West a distance of 271.88' to a point, and
- (6) South 50° 25' 00" West a distance of 724.05' to a point

Thence North 74° 35' 15" West a distance of 605.25' to a point,
Thence North 8° 30' 00" East a distance of 789.43' to a point,
Thence North 15° 46' 30" West a distance of 321.11' to a point,
Thence North 74° 13' 30" East a distance of 214.46' to a point,
Thence North 15° 46' 30" West a distance of 124.88' to a point,
Thence North 41° 30' 30" East a distance of 92.03' to a point,
Thence North 1° 19' 55" West a distance of 430.11' to a point,
Thence North 41° 04' 15" West a distance of 134.67' to a point,
Thence North 7° 21' 30" West a distance of 50.00' to a point,
Thence South 82° 38' 30" West a distance of 60.00' to a point,
Thence South 84° 43' 50" West a distance of 71.54' to a point,
Thence North 83° 13' 10" West a distance of 70.55' to a point,
Thence North 17° 18' 50" East a distance of 31.98' to a point,
Thence North 0° 26' 50" East a distance of 83.99' to a point,
Thence North 25° 05' 10" West a distance of 121.97' to a point,
Thence South 60° 01' 40" West a distance of 22.65' to a point,
Thence South 80° 42' 50" West a distance of 57.00' to a point,
Thence North 76° 29' 02" West a distance of 64.50' to a point,
Thence North 46° 04' 53" West a distance of 553.28' to a point,
Thence North 15° 15' 20" West a distance of 950.01' to a point,
Thence North 86° 00' 53" West a distance of 1,634.64' to a point,
Thence North 3° 59' 07" East a distance of 207.58' to a point,
Thence North 4° 33' 41" East a distance of 135.10' to a point,
Thence North 5° 12' 26" East a distance of 675.78' to a point,
Thence North 5° 33' 40" East a distance of 143.88' to a point,
Thence North 5° 14' 30" East a distance of 400.15' to a point,
Thence North 83° 12' 10" East a distance of 34.45' to a point,
Thence North 3° 02' 10" West a distance of 63.23' to a point,
Thence North 2° 07' 50" East a distance of 138.55' to a point,
Thence North 8° 08' 50" East a distance of 34.98' to a point,
Thence North 15° 33' 20" East a distance of 197.38' to a point,
Thence North 3° 43' 40" East a distance of 187.11' to a point,
Thence South 85° 43' 10" East a distance of 33.00' to a point,
Thence North 2° 01' 20" East a distance of 98.36' to a point,
Thence North 2° 59' 50" East a distance of 525.07' to a point,
Thence North 1° 35' 50" East a distance of 132.09' to a point on the southerly line of North Hempstead Turnpike (Northern Boulevard),
Thence North 68° 20' 19" East along the southerly line of North Hempstead Turnpike (Northern Boulevard) a distance of 1,273.37' to a point,
Thence South 5° 14' 30" West a distance of 658.23' to a point,
Thence South 67° 44' 40" East a distance of 670.79' to a point,
Thence South 13° 25' 10" East a distance of 27.14' to a point,
Thence North 53° 39' 50" East a distance of 377.38' to the point of beginning

Said parcel containing 9,667,042 square feet or 221.9248 acres more or less

DRAFT

Security Agreement

This Security Agreement (as amended or supplemented from time to time, this “Agreement”) is dated as of July __, 2020, and has been executed by NEW YORK INSTITUTE OF TECHNOLOGY, an institution of higher education duly incorporated and existing under the laws of the State of New York, having an office at Northern Boulevard, Old Westbury, New York 11568-8000, as debtor (the “Debtor”), in favor of the DORMITORY AUTHORITY OF THE STATE OF NEW YORK, a body corporate and politic of the State of New York, constituting a public benefit corporation, having its principal place of business at 515 Broadway, Albany, New York 12207, as secured party (the “Secured Party”).

Various capitalized terms used in this Agreement, unless otherwise defined herein, have the respective meanings given to such terms in the Loan Agreement (as defined below).

RECITALS

WHEREAS, the Debtor desires to obtain a loan from the Secured Party (the “Secured Party Loan”) for the purpose of financing the Costs of the Project (as defined in the hereinafter referred to Loan Agreement) and paying certain costs of issuance; the terms of the Secured Party Loan are set forth in that certain Loan Agreement dated as of July __, 2020 (as amended or supplemented from time to time, the “Loan Agreement”) by and among Debtor and the Secured Party; and

WHEREAS, the Secured Party is issuing its \$[PAR AMT] New York Institute of Technology Revenue Bonds, Series 2020A (Federally Taxable) (the “Bonds”) pursuant to the terms of the New York Institute of Technology Revenue Bond Resolution, adopted on July 20, 2016 (as amended and supplemented from time to time, the “General Resolution”) and the series resolution adopted thereunder on June 24, 2020 (the “Series 2020A Resolution” and together with the General Resolution, the “Resolution”) for the purposes of providing the Secured Party Loan to the Debtor; and

WHEREAS, in order to further secure its obligations hereunder and the payment of the Bonds, the Debtor is granting a security interest in the Pledged Revenues (as defined herein), which Pledged Revenues are being assigned by the Secured Party to the Trustee.

AGREEMENT

In consideration of the Secured Party Loan, and other valuable consideration, the receipt and adequacy of which are hereby acknowledged, Debtor agrees as follows:

1. Definitions

Various capitalized terms used in this Agreement, unless otherwise defined herein, have the respective meanings given to such terms in the Loan Agreement.

“Pledged Revenues” means all receipts, revenues, income and other moneys received or receivable by or on behalf of the Debtor, including, without limitation, gifts, grants, bequests, contributions, donations and pledges whether in the form of money, securities or other personal property, revenues derived from the operation of the facilities of the Debtor, and all rights to receive the same, whether in the form of accounts, payment intangibles, contract rights, general intangibles, healthcare insurance receivables, chattel paper, deposit accounts, instruments, promissory notes or other rights, and the proceeds thereof, as such terms are presently or hereafter defined in the Uniform Commercial Code in effect from time to time in the State of New York, and any insurance thereon, whether now existing or hereafter coming into existence and whether now owned or held or hereafter acquired by the Debtor; *provided, however*, that Pledged Revenues shall not include any restricted grants, scholarships, fellowships or revenues of the medical clinic received or receivable by or on behalf of the Debtor.

“State” means the State of New York.

2. Creation of Security Interest.

As security for the payment of all liabilities and the performance of all obligations of the Debtor pursuant to the Loan Agreement, the Debtor does hereby continuously pledge, grant a security interest in, and assign to the Secured Party the Pledged Revenues, together with the Debtor’s right to receive and collect the Pledged Revenues and the proceeds of the Pledged Revenues. This pledge, security interest and assignment shall have the priority provided for in the Intercreditor Agreement.

The Debtor represents and warrants that, except as set forth in the Intercreditor Agreement, (i) no part of the Pledged Revenues or any right to receive or collect the same or the proceeds thereof is subject to any Lien, (ii) all corporate action on the part of the Debtor to authorize the pledge thereof and the granting of a security interest therein has been duly and validly taken, and (iii) the Pledged Revenues assigned pursuant hereto are legally available to provide security for the Debtor’s performance under the Loan Agreement. The Debtor covenants and agrees that (i) it shall not hereafter create or permit the creation of any pledge, assignment, encumbrance, restriction, security interest in or other commitment of or with respect to the Pledged Revenues which is prior or equal to the pledge of the Pledged Revenues made by this Section and (ii) it shall at all times, to the extent permitted by law, defend, preserve and protect such pledge and security interest and all of the rights of the Secured Party and the Holders of Bonds against all claims and demands of all persons whomsoever.

3. Collection of Pledged Revenues.

(a) Subject to the provisions of paragraph (b) of this Section and the terms of the Intercreditor Agreement relating to the Shared Collateral, commencing on the date on which the Bonds are first issued and delivered and continuing until no Bonds are Outstanding, the Debtor

shall deliver to the Trustee for deposit in accordance with Section 5.05 of the Resolution and the Series 2020A Resolution all Pledged Revenues (other than the amounts subject to Parity Debt) within ten (10) days following the Debtor's receipt thereof unless and until there is on deposit in the Debt Service Fund an amount at least equal to the sum of (i) the interest coming due on or prior to the earlier of the next succeeding January 1 or July 1, (ii) the principal and Sinking Fund Installments of Outstanding Bonds payable on and prior to the next succeeding July 1, and (iii) the Redemption Price or purchase price of Outstanding Bonds theretofore called for redemption or contracted to be purchased and accrued interest thereon to the date of redemption or purchase. In the event that, pursuant to Section 9.1(b)(iii) of the Loan Agreement, the Secured Party notifies the Debtor that account debtors are to make payments directly to the Secured Party or to the Trustee, such payments shall be made directly to the Secured Party or the Trustee notwithstanding anything contained in this subdivision, but the Debtor shall continue to deliver to the Trustee for deposit in accordance with Section 5.05 of the Resolution any payments received by the Debtor with respect to the Pledged Revenues.

(b) Notwithstanding anything to the contrary in paragraph (a) of this Section, in the event that, on or prior to the date on which a payment is to be made pursuant to Section 4.2(a) of the Loan Agreement on account of the principal, Sinking Fund Installments or Redemption Price of or interest on Outstanding Bonds, the Debtor has made such payment from its general funds or from any other money legally available to it for such purpose, the Debtor shall not be required solely by virtue of paragraph (a) of this Section, to deliver Pledged Revenues to the Trustee. Any Pledged Revenues collected by the Debtor that are not required to be paid to the Trustee pursuant to this Section or Section 9.1(b)(iii) of the Loan Agreement shall be free and clear of the security interest granted hereby and may be disposed of by the Debtor for any of its corporate purposes provided that no Event of Default (as defined in Section 9.1 of the Loan Agreement) nor any event which but for the passage of time or the receipt of notice or both would be an Event of Default has occurred and is continuing.

4. Consent to Pledge and Assignment. The Debtor consents to and authorizes the assignment, transfer or pledge by the Secured Party to the Trustee of the security interest in and pledge of the Pledged Revenues granted by the Debtor hereunder.

5. Representations and Warranties.

The Debtor warrants and represents that:

(i) it has the requisite power and authority to enter into this Agreement and to pledge and grant a security interest in the Pledged Revenues to the Secured Party as security for performance of its obligations under the Loan Agreement;

(ii) this Agreement constitutes valid, binding and legal obligations of the Debtor enforceable against the Debtor in accordance with its terms; *provided, however*, that such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting or relating to the rights of creditors generally and general principles of equity; and

(iii) the execution and delivery of this Agreement and the pledge of and grant of a security interest in the Pledged Revenues hereunder, the consummation of the transactions contemplated hereby and compliance with the provisions hereof do not violate, conflict with or result in a breach of any of the terms or provisions of, or constitute a default under, the charter or by-laws of the Debtor or any indenture or mortgage, or any trusts, endowments or other commitments or agreements to which the Debtor is party or by which it or any of its properties are bound, or any existing law, rule, regulation, judgment, order, writ, injunction or decree of any governmental authority, body, agency or other instrumentality or court having jurisdiction over the Debtor or any of its properties.

6. Events of Default.

The occurrence of any of the following shall constitute an “Event of Default” hereunder:

- (a) the occurrence of any Event of Default under the Loan Agreement; or
- (b) failure by the Debtor to observe and perform any covenant, condition or agreement on its part to be observed or performed hereunder or under any other agreement between the Secured Party and the Debtor for a period of thirty (30) days after written notice requiring the same to be remedied shall have been given to the Debtor by the Secured Party or the Trustee; provided, however, that, if in the determination of the Secured Party such default cannot be corrected within such thirty (30) day period but can be corrected by appropriate action, it shall not constitute an Event of Default if corrective action is instituted by the Debtor within such period and is diligently pursued until the default is corrected; or
- (c) any representation or warranty given by the Debtor to the Secured Party hereunder shall be false or misleading in any material respect.

Upon the occurrence of an Event of Default, the Secured Party may realize upon any pledge of or security interest in the Pledged Revenues and the rights to receive the same, all to the extent provided in Sections 2 and 3 hereof, by any one or more of the following actions: (A) enter the Debtor and examine and make copies of the financial books and records of the Debtor relating to the Pledged Revenues and, to the extent of the assigned Pledged Revenues, take possession of all checks or other orders for payment of money and money in the possession of the Debtor representing Pledged Revenues or proceeds thereof; (B) notify any account debtors obligated on any Pledged Revenues to make payment directly to the Secured Party or to the Trustee, as the Secured Party may direct, and of the amount to be so paid; **provided, however**, that (1) the Secured Party may immediately collect the entire amount of interest, principal, or Sinking Fund Installments, if any, coming due on Outstanding Bonds on the next interest payment date therefor, and may continue to do so commencing on each such interest payment date to the extent of amounts due on Outstanding Bonds on the next interest payment date therefor, with respect to the Pledged Revenues, until such amounts are fully collected, (2) written notice of such notification shall be mailed to the Debtor five (5) days prior to mailing or otherwise making such notification to account debtors and (3) until the Debtor shall receive such notice it shall have full authority and responsibility to enforce and collect Pledged Revenues owing from its account debtors; (C) following the above mentioned notification to account debtors, collect, compromise, settle, compound or extend amounts payable as Pledged Revenues which are in the form of accounts

receivable or contract rights from the Debtor's account debtors by suit or other means and give a full acquittance therefor and receipt therefor in the name of the Debtor whether or not the full amount of any such account receivable or contract right owing shall be paid to the Secured Party; (D) require the Debtor to deposit all money, checks or other orders for the payment of money which represent Pledged Revenues in an amount equal to the Pledged Revenues assigned hereunder within five (5) Business Days after receipt of written notice of such requirement, and thereafter as received, into a fund or account to be established for such purpose by the Secured Party; **provided, however**, that (1) the money in such fund or account shall be applied by the Secured Party to the payment of any of the obligations of the Debtor hereunder or under the Loan Agreement, including the reasonable and documented fees and expenses of the Secured Party, (2) the Secured Party may authorize the Debtor to make withdrawals from such fund or account for its corporate purposes and (3) the requirement to make such deposits shall cease and the balance of such fund or account shall be paid to the Debtor when all Events of Default hereunder or under the Loan Agreement by the Debtor have been cured; (E) forbid the Debtor to extend, compromise, compound or settle any accounts receivable or contract rights which represent any unpaid assigned Pledged Revenues, or release, wholly or partly, any person liable for the payment thereof (except upon receipt of the full amount due) or allow any credit or discount thereon; (F) endorse in the name of the Debtor any checks or other orders for the payment of money representing any unpaid assigned Pledged Revenues or the proceeds thereof; or (G) exercise any other rights and remedies of a secured party upon default under the Uniform Commercial Code in effect in the State.

All rights and remedies herein given or granted to the Secured Party are, to the extent permitted by law, cumulative, non-exclusive and in addition to any and all rights and remedies that the Secured Party may have or may be given by reason of any law, statute, ordinance or otherwise, and no failure to exercise or delay in exercising any remedy shall effect a waiver of the Secured Party's right to exercise such remedy thereafter.

7. UCC Filings. The Debtor hereby irrevocably appoints the Secured Party during the term hereof as its lawful attorney-in-fact to execute, on behalf of the Debtor, one or more financing statements, and hereby appoints the Secured Party to file continuation statements therefor as to the security interests granted to the Secured Party in the Pledged Revenues and the rights to receive the same, pledged to the Secured Party hereunder, and to file such financing statements and continuation statements therefor in any appropriate public office. The Secured Party shall forward to the Debtor, in due course, a copy of any such financing or continuation statement executed on behalf of the Debtor as provided herein.

8. Amendments to Security Agreement. This Agreement may be amended only by an instrument in writing signed by an Authorized Officer of the Debtor and the Secured Party, an executed counterpart of which shall be filed with the Secured Party.

9. Termination. This Agreement shall remain in full force and effect until no Bonds are Outstanding and all other payments, expenses and fees payable under the Loan Agreement by the Debtor shall have been paid or provision for the payment thereof have been made to the satisfaction of the Secured Party. Upon termination hereof, the Secured Party shall promptly deliver such

documents as may be reasonably requested by the Debtor to evidence such termination and the discharge of the Debtor's duties hereunder and under the Loan Agreement.

10. Notices. All notices, approvals, requests, consents, demands and directions required or authorized to be given by either party pursuant to or in respect hereof or the Bonds shall be in writing and shall be hand delivered against the written receipt therefor or sent by registered or certified mail:

In the case of the Debtor:

New York Institute of Technology
Northern Boulevard
P.O. Box 8000
Old Westbury, New York 11568-8000
Attention: Chief Financial Officer

With a copy to:

New York Institute of Technology
Northern Boulevard
P.O. Box 8000
Old Westbury, New York 11568-8000
Attention: General Counsel and Secretary

In the case of the Secured Party:

Dormitory Authority of the
State of New York
515 Broadway
Albany, New York 12207
Attention: Executive Director

With a copy to General Counsel at:

Dormitory Authority of the
State of New York
515 Broadway
Albany, New York 12207
Attention: General Counsel

In the case of the Trustee:

Wilmington Trust, N.A.
One M&T Plaza, 7th Floor
Corporate Trust Department
Buffalo, New York 14203
Telephone: (716) 842-5602

or sent to such other address as shall be designed in a written notice from a party to each other notice party.

11. Applicable Law; Venue. This Agreement shall be governed by and construed exclusively by the applicable laws of the State without regard or reference to its conflict of laws principles. Any action arising hereunder shall be filed and maintained in a state or federal court of competent jurisdiction located in the State in either Albany County or New York County.

12. Binding Effect. This Agreement shall be binding on and inure to the benefit of the parties to this Agreement and their respective heirs, executors, administrators, legal representatives, successors and assigns as permitted by this Agreement.

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

14. Prior Agreements Superseded. This Agreement constitutes the sole and only agreement of the parties and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this Agreement.

15. Attorney's Fees. If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party will be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled.

16. Section Headings. All headings preceding the text of the several sections hereof shall be solely for convenience of reference and shall not constitute a part hereof nor shall they affect the meaning, construction or effect hereof.

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

18. Further Assurances. The Debtor, at any and all times, shall, so far as it may be authorized by law, pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, acts, assignments, transfers and assurances as may be necessary or desirable for the better assuring, granting, assigning and confirming all and singular the rights and moneys, funds and security interests hereby pledged, assigned or granted, or intended so to be, or which the Debtor may hereafter become bound to pledge, assign or grant.

19. Disclaimer of Personal Liability. No recourse shall be had against or liability incurred by any member, director, trustee, officer, official, counsel, consultant, employee or agent of the Secured Party or of the Debtor or any person executing this Agreement for any covenants and provisions hereof or for any claims based thereon.

20. Effective Date. This Agreement shall be effective as of the date on which Bonds are first issued and delivered to the purchasers thereof

IN WITNESS WHEREOF, the Secured Party and the Debtor have caused this Security Agreement to be executed in their respective names by their duly authorized officers, all as of the date first above written.

**DORMITORY AUTHORITY OF STATE OF
NEW YORK**

By: _____

Name:

Title:

DRAFT

Signature Page 1 of 2
Security Agreement

NEW YORK INSTITUTE OF TECHNOLOGY

By: _____

Name: Barbara Holahan

Title: Chief Financial Officer and Treasurer

DRAFT

Signature Page 2 of 2
Security Agreement

Debtor Acknowledgement

STATE OF NEW YORK)
) SS.:
COUNTY OF NEW YORK)

On the __ day of _____, in the year 2020, before me, the undersigned, a notary public in and for said state, personally appeared Barbara Holahan, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

Secured Party Acknowledgement

STATE OF NEW YORK)
)
COUNTY OF ALBANY) SS.:

On the ___ day of _____, in the year 2020, before me, the undersigned, a notary public in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Notary Public