

AUTHORITY'S TAX CERTIFICATE

\$24,300,000

New York State Energy Research and Development Authority
Residential Energy Efficiency Financing Revenue Bonds
Series 2013A (Federally Taxable)

This Authority's Tax Certificate, dated August 13, 2013 (this "**Certificate**"), is being executed and delivered by the undersigned duly authorized official of the New York State Energy Research and Development Authority (the "**Authority**"), a public benefit corporation of the State of New York (the "**State**"), in connection with the issuance by the Authority of the above-referenced bonds (the "**Bonds**") on the date hereof (the "**Issue Date**"). The undersigned hereby represents and certifies on behalf of the Authority in connection with the Bonds, as follows:

ARTICLE I

GENERAL

Section 1.1. Definitions. Unless the context clearly requires otherwise, all capitalized terms not otherwise defined herein shall have the meanings in **Exhibit A** hereto, or in the Code or the Regulations, (each as so defined), or in the Indenture (as defined below).

Section 1.2. Authority of Signatory. The undersigned is a duly authorized official of the Authority charged, with others, with responsibility for the execution, delivery, and issuance of the Bonds.

Section 1.3. Purpose of Certificate. This Certificate is made for the purpose of: (i) establishing the expectations of the Authority as of the Issue Date as to future events regarding the amount and use of the proceeds of the Bonds; (ii) establishing the eligibility of the Bonds as "qualified tax credit bonds" and "qualified energy conservation bonds" ("**QECBs**") under Sections 54A and Section 54D of the Code, respectively, and that the Authority may properly apply for the direct interest subsidy payments afforded such QECBs, as specified tax credit bonds, pursuant to Section 6431(f) of the Code; and (iii) setting forth the provisions and procedures by which such eligibility may be maintained. It is delivered as part of the transcript of proceedings in connection with the issuance of the Bonds.

Section 1.4. General Description of Bonds. The Bonds will be issued under an Indenture of Trust, dated as of August 1, 2013, between the Authority and The Bank of New York Mellon, as trustee (the "**Trustee**") as supplemented by the First Supplemental Series Indenture dated as of August 1, 2013 (the "**Indenture**"). The Bank of New York Mellon also acts as the registrar and paying agent under the Indenture.

Section 1.5. No Composite Issues. No other governmental obligations have been sold less than 15 days prior to, or will be sold less than 15 days after, the sale date of the Bonds pursuant to a common plan of financing which will be paid from (or have substantially the same claim to be paid from) substantially the same source of funds as the Bonds.

Section 1.6. Reasonable Expectations. This Certificate sets forth the facts, estimates and circumstances now in existence which are the basis for the Authority's expectation that the proceeds of the Bonds will not be used in a manner that would cause the Bonds to be arbitrage bonds under Section 148 of the Code and that the provisions of Sections 54A, 54D, and 6431 of the Code, as they relate to QECBs, will be satisfied. To the best of my knowledge, information and belief, and based on the facts and estimates as set forth in this Certificate, the expectations of the Authority as set forth in this Certificate are reasonable and there are no other facts, estimates or circumstances that would materially change such expectations.

Section 1.7. Tax Covenant. The Authority expects to be able to and will comply with all the procedures and provisions set forth herein, unless it receives a written opinion from Bond Counsel that compliance with any of such procedures or provisions is not necessary to assure that the Bonds will qualify for the direct interest subsidy payment afforded QECBs under Section 6431 of the Code, in which case the Authority may choose not to comply with the provisions or procedures deemed unnecessary by Bond Counsel. The Authority agrees and covenants that it shall at all times perform all acts and things necessary or appropriate under any valid provision of law to ensure that the Bonds will qualify for the interest subsidy payment afforded QECBs under Section 6431 of the Code.

Section 1.8. Reliance by Bond Counsel. The representations and covenants of the Authority expressed in this Certificate may be relied upon by Bond Counsel in the rendering of any opinion with respect to the Bonds.

Section 1.9. Information Reporting. The Authority shall file the IRS Form 8038-TC, *Information Return for Tax Credit Bonds and Specified Tax Credit Bonds*, attached hereto as **Exhibit B** by the 15th day of the second month after the calendar quarter in which the Bonds are issued. The Authority has reviewed the information contained in Form 8038-TC and acknowledges that Bond Counsel prepared Form 8038-TC on behalf of the Authority based solely on the information contained in this Certificate provided by the Authority or by Lamont Financial Services Corporation (the "**Financial Advisor**"). The Authority, upon receipt of the acknowledgment of the IRS of the filing with it of such Form 8038-TC, will promptly send a copy of such IRS acknowledgement to Bond Counsel.

ARTICLE II

USE OF PROCEEDS AND QECB REQUIREMENTS

Section 2.1. Purpose of Issue. The Bonds are being issued by the Authority as QECBs under Section 54D of the Code. The proceeds of the Bonds, together with equity contributions, have been or will be used to make and permanently finance loans (the “**Loans**”) made by the Authority to fund energy efficiency improvements in one-to-four family residential structures for eligible applicants as a part of the Authority’s Green Jobs – Green New York Program (the “**GJGNY Program**”). All costs of issuance and related expenses will be paid by the Authority using its own equity. One hundred percent of the Available Project Proceeds of the Bonds will be used for the Qualified Purpose of implementing a “green community program” within the meaning of Section 54D(f)(1)(A)(ii) of the Code and as more fully described in IRS Notice 2012-44, a copy of which is attached as **Exhibit F** (collectively, the “**Project**”). The GJGNY Program promotes energy conservation, energy efficiency, or environmental conservative initiatives relating to energy consumption. Expenditures made under the GJGNY Program to which the Loans relate are chargeable to capital account under federal income tax principles.

Section 2.2. The Authority; Bond Designation; Irrevocable Election. The Authority is a public benefit corporation of the State of New York, established under Title 9 of Article 8 of the State Public Authorities Law. The Authority has approved the issuance of the Bonds pursuant to Resolution No. 363, adopted June 17, 2013. The Authority hereby designates the Bonds as QECBs for purposes of Section 54D(a)(3) of the Code. The Authority irrevocably elects, pursuant to Section 6431(f)(3)(B) of the Code, to have Subsection (f) of Section 6431 of the Code apply to the Bonds.

Section 2.3. State QECB Limitation Allocation. After required allocations to “large local governments” within the meaning of Code Section 54D(e)(2)(C) and (h), \$20,065,118 of the bond limitation pertaining to the issuance of QECBs within the State (“QECB Cap”) was unallocated and available to the State which has determined to act through the Authority. Three large local governments reallocated all or a portion of their QECB Cap allocations to the State through resolutions of their governing bodies: Broome County (\$1,803,389, a portion of its allocation), Oswego County (\$1,272,585), and Town of Smithtown (\$1,221,358). Therefore, the total QECB Cap allocation available to the State is \$24,362,450 which exceeds the aggregate face amount of the Bonds. No portions of such QECB Cap has been used.

Section 2.4. Refundable Credit Payment and Maximum Term for the Bonds.

(a) Section 6431(f)(2) of the Code provides for a reduced amount of refundable credit payment for QECBs equal to the lesser of: (i) 100 percent of the amount of interest payable under the bond on any interest payment date; or (ii) 70 percent of the amount of interest which would have been payable under such bond on such date if such interest were determined at the Applicable Credit Rate under Code Section 54A(b)(3). Under Section 54A(b)(3) of the Code,

the Applicable Credit Rate for QECBs is determined as of their Sale Date. The Applicable Credit Rate for July 31, 2013, the Sale Date of the Bonds, is 5.17%, as determinable from <https://www.treasurydirect.gov>. 70% of 5.17% is 3.619%.

(b) The Maximum Term of the Bonds under Section 54A(d)(5)(B) of the Code is 21 years, which is the Maximum Term allowed for QECBs with an issue date in August 2013, as determinable from <https://www.treasurydirect.gov>.

An excerpt from the referenced Internet site showing the Applicable Credit Rate for QECBs having a Sale Date of July 31, 2013 and the Maximum Term for QECBs with an issue date of August 13, 2013 is attached hereto as **Exhibit D**.

Section 2.5. **Filing of Request for Direct Interest Subsidy Payments**. In respect of each interest payment date on the Bonds, the Authority will file for each individual interest coupon, an IRS Form 8038-CP, *Return for Credit Payments to Issuers of Qualified Bonds*, with the Department of the Treasury, Internal Revenue Service Center, Ogden, Utah 84201-0020 requesting payment of the refundable credit not later than 45 days before an interest payment date, but in no event earlier than 90 days prior to an interest payment date, where “interest payment date” refers to each date on which interest is payable by the Authority on the Bonds under the terms of the Bonds. (A copy of current IRS Form 8038-CP and the Instructions to it are attached hereto as **Exhibit J**.) The Authority recognizes that the foregoing filing procedures are subject to amendment and modification, and hereby undertakes to monitor said filing procedures for any such changes.

Section 2.6. **Interest Rate on and Maturity of the Bonds**. The Bonds bear interest at various interest rates per annum ranging from 0.35% to 4.106%, as specified in the Official Statement of the Authority, dated July 31, 2013. Except for the 4.106% interest rate for the 2028 term bonds, such interest rates do not exceed 70% of the Applicable Credit Rate set forth in Section 2.4(a) above. The final maturity date of the Bonds is July 1, 2028, which is not in excess of the Maximum Term set forth in Section 2.4(b) above.

Section 2.7. **Potential Reduction in Direct Interest Subsidy Payments**. The Authority understands that direct interest subsidy payments pursuant to Section 6431 of the Code are treated as overpayments of tax for purposes of the Code. By virtue of such treatment, various credits against liabilities in respect of an internal revenue tax, tax offsets and limitations on credits or refunds of overpayments of tax apply to such subsidy payments. The Authority acknowledges that the amount of the direct interest subsidy payments it receives under Section 6431 of the Code may be reduced for reasons of the type described if ever applicable to the Authority.

Pursuant to the Budget Control Act of 2011 and the Sequestration Transparency Act of 2012, cuts in certain categories of federal spending were made for the fiscal year ending September 30, 2013, and may be made with respect to future fiscal years. These cuts included

reductions equal to 8.7% of the amount that had been budgeted for the direct subsidy payments under Code Section 6431(f) for the fiscal year ending September 30, 2013.

Section 2.8. No Conflicts of Interest. The Authority hereby certifies that applicable State and local law requirements governing conflicts of interest are satisfied with respect to the Bonds. The Authority further certifies that it will comply with any additional conflicts of interest rules prescribed by the Secretary of the Treasury governing the appropriate members of Congress, Federal, State and local officials with respect to issues of QECBs as contemplated by Section 54A(d)(6)(B) of the Code. The Authority is not aware of any such additional conflicts of interest rules being in effect as of the Issue Date of the Bonds.

Section 2.9. Sources and Uses of Funds⁽¹⁾. Proceeds of the Bonds and equity contributions of the Authority, each in the amounts shown, will be allocated for tax purposes to the following purposes:

<u>Sources:</u>	
Stated Principal Amount of Bonds	\$24,300,000.00
Additional Authority Contributions	<u>8,495,857.33</u>
Total	<u>\$32,795,857.33</u>

<u>Uses:</u>	
Qualified Purposes - Finance and Refinance Loans	\$31,790,591.13
Bond Issuance Costs, including Underwriter's Discount ⁽²⁾	<u>1,005,265.70</u>
Total	<u>\$32,795,857.33</u>

⁽¹⁾ Does not include amounts in the Collateral Reserve Account discussed in Section 3.2(f).

⁽²⁾ For tax purposes to be treated as funded entirely from equity provided by the Authority.

\$2,562,559.52 of the proceeds of the Bonds will be held in the GJGNY Revolving Fund rather than under the Indenture. The receipts derived from loans made with such proceeds will not be pledged under the Indenture at the outset but may be so pledged if needed for debt service purposes on the Bonds. Either way, such loans will be subject to all the rules and limitations described herein.

Section 2.10. Issue Price of Bonds. Citigroup Global Markets Inc., on behalf of itself and the other underwriters, (collectively, the “**Underwriter**”) has made certain certifications in the certificate attached as **Exhibit E** regarding the offering of each maturity of the Bonds to the general public (excluding bond houses, brokers, or similar persons or organizations acting in the capacity of underwriters or wholesalers). Based on such certifications, the aggregate issue price of the Bonds is \$24,300,000.00 (the “**Issue Price**”), the aggregate principal amount of the Bonds. There is no original issue discount or original issue premium.

Section 2.11. Investments at Fair Market Value in General. Pending expenditures of Proceeds of the Bonds for Qualified Purposes of the Project, the Authority shall invest all

Proceeds of the Bonds in Investments purchased and sold at Fair Market Value in *bona fide* arm's-length transactions between willing buyers and willing sellers, based on all the facts and circumstances.

Section 2.12. 100 Percent Available Project Proceeds Spending Requirement. The Authority reasonably expects (i) that 100 percent of the Available Project Proceeds of the Bonds (including the \$2,562,559.52 and related investment earnings held in the GJGNY Revolving Fund) will be spent within three years after the Issue Date for Qualified Purposes of the Project, in compliance with Sections 54A(d)(2)(A) and 54D(a) of the Code (the “**100 Percent Available Project Proceeds Spending Requirement**”), and (ii) to enter into a binding commitment with a third party to spend at least ten percent of the Available Project Proceeds of the Bonds within six months from the Issue Date. The Authority reasonably expects that all of the Available Project Proceeds of the Bonds will be spent for the Qualified Purposes of the Project before December 31, 2013, and in all events before August 12, 2016. For tax purposes, the Authority will allocate equity to pay Issuance Costs of the Bonds; thus, the amount of Available Project Proceeds is equal to the par amount of the Bonds, increased by earnings derived from the investment of such amount.

Section 2.13. Reimbursement of Expenditures. Under Section 54A(d)(2)(D) of the Code, the Available Project Proceeds of the Bonds are treated as spent for Qualified Purposes of the Project if such Proceeds are used to reimburse the Authority for amounts paid for Qualified Purposes, but only to the extent that (i) prior to the payment of each original expenditure to be so reimbursed, the Authority declared its intent to reimburse such expenditure with proceeds of QEGBs, (ii) not later than 60 days after the payment of the original expenditure, the Authority declared its intent to reimburse the original expenditure with proceeds of QEGBs, and (iii) the reimbursement is made not later than 18 months after the date the original expenditure is paid. Attached hereto as Exhibit C is a “Declaration of Intent” dated September 27, 2010, relating to the payment or reimbursement of expenditures subsequently incurred. The Authority expects to use \$20,256,981.48 of the Available Project Proceeds to reimburse it for expenditures made on or after February 14, 2012 with equity funds of the Authority. The expenditures relate to an existing pool of Loans and the reimbursement allocations will be evidenced in writing. February 14, 2012 is not earlier than 18 months from the Issue Date. The Authority understands that a reimbursement allocation which is made within 30 days of the Issue Date of the Bonds is treated as made on the Issue Date.

Section 2.14. Failure to Properly Spend the Available Project Proceeds. Pursuant to Section 54A(d)(2)(B), to the extent that less than 100 percent of the Available Project Proceeds of the Bonds are expended for Qualified Purposes by the end of the 3-year period beginning on the Issue Date, or such additional period as determined by the Secretary of the Treasury at the Authority's request, the Authority shall apply the unspent amount of Available Project Proceeds to the redemption of Bonds within 90 days after the end of such 3-year (or longer authorized) period. The amount of Bonds required to be redeemed shall be determined in the same manner as under Section 142 of the Code. The Authority will notify Bond Counsel if it expects, one month prior to the end of the three-year period following the Issue Date, that Available Project

Proceeds will remain unspent at the end of such three-year period. The Authority, after the requisite redemption has been made, will (a) file such forms with the IRS as may be necessary and pay any Rebate Amount to the Treasury Department as may be due, and (b) provide evidence of any such redemption and actions to Bond Counsel.

Section 2.15. Monitoring and Final Cost Certifications to Bond Counsel. The Authority will monitor the timely expenditure of the Proceeds of the Bonds for Qualified Purposes and after the expenditure of all the Proceeds of the Bonds will promptly prepare and submit to Bond Counsel a final cost certification in form and substance satisfactory to Bond Counsel sufficient to show compliance with the 100 Percent Available Project Proceeds Spending Requirement and the other requirements relating to the use of Proceeds of the Bonds for Qualified Purposes of the Project.

ARTICLE III

ARBITRAGE AND REBATE

Section 3.1. Bond Yield and Investment Yield. When used in this Certificate, the term “**Yield**” generally refers to yield computed by the actuarial or present value method using a 360-day year and semiannual compounding, and means that discount rate which, when used in computing the Present Value of all payments of principal and interest to be paid on an obligation, produces an amount equal to (i) the Issue Price thereof in the case of the Bonds, and (ii) the purchase price in the case of Investments purchased with the Proceeds of the Bonds. In determining the Bond Yield, the interest on the Bonds payable at various interest rates per annum ranging from 0.35% to 4.106% is taken into account, and adjusted pursuant to the mandate of Section 6431(c) of the Code to exclude from such computation the amount of the direct interest subsidy payments expected to be received in respect of the Bonds under Section 6431(f) of the Code. See Sections 2.4(a) and 2.6 above. After giving effect to such adjustment and in reliance on certain representations of the Underwriter in the Underwriter’s Certificate attached hereto as **Exhibit E**, the Financial Advisor has determined that the yield on the Bonds is 0.478446% as shown on **Exhibit G** hereto.

The Bonds constitute a Fixed Yield Bond Issue. The Bond Yield will not be affected by subsequent unexpected events, except to the extent provided in Section 1.148-4(h)(3) of the Regulations when and if the Authority enters into a qualified hedge or into any transaction transferring, waiving or modifying any right that is part of the terms of the Bonds. The Authority will consult with Bond Counsel prior to entering into any of the foregoing transactions. The Bonds maturing on July 1, 2028 are subject to optional redemption prior to the stated maturity in whole or in part at any time on or after July 1, 2023 at a redemption price equal to 100% of the principal amount.

Section 3.2. Yield Restriction on Investments.

The Authority will not invest the Proceeds of the Bonds in Investments at Yields that are materially higher, as defined in Section 1.148-2(d) of the Regulations (“**Materially Higher**”), than the Bond Yield, except as set forth in this Section.

(a) The Loans. With regard to the Loans, the Authority hereby waives its right to claim a yield spread over the Yield on the Bonds of 150 basis points. In result, such yield spread will be limited to 12½ basis points producing a maximum permissible yield on the Loans of 0.603446%. But for such waiver, the Loans would be Program Investments.

Certain administrative costs, including loan origination fees, loan servicing fees and costs of issuing of the Bonds, will be treated as an offset to the Loan receipts and cause the receipts to be taken into account in the computation of the Yield on the Loans, treating all the Loans as one, to be reduced. (The State bond issuance charge is not a cost of issuance of the Bonds.)

As of the Issue Date, Yield analyses have been conducted on behalf of the Authority which show that the composite Yield on the Loans does not exceed the Yield on Bonds by more than 12½ basis points. Such analyses, although instructive, are not necessarily determinative of the composite Yield on the Loans over the entire term of the Bonds. This is due to several factors, including (i) the fact that additional loans using approximately \$2.5 million of Bond proceeds have yet to be originated, (ii) the newness of the GJGNY Program, (iii) the lack of “seasoning” of most of the Loans, (iv) the reality that Loan prepayments and Loan losses are bound to occur, and (v) the inability to evaluate the effect that Federal budgetary uncertainties alluded to in Section 2.7 may have on direct payment subsidies. Accordingly, the Authority covenants and agrees to cause the composite Yield on the Loans to be calculated as of each anniversary date of the Issue Date of the Bonds. The Authority further covenants and agrees that if it appears at any time that such composite yield will exceed the Yield on the Bonds over the life of the issue by more than 12½ basis points (*i.e.*, will exceed 0.603446%, after taking into account permitted administrative costs), the Authority will take corrective steps to ensure that such Yield remains at or beneath 0.603446% over the term of the Bonds and will disclose in advance the corrective steps it proposes to take, and the basis for such actions, with its Bond Counsel. Such corrective steps may include, but are not limited to, loan forgiveness consisting of dollar credits to borrowers under the Loans against payments that would otherwise be due and/or cash rebates of payments received from borrowers under the Loans. Any such corrective steps may be immediate or deferred depending, for example, on whether Loan Yield excesses are considered to be momentary and essentially self-correcting or whether such excesses are more likely to be a permanent condition if left unaddressed.

(b) Temporary Period for Available Project Proceeds. The Available Project Proceeds of the Bonds (which are to be spent for the costs of the Project) may be invested without a Yield restriction for a period of three years beginning on the Issue Date because the Authority reasonably expects as of the Issue Date that: (i) the 100 Percent Available Project Proceeds Spending Requirement will be met, as set forth in Section 2.12 above, and

(ii) a binding commitment with third parties to spend at least ten percent of the Proceeds of the Bonds will be incurred within six months from the Issue Date. Such expectation notwithstanding any Available Project Proceeds remaining unspent after the end of the three-year expenditure period (or such longer expenditure period as may be determined by the Secretary of the Treasury at the Authority's request), will be used to redeem Bonds within 90 days after the end of such period, as further described in Section 2.14 above. Such unspent Available Project Proceeds will be subject to Yield restriction after the end the three-year expenditure period (or longer period if applicable).

(c) Temporary Period for Issuance Costs. No Proceeds of the Bonds will be used to pay the Issuance Costs.

(d) Temporary Period for Investment Earnings. Investment earnings received on the investment of the Gross Proceeds of the Bonds, other than the Available Project Proceeds, may be invested at an unrestricted Yield for a period not to exceed one year from the date of receipt.

(e) Debt Service Fund. The principal of, and interest on, the Bonds are reasonably expected to be paid from the Authority revenues consisting of receipts on the Loans and direct subsidy payments made under Code Section 6431(f) (the "**Pledged Revenues**"). The Pledged Revenues will be credited to the Revenue Fund and, after payment of ongoing administrative expenses, will be deposited in the Debt Service Fund to the extent required by the Indenture. Pledged Revenues determined to be in excess of these and other requirements under the Indenture will be transferred to or at the direction of the Authority. The Debt Service Fund operating in conjunction with the Revenue Fund will be used to achieve a proper matching of revenues and debt service and will be depleted at least annually except for a reasonable carryover amount which will not exceed the greater of the earnings on the Debt Source Fund for the immediately preceding bond year or one-twelfth of the debt service on the Bonds for the immediately preceding bond year. Pledged Revenues set aside to pay debt service on the Bonds, as described, will be expended within 13 months of initial receipt and may be invested until expended without Yield restriction.

(f) Collateral Reserve Account. The Bonds will be supported by a guarantee (the "**Guarantee**") provided by the New York State Environmental Facilities Corporation ("**EFC**") through its Clean Water State Revolving Fund Program ("**SRF**") for the scheduled payment of principal and interest on the Bonds. Under a Reimbursement Agreement dated as of August 1, 2013 (the "**Reimbursement Agreement**") with EFC, the Authority will establish a collateral reserve account, (the "**Collateral Reserve Account**") funded with a \$8,512,581 grant from the U.S. Department of Energy, to be deposited with a custodian selected by EFC. The Collateral Reserve Account, which is not pledged to the holders of the Bonds, will be drawn on only if payments on Loans and any other amounts available under the Indenture to pay the Bonds are insufficient to meet the principal and interest payments of the Bonds.

The Reimbursement Agreement (i) sets the terms and conditions whereby the Authority is required to repay to EFC any amounts drawn by the Trustee under the Guarantee and

(ii) requires the Authority to grant to EFC a lien on the amounts on deposit in the Collateral Reserve Account to secure the Authority's obligations to EFC under the Reimbursement Agreement. The Reimbursement Agreement and the other documents, agreements or instruments which have been executed by the Authority and which secure the Authority's obligations to EFC, and the liens granted thereby do not secure or otherwise provide any collateral for the Trustee, the holders of the Bonds or the Bonds.

The Authority will pay EFC an annual administrative fee for the Guarantee. The Authority will not treat any fees paid for the Guarantee as qualified guarantee. In the exercise of caution, amounts in the Collateral Reserve Account will be restricted to a Yield not in excess of the Yield on the Bonds or invested in Investments which are described in Code Section 103 and which are not "specified private activity bonds" within the meaning of Section 57(a)(5)(C) of the Code.

The Collateral Reserve Account is a reserve fund for a revolving fund loan program. As explained in the following paragraph, the amounts in the fund are not reasonably expected to be used directly or indirectly to pay debt service on the Bonds.

The issuance of QECBs by the Authority will be the first public offering of its kind and there is no credit experience on the basis of which it may be judged. The Collateral Reserve Account is being established and funded for the sole purpose of inducing EFC to guarantee the payment of debt service on the Bonds and to obtain, thereby, an investment grade rating for the Bonds. For several reasons, the Authority does not reasonably expect that EFC's guarantee will come into play or, in turn, that the Collateral Reserve Account will be needed or drawn on by EFC. Among such reasons are the following: *First*, relevant data suggest that the incidence of payment defaults while the Bonds are outstanding will be relatively minor. The credit standing of the borrowers, as a group, is high, the average FICO score being 751, as of June 30, 2013; the default experience among borrowers whose loans are to be permanently financed with Bond proceeds (the "**Bonded Loans**") or the receipts on which are otherwise to be pledged to the Bonds is less than 1%; and the average balance of such loans, at June 30, 2013, is small, less than \$9,000, so as not to impose an unusually large financial burden. *Second*, the Authority may be able to tap other funds available in a revolving fund established under the Green Jobs-Green New York Act of 2009, which was funded from the sale of emission allowances for air contaminants under the Regional Greenhouse Gas Initiative, to the extent these funds are not committed to other purposes. (Such funds are expected to be used to finance other energy conservation loans on an on-going, revolving fund basis.) *Third*, the Bonds will be significantly over-collateralized. In addition to the Bonded Loans, the Authority will pledge the receipts on equity-funded energy conservation loans (the "**Equity Loans**"). The principal amount of the Equity Loans exceeds 30% of the face amount of the Bonds and the receipts derived from the Equity Loans will represent more than 20% of the Pledged Revenues derived from the Loans. The resulting excess cash flow will provide a substantial layer of first instance protection from the possibility of a draw on the Collateral Reserve Account. In the second instance, if not needed, such excess cash flow will be paid to or at the direction of the Authority, unless and only if the Authority is unexpectedly unable to establish that Projected Net Revenues (as defined in

the Indenture) will meet certain tests specified in the Indenture. In the unexpected and unlikely event that Projected Net Revenues were required to be retained, the Authority hereby agrees to consult its Bond Counsel concerning the use and investment of such amounts.

(g) No Other Funds. Except for the Debt Service Fund, the Authority has not created or established, and does not expect to create or establish, any sinking fund or other similar fund which the Authority reasonably expects to use to pay principal of or interest on the Bonds.

(h) Other Amounts. Gross Proceeds of the Bonds not described in this Section 3.2, if any or ever, will be subject to Yield Restriction at a Yield not in excess of the Yield on the Bonds 1/1000 of 1% (.001%).

Section 3.3. No Prohibited Payments. The Authority has not entered into and will not enter into any transaction to reduce the yield on the investment of the proceeds of the Bonds, in such a manner that the amount to be rebated to the Federal government is less than it would have been had the transaction been at arm's-length and the yield on the issue not been relevant to either party.

Section 3.4. No Replacement Proceeds. The latest maturity date of the Bonds does not exceed the Maximum Term afforded them under the provisions of Section 54A(d)(5)(B) of the Code, and as stated in Section 4.2 below, the weighted average maturity of the Bonds is not greater than the average reasonably expected economic life of the facilities to be financed with the proceeds of the Bonds.

Section 3.5. Deemed Compliance with Section 148 for Available Project Proceeds. Assuming compliance with the 100% Available Project Proceeds Spending Requirement described in Section 2.12 above, the Bonds will be treated as meeting the requirements of Section 148 of the Code in respect of any investment of Available Project Proceeds during the three-year expenditure period. These requirements include rebate-related rules.

Section 3.6. Rebate Compliance—Gross Proceeds. The Authority understands that the status of the Bonds as QECBs depends upon compliance with the rebate requirement that applies to the Bonds. With respect to the investment of any Gross Proceeds (as defined in the Rebate Memorandum attached hereto as **Exhibit H**) of the Bonds, the Authority will either: (i) invest such Proceeds in Investments at Yields that do not exceed the Bond Yield; or (ii) comply with the provisions of the Rebate Memorandum attached hereto as **Exhibit H**. The Authority will compute or will retain a consultant to compute the required rebate amount for the Bonds in accordance with the instructions set forth in such Rebate Memorandum and will pay the rebate amount, if any, to the United States on a timely basis. As stated in Section 3.5, the Available Project Proceeds of the Bonds are not subject to rebate during the three-year expenditure period beginning on the Issue Date (or such longer expenditure period as may be determined by the Secretary of the Treasury at the Authority's request.)

ARTICLE IV

MISCELLANEOUS

Section 4.1. Weighted Average Maturity of Bonds. The weighted average maturity of the Bonds is 6.865 years as determined by the Financial Advisor and as shown in the schedule attached as **Exhibit J** hereto.

Section 4.2. Nature of Facilities to be Financed. Below is a list of facilities to be financed with the proceeds of the Bonds. The list is non-exhaustive but nonetheless characteristic of the types of facilities included in the Project, the average reasonably expected economic life of which exceeds 6.865 years. As stated above, 6.865 years is the weighted average maturity of the Bonds.

	<u>CATEGORY</u>	<u>SUB-CATEGORY</u>
1	Appliances & Lighting	CFLs
2	Appliances & Lighting	Clothes Washer
3	Appliances & Lighting	Dehumidifier
4	Appliances & Lighting	Dishwasher
5	Appliances & Lighting	ECM Motor
6	Appliances & Lighting	Freezer
7	Appliances & Lighting	Heat Energy Recovery Ventilator
8	Appliances & Lighting	Lighting Fixtures
9	Appliances & Lighting	Refrigerator
10	Appliances & Lighting	Room AC
11	Building Shell	Air Sealing
12	Building Shell	Exterior Door
13	Building Shell	Insulation
14	Building Shell	Other
15	Building Shell	Window
16	Health & Safety	Other
17	Health & Safety	Smoke, Radon, CO Detectors
18	Health & Safety	Ventilation Fan
19	Health & Safety	Venting System Repairs/Upgrades
20	Water Heater	WH-Indirect Fired
21	Water Heater	WH-Indirect Fired-natural gas
22	Water Heater	WH-Instantaneous
23	Water Heater	WH-Instantaneous-electric
24	Water Heater	WH-Instantaneous-natural gas
25	Water Heater	WH-Insulation
26	Water Heater	WH-Faucet Aerator
27	Water Heater	WH-Storage Tank Improvement
28	Water Heater	WH-Tank

	CATEGORY	SUB-CATEGORY
29	Water Heater	WH-Tank-electric
30	Water Heater	WH-Tankless Coil
31	Water Heater	WH-Tankless Coil-natural gas
32	Water Heater	WH-Tank-natural gas
33	Primary Heating and Cooling	Air Force Heat Pump-electric
34	Primary Heating and Cooling	Air Force Heat Pump-natural gas
35	Primary Heating and Cooling	Auxiliary Electric
36	Primary Heating and Cooling	Boiler - Hot Water
37	Primary Heating and Cooling	Boiler - Hot Water-natural gas
38	Primary Heating and Cooling	Central AC
39	Primary Heating and Cooling	Distribution Replace or Improve
40	Primary Heating and Cooling	Duct Sealing
41	Primary Heating and Cooling	Furnace
42	Primary Heating and Cooling	Furnace-natural gas
43	Primary Heating and Cooling	Ground Source Heat Pump
44	Primary Heating and Cooling	Ground Source Heat Pump-electric
45	Primary Heating and Cooling	Reset Control
46	Primary Heating and Cooling	Thermostat
47	Primary Heating and Cooling	Wood or Pellet Stove

Section 4.3. Restriction as to Bond Ownership. The borrowers under the Loans and all persons related to such borrowers are hereby prohibited from purchasing Bonds in an amount related to the amount of the respective Loan.

Section 4.4. Collaboration with State Department of Labor. Under the GJGNY Program, the Authority, often acting jointly with the State Department of Labor (“SDOL”), has invested time and resources in workforce development efforts aimed at preparing individuals for clean energy careers in the State. Among other things, the Authority and the SDOL seek to leverage State and federal funds to develop training opportunities for the unemployed, new and emerging workers through the SDOL’s “One-Stop Career Centers”, which assist jobseekers to identify career goals and locate appropriate training and certificate programs to meet these goals, and collaborates with the SDOL to establish a comprehensive workforce development program for the State which supports existing and planned energy-efficiency programs, minimizes barriers to delivering field testing and certification examinations, provides direct-entry, on-the-job, apprenticeship, and internship incentives to help defray the costs associated with bringing on new hires and engages disadvantaged communities. SDOL funding can provide training to new and emerging workers to prepare them with skills necessary for entry-level employment. Authority funding can provide more focused and specialized training related to energy-efficiency programs and projects, consistent with the workforce training objectives of the Green Jobs-Green New York Act of 2009. These objectives include incremental occupational training to unemployed workers, work readiness and entry-level technical training to individuals, apprenticeship and labor-management certification training, skills development for incumbent

GJGNY workers, skills development for new GJGNY workers to advance workers and improve employee retention, and qualitative research designed to assess skills gaps as identified by employers.

Section 4.5. Tax Covenant. The Authority at all times will do and perform all acts and things necessary to assure that the Bonds continue to qualify as direct pay QECBs under Sections 54A, 54D and 6431 of the Code.

Section 4.6. Noncompliance. The Authority shall perform each of the covenants undertaken by it in this Certificate unless, in the written opinion of Bond Counsel, noncompliance therewith will not adversely affect the qualification of the Bonds as direct pay QECBs under Sections 54A, 54D and 6431 of the Code.

Section 4.7. Retention of Records. The Authority covenants to maintain all records relating to the requirements of the code and the representations, certifications and covenants set forth in this Authority's Tax Certificate until the date six years after the last outstanding Bonds have been retired. If any of the Bonds are refunded by other obligations (the "Refunding Obligations"), the Authority covenants to maintain all records required to be retained by this section until the later of the date six years after the last outstanding Bonds have been retired or the date three years after the last Refunding Obligations have been retired. Under current law, no such refunding are permitted. The records that must be retained include, but are not limited to:

- (a) Basic records and documents relating to the Bonds (including the Resolution, this Authority's Tax Certificate and the opinion of Bond Counsel);
- (b) Documentation evidencing the expenditure of Bond proceeds;
- (c) Documentation evidencing the use of the Project by public and private sources (i.e., copies of management contracts, research agreements, leases, etc.);
- (d) Documentation evidencing all sources of payment or security for the Bonds; and
- (e) Documentation pertaining to any investment of Bond proceeds (including the purchase and sale of securities, SLGS subscriptions, yield calculations for each class of investments, actual investment income received from the investment of proceeds, guaranteed investment contracts, and rebate calculations).

Section 4.8. Reliance by Bond Counsel. The representations and covenants of the Authority expressed in this Certificate may be relied upon by Bond Counsel in connection with the rendering of any opinion with respect to the Bonds. The Authority acknowledges that Bond Counsel does not have any obligation to notify the Authority of any failure on its part to provide certifications and reports to Bond Counsel as provided in this Certificate.

ARTICLE V

POST ISSUANCE COMPLIANCE PROCEDURES

Section 5.1. Post-Issuance Compliance Procedures. The Authority, with the assistance of Bond Counsel, will promptly established Written Procedures to comply with applicable requirements of federal tax law with respect to the Bonds.

[Signature page follows.]

IN WITNESS WHEREOF, I have hereunto set my hand this Authority's Tax Certificate
this 13th day of August, 2013.

**NEW YORK STATE ENERGY RESEARCH
AND DEVELOPMENT AUTHORITY**

By: _____
Name: Jeffrey J. Pitkin
Title: Treasurer

LIST OF EXHIBITS

- Exhibit A – Definitions.
- Exhibit B – IRS Form 8038-TC.
- Exhibit C – Declaration of Intent.
- Exhibit D – Excerpt from Treasury Bureau of Public Debt’s Internet Site Showing Applicable Credit Rate and Maximum Maturity Applicable to the Bonds.
- Exhibit E – Underwriter’s Certificate.
- Exhibit F – IRS Notice 2012-44.
- Exhibit G – Calculation of Bond Yield.
- Exhibit H – Rebate Memorandum.
- Exhibit I – Weighted Average Maturity of the Bonds.
- Exhibit J – Current IRS Form 8038-CP and Instructions.

Exhibit A

DEFINITIONS

“**Applicable Credit Rate**” means the rate published by Treasury’s Bureau of Public Debt on its Internet site for State and Local Government Series (at <https://www.treasurydirect.gov>), as of the Sale Date for the Bonds.

“**Available Project Proceeds**” means (A) the excess of (i) the proceeds from the sale of the Bonds over (ii) the Issuance Costs of the Bonds (such costs being limited to an amount not to exceed two percent of the Issue Price of the Bonds) and (B) the proceeds from any investment of such excess.

“**Bona Fide Debt Service Fund**” means a fund that is used primarily to achieve a proper matching of revenues with principal and interest payments within each Bond Year and is depleted at least once each Bond Year except for a reasonable carry over amount (not in excess of the earnings on the fund for the immediately preceding Bond Year or one-twelfth of the principal and interest payments on the issue for the immediately preceding Bond Year).

“**Bond Counsel**” means any nationally recognized attorney or firm of attorneys, knowledgeable in the requirements of the Code, and the Regulations, and retained by the Authority, and in the case of the original issuance of the Bonds, Hawkins Delafield & Wood LLP.

“**Bonds**” mean the \$24,300,000 New York State Energy Research and Development Authority Residential Energy Efficiency Financing Revenue Bonds Series 2013A (Federally Taxable) of the Authority.

“**Bond Year**” means each 1 year period (or shorter period) from the date of issue that ends at the close of business on the day in the calendar year selected by the Authority which day is the last day within one year of the dated date of the Bonds. The first Bond Year ends on July 1, 2014.

“**Capital Expenditure**” means any cost of a type that is properly chargeable to capital account, or would be so chargeable with a proper election or with the application of the definition of placed in service under Section 1.150-2(c) of the Regulations, under general federal income tax principles, determined at the time of the expenditure.

“**Certificate**” means the Authority’s Tax Certificate, dated the Issue Date of the Bonds to which this **Exhibit A** is attached.

“**Code**” means the Internal Revenue Code of 1986, as amended.

“**Computation Date Credit**” currently means, for any issue of obligations, an amount equal to the Future Value of \$1,520.00 for each Bond Year during which there are gross

proceeds of the issue on a Computation Date other than the Final Computation Date, and \$1,590 on the Final Computation Date.

“**Computation Period**” means the period beginning on the day following a Computation Date (or in the case of the first period, the date of issuance of the Bonds) and ending on the next succeeding Computation Date.

“**Controlled Group**” means, in reference to governmental units or 501(c)(3) organizations, a group of entities controlled directly or indirectly by the same entity or group of entities, based on application of the more particular control principles set forth in Section 1.150-1(e) of the Regulations. For this purpose, the determination of direct control is based on all the facts and circumstances. In general, one entity controls another entity if the first entity possesses either of the following rights or powers on a discretionary, non-ministerial basis: (i) the right or power to approve and to remove without cause a controlling portion of the governing body of the controlled entity; or (ii) the right or power to require the use of funds of the controlled entity for any purpose of the controlling entity.

“**Fair Market Value**” of an Investment has the following meanings:

(a) In General. Except as elsewhere specifically stated below, the Fair Market Value of an Investment is the price at which a willing buyer would purchase the Investment from a willing seller in a *bona fide*, arm’s-length transaction.

(b) United States Treasury Obligation. The Fair Market Value of a United States Treasury Obligation that is purchased directly from the United States Treasury is its purchase price.

(c) Certificate of Deposit. The Fair Market Value of a certificate of deposit with a fixed interest rate, a fixed payment schedule, and a substantial penalty for early withdrawal is its purchase price provided, the yield on the certificate of deposit is not less than (i) the yield on reasonably comparable direct obligations of the United States and (ii) the highest yield published by the provider and currently available from the provider on reasonably comparable certificates of deposit offered to the public.

(d) Guaranteed Investment Contracts and Yield Restricted Escrows. The Fair Market Value of a guaranteed investment contract or an investment purchased for a yield restricted defeasance escrow is its purchase price, provided the issuer of the Bonds makes a bona fide solicitation for such contract that satisfies all of the following requirements:

- (i) the bid specifications are in writing and are timely forwarded to potential providers;
- (ii) the bid specifications include all material terms of the bid; material terms are defined as terms that may directly or indirectly affect the yield or cost of the investment;

- (iii) the bid specifications include a statement notifying potential providers that submission of a bid is a representation that the potential provider did not consult with any other potential provider about its bid, that the bid was determined without regard to any other formal or informal agreement that the potential provider has with the issuer or any other person (whether or not in connection with the bond issue), and that the bid is not being submitted solely as a courtesy to the issuer or any other person for purposes of satisfying the requirements of the applicable provisions of the Regulations;
- (iv) the terms of the bid specifications are commercially reasonable, i.e., there is a legitimate business purpose for the term other than to increase the purchase price or reduce the yield of the investment (for example, for solicitations of investments for a yield restricted defeasance escrow, the hold firm period must be longer than the issuer reasonably requires);
- (v) with respect to purchases of guaranteed investment contracts only, the terms of the solicitation take into account the issuer's reasonably expected deposit and drawdown schedule for the amounts to be invested;
- (vi) all potential providers have an equal opportunity to bid, for example, no potential provider is given the opportunity to review other bids (i.e., a last look) before providing a bid; and
- (vii) at least three reasonably competitive providers are solicited for bids; reasonably competitive provider is a provider that has an established industry reputation as a competitive provider of the investments being purchased.

The bids received must meet all of the following requirements:

- (i) the issuer receives at least three bids from providers that the issuer solicited under a *bona fide* solicitation, which bids meet the requirements set forth immediately above and that do not have a material financial interest in the issue. A lead underwriter in a negotiated underwriting transaction is deemed to have a material financial interest in the issue until fifteen days after the issue date of the issue. In addition, any entity acting as financial advisor with respect to the purchase of the investment at the time the bid specifications are forwarded to potential providers has a material financial interest in the issue. A provider that is a related party to a person that has a material financial interest in the issue is deemed to have a material financial interest in the issue;

- (ii) at least one of the three bids received is from a reasonably competitive provider of such types of investments, as described in paragraph (vii) above; and
- (iii) if the issuer uses an agent to conduct the bidding process, the agent did not bid to provide the investment.

The winning bid is:

- (i) in the context of a guaranteed investment contract, the highest yielding bona fide bid (determined net of any broker's fees); and
- (ii) in the context of investments other than guaranteed investment contracts, the lowest cost *bona fide* bid (including any broker's fees). The lowest cost bid is either the lowest cost bid for the portfolio or if the issuer compares the bids on an investment-by-investment basis, the aggregate cost of a portfolio comprised of the lowest cost for each investment. Any payment received by the issuer from a provider at the time the investment is purchased (e.g., an escrow float contract) for a yield restricted defeasance escrow under a bidding procedure meeting the requirements of this definition is taken into account in determining the lowest cost bid.

In general, the lowest cost *bona fide* bid (including any broker's fee) may not be greater than the cost of the most efficient portfolio comprised exclusively of United States Treasury Securities - State and Local Government Series ("SLGS") available for purchase from the Bureau of Public Debt. The cost of the most efficient portfolio of SLGS is to be determined at the time that bids are required to be submitted pursuant to the terms of the bid specifications. This requirement to compare to the most efficient SLGS portfolio does not apply if SLGS are not available for purchase on the date that bids are required to be submitted because sales of those securities have been suspended.

The provider of the investments or the obligor on the guaranteed investment contract certifies the administrative costs that it pays (or expects to pay), if any, to third parties in connection with supplying the investment.

The issuer must retain the following records with the bond documents until three years after the last outstanding bond is redeemed:

- (i) for guaranteed investment contracts, a copy of the contract, and for other types of purchases, the purchase agreement or confirmation;
- (ii) the receipt or other record of the amount actually paid by the issuer for the investment, including a record of any administrative costs paid by the issuer to third parties and the certification of such costs;

- (iii) for each bid that is submitted, the name of the person and entity submitting the bid, the time and date of the bid and the bid results;
- (iv) the bid solicitation form and, if the terms of the purchase agreement or the guaranteed investment contract deviated from the bid solicitation form or a submitted bid is modified, a brief statement explaining the deviation and stating the purpose of the deviation. If the issuer replaces an investment in the winning bid portfolio with another investment, the purchase price of the investment must be bid under a bidding procedure meeting the requirements of this definition; and
- (v) for purchases of investments other than guaranteed investment contracts, the most efficient portfolio of SLGS, determined at the time that the bids were required to be submitted pursuant to the terms of the bid specifications.

An amount paid for a broker's commission or similar fee paid with respect to a guaranteed investment contract or Investments purchased for a yield restricted defeasance escrow is treated as a qualified administrative cost (and therefore excludable from the yield on the Investment(s)) if (i) the fee does not exceed the lesser of \$37,000 or 0.2 percent of the "computational base", or, if more, \$4,000 where "computational base" means (A) for a guaranteed investment contract, the amount reasonably expected, as of the date the contract is acquired, to be deposited in the guaranteed investment contract over the term of the contract and (B) for yield restricted defeasance escrows, the amount of proceeds initially invested in those investments; and (ii) for any issue, the fees paid do not exceed \$106,000 in the aggregate. In the case of a calendar year after 2013, each of the dollar amounts set forth above shall be increased by an amount equal to such dollar amount multiplied by the cost of living adjustment for such calendar year as described in Treasury Regulation Section 1.148-5(e)(2)(iii)(B)(3).

"Fixed Yield Bond Issue" means a bond issue of which no bonds bear interest at a variable Yield.

"Final Computation Date" means the day the last bond that is part of the Bonds is discharged.

"Future Value" or **"FV"** of a payment or receipt means the amount, determined by using the economic accrual method (the method of computing yield based on the compounding of interest at the end of each compounding period), equal to the value of such payment or receipt at the time it is paid or received (or treated as paid or received), plus interest assumed to be earned and compounded over the period at a rate equal to the yield on the issue, using the same compounding interval and financial conventions used to compute yield.

"Gross Proceeds" means Sale Proceeds, Investment Proceeds, Transferred Proceeds and Replacement Proceeds.

“Installment Computation Date” means the last day of the fifth Bond Year and the last day of each succeeding fifth Bond Year (until and excluding the Final Computation Date) and, if the Bank so elects, the last day of any Bond Year.

“Investment” means (i) any security (within the meaning of Section 165(g)(2)(A) or (B) of the Code), (ii) any obligation (including obligations the interest on which is excluded from gross income for federal tax purposes), (iii) any annuity contract within the meaning of Section 72 of the Code, (iv) any investment-type property, and (v) residential real property for family units not located within the jurisdiction of the State.

“Investment Proceeds” means amounts actually or constructively received from the investment or reinvestment of Proceeds.

“Issuance Costs” means costs to the extent incurred in connection with and allocable to, the issuance of the Bonds, including the underwriters’ spread, counsel fees, financial advisory fees, rating agency fees, trustee fees, paying agent fees, bond registrar, certification and authentication fees, accounting fees, printing costs for Bonds and offering documents, public approval process costs, engineering and feasibility study costs, guarantee fees, other than for “qualified guarantees” (as defined in Section 1.148-4(f) of the Regulations), and similar costs.

“Issue Date” means, generally, for an issue, the first date on which the issuer receives the purchase price in exchange for delivery of the evidence of indebtedness representing any bond included in the applicable issue. The Issue Date of the Bonds is August 13, 2013.

“Issue Price” means the first price at which a substantial amount (10%) of the Bonds is sold to the public (not including bond houses or brokers, or similar persons or organizations acting in the capacity of underwriters or wholesalers), or if privately placed, the price paid by the first buyer of such obligations. The Issue Price of Bonds that are publicly offered in a *bona fide* public offering is determined on the basis of actual facts and reasonable expectations as of the sale date and shall not be adjusted to take into account actual facts after such date. In no event shall the Issue Price exceed its Fair Market Value as of the sale date.

“Maximum Term” means the maximum term permitted under Section 54A(d)(5)(B) of the Code for qualified tax credit bonds issued during a calendar month that includes the Sale Date.

“Nonpurpose Investment” means any Investment in which Gross Proceeds are invested and which is not acquired to carry out the governmental purpose of the issue.

“Plain Par Bond” means a qualified tender bond or a bond that (i) is issued with original issue discount or premium equal to not more than 2 percent of the stated redemption price at maturity plus the amount of original issue premium attributable exclusively to underwriters’ compensation; (ii) is issued for a price that does not include accrued interest other than interest that accrues up to one year prior to issuance and is paid within one year afterwards; (iii) bears interest from the issue date at a single stated fixed rate or is a variable rate obligation that pays

interest at least annually; and (iv) has a lowest stated redemption price not less than its outstanding stated principal amount.

“Plain Par Investment” means an investment that is an obligation that (i) is issued with original issue discount or premium (or, if acquired on a date other than the issue date, acquired with market discount or premium) equal to not more than 2 percent of the stated redemption price at maturity; (ii) is issued for a price that does not include accrued interest other than interest that accrues up to one year prior to issuance and is paid within one year afterwards; (iii) bears interest from the issue date at a single stated fixed rate or is a variable rate obligation that pays interest at least annually; and (iv) has a lowest stated redemption price not less than its outstanding stated principal amount.

“Present Value” means the amount determined under the following formula:

$$PV = \frac{FV}{(1+i)^n}$$

where i equals the discount rate divided by the number of compounding intervals in a year and n equals the sum of (i) the number of whole compounding intervals for the period beginning on the date as of which Present Value is computed and ending on the date the amount is to be received or paid and (ii) a fraction the numerator of which is the length of any short compounding interval during such period and the denominator of which is the length of a whole compounding interval.

“Proceeds” of the Bonds means Sale Proceeds and Investment Proceeds.

“Program investment” means a purpose investment that is part of a governmental program in which—

(A) The program involves the origination or acquisition of purpose investments;

(B) At least 95 percent (90 percent for qualified student loans under section 144(b)(1)(A)) of the cost of the purpose investments acquired under the program represents one or more loans to a substantial number of persons representing the general public, States or political subdivisions, 501(c)(3) organizations, persons who provide housing and related facilities, or any combination of the foregoing;

(C) At least 95 percent of the receipts from the purpose investments are used to pay principal, interest, or redemption prices on issues that financed the program, to pay or reimburse administrative costs of those issues or of the program, to pay or reimburse anticipated future losses directly related to the program, to finance additional purpose investments for the same general purposes of the program, or to redeem and retire governmental obligations at the next earliest possible date of redemption;

(D) The program documents prohibit any obligor on a purpose investment financed by the program or any related party to that obligor from purchasing bonds of an issue that finance

the program in an amount related to the amount of the purpose investment acquired from that obligor; and

(E) The Authority has not waived the right to treat the investment as a program investment.

“Purpose Investment” means an investment that is acquired to carry out the governmental purpose of the Bonds.

“Qualified Administrative Costs” means:

In General. All reasonable, direct administrative costs, other than carrying costs, such as separately stated brokerage or selling commissions, but not legal and accounting fees, record keeping, custody, and similar costs. General overhead costs and similar indirect costs of the Bank such as employee salaries and office expenses and costs associated with computing the Rebate Amount are not qualified administrative costs. In general, administrative costs are not reasonable unless they are comparable to administrative costs that would be charged for the same investment or a reasonably comparable investment if acquired with a source of funds other than gross proceeds of tax-exempt bonds.

Regulated Investment Companies and External Commingled Funds. For publicly offered regulated investment companies (as defined in section 67(c)(2) (B) of the Code) and commingled funds in which the Bank and any Controlled Entity do not own more than 10 percent of the beneficial interest in the fund, Qualified Administrative Costs are all reasonable administrative costs, without regard to the limitation on indirect costs described in the preceding paragraph.

GICs or Restricted Escrow Portfolios. An amount paid for a broker’s commission or similar fee paid with respect to a guaranteed investment contract or Investments purchased for a yield restricted defeasance escrow is treated as a qualified administrative cost (and therefore excludable from the yield on the Investment(s)) if (i) the fee does not exceed the lesser of \$37,000 or 0.2 percent of the “computational base”, or, if more, \$4,000 where “computational base” means (A) for a guaranteed investment contract, the amount reasonably expected, as of the date the contract is acquired, to be deposited in the guaranteed investment contract over the term of the contract and (B) for yield restricted defeasance escrows, the amount of proceeds initially invested in those investments; and (ii) for any issue, the fees paid do not exceed \$106,000 in the aggregate. In the case of a calendar year after 2013, each of the dollar amounts set forth above shall be increased by an amount equal to such dollar amount multiplied by

the cost of living adjustment for such calendar year as described in Treasury Regulation Section 1.148-5(e)(2)(iii)(B)(3).

Purpose Investments. Qualified Administrative Costs include costs or expenses paid, directly or indirectly, to purchase, carry, sell, or retire the investment; costs of issuing, carrying, or repaying the issue, and any underwriters' discount, which are paid by the conduit borrower, even if such payments merely reimburse the Bank, but only to the extent the present value of those payments does not exceed the present value of the reasonable administrative costs paid by the Bank using the yield on the Bonds as the discount rate.

Program Investments. Qualified Administrative Costs include only costs of issuing, carrying, or repaying the issue, and any underwriters' discount, subject to the limitation contained in the preceding paragraph.

“Qualified Guarantee” means, with respect to a bond, an unconditional transfer, in any form, of substantially all of the credit risk for all or part of the payments, such as payments for principal and interest, redemption prices or tender prices, on the guaranteed bonds. The guarantor must not expect to make any payments other than those pursuant to a direct-pay letter of credit or similar arrangement for which the guarantor will be immediately reimbursed. Reasonable procedural or administrative requirements or, in the case of a guarantee against failure to remarket a qualified tender bond, commercially reasonable limitations based on credit risk, will not cause the guarantee to be conditional. The guarantor may not be a co-obligor, nor may the obligor and any related parties combined use more than 10% of proceeds of the guaranteed portion of the bonds. The guarantee fee must not exceed a reasonable arm's-length charge solely for the transfer of the credit risk. A guarantee will not be qualified unless, as of the date the guarantee is obtained, the issuer reasonably expects that the present value of all fees for the guarantee will be less than the present value of the expected interest savings on the issue as a result of the guarantee. For this purpose, present value is computed using the yield on the issue, determined with regard to the guarantee fees, as the discount rate.

“Qualified Purposes” consist generally in this case of Capital Expenditures incurred for purposes of (i) reducing energy consumption in publicly-owned buildings by at least 20 percent, (ii) implementing green community programs (including the use of loans, grants, or other repayment mechanisms to implement such programs), (iii) rural development involving the production of electricity from renewable energy resources, or (iv) any qualified facility (as determined under section 45(d) of the Code without regard to paragraphs (8) and (10) thereof and without regard to any placed in service date) with the proceeds of the Bonds.

“Rebate Amount” means with respect to the Bonds, the amount computed as described in Section 3(B) of the Rebate Memorandum attached hereto as **Exhibit H.**

“Regulations” means the final Income Tax Regulations promulgated under Section 148 and other applicable provisions of the Code by the Treasury from time to time, as amended from time to time.

“Related Party” means, in reference to a governmental unit or a 501(c)(3) organization, any member of the same Controlled Group.

“Replacement Proceeds” means amounts with a sufficiently direct nexus to the Bonds or the Project financed by the Bonds to conclude that such amounts would have been used for the Project if the proceeds of the Bonds were not so used, including, to the extent held by or derived from the Bank or a Controlled Entity of the Bank, including:

- (i) sinking funds, such as debt service funds, redemption funds, reserve funds, replacement funds, or any other fund, to the extent reasonably expected to be used directly or indirectly to pay principal or interest on the Bonds;
- (ii) pledged funds, any amount directly or indirectly pledged to pay principal or interest on the Bonds, cast in any form but providing reasonable assurance that such amount will be available to pay principal or interest on the Bonds, even if the Bank encounters financial difficulty;
- (iii) negative pledges, amounts held under an agreement to maintain such amount at a particular level for the direct or indirect benefit of holders or a guarantor of the Bonds excluding amounts the Bank or a Controlled Entity of the Bank may grant rights in superior to the rights of the bondholders or the guarantor and amounts not in excess of the reasonable needs for which it is maintained, the required level of which is tested no more frequently than every 6 months and which may be spent without any substantial restriction other than a requirement to replenish such amount by the next testing date; and
- (iv) Other replacement proceeds, including amounts arising during a period that the Bonds, to the extent reasonably expected by the Bank as of the issue date, remain outstanding longer than necessary and amounts arising to the extent proceeds of the Bonds are used to finance a working capital reserve unless all of the Net Proceeds of the Bonds are spent within six months of their issue date or meet the Small Issuer Rebate Exception.

“Sale Date” means July 31, 2013, the date on which there was a binding commitment in writing for the sale or exchange of the Bonds.

“Sale Proceeds” has the meaning used in Section 1.148-1(b) of the Regulations and means generally amounts actually or constructively received from the sale or other disposition of the Bonds, including amounts used to pay underwriters’ discount or compensation and accrued

interest, if any, but excluding any amounts used within one year after the Issue Date to pay accrued interest, if any.

“**SLG**” means a U.S. Treasury Book Entry Security, State and Local Government Series.

“**Transferred Proceeds**” means proceeds of a prior issue that are allocable to a refunding issue at the time proceeds of the refunding issue are used to pay principal, interest or retirement price of the prior issue.

“**Treasury**” means the United States Department of Treasury.

“**Universal Cap**” means the maximum value of Nonpurpose Investments which may be allocated to the Bonds and is determined by reference to the Value of all outstanding Bonds of the issue. Nonpurpose Investments shall be taken into account as Nonpurpose Receipts at their Value on a Valuation Date.

“**Valuation Date**” means the date on which the value of the Universal Cap and the Nonpurpose Investments allocable to the Bonds thereunder are determined. With respect to new money issues, the first Valuation Date shall be the second year anniversary date of the date of issuance of the Bonds; thereafter, the first day of each Bond Year shall constitute a Valuation Date. With respect to a refunding issue, each date on which proceeds of the refunded issue would become transferred proceeds of the refunding issue, e.g. each date on which principal of the refunded issue is paid with proceeds of the refunding bonds, shall constitute a Valuation Date. In addition, the first date of each Bond Year shall also be a Valuation Date.

“**Value**” means, in the case of a Bond, the Value of a Bond and in the case of an Investment, the Value of an Investment.

“**Value of a Bond**” means, in the case of a Plain Par Bond, its outstanding stated principal amount, plus accrued unpaid interest or in the case of a Plain Par Bond actually redeemed, or treated as redeemed, its stated redemption price on the redemption date plus accrued unpaid interest. In the case of a bond other than a Plain Par Bond, the value on a date of such a bond is its Present Value on that date, using the yield on the issue of which the bonds are a part as the discount factor. In determining the Present Value of a variable rate bond, the initial interest rate on the bond established by the index or other rate setting mechanism is used to determine the interest payments on that bond.

“**Value of an Investment**” means, as of any date, for any Investment, Fair Market Value as of that date; for any fixed rate investment, Present Value on that date; and for any Plain Par Investment, the outstanding stated principal amount, plus accrued unpaid interest, as of that date. Yield restricted investments must be valued at Present Value, amounts allocated or that cease to be allocated to an issue must be allocated at Fair Market Value, except in cases in which such Nonpurpose Investments transferring as a result of the universal cap or transferred proceeds rules may be valued at present value, and amounts allocated to transferred proceeds may not be valued in excess of the value used for arbitrage restrictions applicable to the refunded issue.

“Working Capital Expenditure” means any cost of a type that does not constitute a Capital Expenditure.

“Written Procedures” means the post-issuance compliance procedures set forth in **Exhibit I** to this Authority’s Tax Certificate.

“Yield” means, as of any Computation Date, that discount rate which when used in computing the Present Value of all unconditionally payable payments of principal, interest, and fees for Qualified Guarantees on the Bonds (including those for qualified hedges, as defined in Regulation 1.148-4(h)) produces an amount equal to the sum of the issue prices of the obligations that are part of the Bonds. The Yield is computed as of the issue date by treating a bond subject to mandatory or contingent early redemption or to certain optional redemption provisions as redeemed on its expected early redemption date for an amount equal to its Value on such date. If a fixed Yield bond (i) is subject to optional redemptions within 5 years of the issue date and the Yield not taking into account the optional redemption is more than 1/8 of 1 percent above the Yield assuming the early redemption, (ii) is issued at an issue price that exceeds the stated redemption price at maturity by more than 1/4 of 1 percent multiplied by the product of the stated redemption price to maturity and the number of complete years to the first optional redemption date for the bond, or (iii) bears interest at increasing interest rates, the Yield on the Bonds containing such fixed Yield Bond is computed by treating such fixed Yield Bond as redeemed at its stated redemption price on the optional redemption date that produces the lowest Yield on the Bonds. No adjustment will be made on any Computation Date to the Yield on the Bonds as computed on the date of issuance thereof, unless redemption rights are subsequently transferred to a third party or termination payments are received with respect to qualified hedges.

Exhibit B

IRS FORM 8038-TC

Exhibit C

DECLARATION OF INTENT

Exhibit D

EXCERPT FROM TREASURY BUREAU OF PUBLIC DEBT'S INTERNET
SITE SHOWING APPLICABLE CREDIT RATE AND MAXIMUM
MATURITY APPLICABLE TO THE BONDS

Exhibit E

CERTIFICATE OF CITIGROUP GLOBAL MARKETS INC.

August 13, 2013

New York State Energy Research
and Development Authority
17 Columbia Circle
Albany, New York 12203

Hawkins Delafield & Wood LLP
One Chase Manhattan Plaza
New York, New York 10005

Ladies and Gentlemen:

Re: \$24,300,000 New York State Energy Research and Development Authority
Residential Energy Efficiency Financing Revenue Bonds Series 2013A (Federally
Taxable) (the “**Bonds**”)

The undersigned, on behalf of ourselves and all other underwriters of the Bonds (collectively, the “Underwriter”) for the Bonds, hereby represents that:

(a) On July 31, 2013, the date on which we, as and for the Underwriter, entered into a binding written commitment relating to the sale of the Bonds (the “Sale Date”), all Bonds of all maturities were the subject of an initial offering to the public (excluding bond houses, brokers, or similar persons or organizations acting in the capacity of underwriters or wholesalers), at prices not higher than, or, in the case of obligations sold on a yield basis, at yields not lower than, those shown in the Official Statement relating to the Bonds.

(b) On the Sale Date, to the best of our knowledge based on our records, the first price or yield at which at least ten percent of each maturity of the Bonds was sold to the public (excluding such bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) was not greater than the respective price, or was not lower than the respective yield, shown in the Official Statement.

(c) On the Sale Date, based on our assessment of the then prevailing market conditions, we had no reason to believe that any of the Bonds would be initially sold to the public (excluding such bond houses, brokers or similar persons or organizations acting in the

capacity of underwriters or wholesalers) at prices greater than the prices, or yields lower than the yields, shown in the Official Statement.

(d) The prices and yields of the Bonds, maturity-by-maturity, shown in the Official Statement, represented our best judgment of the fair market value of the Bonds.

We understand that the representations contained herein may be relied upon by the New York State Energy Research and Development Authority in making certain of the representations contained in the Authority's Tax Certificate, and we further understand that Bond Counsel to the New York State Energy Research and Development Authority may rely upon this certificate, among other things, in providing advice with respect to the treatment of the Bonds as qualified energy conservation bonds for Federal income tax purposes.

[Signature page follows.]

IN WITNESS WHEREOF, the undersigned Underwriter has duly executed this Certificate as of this date of August 13, 2013.

CITIGROUP GLOBAL MARKETS INC.,
as Representative of the Underwriters

By: _____

Name:

Title:

Exhibit F

IRS NOTICE 2012-44

Exhibit G

CALCULATION OF BOND YIELD

Exhibit H

REBATE MEMORANDUM

To: New York State Energy Research and Development Authority

From: Hawkins Delafield & Wood LLP

Re: Arbitrage Rebate Requirement

Dated: August 13, 2013

Introduction

Under Sections 54A(d)(4) and 148 of the Code and the related Regulations, the New York State Energy Research and Development Authority (the “**Authority**”) is required to periodically rebate to the Federal government certain excess earnings from the investment of the Gross Proceeds of its \$24,300,000 New York State Energy Research and Development Authority Residential Energy Efficiency Financing Revenue Bonds Series 2013A (Federally Taxable) (the “**Bonds**”). Available Project Proceeds invested during the three-year period beginning on the Issue Date are not subject to the arbitrage restrictions (*i.e.*, yield restriction and rebate) if expended by the conclusion of such period. Otherwise, compliance with the procedures set forth herein is necessary to meet the applicable requirements. The procedures set forth below are subject to amplification and revision as necessary to comply with the rebate requirement as it may be revised by the Internal Revenue Service of the Department of the Treasury. This Rebate Memorandum shall be considered part of the Authority’s Tax Certificate to which it is attached. The capitalized terms used but not defined in this Rebate Memorandum have the meaning assigned to them in the Authority’s Tax Certificate.

Section 2. Definitions. For the purpose of this Rebate Memorandum, the following words and terms shall have the respective meanings set forth as follows:

“**Bona Fide Debt Service Fund**” means a fund which may include proceeds of an issue, that:

(A) Is used primarily to achieve a proper matching of revenues with principal and interest payments within each Bond Year (as defined below); and

(B) Is depleted at least once each Bond Year, except for a reasonable carryover amount not to exceed the greater of:

(i) the earnings on the fund for the immediately preceding Bond Year; or

(ii) one-twelfth (1/12) of the principal and interest payments on the issue for the immediately preceding Bond Year.

“**Bond Year**” means each one-year period (or shorter period) beginning on the Issue Date and ending at the close of business on the day in the calendar year selected by the Authority or, if no day is selected before the earlier of the final maturity date of the issue or five years after the Issue Date, the anniversary date of the Issue Date. The first Bond Year will end on July 1, 2014.

“**Bond Yield**” means the Yield on the Bonds. In determining the Bond Yield, the direct subsidy payment provided under Section 6431 of the Code is disregarded.

“**Commingled Fund**” means any fund or account containing both Gross Proceeds of an issue and amounts in excess of \$25,000 that are not Gross Proceeds of that issue if the amounts in the fund or account are invested and accounted for collectively, without regard to the source of funds deposited in the fund or account. An open-ended regulated investment company under Section 851 of the Code however, is not a commingled fund.

“**Computation Date**” means any Installment Computation Date or the Final Computation Date.

“**Computation Period**” means the period between Computation Dates. Except as provided in the following sentence, the first Computation Period begins on the Issue Date and ends on the first Computation Date; each succeeding Computation period begins on the date immediately following the Computation Date and ends on the next Computation Date.

“**Fair Market Value**” of an Investment has the following meanings:

(A) *In General.* Except as elsewhere specifically stated below, the Fair Market Value of an Investment is the price at which a willing buyer would purchase the Investment from a willing seller in a *bona fide* arm’s length transaction.

(B) *Guaranteed Investment Contracts and Yield Restricted Defeasance Escrows.* The Fair Market Value of a guaranteed investment contract or an Investment purchased for a yield-restricted defeasance escrow is its purchase price, provided the issuer of the Bonds makes a *bona fide* solicitation for such contract that satisfies all of the following requirements:

(1) The bid specifications are in writing and are timely forwarded to potential providers;

(2) The bid specifications include all material terms of the bid; material terms are defined as terms that may directly or indirectly affect the Yield or cost of the Investment;

(3) The bid specifications include a statement notifying potential providers that submission of a bid is a representation that the potential provider did not consult with any other potential provider about its bid, that the bid was determined without regard to any other formal or informal agreement that the potential provider has with the issuer or any other person (whether or not in connection with the bond issue), and that the bid is not being submitted solely as a courtesy to the issuer or any other person for purposes of satisfying the requirements of the applicable provisions of the Regulations;

(4) The terms of the bid specifications are commercially reasonable, *i.e.*, there is a legitimate business purpose for the term other than to increase the purchase price or reduce the Yield of the Investment (for example, for solicitations of Investments for a yield-restricted defeasance escrow, the hold firm period must not be longer than the issuer reasonably requires);

(5) With respect to purchases of guaranteed investment contracts only, the terms of the solicitation take into account the issuer's reasonably expected deposit and drawdown schedule for the amounts to be invested;

(6) All potential providers have an equal opportunity to bid, for example, no potential provider is given the opportunity to review other bids (*i.e.*, a last look) before providing a bid; and

(7) At least three reasonably competitive providers are solicited for bids; reasonably competitive provider is a provider that has an established industry reputation as a competitive provider of the Investments being purchased.

The bids received must meet all of the following requirements:

(1) The issuer receives at least three bids from providers that the issuer solicited under a *bona fide* solicitation, which bids meet the requirements set forth immediately above and that do not have a material financial interest in the issue. A lead underwriter in a negotiated underwriting transaction is deemed to have a material financial interest in the issue until 15 days after the Issue Date of the issue. In addition, any entity acting as financial advisor with respect to the purchase of the Investment at the time the bid specifications are forwarded to potential providers has a material financial interest in the issue. A provider that is a related party to a person that has a material financial interest in the issue is deemed to have a material financial interest in the issue;

(2) At least one of the three bids received is from a reasonably competitive provider of such types of Investments, as described in paragraph (7) above; and

(3) If the issuer uses an agent to conduct the bidding process, the agent did not bid to provide the Investment.

The winning bid is:

(1) In the context of a guaranteed investment contract, the highest yielding *bona fide* bid (determined net of any broker's fees); and

(2) In the context of Investments other than guaranteed investment contracts, the lowest cost *bona fide* bid (including any broker's fees). The lowest cost bid is either the lowest cost bid for the portfolio or if the issuer compares the bids on an investment-by-investment basis, the aggregate cost of a portfolio comprised of the lowest cost for each Investment. Any payment received by the issuer from a provider at the time the Investment is purchased (*e.g.*, an escrow float contract) for a yield-restricted defeasance

escrow under a bidding procedure meeting the requirements of this definition is taken into account in determining the lowest cost bid.

In general, the lowest cost *bona fide* bid (including any broker's fee) may not be greater than the cost of the most efficient portfolio comprised exclusively of SLGS available for purchase from the Bureau of Public Debt. The cost of the most efficient portfolio of SLGS is to be determined at the time that bids are required to be submitted pursuant to the terms of the bid specifications. This requirement to compare to the most efficient SLGS portfolio does not apply if SLGS are not available for purchase on the date that bids are required to be submitted because sales of those securities have been suspended.

The provider of the Investments or the obligor on the guaranteed investment contract must certify the administrative costs that it pays (or expects to pay), if any, to third parties in connection with supplying the Investment.

The issuer must retain the following records with the bond documents until three years after the last outstanding bond is redeemed:

(1) For guaranteed investment contracts, a copy of the contract, and for other types of purchases, the purchase agreement or confirmation;

(2) The receipt or other record of the amount actually paid by the issuer for the Investment, including a record of any administrative costs paid by the issuer to third parties and the certification of such costs;

(3) For each bid that is submitted, the name of the person and entity submitting the bid, the time and date of the bid and the bid results;

(4) The bid solicitation form and, if the terms of the purchase agreement or the guaranteed investment contract deviated from the bid solicitation form or a submitted bid is modified, a brief statement explaining the deviation and stating the purpose of the deviation. If the issuer replaces an Investment in the winning bid portfolio with another Investment, the purchase price of the Investment must be bid under a bidding procedure meeting the requirements of this definition; and

(5) For purchases of Investments other than guaranteed investment contracts, the most efficient portfolio of SLGS, determined at the time that the bids were required to be submitted pursuant to the terms of the bid specifications.

(C) *Certificates of Deposit.* The Fair Market Value of a certificate of deposit is its purchase price if it has a fixed rate of interest, a fixed payment schedule, and a substantial penalty for early withdrawal and the Yield on the certificate of deposit is not less than (1) the Yield on comparable direct obligations of the United States and (2) the highest Yield published or posted by the provider to be currently available on reasonably comparable certificates of deposit.

“Final Computation Date” means the day the last Bond that is part of the issue is discharged.

“Fixed Yield Bond Issue” means a bond issue of which no bonds bear interest at a variable Yield.

“Future Value” means the amount determined by using the following formula:

$$FV = PV(1+i)^n$$

where “i” equals the Rebate Yield divided by the number of compounding periods in a Bond Year and “n” equals the sum of (i) the number of whole compounding intervals for the period ending on the Computation Date and (ii) a fraction the numerator of which is the length of any short compounding interval during such period and the denominator of which is the length of a whole compounding interval.

“Gross Proceeds” means:

(A) “Sale Proceeds”, *i.e.*, amounts actually or constructively received on the sale or other disposition of the Bonds, including amounts used to pay pre-issuance accrued interest and include, but are not limited to, amounts received from the sale of a right associated with a bond. Pre-issuance accrued interest means interest which has accrued for a period of not more than one year and will be paid no more than one year after the bonds are issued;

(B) “Investment Proceeds”, *i.e.*, amounts actually or constructively received from investing proceeds of an issue;

(C) “Transferred Proceeds”, *i.e.*, proceeds of a refunded issue that are allocable to a refunding issue at the time of payment of principal of the refunded issue with the proceeds of the refunding issue; and

(D) Replacement Proceeds, as defined below.

The term “Gross Proceeds” does not include Qualified Administrative Costs as defined below, nor does it include amounts properly within the applicable Yield allowance for acquired purpose investments (one-eighth of one percentage point (1/8%) or for acquired program investments one-and-one-half percentage points (1 and 1/2%)).

“Installment Computation Date” means any date with respect to a Fixed Yield Bond Issue. However, the first rebate installment payment must be made on a Computation Date that is not later than five years after the Issue Date. Subsequent rebate installment payments must be made for a Computation Date that is not later than five years after the previous computation date for which an installment payment was made (until and excluding the Final Computation Date).

“Investment” means (i) any security (within the meaning of Section 165(g)(2)(A) or (B) of the Code), (ii) any obligation (including obligations the interest on which is excluded from gross income for Federal tax purposes), (iii) any annuity contract within the meaning of

Section 72 of the Code, (iv) any investment-type property, and (v) residential real property for family units not located within the jurisdiction of the State.

“**Net Proceeds**” means Gross Proceeds reduced by amounts deposited to a reasonably required reserve fund.

“**Nonpurpose Investment**” means any Investment in which Gross Proceeds are invested and which is not acquired to carry out the governmental purpose of the issue.

“**Plain Par Bond**” means a qualified tender bond or a bond issued with not more than two percent original issue discount or premium, the Issue Price of which includes only pre-issuance accrued interest, which bears interest from the Issue Date at a single, stated fixed rate or that is a variable rate instrument, interest is unconditionally payable at least annually and has a lowest stated redemption price that is not less than its outstanding stated principal amount.

“**Plain Par Investment**” means an Investment that is an obligation issued with no more than two percent original issue discount or premium, or, if acquired on a date other than the Issue Date thereof, acquired with not more than two percent market discount or premium; issued for a price that only includes pre-issuance accrued interest, bears interest from the Issue Date at a single, stated, fixed rate or that is a variable rate instrument, interest is unconditionally payable at least annually, and has a lowest stated redemption price that is not less than its outstanding stated principal amount.

“**Present Value**” means the amount determined by using the following formula:

$$PV = \frac{FV}{(1+i)^n}$$

where “i” equals the discount rate divided by the number of compounding intervals in a year and “n” equals the sum of (i) the number of whole compounding intervals for the period ending on the Computation Date and (ii) a fraction the numerator of which is the length of any short compounding interval during such period and the denominator of which is the length of a whole compounding interval.

“**Present Value of an Investment**” means the value of any Investment computed under the economic accrual method; using the same compounding interval and financial conventions used to compute the Bond Yield. On any valuation date, the Present Value of an Investment is equal to the Present Value of all unconditionally payable receipts to be received from and payments to be paid for the Investment after that date, using the Yield on the Investment as the discount rate.

“**Proceeds**” of the Bonds means Sale Proceeds and Investment Proceeds.

“**Program investment**” means a purpose investment that is part of a governmental program in which—

(E) The program involves the origination or acquisition of purpose investments;

(F) At least 95 percent (90 percent for qualified student loans under section 144(b)(1)(A)) of the cost of the purpose investments acquired under the program represents one or more loans to a substantial number of persons representing the general public, States or political subdivisions, 501(c)(3) organizations, persons who provide housing and related facilities, or any combination of the foregoing;

(G) At least 95 percent of the receipts from the purpose investments are used to pay principal, interest, or redemption prices on issues that financed the program, to pay or reimburse administrative costs of those issues or of the program, to pay or reimburse anticipated future losses directly related to the program, to finance additional purpose investments for the same general purposes of the program, or to redeem and retire governmental obligations at the next earliest possible date of redemption;

(H) The program documents prohibit any obligor on a purpose investment financed by the program or any related party to that obligor from purchasing bonds of an issue that finance the program in an amount related to the amount of the purpose investment acquired from that obligor; and

(I) The Authority has not waived the right to treat the investment as a program investment.

“Purpose Investment” means an investment that is acquired to carry out the governmental purpose of the Bonds.

“Qualified Administrative Costs” means:

(A) *In General.* All reasonable, direct administrative costs, other than carrying costs, such as separately stated brokerage or selling commissions, but not legal and accounting fees, record keeping, custody, and similar costs. General overhead costs and similar indirect costs of the Authority such as employee salaries and office expenses and costs associated with computing the Rebate Amount are not qualified administrative costs. In general, administrative costs are not reasonable unless they are comparable to administrative costs that would be charged for the same Investment or a reasonably comparable Investment if acquired with a source of funds other than gross proceeds of tax-exempt bonds.

(i) *Regulated Investment Companies and External Commingled Funds.* For publicly offered regulated investment companies (as defined in Section 67(c)(2)(B) of the Code) and commingled funds in which the Authority and any Controlled Entity do not own more than ten percent of the beneficial interest in the fund, Qualified Administrative Costs are all reasonable administrative costs, without regard to the limitation on indirect costs described in the preceding Section.

(ii) *GICs and Investments Purchased for a Yield-Restricted Defeasance Escrow.* An amount paid for a broker’s commission or similar fee paid with respect to a guaranteed investment contract or Investments purchased for a yield-restricted defeasance escrow will be considered reasonable if (i) the fee does not exceed the lesser

of \$37,000 or 0.2% of the “computational base”, or, if more, \$4,000, where “computational base” means (A) for a guaranteed investment contract, the amount reasonably expected, as of the date the contract is acquired, to be deposited in the guaranteed investment contract over the term of the contract and (B) for yield-restricted defeasance escrows, the amount of proceeds initially invested in those Investments; and (ii) for any issue, the fees paid, do not exceed \$106,000 for the year 2013, in the aggregate. In the case of a calendar year after 2013, each of the dollar amounts set forth above shall be increased by an amount equal to such dollar amount multiplied by the cost of living adjustment for such calendar year as described in Section 1.148-5(e)(2)(iii)(B) of the Regulations.

(B) *Purpose Investments.* Qualified Administrative Costs include costs or expenses paid, directly or indirectly, to purchase, carry, sell, or retire the Investment, costs of issuing, carrying, or repaying the issue, and any underwriters’ discount, any of which are paid by the conduit borrower, even if such payments merely reimburse the Authority, but only to the extent the Present Value of those payments does not exceed the Present Value of the reasonable administrative costs paid by the Authority using the Bond Yield as the discount rate.

(C) *Program Investments.* Qualified Administrative Costs include only costs of issuing, carrying, or repaying the issue, and any underwriters’ discount, subject to the limitation contained in the preceding paragraph.

“**Qualified Guarantee**” means a guarantee that satisfies the following criteria:

(A) As of the date the guarantee is obtained, the issuer reasonably expects the Present Value of the fees for such guarantee will be less than the Present Value of the expected interest savings on the issue as a result of the guarantee. For this purpose, Present Value is computed using the Yield on the issue determined with regard to guarantee payments, as the discount rate.

(B) The arrangement creates a guarantee in substance, *i.e.*, it imposes a secondary liability that unconditionally shifts substantially all of the credit risk for part or all of the payments, such as payments for principal, interest, redemption prices, or tender prices, on the guaranteed bonds. Reasonable procedural requirements of the guarantee do not cause the guarantee to be conditional. The guarantee may be in any form. The guarantor may not be a co-obligor. Thus, the guarantor must not expect to make any payments other than under a direct-pay letter of credit or similar arrangement for which the guarantor will be reimbursed immediately. The guarantor and any related parties together must not use more than ten percent of the proceeds of the portion of the issue allocable to the guaranteed bonds.

(C) The fees paid for the guarantee must not exceed a reasonable, arm’s length charge for the transfer of credit risk. Fees for the transfer of credit risk include fees for the guarantor’s overhead and other costs relating to the transfer of credit risk.

Payments for a qualified guarantee must be allocated to bonds and to computation periods in a manner that properly reflects the proportionate credit risk for which the guarantor is

compensated. Proportionate credit risk for bonds that not substantially identical may be determined using any reasonable consistently applied method.

“**Qualified Hedge**” means, with respect to an issue, a contract between the Authority and any unrelated party which is entered into to modify the Authority’s risk of interest rate changes with respect to the Bonds. The contract may be an interest rate swap, an interest rate cap, a futures contract, a forward contract, an option or may take another form.

A hedge provider may make a single payment to the Authority in connection with the acquisition of a hedging contract, however, only that portion of the contract may be treated as a Qualified Hedge which is not in excess of what the hedge provider’s payment to the Authority and the Authority’s payments under the contract would be if the contract bore rates equal to the on-market rates for the contract (determined as of the date the parties entered into the contract) and such amounts are separately identified in a certificate of the hedge provider.

The hedge contract should not contain a significant investment element. A contract will be deemed to contain a significant investment element if a significant portion of any payment by one party relates to a conditional or unconditional obligation by the other party to make a payment on a different date. An interest rate cap will not be considered to contain a significant investment element if: (i) all payments to the Authority by the hedge provider are periodic payments; (ii) the Authority makes payments for the cap at the same time as periodic payments by the hedge provider must be made if the specified index of the cap is above the strike price of the cap; and (iii) each payment by the Authority bears the same ratio to the notional principal amount used to compute the hedge provider’s payment, if any, on that date.

A hedge will not be qualified unless it covers, in whole or part, all of more of one of the groups of substantially identical bonds of an issue (*i.e.*, all bonds having the same interest rate, maturity and terms). If the hedge does not cover all interest payments, it must cover in whole or part, the same specific identifiable interest payments on each of the substantially identical bonds (*i.e.*, a pro rata portion of each interest payment on the variable rate bonds of an issue for the first five years). Changes to the value of the contract must be based primarily on interest rate changes. Payments received by the Authority from the hedge provider must correspond closely in time to either the specific payments being hedged on the hedge bonds or specific payments required to be made under the Bond documents regardless of the hedge, to a sinking fund, debt service fund, or similar fund. Payments to the hedge provider must be reasonably expected to be made from the same funds that, absent the hedge, would be reasonably expected to be used to pay principal and interest on the hedged bonds. The hedge must also be identified by the Authority on its books and records maintained for the hedged bonds not later than three days after the date the contract is entered into. The identification must specify the hedge provider, the terms of the hedge and the hedged bonds, and must contain sufficient detail to satisfy the requirement of Section 1.148-4(h)(2) or (4) of the Regulations. The hedge must also be noted on the first form filed with the Internal Revenue Service for the Bonds on or after the hedge is entered into.

Payments made or received by the Authority under a Qualified Hedge are taken into account in the same period in which those amounts would be treated as income or deductions under Section 1.446-4 of the Regulations.

“**Rebate Amount**” means with respect to the Bonds, the amount computed as described in Section 3.2(B) hereof.

“**Regulations**” means the final Income Tax Regulations promulgated under Section 148 and other applicable provisions of the Code by the Treasury from time to time, as amended from time to time.

“**Related Person**” means a group of entities controlled directly or indirectly by the same entity or group of entities.

(A) *Direct Control:* Direct control is determined on the basis of all relevant facts and circumstances. One entity or group of entities (the controlling entity) generally controls another entity or group of entities (the controlled entity) if the controlling entity possesses either of the following rights or powers and the rights or powers are discretionary and non-ministerial:

(1) the right or power both to approve and to remove without cause a controlling portion of the governing body of the controlled entity; or

(2) the right or power to require the use of funds or assets of the controlled entity for any purpose of the controlling entity.

(B) *Indirect Control:* If a controlling entity controls a controlled entity, as described above, the controlling entity also controls all entities controlled, directly or indirectly, by the controlled entity or entities. An entity is not a controlled entity if the entity possesses substantial taxing, eminent domain and police powers.

“**Replacement Proceeds**” means amounts which have a sufficiently direct nexus to the issue or the governmental purpose of the issue to conclude that the amounts would have been used for that governmental purpose if the proceeds of the issue were not used for that governmental purpose. The governmental purpose of a bond issue includes the expected use of amounts for the payment of debt service on a particular date. Replacement Proceeds include funds and amounts held by the Authority or a Related Person.

(A) a debt service fund, redemption fund, reserve fund, replacement fund, or any similar fund, to the extent reasonably expected to be used directly or indirectly to pay principal or interest on the issue;

(B) any amount that is directly or indirectly pledged to pay principal or interest on the issue. A pledge can take any form if the substance of the arrangement is that there is a reasonable assurance that the amount will be available to pay principal or interest on the Bonds, even if the issuer encounters financial difficulties. A pledge to a guarantor is, for this purpose, an indirect pledge to secure payment of principal and interest on the Bonds;

(C) any amount held under an agreement to maintain the amount at a particular level for the direct or indirect benefit of the bondholder or a guarantor of the Bonds; except if the issuer or a related person retains the ability to grant rights in the amount that are superior to the rights of the bondholder or the guarantor or the amount does not exceed reasonable needs for which it is maintained, the required level is tested no more frequently than every six months and the amount may be spent without any substantial restriction other than a requirement to replenish the amount by the next testing date;

(D) other amounts which arise to the extent the issuer reasonably expects as of the Issue Date that the term of the Bonds will be longer than reasonably necessary for the governmental purpose of the issue, and there will be available amounts during the period that the issue remains outstanding longer than necessary; and

(E) amounts equal to funds deposited to a working capital reserve to the extent such reserve is financed, directly or indirectly, with the proceeds of the issue, unless all of the proceeds of the Bonds are spent no later than six months after the Issue Date.

“**SLGS**” means a United States Treasury Book Entry Securities, State and Local Government Series.

“**Treasury**” means the United States Department of Treasury.

“**Universal Cap**” means the maximum value of Nonpurpose Investments which may be allocated to the Bonds and is determined by reference to the Value of all outstanding Bonds of the issue. Nonpurpose Investments shall be valued as Nonpurpose Receipts at their Value on a Valuation Date.

“**Valuation Date**” means the date on which the value of the Universal Cap and the Nonpurpose Investments allocable to the Bonds thereunder are determined. With respect to new money issues, the first Valuation date shall be the second year anniversary date of the Issue Date; thereafter, the first day of each Bond Year shall constitute a Valuation Date. With respect to a refunded issue and a refunding issue, each date on which proceeds of the refunded issue would become Transferred Proceeds of the refunding issue, *e.g.*, each date on which principal of the refunded issue is paid with proceeds of the refunding bonds, shall constitute a Valuation Date.

“**Value of a Bond**” means, in the case of a Plain Par Bond, its outstanding stated principal amount, plus accrued unpaid interest or in the case of a Plain Par Bond actually redeemed, is treated as redeemed, its stated redemption price on the redemption date plus accrued unpaid interest. In the case of a bond other than a Plain Par Bond, the value on a date of such a bond is its Present Value on that date, using the Yield on the issue of which the bonds are a part as the discount factor. In determining the Present Value of a variable rate bond, the initial interest rate on the bond established by the index or other rate setting mechanism is used to determine the interest payments on that bond.

“**Value of an Investment**” means, as of any date, for any Investment, Fair Market Value as of that date; for any fixed rate Investment, Present Value on that date; and for any Plain Par

Investment, the outstanding stated principal amount, plus accrued unpaid interest, as of that date. Yield-restricted Investments must be valued at Present Value, amounts allocated or that cease to be allocated to an issue must be allocated at Fair Market Value, except in cases in which such Nonpurpose Investments transferring as a result of the Universal Cap or Transferred Proceeds rules may be valued at Present Value, and amounts allocated to Transferred Proceeds may not be valued in excess of the value used for arbitrage restrictions applicable to the refunded issue.

“**Yield**” is computed by the actuarial or present value method using a 360-day year and semiannual compounding, and means the discount rate which, when used in computing the present value of all payments of principal and interest to be paid on an obligation, produces an amount equal to the issue price thereof in the case of the Bonds and the purchase price in the case of Investments purchased with the Proceeds of the Bonds. In determining the Bond Yield, the QECB credit allowed under Section 54A of the Code is disregarded.

“**Yield on a Fixed Yield Bond Issue**” means the discount rate, that, when used in computing the Present Value as of the issue date of all unconditionally payable payments of principal, interest and fees paid for a Qualified Guarantee and for a Qualified Hedges, produces an amount equal to the present value, using the same discount rate, of the aggregate Issue Price as of the Issue Date. Yield is computed by taking into account mandatory early redemptions or expected contingent redemption by treating such bonds as redeemed on the early redemption date for an amount equal to its value on that date. A contingent redemption is taken into account only if the contingency is reasonably expected to occur, in which case the date of the occurrence of the contingency must be reasonably estimated. Substantially identical bonds which are subject to mandatory early redemptions (*i.e.*, prior to final maturity) each bond must be treated as redeemed at its Present Value unless the stated redemption price at maturity of the bond does not exceed the issue price of the bond by more than one-fourth of one percentage point ($\frac{1}{4}\%$) multiplied by the product of the stated redemption price at maturity and the number of years to the weighted average maturity date of the substantially identical bonds, in which case each of those bonds must be treated as redeemed at its outstanding stated principal amount, plus accrued, unpaid, interest.

Bonds are subject to optional early redemption as follows:

(A) the Bonds are subject to optional redemption within five years of the issue date, but only if the Yield on the issue computed by assuming all bonds in the issue subject to redemption within five years of the issue date are redeemed at maturity is more than one-eighth of one percentage point ($\frac{1}{8}\%$) higher than the Yield on that issue computed by assuming all bonds subject to optional redemption within five years of the issue date are redeemed at the earliest date for their redemption;

(B) the bond is issued at a price that exceeds the stated redemption price by more than one-fourth of one percentage point ($\frac{1}{4}\%$) multiplied by the product of the stated redemption price at maturity and the number of complete years to the first optional redemption date for the bond;
or

(C) the bond bears interest at increasing interest rate (*i.e.*, stepped coupon bond).

If a bond is described in any of the preceding paragraphs the Yield on the issue is computed by treating the bond as redeemed at its stated redemption price on the optional redemption date that would produce the lowest Bond Yield.

Yield on a Fixed Yield Bond Issue is computed as of the issue date and is not affected by subsequent events except:

If as of the date of any transfer, waiver modification or similar transaction of any right that is part of the term of a bond or is otherwise associated with a bond (*e.g.*, a redemption right), in a transaction that is separate and apart from the original sale of the bond the issue is treated as retired and a new issue issued on the date of the transfer. The redemption price and the issue price of the new issue equal the aggregate values of bonds of the issue on the date of the transfer. Any amounts received by the issuer as consideration for the transfer are taken into account in computing the Yield on the new issue.

“Yield on an Investment” means the Yield on an Investment allocated to an issue computed under the economic accrual method (*i.e.*, the method of computing Yield based on the compounding of interest at the end of each compounding period), using the same compounding interval and financial conventions used to compute the Yield on the issue. The Yield on an Investment allocated to an issue is the discount rate that, when used in computing the Present Value as of the date the Investment is first allocated to the issue of all unconditionally payable receipts from the Investment, produces an amount equal to the Present Value of all unconditionally payable payments for the Investment. For this purpose, payments means amounts to be actually or constructively received from the Investment, such as earnings and return of principal.

Yield is computed separately for each class of Investments. Each of the following comprises a separate class of Investments:

- (A) Investments subject to the following definition of :
 - (1) one-eighth of one percentage point (1/8%) for Purpose and Nonpurpose Investments;
 - (2) one-thousandth of one percentage point (1/1000%) for Investments in a refunding escrow or Investments allocable to Replacement Proceeds;
 - (3) one-and-one-half percentage points (1 and ½%) for program investments, as defined in Section 1.148-2(d)(2)(iii) of the Regulations;
- (B) Yield-restricted Nonpurpose Investments; and
- (C) All other Nonpurpose Investments.

The Yield on yield-restricted Investments allocable to gross proceeds of a refunding issue that are held in one or more refunding escrows, is computed by treating the individual Investments as a single Investment having a single Yield, whether or not held concurrently.

Investments held beyond the redemption date of the Bonds are treated as sold for an amount equal to their value on the redemption date. Investments held beyond the temporary period as defined under Section 1.148-2 of the Regulations are treated as purchased for an amount equal to the Fair Market Value as of the end of the temporary period.

Section 3. Application of Universal Cap. On each Valuation Date, the Authority shall value the Universal Cap and Nonpurpose Investments allocable to the Bonds thereunder. Nonpurpose Investments in a *Bona Fide* Debt Service Fund such as the Debt Service Fund do not reduce the aggregate value of Nonpurpose Investments that may be allocated to the Bonds under the Universal Cap. All values are determined as of the close of business on each determination date, after giving effect to all payments on the Bonds and payments for and receipts on Investments on that date. To the extent Nonpurpose Investments cease to be allocated to an issue and the value of the Universal Cap exceeds the value of the remaining Nonpurpose Investments allocated to such issue, other Nonpurpose Investments may become allocated to the issue, provided that such Nonpurpose Investments are not already properly allocated to another issue and provided that such allocation does not cause the value of Nonpurpose Investments allocated to the Bonds to exceed the Universal Cap.

Generally, if Gross Proceeds of the Bonds invested in Nonpurpose Investments exceed the Universal Cap on a Valuation Date, such Nonpurpose Investments cease to be allocated to the Bonds in the following order:

- (A) Nonpurpose Investments allocable to Replacement Proceeds;
- (B) Nonpurpose Investments allocable to Transferred Proceeds; *e.g.*, unexpended sale or Investment Proceeds of a refunded issue which transfer and become proceeds of the refunding issue when proceeds of the refunding issue are applied to pay principal of the refunded issue; and
- (C) Nonpurpose Investments allocable to Sale Proceeds or Investment Proceeds of the Bonds.

Amounts are allocable to only one issue (including a taxable issue) at a time as Gross Proceeds. Amounts that are Sale, Investment or Transferred Proceeds allocable to an issue must be so allocated to that issue and may not be allocated instead as Replacement Proceeds to another issue. Amounts cease to be Sale, Investment or Transferred Proceeds allocated to an issue only when they are properly allocated to an expenditure for a governmental purpose, when they become Transferred Proceeds of another issue or when they cease to be allocated to an issue by operation of the Universal Cap. Where a Nonpurpose Investment ceases to be allocated to the Bonds, such Nonpurpose Investment is susceptible of re-allocation under the Universal Cap calculated with respect to another bond issue. A Nonpurpose Investment which is reallocated to another bond issue may be valued under the same valuation method pursuant to which it was valued for purposes of applying the Universal Cap with respect to the Bonds.

Notwithstanding anything herein to the contrary, the failure to perform the determination of Nonpurpose Investments allocable to the Bonds as of a Valuation Date shall not be considered

a violation of this provision if the value of Nonpurpose Investments allocated to the Bonds did not exceed the value of the Bonds outstanding on such date.

Section 4. Calculation of Rebate Amount. The Code requires the payment to the United States of the excess of the amount earned on the Investment of Gross Proceeds of the Bonds in Nonpurpose Investments over the amount that would have been earned on such Investments had the amount so invested been invested at a rate equal to the Bond Yield, together with any income attributable to such excess. Except as provided below, all Gross Proceeds of the Bonds are subject to this requirement. In order to meet the rebate requirement of the Code the Authority must take the following actions:

(A) Record of Investments. The Authority will record the date of receipt, amount and source of any Gross Proceeds of the Bonds, *e.g.*, proceeds from the sale of the Bonds and investment earnings. For each Nonpurpose Investment acquired with or allocated to Gross Proceeds of the Bonds, the Authority will record the purchase date or allocation date of such Investment, its purchase price (excluding any broker or dealer's commission or discount which shall be separately stated), or, if not acquired directly with Gross Proceeds of the Bonds, its Value on the date the Nonpurpose Investment is allocated to Gross Proceeds of the Bonds, accrued interest due on its purchase date or allocation date, its face amount, its coupon rate, its Yield, the frequency of its interest payment, its disposition price (excluding any broker or dealer's commission or discount which shall be separately stated), the accrued interest due on its disposition date and its disposition date. In addition, the Authority will record the date and amount of all expenditures of Bond proceeds, including expenditures for rebate, other than expenditures to acquire Investments.

(B) Computation of Rebate Amount. Subject to the special rules set forth in paragraphs (C) and (D) of this Section, the Authority will determine the Rebate Amount on each Computation Date. The Rebate Amount as of any Computation Date is the excess of the Future Value of all receipts with respect to Nonpurpose Investments over the Future Value of all payments with respect to the purchase of Nonpurpose Investments or the allocation of such Investments to the proceeds of the Bonds, determined as of each Computation Date. To the extent amounts received from Investments are reinvested, these amounts may be netted against each other and not taken into account in the computation of the Rebate Amount. The Authority shall determine its nonpurpose receipts and nonpurpose payments as described below.

(1) Receipts. Receipts with respect to Nonpurpose Investments include (i) actual receipts, amounts actually or constructively received with respect to an Investment, not reduced by sales commissions, administrative expenses or similar expenses unless such expenses comprise Qualified Administrative Costs; (ii) disposition receipts, the Fair Market Value of Investments deemed to be sold on the date the Investment ceases to be allocated to the issue (except that Present Value may be substituted for Fair Market Value with respect to fixed yield Investments, Investments which are subject to a Yield restriction requirement and Investments allocable to the Bonds by virtue of the application of the Universal Cap or the Transferred Proceeds rules; (iii) computation date receipts, the Fair Market Value (Present Value, in the case of guaranteed investment contracts and other fixed rate Investments) of all Nonpurpose

Investments allocated to the issue at the close of business on a Computation Date; and (iv) rebate receipts, any recovery of an overpayment of rebate.

(2) Payments. Payments with respect to Nonpurpose Investments include (i) direct payments, the amount of Gross Proceeds of the issue directly used to purchase the Investment, not including brokerage commissions, administrative expenses or similar expenses unless such expenses constitute Qualified Administrative Costs; (ii) constructive payments, the Value of an Investment allocated to (but not directly purchased with) Gross Proceeds on the date so allocated; (iii) Yield reduction payments; (iv) Nonpurpose Investment allocated to an issue at the end of the preceding Computation Period, at value of the Investments at the beginning of the computation period; and (v) the Computation Date credit.

(3) Computation Date Credit. On the last day of each Bond Year during which there are amounts allocated to gross proceeds of an issue that are subject to the rebate requirement, and on the final maturity date, a computation credit of \$1,590.

(C) Gross Earnings Exception for a *Bona Fide* Debt Service Fund. Notwithstanding anything in this Section to the contrary, if the gross earnings from the Nonpurpose Investments held in a *Bona Fide* Debt Service Fund for the Bond Year in question, as determined under paragraph (B) of this Section, are less than \$100,000, then any amount earned on such Debt Service Fund shall not be taken into account in determining the Rebate Amount. For purposes of this paragraph, the term “gross earnings” means the aggregate amount earned on the Nonpurpose Investments in which the Gross Proceeds deposited to a *Bona Fide* Debt Service Fund are invested, including amounts earned on such amounts if allocated to such Debt Service Fund. In addition, Bonds with an average annual debt service that is not in excess of \$2,500,000 may be treated as satisfying the \$100,000 limitation.

(D) Maintenance of Rebate Amount in the Rebate Fund. If on any Computation Date, the Rebate Amount exceeds the amount on deposit in the Rebate Fund, the Authority will deposit an amount in the Rebate Fund such that the balance in the Rebate Fund after such deposit equals the Rebate Amount. If the amount in the Rebate Fund exceeds the Rebate Amount, the Authority will withdraw such excess amount and use it for purposes of the debt service fund after the completion date of such project.

Section 5. Payments to United States.

(A) Payment Amount and Timing. Unless the Bonds are redeemed prior to such time, the Authority shall pay to the United States, not later than 60 days after each Installment Computation Date, an amount which, when added to the future value of all previous rebate payments made with respect to the Bonds, is equal to not less than 90 percent of the future value of the Rebate Amount (computed from the Issue Date to each such Installment Computation Date).

(B) Payment Procedure. The Authority will mail each payment to the Internal Revenue Service Center, Ogden, Utah 84201 or such other address as the Regulations may require. Each payment shall be accompanied by the Internal Revenue Service Form 8038-T.

Section 6. Recordkeeping. In connection with the rebate requirement the Authority will maintain the following records:

(A) The Authority will retain records of the determinations made pursuant to Section 3(B) hereof until six years after the retirement of the last obligation of the issue.

(B) The Authority will record all amounts paid to the United States pursuant to Section 4 hereof.

Section 7. Fair Market Value. The Authority will not acquire Nonpurpose Investments at other than an arm's length, Fair Market Value price.

Exhibit I

WEIGHTED AVERAGE MATURITY OF BONDS

Exhibit J

CURRENT FORM OF IRS FORM 8038-CP AND INSTRUCTIONS